

# FINCLEAR TERMS OF TRADE

TERMS OF YOUR AGREEMENT WITH FINCLEAR EXECUTION LTD AND FINCLEAR SERVICES PTY LTD.



## IMPORTANT NOTICE & INTRODUCTION

It is very important that you read and understand all the terms and conditions of trading with FinClear Execution Ltd (FinEx) contained in these Terms of Trade. They will govern our service relationship with you and impose obligations on both parties.

These contain the following:

- **Part A:** FinEx Terms and Conditions
- **Part B:** FinEx CHESSE Sponsorship Agreement and an explanation of the operation of the CHESSE Sponsorship Agreement
- **Part C:** FinClear Services Disclosure Statement
- **Part D:** FinClear Services Direct Debit Request Service Agreement
- **Part E:** FinEx Financial Services Guide (FSG)
- **Part F:** FinClear Services Financial Services Guide (FSG)
- **Part G:** Privacy Policy
- **Part H:** Warrants Agreement
- **Part I:** Partly Paid Securities Agreement
- **Part J:** Terms of your use of a DMA Service

When you sign the Client Application Form, you:

- acknowledge that you accept all the FinEx Terms and Conditions and FinClear's Disclosure Statement;
- acknowledge that you have received and read FinEx's FGS and FinClear's FSG and their Privacy Statement;
- If you elect to be CHESSE sponsored by FinEx, you acknowledge and agree to the FinEx CHESSE Sponsorship Agreement;
- If you elect to settle transactions using our electronic debit / credit facility, you acknowledge and agree to FinEx's Direct Debit Agreement;
- If you elect to trade in Warrants, you acknowledge and agree to FinEx's Warrants Agreement;
- If you elect to trade in Partly Paid Securities, you acknowledge and agree to FinEx's Partly Paid Securities Agreement; and
- If you are granted access to, and wish to use, FinEx's DMA Service, you acknowledge and agree to FinEx's DMA Service Terms and Conditions.

### Part A. FinEx Terms and Conditions

#### 1. OPENING A NEW ACCOUNT AND OUR RIGHT TO SUSPEND OR CLOSE YOUR ACCOUNT

- 1.1 All FinEx services provided to you are subject to these Terms and Conditions and any other relevant agreements you enter into with FinEx, as amended from time to time. By opening an account with FinEx you agree to comply with these Terms and Conditions.
- 1.2 For the avoidance of doubt you agree that FinEx has the right, having regard to its legitimate business interests, or prudential or regulatory obligations (including its obligations as a provider of designated services under the AML/CTF Act), to:
  - a) refuse to accept your application;
  - b) suspend or close your account should we suspect any fraudulent or other illegal behaviour or a breach of clause 14 of these Terms and Conditions;
  - c) suspend or close your account should you change your country /place of residency;

- d) close your account at any time, for any reason and without prior notice, subject to all outstanding obligations between us being fully discharged; and
  - e) take any steps FinEx believes necessary or prudent to comply with the AML/CTF Act.
- 1.3 You agree that the postal address and e-mail address which you state on the Application Form (or notify to us from time to time) is administered or controlled by you and is to be used for receipt of Confirmations and any other documents or other information or communication that FinEx is required to provide to you under any law, regulation or rule or any agreement with you.
  - 1.4 You must ensure that you have at all times provided to FinEx (via your Financial Adviser) an accurate and up to date postal address and email address for you, and you agree that if you fail to do so, FinEx takes no responsibility for the non-delivery or delay in the delivery to you of any Confirmation, other document or other information or communication.

#### 2. AUTHORITY OF YOUR FINANCIAL ADVISOR

You agree that:

- a) your Financial Adviser has been duly authorised by you to provide instructions to FinEx on your behalf and that we will continue to act on your Financial Adviser's instructions, and you are liable for any transactions effected on your behalf on the instructions of your Financial Adviser, until you advise us in writing that the previously nominated Financial Adviser is no longer authorised to act on your behalf;
- b) you must ratify, and agree that you are bound by, all actions and transactions effected by FinEx on your behalf on the instructions of your Financial Adviser;
- c) you may only terminate your Financial Advisor's authority by terminating the agreement constituted by these Terms and Conditions (or by assigning that agreement to another Financial Advisor with FinEx's consent). Any termination will not affect your liability in respect of transactions arranged by your Financial Adviser on your behalf prior to receipt of the notice of termination;
- d) you are bound by the instructions given by your Financial Adviser to us and you are obliged to settle and complete all transactions executed or arranged by FinEx as a consequence of your Financial Adviser's instructions;
- e) if you die or become incapacitated FinEx is entitled to, and will continue to, take instructions from your Financial Adviser until FinEx receives notice in writing of your death or incapacity;
- f) in the case of a joint-account, you agree that FinEx and your Financial Adviser are entitled to rely on the instructions or directions (provided to FinEx via your Financial Adviser) given by any or all of the joint-parties;
- g) In the case of an account in the name of a corporation, you agree that FinEx and your Financial Adviser is entitled to rely on the instructions (provided to FinEx via your Financial Adviser) of any director or of any other person that you notify FinEx (via your Financial Adviser) in writing is authorised to give instructions on behalf of you;
- h) FinEx is authorised by you to, and may, provide communications to you through your Financial Advisor and not directly with you; and
- i) your Financial Adviser can access and/or request copies of personal information FinEx holds about you and information recorded on your account.

### 3. ORDERS AND INSTRUCTIONS, AND EXECUTION OF ORDERS

#### 3.1 How to give Orders and instructions

You agree that:

- a) If you wish to place any Order or to give any instruction or information to FinEx, you must do so with your Financial Advisor (such communications to be given in the form and manner agreed with your Financial Advisor), and you authorise your Financial Advisor, as your agent (and not as the agent of FinEx) to communicate your Order and other instructions or information to FinEx; and
- b) FinEx may provide communications to you (other than Confirmations) through your Financial Advisor and not directly to you.

FinEx need not act on any Orders or other instructions, or information communicated directly to it by you (and not your Financial Advisor).

#### 3.2 FinEx's Best Execution Policy

As a participant of the Relevant Exchanges, subject to your instructions, FinEx is required to handle and execute your Orders in accordance with the Market Integrity Rules and FinEx's Best Execution Policy. A copy of that policy

is available on our website at <https://finclear.com.au>

FinEx may from time to time amend its Best Execution Policy and make such amendments available on its website or through your Financial Advisor, or otherwise notify you of its Best Execution Policy.

#### 3.3 FinEx's right to refuse to accept or execute Orders

You acknowledge and agree that FinEx may at any time, in its absolute discretion having regard to its legitimate business interests, or prudential or regulatory obligations and any direction to FinEx from FinClear:

- (a) refuse to accept any Orders from, or to execute Orders for you. For example without limitation, FinEx may refuse to accept your Order if it would require FinEx to act otherwise in accordance with its Best Execution Policy or may involve a contravention of the Market Integrity Rules, the operating rules of a Relevant Exchange or any applicable law; and
- (b) direct your Financial Advisor to:
  - i) not to accept Orders from you; or
  - ii) refuse to accept a particular Order from you, and if FinEx gives such a direction, FinEx will instruct your Financial Advisor to notify you of that direction.

#### 3.4 Execution of Orders, crossings and principal orders

Subject to any instructions from you, FinEx 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) FinEx 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 FinEx 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 and the Corporations Act. Unless you notify FinEx to the contrary, you will be taken to have consented to FinEx (and 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 FinEx through your Financial Advisor; and

- c) you will be charged the normal rate of commission by your Financial Advisor for Orders which are crossed with FinEx's 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.

#### 3.5 Warranties each time you place an Order

Each time you place any Order with your Financial Advisor (if FinEx provides you a DMA Service, each time you place an Order using the DMA Service) you warrant and represent to FinEx that:

- a) you will be in a position to pay the commission (if any) in respect of the transaction which will result from execution of your Order; and
- b) you will be in a position to pay for any Exchange Traded Products purchased and have a presently exercisable and unconditional right to vest any Exchange Traded Products sold in the buyer, to enable settlement at the Settlement Date and Time.

### 4. ORDERS RELATING TO SALES

You acknowledge that whenever you place a sale Order with your Financial Advisor, you must notify your Financial Advisor 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 your Financial Advisor, a legally binding commitment from a securities lender to lend the securities to you under a Securities Lending Agreement.

### 5. ORDERS TO PURCHASE WARRANTS

If you place an Order to purchase Warrants, the terms in Part H will apply to you.

### 6. ORDERS TO PURCHASE PARTLY PAID SECURITIES

If you place an Order to purchase Partly Paid Securities, the terms in Part I will apply to you.

### 7. USE OF A DMA SERVICE BY YOUR FINANCIAL ADVISER

FinEx may provide a DMA Service to your Financial Advisor under which your Financial Advisor may place your Orders, through an electronic automated client order process, directly into a trading platform operated by a Relevant Exchange. You acknowledge that if FinEx provides a DMA Service to your Financial Advisor:

- a) there may be delays in the processing, execution, amendment or cancellation of an Order entered through the DMA Service. An Order may be wholly or partly filled before an instruction for its amendment or cancellation is processed. You remain liable to settle the original Order until any 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) FinEx 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 delays in relation to the same;

- d) except as required by law, FinEx 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 FinEx's) consent and that third parties (including persons or private networks) will have the ability to attach to your Financial Advisor's network; and
- f) FinEx may terminate your Financial Advisor's participation in the DMA Service at any time without notice to you.

## 8. YOUR USE OF A DMA SERVICE

FinEx may provide a DMA Service to you under which you may place your Orders directly, through an automated client order process, into a trading platform operated by a Relevant Exchange. You acknowledge that if FinEx provides a DMA Service to you, the terms set out in Part J will apply.

## 9. PROCEEDS OF SALE

You authorise FinClear to pay the proceeds of sale of any financial products executed by FinEx on your behalf (net of any fees and other costs) to your nominated account with a financial institution.

## 10. REGISTRATION OF FINANCIAL PRODUCTS

You agree that all financial products which FinEx arranges to be acquired by you or to be transferred to you are to be registered in your name, unless you have arranged for FinClear to provide nominee services to you, in which case they will be registered in accordance with those arrangements.

## 11. CHESS SPONSORSHIP

If you wish for your financial products to be CHES sponsored by FinEx, you must enter into a CHES Sponsorship Agreement with FinEx. Although you may be sponsored on CHES by FinEx, you will receive Holding Statements directly from CHES if your holding balance changes. If you are not currently sponsored by FinEx, FinEx recommends that you enter into a Sponsorship Agreement with FinEx to enable easy transfer of your Exchange Traded Products under CHES.

## 12. INTEREST ON TRUST ACCOUNT BALANCES

- a) Any funds deposited by you or received from you are to be deposited in our Clearing Participant's trust account. You agree that FinClear is entitled to retain for its own benefit the interest (if any) earned on your funds held from time to time in its trust account.

## 13. CANCELLATION OF MARKET TRANSACTIONS OR CROSSINGS

You acknowledge and agree that each Relevant Exchange has the power under its operating rules to cancel or amend Market Transactions or Crossings.

You authorise FinEx to, and agree that FinEx may, without your consent, cancel or amend (or request or agree to the cancellation or amendment of) any Market Transaction or Crossing relating to the sale or purchase (as the case may be) of Exchange Traded Products:

- a) if requested to do so by your Financial Advisor in the circumstances contemplated by the Market Integrity Rules (as if your Financial

Advisor were a trading participant of the Relevant Exchange that executed the Order to which that Market Transaction or Crossing relates);

- b) if a Relevant Exchange or participant of a Relevant Exchange exercises its power under the operating rules of that Relevant Exchange to cancel or amend (or require the cancellation or amendment of) that Market Transaction or Crossing; or
- c) in the event of an Error (as defined in the Market Integrity Rules) or otherwise in the circumstance contemplated by the operating rules of the Relevant Exchange.

Your obligations (and the obligations of FinEx and/or FinClear) in relation to the settlement of a Market Transaction or Crossing will no longer apply in respect of a cancelled transaction from the time that it is cancelled or, in the case of an amended Market Transaction, apply as amended.

## 14. CONDUCT OF BUSINESS AND COMPLIANCE WITH REGULATIONS

You acknowledge and agree:

- a) to comply with these Terms and Conditions, all applicable laws, Market Integrity Rules, operating rules of each Relevant Exchange, ASX Clear Rules, and ASX Settlement Rules, and the directions, decisions and requirements of each Relevant Exchange and the customs and uses of each market insofar as they impose obligations on you;
- b) that all Market Transactions are subject to the Market Integrity Rules, operating rules of each Relevant Exchange, and the directions, decisions and requirements of each Relevant Exchange and the customs and uses of each market, the correction of errors and omissions and, where relevant, the ASX Clear Rules and the ASX Settlement Rules; and
- c) all other transactions executed or facilitated by FinEx for you, and any other services provide by FinEx to you, are subject to and the regulations and customs and usages of the relevant market (if conducted on a market), all applicable laws (including the Corporations Act and the AML/CTF Act) and the correction of errors and omissions.

You may view the Market Integrity Rules, operating rules of each Relevant Exchange, ASX Clear Rules, and ASX Settlement Rules online. Please contact your Financial Advisor if you need any assistance in locating these rules online.

## 15. SETTLEMENT OBLIGATIONS AND FAILURE TO SETTLE

### 15.1 Assignment of your debt by the FinClear to FinEx

You acknowledge and agree that if at any time you fail to comply with any settlement obligations that you owe to FinClear or for any other reason owe an amount to FinClear, FinClear may assign the debt to FinEx, in which case you will owe the amount of that debt to FinEx. In that event, FinEx will have all of the rights against you that FinClear had against you in respect of that failure to comply with your settlement obligations and that debt as set out in FinClear's Disclosure Statement as if references in that Disclosure Statement to FinClear were to FinEx. This includes, without limitation, the right to sell or procure the sale of financial products, buy-in or borrow financial products, apply any cash held or controlled for you by FinEx or any of its related bodies corporate, charge you fail fees, administration fees or interest, and to cancel any of your unexecuted Orders.



**15.2 Your failure to comply with your obligations to FinEx**

You also agree that, if at any time you fail to comply with any of your obligations to FinEx or otherwise owe any amount to FinEx, FinEx will have the same rights in respect of that failure or debt as it would have under clause 15.1 as if the amount had been owed to FinClear and FinClear had assigned the debt to FinEx.

**15.3 FinEx's rights are in addition to any other rights**

The rights which FinEx has against you under these Terms and Conditions in respect of any failure by you to comply with your settlement obligations or any amount owing by you to FinEx from time to time are in addition to, and are not in any way limited by, the rights (if any) which FinEx may have under the Market Integrity Rules, operating rules of a Relevant Exchange, ASX Clear Rules or ASX Settlement Rules.

**15.4 Assignment of your debt by FinEx to your Financial Adviser**

You acknowledge and agree that if at any time you for other reason owe an amount to FinEx (include any debt which FinClear has assigned to FinEx), FinEx may assign the debt to your Financial Adviser, in which case you will owe the amount of that debt to your Financial Adviser. In that event, your Financial Adviser will have all of the rights against you that FinEx had against you in respect of that debt.

**15.5 Your Financial Adviser's other rights in the event that you fail to settle**

You also acknowledge and agree that if you fail to comply with your settlement obligations, your Financial Adviser may be entitled to charge you fees (including fail fees and administration fees) and/or interest in accordance with the terms of your agreement with your Financial Adviser.

**15.6 Manner of exercise of rights not financial product advice**

The manner in which FinEx may exercise or not exercise, or the timing of or any delay in any exercise of its rights is not to be taken to be financial product advice by FinEx to you, and you must not represent to any person that it is financial product advice by FinEx.

**15.7 FinEx not liable for any failure or delay in exercise of rights**

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

**16. NO LIABILITY TO PROTECT**

You acknowledge and agree that FinEx has no obligation to manage any rights or obligations in relation to your holdings of financial products, even where FinEx has purchased the holdings on your behalf or where FinEx is your CHESS sponsor. FinEx can only act on the instructions of your Financial Adviser on your behalf and will require express instructions from your Financial Adviser on your behalf to exercise rights, pay calls on financial products or accept takeover offers.

**17. YOUR STATUS****17.1 Acknowledgments and agreements about your status**

In applying for a new account with FinEx you acknowledge and agree that you are of full legal capacity and able to enter into these Terms and Conditions and meet all your obligations, and in particular:

- a) if you are a natural person you warrant that you are at least 18 years of age and otherwise competent to enter into agreements including these Terms and Conditions;
- b) if you act as a trustee, you agree that you are bound in both your capacity as trustee and personally;

- c) if you are a corporation, you warrant that you are able to enter into these Terms and Conditions and financial product transactions; and
- d) you are no more than three persons jointly making this application and, if more than one person or entity, each person or entity agrees that they shall be jointly and severally liable for all dealings on your account and in respect of all other obligations under these Terms and Conditions and any other agreement that you may enter into with FinEx.

**17.2 Connected Persons**

You warrant and represent that you are not a Connected Person in relation to FinEx or another participant of a Relevant Exchange or of another market regulated by the Market Integrity Rules. If this should ever change, you agree to notify FinEx immediately. A reference in this clause to:

- (i) a **Connected Person** is to an Employee, a company controlled by an Employee and a Controlled Trust (other than a trust controlled by an Immediate Family of an employee or a trust in relation to which an Immediate Family of an Employee is a trustee or holds more than 50% of the whole beneficial interest);
- (ii) an **Employee** in relation to a participant includes a director, employee, officer, agent, representative, consultant or adviser of that participant, or an independent contractor who acts for or by arrangement with a participant;
- (iii) **Controlled Trust** is to a trust in relation to which an Employee, Immediate Family of an Employee or a company controlled by an Employee is a trustee or holds more than 50% of the whole beneficial interest or controls the trust; and
- (iv) **Immediate Family** in relation to a person, means that person's spouse and any non-adult children.

**18. WARRANTIES ABOUT INFORMATION GIVEN BY YOU**

You warrant and represent to FinEx that the information provided by you in your Application Form or at any other time is accurate, complete and not misleading. You understand that we will rely on the information provided unless and until we receive notice of any change. You understand that you are liable for any loss arising due to your failure to advise us of any change.

**19. CONFIRMATIONS****19.1 Confirmations to be given electronically**

You will be given Confirmations as required by the Corporations Act and the Market Integrity Rules. You authorise FinEx (on its own behalf and on behalf of your Financial Adviser) to give Confirmations to you electronically to the email address notified to FinEx by your Financial Adviser on your behalf from time to time for this purpose. This email address must be one which you can access.

**19.2 Confirmations in paper form**

If requested by you, FinEx may provide you with paper Confirmations (if for example you do not have an email address). However, FinEx or FinClear will charge a fee to your Financial Adviser (who may pass the fee on to you) for each paper Confirmation sent to you, the amount of such fee will be notified to you from time to time and will be intended to cover the reasonable costs of FinEx in providing a paper Confirmation.

Your acknowledge and agree that if paper Confirmations are to be given to you:

- a) there may be a delay in the receipt by you of such Confirmations and none of FinEx, your Financial Adviser nor FinClear takes any responsibility for any such delay; and
- b) you will still be bound by the provisions of clause 19.6 despite any delay in the receipt by you of any Confirmation.

#### 19.3 Confirmations may be provided by FinClear

FinEx may arrange for Confirmations to be prepared and despatched to you by FinClear on behalf of both FinEx and your Financial Adviser.

#### 19.4 Confirmations may be provided by your Financial Adviser

FinEx may also arrange for Confirmations to be prepared and despatched to you by your Financial Adviser on behalf of both FinEx and your Financial Adviser.

#### 19.5 Confirmations are subject to the Rules, etc

You acknowledge and agree that each Confirmation is subject to the Market Integrity Rules, the operating rules of the Relevant Exchange, the directions, decisions, requirements of the Relevant Exchange and, where relevant, the ASX Clear Rules and the ASX Settlement Rules, the customs and usages of the relevant market, and to the correction of errors and omissions.

#### 19.6 Your obligation to check the accuracy of Confirmations

You agree to promptly check the accuracy of every Confirmation sent to you and to notify FinEx (via your Financial Adviser) immediately of any error that you consider may have occurred. In the absence of notification within 24 hours, you will be taken to have accepted the accuracy of the Confirmation and, unless the Confirmation contains an error caused by FinEx or FinClear, the transaction detailed in that Confirmation will be binding on you.

#### 19.7 Correction of errors and omissions

Any 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.

#### 19.8 Confirmations in respect of multiple transactions

Where FinEx enters into multiple transactions (whether executed on the same Relevant Exchange or otherwise) in order to complete you Order, you authorise FinEx 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, FinEx will, if required under the Market Integrity Rules, give you a statement of all individual prices of the relevant transactions which are accumulated and averaged in a Confirmation.

#### 19.9 Confirmations and wholesale clients

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

### 20. NOTICES AND OTHER COMMUNICATIONS

#### 20.1 Any notice, request, demand or other communications, other than a Confirmation (**Notice**) to be given by FinEx to you must be in writing and may be given (at FinEx's option):

- a) to your Financial Adviser who will receive that Notice as your agent (and not as the agent of FinEx) and is responsible for passing on that Notice to you;
- b) by email sent to the email address which you have provided to your Financial Adviser;

- c) by being left at the address which you have provided to your Financial Adviser; or
- d) by pre-paid letter to you at the address you provided to your Financial Adviser.

#### 20.2 A Notice is regard as given to and received by you:

- a) if given to your Financial Adviser or sent to your email address, on the Business Day after it is so given;
- b) if left at your address, at the time that it is so left; and
- c) if sent by prepaid mail to your address, on the second Business Day following posting, regardless of whether or not you receive the Notice. (See further clause 1.4.)

### 21. NO PERSONAL ADVICE

You acknowledge and agree that FinEx does not provide financial product advice that is personal advice. Any advice provided by FinEx is general in nature only and does not take into account your personal objectives, financial situation or needs. Before acting on any general advice provided by FinEx, you should obtain advice from your Financial Adviser to ensure that the advice is appropriate given your own personal circumstances.

### 22. TAX FILE NUMBER

FinEx as the holder of an AFSL is authorised by law to request your tax file number (**TFN**). You are not required to provide your TFN and failing to provide your TFN to FinEx is not an offence. If FinEx is unable to quote your TFN or exemption to registries, it or the relevant issuer may be obliged to take tax at the highest marginal rate from any dividends, distributions, interests and payments to which you are entitled. Accordingly, failing to provide your TFN or not permitting FinEx to quote it in relation to an investment may have taxation consequences. You may wish to seek independent advice in this regard.

By providing a TFN and signing or submitting an Application Form you:

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

Despite the other terms in this clause, you may instruct FinEx in writing at the time of making an investment not to quote your TFN in relation to that investment.

### 23. LIABILITY AND INDEMNITY

#### 23.1 Subject to those provisions of the Corporations Act, *Competition and Consumer Act 2010* (Cth), *Australian Securities and Investments Commission Act 2001* (Cth) and any other rights implied by law, which cannot be excluded by agreement between parties:

- a) FinEx makes no warranty or representation with respect to the goods or services supplied under these Terms and Conditions, the CHES Sponsorship Agreement and FinClear's Disclosure Statement and Direct Debit Agreement other than a warranty or representation which is implied by law and cannot be excluded; and
- b) FinEx excludes all liability in contract, tort (including negligence) or otherwise relating to or resulting from the use

of the Service and for any loss incurred by you directly or indirectly including without limitation:

- i) as a result of or arising out of any inaccuracy, error or delay in or omission from any information provided to you and delays, failures or inaccuracies in the transmission of the Service to you or the service provided by information providers and service providers, transmission of your Orders or instructions, Confirmations, or any other communication which is beyond the reasonable control of FinEx;
- ii) any loss or liability arising from the acts or omissions of third parties, such as a Relevant Exchange, ASX Clear, ASX Settlement, information providers and other service providers;
- iii) any theft, alteration, addition or loss of data by third parties; and
- iiii) any interception by a third party of any electronic communication from us to you, except to the extent that the liability or loss has resulted directly from FinEx's fraud, negligence or misconduct.

23.2 To the maximum extent permitted by law, our liability shall in any event be limited to the re-supply of the Service.

23.3 You must, to the maximum extent permissible by law, indemnify FinEx and all of its officers, employees, agents, related parties and associates against any loss incurred by any or all of them as a result of:

- a) your use of the Service;
- b) any transaction executed by FinEx on your behalf;
- c) FinEx relying upon and acting in accordance with any instruction provided by you (whether by electronic communication or otherwise) including any instruction given to us on your behalf by your Financial Adviser;
- d) your failure to settle any transaction by the due date;
- e) any failure by you to strictly comply with these Terms and Conditions, the CHESS Sponsorship Agreement or FinClear's Direct Debit Request Service Agreement; and
- f) any breach by you of any warranty or representation made or taken to have been made by you not being true or correct, except to the extent that the loss has resulted directly from FinEx's fraud, negligence or misconduct.

23.4 You acknowledge this indemnity is in addition to, and does not in any way limit, any other rights that FinEx may have against you.

#### 24. VARIATION AND TERMINATION

24.1 FinEx reserves the right to vary these Terms and Conditions at any time and may vary the conditions or the terms of Service by giving you not less than 20 Business Days' of the variation, in writing or by electronic communication. FinEx may make a variation without notice to you where such variation is required by law or the rules of a Relevant Exchange, ASX Clear or ASX Settlement or is necessary, to restore or maintain the security of its systems or any account.

24.2 FinEx may suspend or terminate your account or access to our Service immediately if you have breached these Terms and Conditions, or for any reason having regard to its legitimate business interests, or prudential or regulatory obligations by giving you notice in writing.

24.3 Suspension or termination of your account and these Terms and Conditions shall be without prejudice to any rights of the parties existing at the date of termination.

#### 25. CLEARING PARTICIPANT

25.1 FinEx is a party to a Clearing Agreement with FinClear. FinClear has the Clearing and settlement obligations for all Cash Market Transactions executed by FinEx on your behalf.

25.2 If you have entered into a CHESS Sponsorship Agreement with FinEx, FinClear will also administer your CHESS sponsored holdings on behalf of FinEx, but FinEx remains responsible to you for any actions or matters done or omitted to be done in respect of your sponsored holdings.

#### 26. GST

Notwithstanding any other provision of these Terms and Conditions:

- a) if GST has application to any supply made by FinEx under or in connection with these Terms and Conditions FinEx may, in addition to any consideration payable under these Terms and Conditions, recover from you the additional amount of GST, such amount to be calculated by multiplying the relevant amount or consideration payable by you for the relevant supply by the prevailing GST Rate; and/or
- b) without limiting clause 26(a), if FinEx is not entitled to an input credit in respect to the amount of any GST charged to or recovered from FinEx by any person, or payable by FinEx, or in respect of any amount which is recovered from us by way of reimbursement of GST related to any supply made under or in connection with these Terms and Conditions, FinEx will be entitled to increase any amount or consideration payable by you to account for such an input tax and recover from you the amount of any such increase.

#### 27. PRIVACY

You acknowledge and agree that:

- 27.1 FinEx will collect and hold your personal information for the purposes of carrying out your Instructions and operating your account. You consent to the collection and use of your personal information for these purposes and acknowledge that FinEx may record any Instructions given by telephone.
- 27.2 Any collection or use of your personal information by FinEx will be in accordance with FinEx's Privacy Policy. A copy of the Privacy Policy is available from us on request or on FinEx's website at [www.finclear.com.au](http://www.finclear.com.au) by following the "Privacy Policy" link.
- 27.3 FinEx must disclose your personal information when required by any applicable laws, rules or regulations and/or court order, to any governmental or other authority or court, tribunal or other industry body.
- 27.4 FinEx may also disclose your personal information to representatives, contractors, agents, our auditors and to its related bodies corporate.
- 27.5 You may ask for access to, and request correction of, any of your personal information held by FinEx.

#### 28. SUCCESSORS

These Terms and Conditions shall be binding upon you, your heirs, executors, administrators, personal representatives and assigns. These Terms and Conditions shall be interpreted and operate to the benefit of us and our successors, assigns and agents.

**29. SET OFF**

You may set off any amount that you owe to FinEx against any amount that FinEx owes to you.

FinEx may set off any amount that FinEx owes to you against any amount that you owe to FinEx.

**30. ASSIGNMENT**

FinEx may assign its rights and duties under the Terms and Conditions to any person by giving not less than 30 days' written notice to you. You may not assign your rights and duties under these Terms and Conditions without obtaining FinEx's prior written consent, which will not be unreasonably withheld or delayed. FinEx may require any proposed assignee to complete and sign an Application Form and to enter into agreements with FinEx and FinClear which are equivalent to the agreements that you have entered into.

**31. CORPORATE CONSOLIDATION OR AMALGAMATION OF FINEX**

If FinEx is consolidated or amalgamated with, or merged into, or all or substantially all its assets are transferred to another entity, FinEx may assign or transfer our rights and may sub-contract our obligations under these Terms and Conditions to that entity.

**32. TERMINATION OF THESE TERMS AND CONDITIONS**

You may terminate the agreement constituted by these Terms and Conditions by arranging for your Financial Adviser to close your account with FinEx with immediate effect, in which case FinEx will not execute transactions on a Relevant Exchange on your behalf. The closure of your account with FinEx and the termination of the agreement constituted by these Terms and Conditions will not affect your liability in respect of transactions arranged by your Financial Adviser or FinEx to execute on your behalf before receipt of the notice of the closure of your account.

**33. APPLICABLE LAW**

These Terms and Conditions are governed by the laws New South Wales and the parties agree to submit to the non-exclusive jurisdiction of the Courts of New South Wales and courts which may hear appeals from those courts.

**34. DEFINITIONS AND INTERPRETATIONS**

34.1 Parts I, H and J form part of these Terms and Conditions.

34.2 Definitions

In these Terms and Conditions, unless the contrary intention appears:

**AFSL** means Australian Financial Services Licence.

**AML/CTF Act** means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) as amended from time to time together with any rules, regulations or other instruments made or declared under the Act.

**Application Form** means the application form that you completed (or was completed by your Financial Adviser on your behalf), signed by you and provided to FinEx to enable you to establish an account with FinEx.

**ASIC** means Australian Securities and Investments Commission.

**ASX** means ASX Limited ABN 98 008 624 691 or a market operated by it, as the context requires.

**ASX Clear** means ASX Clear Pty Limited 48 001 314 503, a wholly owned subsidiary of ASX and a member of the ASX Group.

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

**ASX Group** means the group of companies comprising ASX and its subsidiaries.

**ASX Group Participant** means a participant of ASX or of another member of the ASX Group.

**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 Day** means a day other than a Saturday, Sunday, New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day; and any other day which ASX notifies Market Participants is not a business day.

**Cboe** means Cboe Australia Pty Ltd ABN 47 129 584 667 or a market operated by it, as the context requires.

**CHES** means the Clearing House Electronic Sub-register System.

**Clearing Participant** means, subject to clause 0, FinClear, a participant of ASX Clear and ASX Settlement and a related body corporate of FinEx, with whom FinEx has entered into a Clearing Agreement for FinClear to clear and/or settle the Market Transactions executed by FinEx on your behalf.

**Confirmation** (also known as a contract note) means a record which sets out the detail of a transaction or transactions executed on your behalf, including the consideration or proceeds, related charges and GST, and the time (Settlement Date) by which payment or delivery of financial products sold is to be made.

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

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

**DMA Service** means a direct market access service under which a person may place Orders directly, through an online automated client order process, into a trading platform operated by a Relevant Exchange.

**Exchange Traded Products** has the meaning given to Cash Market Products in the Market Integrity Rules.

**Financial Adviser** means your financial adviser or financial professional with whom FinEx has entered into an arrangement to enable them to transact in financial products on a Relevant Exchange on your behalf.

**FinClear** means FinClear Pty Ltd ABN 63 607 164 714, AFSL No. 481017

**FinEx** means FinClear Execution Limited, ABN 56 061 751 102, AFSL No 246842.

**FSG** means Financial Services Guide.

**Market Integrity Rules** means the *ASIC Market Integrity Rules (Securities Markets) 2017*, as amended from time to time.

**Market Transaction** has the meaning given to Cash Market Transaction in the Market Integrity Rules.

**NSX** means National Stock Exchange of Australia Limited ABN 11 000 902 063 or a market operated by it, as the context requires.

**Order** means an order or instruction for the sale, purchase, issue or redemption of Exchange Traded Products to be executed or facilitated by FinEx, and includes an instruction to amend or cancel such an order.

**Partly Paid Security** means a financial product that has been grated official quotation on a Relevant 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 an Exchange Traded Product issued by a no liability company.

**principal** has the meaning given to Principal in the Market Integrity Rules.

**Relevant Exchange** means ASX, Cboe or NSX or the markets operated by them.

**Service** means the services to be provided by FinEx to you as contemplated by these Terms and Conditions and any other agreement which your Financial Adviser may arrange for you to enter into with FinEx, including the CHES Sponsorship Agreement.

**Settlement Date** means the date and time specified for settlement of a transaction in the Confirmation.



**Warrant** has the meaning given to it in the Market Integrity Rules.

**we, us** and **our** means FinEx.

**you** and **your** means you, the account holder, being the person or persons in whose name the account is to be established, whether corporation, trustee or natural person.

### 33.3 Other interpretation provisions

Unless the context otherwise requires, other words and phrases used in these Terms and Conditions have the same meanings given to them in the Market Integrity Rules, the operating rules of a Relevant Exchange, the ASX Clear Rules and the ASX Settlement Rules. You may view the Market Integrity Rules, operating rules of each Relevant Exchange, ASX Clear Rules, and ASX Settlement Rules online. Please contact your Financial Advisor if you need any assistance in locating these rules online.

Headings are for convenience only, and do not affect interpretation.

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 legislation provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision.

You agree that in the event of any inconsistency between these Terms and Conditions and the Market Integrity Rules, the operating Rules of the Relevant Exchanges, the ASX Clear Rules or the ASX Settlement Rules, the latter will prevail to the extent of the inconsistency.

### 33.4 Clearing arrangements

At the time of issue of these Terms and Conditions FinEx has entered into a Clearing Agreement with FinClear for FinClear to clear and/or settle the Market Transactions executed by FinEx on your behalf.

FinEx may in the future enter into a Clearing Agreement with FinClear Services means FinClear Services Pty Ltd ABN 60 136 184 962, AFSL No. 338264 (**FinClear Services**). FinClear Services is a participant of ASX Clear and ASX Settlement and is also a related body corporate of FinEx and FinClear.

If FinEx enters into a Clearing Agreement with FinClear Services with the result that FinClear Services is to clear and settle the Market Transactions executed by FinEx on your behalf, the following will apply:

- a) FinEx will give you not less than 30 days' notice in writing of the date (**Effective Date**) from which FinClear Services will commence to clear and settle Market Transactions executed by FinEx on your behalf;
- b) FinEx will also give you a Disclosure Statement and FSG in respect of FinClear Services and any other relevant documentation;
- c) FinClear will cease to carry the clearing and settlement obligations in respect of any Market Transactions executed by FinEx on your behalf after the Effective Date; and
- d) after the Effective Date references in these Terms and Conditions to "FinClear" will be taken to be references to "FinClear Services", other than in respect of transactions executed before the Effective Date.

## Part B. FinEx CHES Sponsorship Agreement

### Explanation of CHES Sponsorship Agreement Terms

#### Background

This document explains the effect of CHES (**Clearing House Electronic Subregister System**) and the terms of the sponsorship agreement (**Agreement**) if you enter into the Agreement with FinClear Execution Limited (**FinEx** or **we/us**). It is important that you read this explanation and the Agreement and understand their content before signing the Client

Application Form (which includes the Agreement). By signing the Client Application Form and indicating that you would like us to establish a new Holder Identification Number (**HIN**) sponsored by us, you acknowledge that you have understood the effect of the Agreement.

#### What is the purpose of the Sponsorship Agreement?

The Agreement appoints us as your "controlling participant" on CHES. CHES is a system of registering financial products electronically, so instead of holding certificates to show that you own shares or other financial products, under CHES you have financial products electronically registered in your name to show that you own them. CHES is operated by ASX Settlement Pty Ltd ABN 49 008 504 532 (**ASX Settlement**) under the ASX Settlement Rules. Only certain people may control financial products on CHES (we fall under one of these categories). By signing the Client Application Form and indicating that you would like us to establish a new HIN sponsored by us, you appoint us as your controlling participant to control your holding of financial products on CHES. In other words, we "sponsor" your holdings of financial products on CHES.

#### Explanation of Sponsorship Agreement Terms

This explanation is only a summary of the Agreement (see clause 6.4 of the Agreement). It is not a substitute for, or part of, the Agreement, nor is it another agreement in its own right. By signing (or agreeing to be bound by) the Agreement, you appoint us as your Sponsoring Participant for relevant financial products you acquire through us. We would be pleased to sponsor other holdings you may have which are Issuer Sponsored or sponsored by another ASX Group Participant (i.e. ASX Stockbroker).

FinEx is a party to a Clearing Agreement with a participant of ASX Clear (**Clearing Participant**). The Clearing Participant is obliged to settle as principal and has the settlement obligations for all Market Transactions executed by FinEx.

As your Sponsoring Participant on CHES, only we and our duly authorised agent can give instructions to CHES in relation to administration or conversion of your holdings sponsored by us, or transfers to or from your sponsored holdings following settlement of your transactions or following your Withdrawal Instructions. Furthermore, we or our duly authorised agent only have authority to access your holdings following your express instructions to do so (e.g. sell my BHP Billiton shares).

On CHES, your holdings are identified by your HIN which is allocated to you if you accept the terms and conditions of our Agreement. CHES will provide you with details of your HIN and your sponsoring broker. It is important that you keep your HIN confidential because it is the key to your holdings.

#### The Sponsorship Agreement

The Agreement has 14 clauses. Its terms are largely determined by the ASX Settlement Rules applying to CHES Sponsorship.

**Clause 1 (Appointment of FinClear Execution Limited)** provides that you appoint FinEx as your Controlling Participant for CHES to provide services in relation to the transfer and conversion of financial products to or from your Participant Sponsored Holding. Clause 1 also notes that FinEx is a party to a Clearing Agreement with its Clearing Participant and that FinEx has appointed its Clearing Participant to administer your Participant Sponsored Holdings on its behalf, but FinEx remains responsible to you for any actions or matters done or omitted to be done.

**Clause 2 (FinEx's Rights)** imposes certain duties on you and gives us certain rights and protections. Where you have authorised us to buy financial products, you must pay for those financial products by the date specified on the confirmation given to you. Sufficient funds must be in your account to pay for any financial products purchased on your behalf, and associated transactional charges, before the purchased products will be transferred into your name. We or our Clearing Participant have to pay for purchases you execute through us whether you have paid for them or not. If you do not pay, after a demand for payment, those financial products may be sold at your risk and expense. You will be liable for any costs and loss. You can give us instructions at any time to withdraw your holdings from CHES account, and we must do so unless funds due from you are outstanding, in which case we may continue to "control" holdings to the value (i.e. market value of the financial products we continue to hold) of 120% of the amount owed to us.

**Clause 3 (Your Rights)** imposes certain duties on us and informs you of the regulatory regime to which we are subject, and also of your right of access to both our internal and external (i.e. AFCA) complaint handling mechanisms (if you are a retail client), and to lodge certain claims for compensation with the National Guarantee Fund. See also clause 7.1(b).

Clause 3 also sets out some acknowledgements by you in relation to the creation of Subpositions in respect of holdings in your CHES account.

**Clause 4 (Supply of Information)** obliges you to supply the information we require and to ensure it is, and remains, accurate and up to date.

**Clause 5 (Fees)** notifies you that we may charge you fees for our services. It also notes that we may charge interest to you in respect of any outstanding amount that you may owe us.

**Clause 6 (Notifications & Acknowledgements)** notifies you of, or has you acknowledge, various things, including that once a holding is transferred by us, you cannot claim against ASX Settlement (the operator of CHES) or the Issuer that it was not affected by us or that we were not authorised to make the transfer. You also cannot make a claim against the relevant market operator (such as ASX) or ASX Clear.

You may report to us to any relevant regulatory authority for a breach of any provision of the Agreement.

You have certain rights if we are suspended from accessing CHES. You will be given opportunity to instruct ASX Settlement to move your holding to the control of another Sponsoring Participant or ASX Settlement will make that choice for you.

Clauses 6.5 and 6.6 address what action we will take in the event of your death and/or bankruptcy.

**Clause 7 (Joint Holdings)** addresses bankruptcy and/or death of one or more parties to a joint holding. Sponsored holdings may have up to 3 joint holders. In the event of bankruptcy of one, the interests of the bankrupt holder are excised from the interests of the other holders. The other holders may continue to operate as normally under a new holding. In the case of the death of one holder, the interests of the deceased holder pass to the remaining joint holders, not the estate of the deceased person.

**Clause 8 (Change of Controlling Participant)** contains provisions setting out what is to happen if there is a significant change to the organisational structure of our group or the whole or relevant part of our business is to be transferred to another CHES participant. In that event, all our Sponsored Holdings on CHES may be transferred in full to another Controlling Participant in the interests of minimising disruption to your investment or trading activities and your Agreement with us will be taken to be novated to that other Controlling Participant.

**Clause 9 (Claims for Compensation)** sets out the avenues for you to seek compensation.

**Clause 10 (Termination)** sets out the circumstances in which the Agreement may be terminated. In certain circumstances, the Agreement is terminated automatically.

**Clause 11 (ASX Settlement Rules and Variation)** sets out that the Agreement is subject to the ASX Settlement Rules. You must not do anything which would prevent or hinder FinEx from complying with its obligations under those Rules. The clause also set out how the Agreement may be varied, and permits variation by notification to you where variation is required because the terms of the Agreement have become or are becoming inconsistent with the ASX Settlement Rules. In all other instances, a variation to the Agreement is only effective if agreed by us both in writing. But we may make a variation without notice to you where such variation is necessary, to restore or maintain the security of our systems or any account.

**Clause 12 (Indemnity)** describes the indemnity that you provide to us.

**Clause 13 (Notices)** contains some provisions relating to notices.

**Clause 14 (Miscellaneous)** provides that all duties or taxes (e.g. GST) applicable to the Agreement must be paid by you. It also provides that a provision of the Agreement or a right created under it may not be waived except in writing signed by the party or parties to be bound. It provides that we may set off any amount we owe to you against any amount you owe to us or to any of our related bodies corporate.

Clause 13 also provides that you are entitled to receive a copy of the Agreement executed by us. By returning one copy signed by you, you instruct us not to send to you a hard copy of the Agreement executed by us. However, if you ask us to, we will provide you at any time with a hard copy executed by both parties. Finally clause 13 provides that the Agreement is governed by the laws of NSW.

**Clause 15 (Definitions and Interpretations)**

Many of the terms used in the Agreement have the meaning given to them in the ASX Settlement Rules. The definition may change from time to time if the ASX Settlement Rules are changed. You may view the ASX Settlement Rules online. Please contact your Financial Advisor if you need any assistance in locating these rules online.

Some of those definitions are set out (and explained) in clause 14.

Clauses 14.2 to 14.6 contain other rules to assist in the interpretation of the Agreement.

## CHES Sponsorship Agreement

### 1. APPOINTMENT OF FINCLEAR EXECUTION LIMITED (FINEX)

1.1. You appoint FinEx as your Controlling Participant for CHES to provide, and FinEx agrees to provide, services in relation to the holding of financial products in, and the and conversion of financial products to or from, your Participant Sponsored Holding (with the Holding Identification Number (**HIN**) identified on your Application Form) as your agent on the terms and conditions of this Sponsorship Agreement (this **Agreement**).

1.2. FinEx is a party to a Clearing Agreement with its Clearing Participant and the Clearing Participant is obliged to settle as principal and has the settlement obligations for all Market transactions executed by FinEx on your behalf. FinEx has appointed the Clearing Participant to administer your Participant Sponsored Holdings on its behalf but FinEx

remains responsible to you for any actions or matters done or omitted to be done in respect.

## 2. FINEX'S RIGHTS

- 2.1 Where you authorise FinEx to buy financial products, you must pay for those financial products by the date specified on the Confirmation (previously known as a "Contract Note").
- 2.2 Subject to clause 2.3, FinEx is not obliged to Transfer financial products into your Participant Sponsored Holding, where payment for those financial products has not been received, until payment is received.
- 2.3 Where a contract for the purchase of financial products remains unpaid after FinEx or FinEx's Clearing Participant has made a demand on you to pay for the financial product, FinEx, or FinEx's Clearing Participant, may sell those financial products that are the subject of that contract at your risk and expense and that expense will include brokerage and applicable duties and/or taxes and other applicable charges.
- 2.4 Where FinEx claims that an amount lawfully owed to it has not been paid by you (including without limitation under clause 5.3 or the indemnity in clause 12), FinEx has 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 your Participant Sponsored Holding (where the minimum value is equal to 120% of the current market value of the amount claimed).
- 2.5 Where you or your:
  - a) duly authorised agent; or
  - b) your Financial Adviser,
 places instructions with FinEx to buy or sell financial products on your behalf, FinEx has your express authority to Transfer those financial products from or to your Participant Sponsored Holding.

## 3. YOUR RIGHTS

- 3.1 Subject to clauses 2.2, 2.3 and 2.4, FinEx or its Clearing Participant will initiate any Transfer, Conversion or other action necessary to give effect to Withdrawal Instructions within 2 Business Days of the date of the receipt of the written Withdrawal Instructions.
- 3.2 Subject to clause 6.3 and 8, FinEx or its Clearing Participant will not initiate any Transfer or Conversion into or out of your Participant Sponsored Holding without your express authority (as provided to FinEx by your Financial Adviser acting as your agent).
- 3.3 Subject to clause 8, you have various rights upon receiving a Participant Change Notice.
- 3.4 The regulatory regime which applies to FinEx and FinEx's Clearing Participant are the Corporations Act, the *Australian Securities and Investments Commission Act 2001* (Cth) and related legislation applicable to financial services providers, the Market Integrity Rules, and ASX Settlement Rules. You can obtain information confirming FinEx's and FinClear's status as a settlement participant from ASX Settlement and as an Australian Financial Services Licence holder from ASIC.
- 3.5 A complaint regarding FinEx's services can be lodged with FinEx, ASIC, ASX, ASX Settlement, the Australian Financial Complaints Authority (AFCA) [the contact details for AFCA are included in our Financial Services Guide or are available from our Complaints Manager].
- 3.6 A claim for compensation can be lodged with FinEx or if the circumstances specified in Part 7.5, Division 4 of the Corporations Act apply, with the National Guarantee Fund. In relation to claims lodged with FinEx, FinEx has Professional Indemnity Insurance which it considers satisfies the requirements of Section 912B ("Compensation

Arrangements for Retail Financial Services") of the Corporations Act. FinEx's arrangements are for the purpose of compensating retail clients for loss or damage suffered because of our breaches of our obligations under Chapter 7 ("Financial Services and Markets") of the Corporations Act, including losses caused by negligence, fraud, dishonesty or other misconduct that amounts to a breach of Chapter 7 and gives rise to a liability to a retail client. Our arrangements cover awards made by AFCA and claims relating to the conduct of staff who have since left our employment.

- 3.6 You acknowledge that where, in accordance with this Agreement and/or your instructions, FinEx or FinEx's Clearing Participant initiates any action which has the effect of creating a Subposition over financial products in your Participant Sponsored Holding, your right to Transfer, Convert or otherwise deal with those financial products is restricted in accordance with the terms of the ASX Settlement Rules relating to subpositions.
- 3.7 You acknowledge that FinEx will not execute transactions for you in the market for exchange traded options operated by ASX, but you may arrange for another ASX market participant to do so on your behalf. If you instruct FinEx that financial products are to be lodged with or reserved by ASX Clear or ASX Settlement (including as a subposition) as cover for written positions in the market for exchange traded options operated by ASX and FinEx agrees to allow those financial products to be provided as such cover (which FinEx may in its discretion refuse to agree to), you:
  - a) warrant that you are legally entitled to or authorised to make those financial providers available as cover and that those financial products are not subject to any security interest other than in favour of ASX Clear at any time that the financial products are held by ASX Clear;
  - b) authorise FinEx to reserve the financial products in the ASX Clear subposition so that the financial products come under the control of ASX Clear and are subject to the security interest granted in favour of ASX Clear to secure the performance by a clearing participant of ASX Clear of its obligations to ASX Clear under and in accordance with ASX Clear Operating Rule 14.6.7;
  - c) authorise any subsequent dealing (including without limitation, any transfer) of the reserved financial products in accordance with the ASX Settlement Rules and ASX Clear Operating Rules;
  - d) acknowledge that the financial products will remain subject to that security interest for so long as those financial products remain reserved in the ASX Clear subposition in accordance with ASX Clear Operating Rule 14.6.7; and
  - e) authorise FinEx to take whatever action is required by ASX Clear in accordance with the ASX Settlement Rules to give effect to that arrangement.

Those financial products will be subject to the requirements, restrictions and effects of the ASX Settlement Rules for financial products which are lodged with or reserved by ASX Clear or ASX Settlement (including in a subposition) under the ASX Settlement Rules, and you are taken to have authorised any action, consequence or dealing that takes place as contemplated by the ASX Settlement Rules.

- 3.8 If you instruct FinEx (and FinEx accepts that instruction, which it may in its absolute discretion refuse to do so) that a charge or other interest in financial products has been or is to be given to a person, then you authorise FinEx to take whatever action is reasonably

required by that person in accordance with the ASX Settlement Rules to give effect to or record that interest.

3.9 FinEx may create a Subposition over your Participant Sponsored Holdings if you consent or otherwise in accordance with the ASX Settlement Rules. If FinEx does this, your ability to Transfer, Convert or otherwise deal with the financial products will be restricted in accordance with the ASX Settlement Rules.

3.10 Nothing in this Agreement operates to override any interest of ASX Clear in the financial products.

#### 4. SUPPLY OF INFORMATION

4.1 You must supply all information and supporting documentation which is reasonably required to permit FinEx to comply with the registration requirements, as are in force from time to time under the ASX Settlement Rules or to perform its obligations under this Agreement. You must give this information and supporting documentation to your Financial Advisor who is to pass it on to FinEx as your agent.

4.2 Notifications made by you (e.g. change of address) must be in writing.

4.3 You must, in respect of each Holder Record (which exists or is to be created) for you, ensure that FinEx is advised of the Registration Details (including any applicable Residency Indicator). You must ensure that this information is provided to FinEx as soon as possible after you place an order with respect to the relevant financial products but in any event no later than 2 days before the scheduled settlement date of the relevant Market Transaction, and if your Registration Details change, as soon as possible after the change occurs.

4.4 If you do not ensure that FinEx is advised of a Residency Indicator but FinEx has been provided with a street address for you, then FinEx will be taken to have been advised that, if the relevant street is located in Australia, a Residency Indicator of "D" (for domestic) applies with respect to that Record, but otherwise Residency Indicator of "F" (for foreign) applies to that Holder Record.

#### 5. FEES

5.1 You must pay FinEx fees in connection with the services to be provided by FinEx under this Agreement as advised by FinEx to you from time to time. As at the date of this Agreement, FinEx does not charge fees for acting as your Controlling Participant.

5.2 Before imposing any fees and charges on you in respect of the control of your Participant Sponsored Holdings, FinEx will provide you with 20 Business Days' written notice of those fees.

5.3 If you do not pay FinEx an amount when it is due, FinEx may charge interest on the overdue amount using a method and interest rate determined by FinEx having regard to the loss suffered by FinEx resulting from your failure to pay the amount on the due date, and notified to you by FinEx from time to time.

5.4 FinEx may also charge fees to your Financial Adviser in respect of the services contemplated by this Agreement, and your Financial Adviser may pass those fees on to you. Your Financial Adviser will disclose to you if it will charge you any such fees.

#### 6. NOTIFICATIONS AND ACKNOWLEDGEMENTS

6.1 You acknowledge that if a Transfer is taken to be effected by FinEx under Section 9 of the ASX Settlement Rules and the Source Holding for the Transfer is a Participant Sponsored Holding sponsored under this Agreement, then:

- a) you may not assert or claim against ASX Settlement or the relevant Issuer that the Transfer was not affected by FinEx or that FinEx was 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 National Guarantee Fund under Part 7.5, Division 4 of the *Corporations Regulations 2001* (Cth); and
- c) if the Sponsoring Participant is not a Market Participant of an Approved Market Operator, that neither the Approved Market Operator, nor a Related Party of the Approved Market Operator has any responsibility for regulating the relationship between the Participant Sponsored Holder and the Sponsoring Participant, other than in relation to the Rules relating to Sponsorship Agreements.

6.2 In the event FinEx breaches any of the provisions of this Agreement, you may refer that breach to any relevant regulatory authority, including ASX Settlement.

6.3 In the event that FinEx is suspended from CHES participation, subject to the assertion of an interest in Financial Products controlled by FinEx, or by FinEx's liquidator, receiver, administrator or trustee:

- a) you have the right, within 20 Business Days of ASX Settlement giving Notice of suspension, to give notice to ASX Settlement requesting that any Participant Sponsored Holdings be removed either:
  - (i) from the CHES Subregister; or
  - (ii) from the control of FinEx to the control of another Sponsoring Participant with whom you have entered into a valid Sponsorship Agreement pursuant to ASX Settlement Rule 12.19.10; or
- b) where you do not give notice under clause 6.3(a), ASX Settlement may effect a change of Controlling Participant under ASX Settlement Rule 12.19.11 and you will be deemed to have entered into a new Sponsorship Agreement with the substitute Sponsoring Participant on the same terms as the existing Sponsorship Agreement. Where you are deemed to have entered into a Sponsorship Agreement, the new Sponsoring Participant must enter into a Sponsorship Agreement with you within 10 Business Days of the change of Controlling Participant.

6.4 You acknowledge that before you executed this Agreement, FinEx provided you with an explanation of the effect of this Agreement and that you understood the effect of this Agreement.

6.5 You acknowledge that in the event of your death or bankruptcy, a Holder Record Lock will be applied to all Participant Sponsored Holdings in accordance with the ASX Settlement Rules, unless your legally appointed representative or trustee elects to remove your Participant Sponsored Holdings from the CHES Subregister.

6.6 You acknowledge that in the event of your death, this 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 3 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 Holders, FinEx will transfer all Holdings under the joint Holder Record into new

Holdings under a new Holder Record in the name of the surviving joint Participant Sponsored Holder(s), and that this 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, FinEx will:

- a) unless the legally appointed representative of the bankrupt Participant Sponsored Holder elects to remove the Participant Sponsored Holdings from the CHES Sub-register, establish a new Holder Record in the name of the bankrupt Participant Sponsored Holder, transfer the interest of the bankrupt Participant 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; and
- b) establish a new Holder record in the name(s) of the remaining Participant 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 If you receive a Participant Change Notice from FinEx in relation to your Participant Sponsored Holdings and the Participant Change Notice was received at least 20 Business Days prior to the date proposed in the Participant Change Notice for the change of Controlling Participant, 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 clause 8.2 or 8.3.

8.2 You may choose to terminate this Agreement by giving Withdrawal Instructions under the ASX Settlement Rules to FinEx, including whether you wish to:

- a) transfer your Participant Sponsored Holding to another Controlling Participant; or
- b) transfer your Participant Sponsored Holding to one or more Issuer Sponsored Holdings.

8.3 If you do not take any action to terminate this Agreement in accordance with clause 8.2 above, and do not give any other instructions to FinEx which would indicate that you do not agree to the change of Controlling Participant then, on the Effective Date, this 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 Agreement in substitution for FinEx;
- b) any rights of FinEx are transferred to the New Controlling Participant; and
- c) FinEx is released by you from any obligations arising on or after the Effective Date.

8.4 The novation in clause 8.3 will not take effect until you have received a notice from the New Controlling Participant confirming that the New Controlling Participant consents to acting as your Controlling Participant. The Effective Date may as a result be later than the date set out in the Participant Change Notice.

8.5 You will be taken to have consented to the events referred to in clause 8.4 by:

- a) the doing of any act which is consistent with the novation of this 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; or
- b) taking no action under clause 8.3.

8.6 This Agreement continues for the benefit of FinEx in respect of any rights and obligations accruing before the Effective Date and, to the extent that any law or provision of any agreement makes the novation in clause 8.3 not binding or effective on the Effective Date, then this Agreement will continue for the benefit of FinEx until such time as the novation is effective, and FinEx will hold the benefit of this Agreement on trust for the New Controlling Participant.

8.7 Nothing in this clause 8 will prevent the completion of CHES transactions by FinEx where the obligation to complete those transactions arises before the Effective Date and this Agreement will continue to apply to the completion of those transactions, notwithstanding the novation of this Agreement to the New Controlling Participant under this clause 8.

## 9. CLAIMS FOR COMPENSATION

9.1 The avenues available to you for making a claim for compensation are described in clauses 3.4 and 9.3.

9.2 If FinEx breaches a provision of this Agreement and you make a claim for compensation pursuant to that breach, the ability of FinEx to satisfy that claim will depend on FinEx's financial circumstances.

9.3 If a breach by FinEx of a provision of this Agreement falls within the circumstances specified in the compensation arrangements applicable to the Approved Market Operator or the Clearing Participant of ASX Clear under the Corporations Act or *the Corporations Regulations 2001* (Cth), you may make a claim under the relevant compensation arrangements. Those compensation arrangements may include the National Guarantee Fund. For more information on the circumstances in which you may make a claim on the National Guarantee Fund or for information on the National Guarantee Fund generally, contact the Securities Exchange Guarantee Corporation Limited.

## 10. TERMINATION

10.1 Subject to the ASX Settlement Rules, this Agreement will be terminated upon the occurrence of any of the following events:

- a) by notice in writing, from either you or FinEx to the other party, to terminate this Agreement;
- b) upon FinEx becoming insolvent;
- c) upon the termination or suspension of FinEx's access to CHES by ASX Settlement (i.e. FinEx's recognition as General Settlement Participant of ASX Settlement has been terminated or suspended, preventing FinEx from acting as a Sponsoring Participant); or
- d) upon the giving of Withdrawal Instructions to FinEx by another Controlling Participant in accordance with ASX Settlement Rule 7.1.10(c).

10.2 Termination of this Agreement does not affect any rights or obligations that have accrued before termination.

## 11. ASX SETTLEMENT RULES AND VARIATION

11.1 This Agreement is subject to the ASX Settlement Rules. You must not do anything which would prevent or hinder FinEx from complying with its obligations under those Rules.

11.2 If this Agreement is inconsistent with the ASX Settlement Rules, those Rules prevail to the extent of the inconsistency.

11.3 Should any of the provisions in this Agreement be inconsistent with the provisions in the ASX Settlement Rules, FinEx must, by giving you not less than 7 Business Days written Notice, vary this Agreement to



the extent to which in FinEx's reasonable opinion is necessary to remove any inconsistency.

- 11.4 FinEx reserves the right to vary this Agreement at any time in a manner that is not inconsistent with the ASX Settlement Rules by giving you not less than 20 Business Days' of the variation, in writing or by electronic communication. FinEx may make a variation without notice to you where such variation is necessary, to restore or maintain the security of its systems or any account.

## 12 INDEMNITY

- 12.1 To the maximum extent permitted by law, you indemnify FinEx against, and you must therefore pay FinEx on demand for, any liability, loss or costs FinEx suffers or incurs in connection with:

- a) FinEx performing its obligations under this Agreement; or
- b) FinEx acting as your Controlling Participant or agent for the purposes of CHES Sponsorship; or
- c) you doing something that you agreed not to do or not doing something that you agreed to do under this Agreement, including because you provide or are taken to have provided inaccurate Registration Details or your Registration Details change and you fail to advise FinEx of the change in a timely manner,

except to the extent that the liability, loss or costs has resulted directly from FinEx's fraud, negligence or misconduct.

- 12.2 This indemnity in this clause 12 is a continuing indemnity independent of your other obligations to FinEx. It continues even after this Agreement is terminated. It is not necessary for FinEx to incur an expense or make payment before enforcing a right of indemnity conferred by this Agreement.
- 12.3 You must pay any amount to FinEx when asked by FinEx. FinEx may debit any amount that you owe to FinEx to any account that you have with FinEx even if FinEx does not expressly ask you to pay FinEx.

## 13. NOTICES AND OTHER COMMUNICATIONS

- 13.2 Any notice, request, demand or other communications, to be given by FinEx to you must be in writing and may be given (at FinEx option):
- a) to your Financial Adviser who will receive that Notice as your agent (and not as the agent of FinEx) and is responsible for passing on that Notice to you;
  - b) by email sent to the email address which you have provided to your Financial Adviser;
  - c) by being left at the address which you have provided to your Financial Adviser; or
  - d) by pre-paid letter to you at the address you provided to your Financial Adviser.
- 13.2 A Notice is regard as given to and received by you:
- a) if given to your Financial Adviser or sent to your email address, on the Business Day after it is so given;
  - b) if left at your address, at the time at the time that it is so left; and
  - c) if sent by prepaid mail to your address, on the second Business Day following posting,
- regardless of whether or not you receive the Notice.

- 13.3 You must ensure that you have at all times provided to your Financial Adviser an accurate and up to date postal address and email address for you, and you agree that if you fail to do so, FinEx takes no responsibility

for the non-delivery or delay in the delivery to you of any Notice, other document or other information or communication.

## 14. MISCELLANEOUS

- 14.1 All duties or taxes (e.g. GST) applicable to this Agreement or applicable to services provided in accordance with this Agreement must be paid by you.
- 14.2 A provision of this Agreement or a right created under it may not be waived except in writing signed by the party or parties to be bound.
- 14.3 FinEx may set off any amount FinEx owes to you against any amount you owe to it or to any of FinEx's related bodies corporate.
- 14.4 You may set off any amount that you owe to FinEx against any amount that FinEx owes to you.
- 14.5 You are entitled to receive a copy of this Agreement executed by FinEx. By returning one copy signed by you, you instruct FinEx not to send to you a hard copy of this Agreement executed by FinEx. However, if you ask FinEx to, FinEx will provide you at any time with a hard copy executed by both parties.
- 14.6 This Agreement is governed by the laws for the time being in force in the State of New South Wales (**NSW**) and the parties to this Agreement submit to the non-exclusive jurisdiction of the Courts of NSW and Courts which may hear appeals from those Courts.

## 15. DEFINITIONS AND INTERPRETATION

- 15.1 Unless the context otherwise requires:
- ASIC** means the Australian Securities and Investments Commission.
- ASX** means ASX Limited ABN 98 008 624 691 or a market operated by it, as the context requires.
- ASX Clear** means ASX Clear Pty Ltd ABN 48 001 314 503.
- ASX Settlement** means ASX Settlement Pty Ltd ABN 49 008 504 532 and its agents appointed under the ASX Settlement Rules.
- ASX Settlement Rules** means the operating rules of ASX Settlement as amended from time to time.
- Business Day** has the meaning given to it in the ASX Settlement Rules. Generally it means any day other than a Saturday or Sunday, New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day and a day that ASX declares is not a business day.
- CHES** stands for Clearing House Electronic Subregister System and has the meaning given to it in the ASX Settlement Rules. It is a system of registering financial products on computer.
- CHES Subregister** has the meaning given to it in the ASX Settlement Rules. Generally it means that part of a register of financial products that is administered by ASX Settlement.
- Controlling Participant** has the meaning given to it in the ASX Settlement Rules. Generally it means a person who has the capacity in CHES to transfer financial products in and out of a sponsored holding.
- Conversion** has the meaning given to it in the ASX Settlement Rules. Generally it means the movement of financial products from one holding on a subregister to another holding on another subregister without a change or legal ownership.
- Corporations Act** means the *Corporations Act 2001* (Cth).
- Financial Adviser** means your financial adviser or financial professional with whom FinEx has entered into an arrangement to enable them to transact in financial products on your behalf.
- financial products** has the meaning given to it in the ASX Settlement Rules.
- FinEx** means FinClear Execution Limited ABN 56 061 751 102.

**FOR Financial Products** has the meaning given to it in the ASX Settlement Rules. Generally it refers to financial products which, because of legislation or a governing instrument, must not be owned beyond a specified limit by foreign persons.

**Holder Record** has the meaning given to it in the ASX Settlement Rules. Generally it means the details recorded by ASX Settlement in CHESS for the purposes of operating one or more holdings.

**Holder Record Lock** has the meaning given to it in the ASX Settlement Rules. Generally it means the facility in CHESS for preventing financial products from being deducted from a holding.

**Holding** has the meaning given to it in the ASX Settlement Rules. Generally it means a holding of financial products by a person.

**Issuer** has the meaning given to it in the ASX Settlement Rules. Generally it means the issuer of financial products.

**Market Integrity Rules** means the *ASIC Market Integrity Rules (Securities Markets) 2017* as amended from time to time.

**Market Transaction** has the meaning given to it in the ASX Settlement Rules.

**Participant Sponsored Holder** has the meaning given to it in the ASX Settlement Rules. Generally it is a person, such as you, whose Participant Sponsored Holding is sponsored on the CHESS Subregister by FinEx or another Sponsoring Participant.

**Participant Sponsored Holding** has the meaning given to it in the ASX Settlement Rules. Generally it means a holding in CHESS sponsored by a CHESS participant such as FinEx.

**Registration Details** has the meaning given to it in the ASX Settlement Rules. Generally it refers to the client's name, address and a Residency Indicator.

**Residency Indicator** has the meaning given to it in the ASX Settlement Rules. Generally it refers to a code (being "D" for domestic, "F" for foreign" and "M" for mixed) used to indicate the status for the purposes of relevant legislation or a governing instrument of the ultimate beneficial owner of FOR Financial Products in a Holding in CHESS.

**Subposition** has the meaning given to it in the ASX Settlement Rules. Generally it means an arrangement under which activity relating to the financial products may be restricted and access to the financial products given to a person other than your usual sponsor.

**Transfer** has the meaning given to it in the ASX Settlement Rules. Generally it means a transfer of financial products to or from a holding on CHESS.

**Withdrawal Instructions** has the meaning given to it in the ASX Settlement Rules. Generally it means the instructions by a person which is sponsored on CHESS for the withdrawal of financial products from the sponsored holding.

15.2 Other words and phrases to which a meaning is given in the ASX Settlement Rules or the Corporations Act have that meaning, unless the context otherwise requires.

15.3 Certain definitions refer to the ASX Settlement Rules. You should read those rules for the full terms of the definitions. The definition may change from time to time if the ASX Settlement Rules are changed. You may view the ASX Settlement Rules online. Please contact your Financial Advisor if you need any assistance in locating these rules online.

15.4 The singular includes the plural and vice versa.

15.5 A reference to a document (including the ASX Settlement Rules) or agreement includes any variation or replacement of it.

15.6 A reference to a law means common law, principles or equity, and laws made by parliament (including regulations and other instruments made under them and consolidations, amendments, re-enactments or replacement of any of them and any thing includes the whole and each part of it.

## Part C. FinClear Services Disclosure Statement

### (FINCLEAR SERVICES)

ABN 60 136 184 962 AFSL No 338264

#### 1. YOUR CLEARING ARRANGEMENTS WITH FINCLEAR SERVICES

FinClear Services 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 agreement with a trading participant of a Relevant Exchange (the **Broker**) for the Broker to execute on your behalf transactions in Cash Market Products and ASX Derivative Products on or through a Relevant Exchange, and the Broker has appointed FinClear Services 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 Services on the terms and conditions set out below in this Disclosure Statement. By placing an Order with the Broker, you accept and agree to be bound by this Disclosure Statement.

FinClear Services 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 Services 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 Services (and not the Broker).

In the event that you fail to complete a contract in accordance with the ASX Clear Rules or the ASX Settlement Rules or fail to pay the amounts due in respect of a Transaction, FinClear Services has direct rights against you, including rights of sale under the Exchange Rules, ASX Clear Rules and ASX Settlement Rules and those described in this Disclosure Statement.

#### 2. CONDUCT OF BUSINESS

You acknowledge and agree:

- a) to comply with this Disclosure Statement, 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 insofar as they impose obligations on you; and
- b) 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. You can view the Exchange Rules, ASX Clear Rules and ASX Settlement Rules online. Please contact your Broker if you need any assistance in locating these rules online.

#### 3. FINCLEAR SERVICES' RIGHT TO REQUIRE THE BROKER TO REFUSE TO ACCEPT ORDERS

You acknowledge that FinClear Services may at any time in its absolute discretion, having regard to its legitimate business interests or prudential or regulatory obligations, 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 Services additional information relating to you.

#### 4. PURCHASES AND SALES, AND SETTLEMENT DATE AND TIME

You must ensure that your Settlement Obligations are met in full before the Settlement Date and Time. In particular, you must ensure that payment in full is received by FinClear Services 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 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 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 does not have any authority to extend the Settlement Date and Time without the consent of FinClear Services to such extension.

FinClear Services will not accept payment in cash.

In accordance with the provisions of the Corporations Act, and the regulations made under the Corporations Act, pending settlement by you, this Disclosure Statement and the relevant Confirmation (if any) constitutes notice to you that FinClear Services may use the Cash Market Products purchased for you in a particular transaction if FinClear Services has received and paid for such Cash Market Products on your behalf.

You must ensure that FinClear Services (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 one Business Day before the Settlement Date and Time.

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

You irrevocably authorise FinClear Services to apply any financial products held in your Participant Sponsored Holding (as defined in the ASX Settlement Rules) to satisfy your Settlement Obligations arising from any Transaction executed by the Broker on your behalf.

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 FinClear Services in deliverable form; and
- c) all amounts due and payable by you to FinClear Services or the Broker have been paid.

Unless FinClear Services has agreed alternative arrangements with you, FinClear Services 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 Services), 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 Services (**Misdirected Market Transaction**);
- b) FinClear Services does not have any Settlement Obligations in respect of any Misdirected Market Transaction; and
- c) FinClear Services will not provide you with a Confirmation in respect of 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 2001* (Cth) 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 Services does not provide financial product advice, nor does it accept responsibility for any financial product advice given to you by the Broker. You must not represent to any person that FinClear Services has given any financial product advice to you.

#### 8. WARRANTIES BY THE CLIENT

You represent and warrant to FinClear Services 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 to cover any liability arising from all possible future calls in respect of the Partly Paid Securities.

#### 9. SETTLEMENT USING BPAY FACILITY

If you would like to make payment from your cheque or savings account by BPAY, please make arrangements with your participating financial institution. Please quote the Biller Code and your BPAY reference number (see the front page of the relevant Confirmation (if any)).

#### 10. CONFIRMATIONS

##### 10.1 Confirmations to be given electronically

You will be given confirmations as required by the Corporations Act and the Market Integrity Rules (Confirmations). You authorise FinClear Services (on behalf of the Broker) to give Confirmations to you electronically to the email address notified to FinClear Services by the Broker on your behalf from time to time for this purpose. This email address must be one which you can access.

##### 10.2 Confirmations in paper form

If requested by you, FinClear Services may provide you with paper Confirmations (if for example you do not have an email address). However, FinClear Services will charge a fee to the Broker (who may pass the fee on to you) for each paper Confirmation sent to you, the amount of such fee will be notified to you from time to time and will be intended to cover the reasonable costs of FinClear Services in providing a paper Confirmation.

You acknowledge and agree that if paper Confirmations are to be given to you:

- a) there may be a delay in the receipt by you of such Confirmations and neither FinClear Service or the Broker takes any responsibility for any such delay; and
- b) you will still be bound by the provisions of clause 10.4 despite any delay in the receipt by you of any Confirmation.

### 10.3 Confirmations are subject to the Rules, etc

You acknowledge and agree that each Confirmation is subject to the Market Integrity Rules, the operating rules of the Relevant Exchange, the directions, decisions, requirements of the Relevant Exchange and, where relevant, the ASX Clear Rules and ASX Settlement Rules, the customs and usages of the relevant market, and to the correction of errors and omissions.

### 10.4 Your obligation to check the accuracy 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 within 24 hours, you will be taken to have accepted the accuracy of the Confirmation and, unless the Confirmation contains an error caused by FinClear Services, the transaction detailed in that Confirmation will be binding on you.

### 10.5 Correction of errors and omissions

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.

### 10.6 Confirmations in respect of multiple transactions

Where the Broker enters into multiple transactions (whether executed on the same Relevant Exchange or otherwise) in order to complete your Order, you authorise FinClear Services on behalf of 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 individual prices of the relevant transactions which are accumulated and averaged in a Confirmation.

### 10.7 Confirmations and wholesale clients

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. If the Broker so elects, this Disclosure Statement is taken to be the notification required to be given by the Broker to you under the Market Integrity Rules.

## 11. FAILURE TO SETTLE OR TO COMPLY WITH YOUR OBLIGATIONS

### 11.1 FinClear Services' rights against you or the Broker if you fail to settle.

You acknowledge that, if you fail to make any payment due to FinClear Services or deliver any documents or Security Holder Information to FinClear Services or otherwise comply with the Settlement Obligations that you owe to FinClear Services in relation to a Transaction in accordance with this Disclosure Statement or the relevant Confirmation, if any (fail to settle) or otherwise fail to comply with your obligations under this Disclosure Statement or otherwise owed by you to FinClear Services (also fail to settle), FinClear Services may pursue any remedy that it has against you or the Broker including under the Exchange Rules, ASX Clear or ASX Settlement and FinClear Services may do any one or more of the following:

- a) charge you or the Broker an administration fee calculated by reference to the reasonable additional cost which may be incurred by FinClear Services (in addition to any fail fees imposed by a Relevant Exchange, ASX Clear or ASX Settlement) as a result of your failure to settle;
- b) charge interest to you or the Broker on the overdue amount using a method and interest rate determined by FinClear Services having regard to the loss suffered by FinClear Services resulting from your failure to pay the amount on the due date, and notified to you by FinClear Services from time to time;
- c) in the case of a purchase, sell (or procure the sale of) any Cash Market Products purchased or otherwise held on your behalf by FinClear Services or any of its related bodies corporate and apply the proceeds (net of any applicable costs and taxes) in reduction of your liability to

FinClear Services and to recover from you or the Broker the reasonable costs and losses (including taxes) of FinClear Services in so acting;

- d) in the case of a sale:
  - (i) buy in (or procure the buy in of) any Cash Market Products sold and recover from you or the Broker the reasonable costs and losses (including taxes) of FinClear Services in so acting; or
  - (ii) acquire under a securities lending arrangement the number of Cash Market Products relevant to the failed settlement shortfall and recover from you or the Broker the reasonable costs and losses (including taxes) of FinClear Services in so acting;
- e) apply any cash held by FinClear Services (or any of its related bodies corporate) or the Broker on your account or to which any of them has access, or payments received for or from you in reduction of your liability to FinClear Services;
- f) sell (or procure the sale of) any financial products otherwise held or controlled by FinClear Services or the Broker (or any of their related bodies corporate) on your behalf and apply the proceeds in reduction of your liability to FinClear Services and to recover from you or the Broker the reasonable costs and losses (including taxes) of FinClear Services in so acting;
- g) refuse to transfer any financial products to you that FinClear Services (or any of its related bodies corporate) may hold for you or control, but only to the extent necessary to retain financial products of the minimum value (where the minimum value is equal to 120% of the current market value of the amount owed by you); or
- h) instruct the Broker to cancel any of your unexecuted Orders, and you authorise FinClear Services and each of its directors and employees as your attorney to give instructions on your behalf in respect of holdings of financial products sponsored by FinClear Services or the Broker (or a related body corporate of either of them) in CHES, or held by a related body corporate of either of them in nominee holdings, and in respect of call deposit facilities or cash management trust accounts or other funds in respect of which FinClear Services or the Broker (or any of their respective related bodies corporate) is authorised to give instructions, to enable FinClear Services to realise those financial products or funds and apply the proceeds (net of any applicable taxes) in reduction of your liability to FinClear Services and to recover from you or the Broker the reasonable costs and losses (including taxes) of FinClear Services in so acting.

### 11.2 Other rights of FinClear Services

If you fail to settle, FinClear Services 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 Services in respect of a Transaction executed for you by the Broker by the date which is 2 Business Days after the Settlement Date and Time, FinClear Services' may (and FinClear Services 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 or causing to be sold 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 from you or the Broker any resulting loss and reasonable costs (including taxes) of FinClear Services.



- 11.3 Your obligation to pay or reimburse charges etc  
You must pay or reimburse FinClear Services any such administration fees and interest charges and any other amount owing to FinClear Services (together with any GST payable on those amounts and gross up amounts for tax deducted or withheld) immediately upon demand or at FinClear Services' option it may deduct such amounts from any sale proceeds or other amounts otherwise held for you or payable to you.
- 11.4 Consequences if FinClear Services exercises rights against the Broker  
You acknowledge that if FinClear Services charges any such administration fees or interest charges to the Broker or exercises any right to recover any amount from the Broker, then the Broker will have the right to charge or recover those amount to and from you.
- 11.5 FinClear Services' rights are in addition to any other rights  
The rights which FinClear Services has against you under this Disclosure Statement in respect of any failure by you to settle from time to time are in addition to, and are not in any way limited by, the rights (if any) which FinClear Services may have under the Exchange Rules, ASX Clear Rules or ASX Settlement Rules. Nothing in this clause 0 purports to exclude any rights of FinClear Services that arise by operation of general law.
- 11.6 Manner of exercise of rights not financial product advice
- 11.7 The manner in which FinClear Services may exercise or not exercise, or the timing of or any delay in any exercise by FinClear Services of, any right of FinClear Services under this clause is not to be taken to be financial product advice by FinClear Services to you, and you must not represent to any person that it is financial product advice by FinClear Services.
- 11.8 FinClear Services not liable for any failure or delay in exercise of rights  
FinClear Services will not be liable to you for any failure by it to exercise (or any delay in the exercise by FinClear Services of) any right FinClear Services may have against you, or any loss incurred by you as a result of FinClear Services not exercising any of its rights against you immediately, or at all, following any failure by you to comply with your obligations.

## 10. CANCELLATIONS AND AMENDMENTS

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 Services to, and agree that FinClear Services 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 or a participant of 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 to above, and FinClear Services' 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.

## 11. INTEREST ON FINCLEAR SERVICES' TRUST ACCOUNT

You acknowledge that FinClear Services or your Broker will retain the interest (if any) earned on monies held in FinClear Services' trust account from time to time.

## 12. ASSIGNMENT TO THE BROKER OF DEBTS OWED BY YOU TO FINCLEAR SERVICES

If you have not paid any amount that you owe to FinClear Services, you acknowledge that FinClear Services may (by notice in writing to you and the Broker) 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 0 as if a reference to FinClear Services were a reference to the Broker.

## 13. 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 not directly to FinClear Services, and the Broker will (as your agent) pass on your communication to FinClear Services. Similarly, FinClear Services will generally only communicate to you via the Broker, and the Broker will as your agent (and not as the agent of FinClear Services) pass on FinClear Services' communications to you.

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 Services on your behalf) (including as the case may be, to give instructions in respect of transactions in respect of Cash Market 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) FinClear Services does not accept fax communications;
- d) you authorise the Broker and FinClear Services to accept and act without any inquiry upon communications (including instructions) provided by email which appear to have been provided by or for you; and
- e) you indemnify FinClear Services in respect of any and all claims, liabilities, direct or consequential losses, costs, charges or expenses (of any nature) incurred or suffered by FinClear Services as a result of the Broker of FinClear Services acting on communications (including instructions) provided by email, except to the extent that the claim, liability, loss, costs, charge or expense has resulted directly from FinClear Services' fraud, negligence or misconduct.

## 14. INDEMNITY

You must, to the maximum extent permitted by law, at all times and from time to time, indemnify and keep each of FinClear Services 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 this Disclosure Statement;
- d) any breach by you of any other agreement with FinClear Services;
- e) any breach by you of any representation or warranty made or taken to have been made by you to FinClear Services (including without limitation in relation to any disclosure to be made in respect of sale Orders) not being true or correct,

except to the extent that the liability, loss, damage, cost or expense has resulted directly from FinClear Services' fraud, negligence or misconduct.



## 15. CREDIT REFERENCES

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

## 16. INFORMATION

You warrant that all information provided by you to the Broker or FinClear Services is, or will be when given, accurate, true and correct and further agree to immediately notify FinClear Services (via the Broker) in writing upon becoming aware that such information is no longer accurate, true and correct. You agree that FinClear Services and the Broker may share such information, as well as your account details and information regarding your transactions with each other and with FinClear Services' related bodies corporate on a confidential basis as FinClear Services considers reasonably appropriate. You also consent to FinClear Services and/or the Broker disclosing this information and your account details to any regulatory authority, Relevant Exchange, ASX Clear or ASX Settlement, and consent to FinClear Services and/or the Broker using such information and your account details for the purposes of monitoring compliance by you, the Broker and/or FinClear Services 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 Services holds about you.

## 17. NOTICES AND OTHER COMMUNICATIONS

17.1 Any notice, request, demand or other communications, other than a Confirmation (**Notice**) to be given by FinClear services to you must be in writing and may be given (at FinClear Services' option):

- e) to the Broker who will receive that Notice as your agent (and not as the agent of FinClear Services) and is responsible for passing on that Notice to you;
- f) by email sent to the email address which you have provided to the Broker;
- g) by being left at the address which you have provided to the Broker; or
- h) by pre-paid letter to you at the address you provided to the Broker.

17.2A Notice is regard as given to and received by you:

- d) if given to the Broker or sent to your email address, on the Business Day after it is so given;
- e) if left at your address, at the time at the time that it is so left; and
- f) if sent by prepaid mail to your address, on the second Business Day following posting, regardless of whether or not you receive the Notice.

17.3 You must ensure that you have at all times provided to the Broker an accurate and up to date postal address and email address for you, and you agree that if you fail to do so, FinClear Services takes no responsibility for the non-delivery or delay in the delivery to you of any Confirmation, Notice, other document or other information or communication.

## 18. COMPLAINTS

If you are dissatisfied with the services that FinClear Services has provided, please take the following steps:

- a) Tell the Broker and if possible put your complaint in writing. You should include as much detail as possible about the circumstances of your complaint, including the name(s) of any of our staff involved. The Broker will then contact FinClear Services on your behalf. FinClear Services will review the complaint and we will contact you and if necessary ask you to provide any relevant documentation if required. FinClear Services' Complaints Manager will provide you with a written acknowledgement of receipt of your complaint, will attempt to resolve your complaint and will advise you of the steps that FinClear Services will take to review and address your complaint. The issues involved may be complex and subject to special regulations. We will do our best to resolve your complaint quickly and fairly. Unless you advise us that you object to us

doing so, we will also keep the Broker informed on the progress of your complaint.

- b) We will try to resolve your complaint within 30 days of receiving it. However, the matter may be complex and we may not be able to resolve it within 30 days in which case we will provide you with a Delay Notification advising you of the delay and your right to complain to the Australian Financial Complaints Authority (**AFCA**) if you are dissatisfied.
- c) If your complaint is not resolved to your satisfaction within the applicable period, you may then refer the matter to AFCA. AFCA provides fair and independent financial services complaint resolution that is free to consumers. You may contact AFCA as follows:  
In writing to: Australian Financial Complaints Authority, GPO Box 3, Melbourne Vic 3001  
Website: [www.afca.org.au](http://www.afca.org.au)  
Email: [info@afca.org.au](mailto:info@afca.org.au)  
Telephone: 1800 931 678 (free call)

If you remain unsatisfied with our response to a complaint, you are at all times free to pursue the matter with ASX Clear or ASX Settlement. ASIC also has a free call info line on 1300 300 630 which you can use to make a complaint about our services and to obtain information about your rights.

If your complaint relates to the services provided by the Broker, you should seek to have your complaint dealt with in the manner set out by the Broker in its FSG or otherwise.

## 19. COMPENSATION ARRANGEMENTS

FinClear Services has arranged for professional indemnity insurance cover which it considers to be adequate, having regard to the following:

- volume and nature of FinClear Services' business;
- number and kind of its clients;
- the number of representatives and Authorised Representatives it has; and
- any particular or potential claims that may arise pursuant to its participation in external dispute resolution schemes, including the AFCA scheme.

FinClear Services considers that the professional indemnity insurance satisfies the requirements for compensation arrangements under section 912B of the Corporations Act.

You may be entitled to make a claim on a compensation fund (such as the National Guarantee Fund (**NGF**) or the Cboe Fidelity Fund) 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 or for information about compensation arrangements generally, contact the Securities Exchange Guarantee Corporation Limited ABN 19 008 626 793 (in relation to queries about the NGF) or in relation to another Relevant Exchange, that Relevant Exchange.

## 20. SPONSORSHIP

If you are not currently sponsored by FinClear Services or the Broker, FinClear Services recommends that you enter into a Sponsorship Agreement with FinClear Services or the Broker to enable easy transfer of your Cash Market Products under CHES.

## 21. JOINT ACCOUNT

If your account is in joint names, this Disclosure Statement binds each person jointly and severally, and each person is authorised to issue instructions to the Broker and FinClear Services, to the Broker and FinClear Services, in relation to any purchase or sale of Cash Market Products or other matters to which this Disclosure Statement relates.

## 22. PRIVACY

FinClear Services may collect personal information from you or the Broker for the purposes of enabling FinClear Services 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 Services 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 Services collects personal information from you or the Broker relating to an individual in accordance with this clause, you hereby consent and warrant that you have obtained the consent of such individuals, to such collection by FinClear Services 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 Services as contemplated in this clause, to the extent required in accordance with the Privacy Laws.

## 23. FOREIGN TAX

You must promptly provide to the Broker or FinClear Services such certifications, documentation, and information as FinClear Services 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 Services with the information, documentation, forms as described in this clause, in a timely and accurate manner, FinClear Services will be entitled to reach whatever conclusions and to take whatever action it reasonably considers to be appropriate without prior notice.

FinClear Services 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 Services 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 Services' control.

If FinClear Services 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.

## 24. ASSIGNMENT

Your rights and obligations under this Disclosure Statement are not capable of assignment as this Disclosures Statement applies as a result of the agreement that you have entered into with the Broker for the execution of transactions in Cash Market Products on a Relevant Exchange on your behalf. Subject to the ASX Clear Rules and ASX Settlement Rules, FinClear Services may assign or transfer its rights under this agreement without your consent and free from any rights of set-off or counterclaim.

## 25. SET OFF

You may set off any amount that you owe to FinClear Services against any amount that FinClear Services owes to you.

FinClear Services may set off any amount that FinClear Services owes to you against any amount that you owe to FinClear Services.

## 26. AMENDMENT

This Disclosure Statement may be amended from time to time by FinClear Services. FinClear Services will give you 20 Business Days' notice of any amendment, after which time, the amendment will become effective and binding on you.

## 27. TERMINATION

This Disclosure Statement will terminate automatically if:

- a) you or the Broker terminate the arrangement under which the Broker may execute transaction on the Relevant Exchanges on your behalf; or
- b) FinClear Services ceases to be the Clearing Participant that carries the clearing and settlement obligations in respect of transactions executed by the Broker on the Relevant Exchanges.

## 28. GOVERNING LAW

This Disclosure Statement is governed by the law in force in New South Wales and you and FinClear Services submit to the non-exclusive jurisdiction of the courts of New South Wales and courts which may hear appeals from those courts.

## 29. INTERPRETATION

29.1 Unless the context otherwise requires:

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means ASX Limited ABN 98 008 624 691 or a market operated by it (as the context requires).

**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 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.

**Broker** means the trading participant of a Relevant Exchange with which you have entered into an agreement for the execution on your behalf of transactions in Cash Market Products on or through a Relevant Exchange, and which has appointed FinClear Services as its clearing and settlement participant for such transactions.

**Business Day** 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 Market Integrity Rules.

**Cboe** means Cboe Australia Pty Ltd ABN 47 129 584 667 or a market operated by it (as the context requires).

**CHESS** means the Clearing House Electronic Subregister System.

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

**Confirmation** has the meaning given to it in clause 10.

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

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

**Error** has the meaning given to it in the Exchange Rules, and in relation to Cboe, has the meaning given to "error trade" in the operating rules of Cboe.

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

**fail to settle** has the meaning given to it in clause 11.1.

**FinClear Services** means FinClear Services Pty Ltd ABN 60 136 184 962 AFSL No 338264.

**Market** has the meaning given to it in the Market Integrity Rules.

**Market Integrity Rules** means the *ASIC Market Integrity Rules (Securities Markets) 2017* as amended from time to time.

**NSX** means National Stock Exchange of Australia Limited ABN 11 000 902 063 or a market operated by it (as the context requires).

**Order** means an order or instruction for the sale, purchase, issue or redemption of Cash Market Products to be executed by the Broker and includes an instruction to amend or cancel such an order.

**Privacy Laws** means:

- (i) the *Privacy Act 1988* (Cth) (**Privacy Act**);
- (ii) the Australian Privacy Principles contained in Schedule 1 to the Privacy Act or any approved privacy code (as defined in the Privacy Act) that applies to FinClear Services, clients of it or both; and
- (iii) any other statute, regulation or law in Australia or elsewhere which relates to the protection of Personal Information (as defined in the Privacy Act) and which FinClear Services or its clients must observe.

**Relevant Exchange** means each of ASX, Cboe and NSX or the financial markets operated by them (as the context requires).

**Settlement Date and Time** has the meaning given to it in clause 4.

**Settlement Obligations** has the meaning given to it in clause 1

**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 Market Integrity Rules.

**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.

29.2 Headings are for convenience only, and do not affect interpretation.

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

29.4 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.

29.5 Words used in this Disclosure Statement have the meanings given to them in the Exchange Rules, ASX Clear Rules or ASX Settlement Rules. You may view those rules online. Please contact the Broker if you need any assistance in locating these rules online.

29.6 You agree that in the event of any inconsistency between this Disclosure Statement and any applicable laws, the Exchange Rules, ASX Clear Rules or ASX Settlement Rules, the latter will prevail to the extent of the inconsistency.

29.7 You acknowledge that this Disclosure Statement 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 by FinClear Services or the Broker from time to time.

**FinClear Services Pty Ltd**  
**A Participant of ASX Group**  
**ABN 60 136 184 962**  
**AFSL 338264**

**Phone: 02 8039 6000**

**Level 8, 118 Mount Street, North Sydney,**  
**New South Wales, 2060**

## Part D. FinClear Services Direct Debit Agreement

### DIRECT DEBIT REQUEST

This is your Direct Debit Agreement (**Agreement**) terms and conditions with FinClear Services Pty Ltd (**FinClear Services**), Debit User Identification number 625407 and ABN 60 136 184 962 (the **Debit User**). It explains what your obligations are when undertaking a Direct Debit arrangement with us. It also details what our obligations are to you as your Direct Debit provider. Please keep this Agreement for future reference. It forms part of the terms and conditions of your Direct Debit Request (**DDR**) and should be read in conjunction with your DDR authorisation.

If you complete the relevant part of the Application Form or have previously completed a FinClear Services' Direct Debit / Credit Authority Form and signed the form in the manner required, you:

- a) request and authorise FinClear Services (Debit User Identification number 625407) to arrange for any amount which you owe to FinClear Services from time to time to be debited through the Bulk Electronic Clearing System and paid to FinClear Services from the Account you have nominated in the Application Form;
- b) authorise FinClear Services to debit in accordance with this Agreement the Account nominated by you in the Application Form with any amount FinClear Services may debit or charge you; and
- c) acknowledge having read and understood, and agree to be bound by, the terms in this Agreement below.

### DIRECT DEBIT REQUEST SERVICE AGREEMENT

#### 1. DEFINITIONS

In this Agreement:

**Account** means the account identified as the direct debit account in the relevant part of the Application Form, but only if that account is held with a Financial Institution.

**Banking day** means a day other than a Saturday or a Sunday or a public holiday listed throughout Australia, or where there is a public holiday simultaneously in Victoria and New South Wales.

**Debit Day** means the day that payment is due from you to FinClear Services.

**Debit Payment** means a particular transaction where a debit is made.

**Direct Debit** means the direct debit request which you make to FinClear Services by completing the relevant part of the Application Form and signing the Application Form.

**Financial Institution** means a financial institution with whom FinClear Services has a direct debit facility arrangement. Please contact your adviser to check whether FinClear Services has a direct debit facility arrangement with Your Financial Institution.

**Your Financial Institution** means the Financial Institution at which the Account is kept.

#### 2. DEBITING THE CLIENT'S ACCOUNT

- 2.1 By completing the relevant part of the Application Form and signing the Application Form in the manner prescribed, you authorise FinClear Services to arrange for funds to be debited from the Account and you warrant and represent that you are duly authorised to request the debiting of payments from the nominated bank account.
- 2.2 FinClear Services will only arrange for funds to be debited from the Account as authorised in the direct debit request.
- 2.3 If the Debit Day falls on a day that is not a Banking day, FinClear Services may direct Your Financial Institution to debit the account on the following Banking day. If you are unsure about the day on which the Account has or will be debited, you should ask Your Financial Institution.

**3. YOUR OBLIGATIONS**

- 3.1 It is your responsibility to ensure that there are sufficient cleared funds available in the Account to allow a Debit Payment to be made in accordance with the Direct Debit Request.
- 3.2 If there are insufficient funds in the Account to meet a Debit Payment:
- you may be charged a fee and/or interest by Your Financial Institution;
  - you may also incur fees or charges imposed or incurred by FinClear Services in accordance with the terms of the relevant agreement between you and FinClear Services; and
  - you must arrange for the Debit Payment to be made by another method or arrange for sufficient clear funds to be in the Account by an agreed time so that FinClear Services can process the Debit Payment.
- 3.3 You should check the Account statement to verify that the amounts debited from the Account are correct.
- 3.4 If FinClear Services is liable to pay goods and services tax (GST) on a supply made in connection with this Agreement, then you agree to pay FinClear Services on demand an additional amount equal to the consideration payable for the supply multiplied by the prevailing GST rate.

**4. CHANGES**

- 4.1 You may request deferment of, or alteration to, suspension of these direct debit arrangements or stop any debit item by providing signed written instructions to your financial adviser or broker or contact Your Financial Institution.
- 4.2 You may also cancel your authority for FinClear Services to debit the Account by providing notice to your financial adviser or broker or contact Your Financial Institution.
- 4.3 FinClear Services may make changes or terminate these arrangements at any time by giving 20 Business Days' notice in writing to you.

**5. DISPUTE**

- 5.1 Any queries about an error made in debiting the Account should be directed to FinClear Services via your financial adviser or broker in the first instance (and not to Your Financial Institution) so that FinClear Services can attempt to resolve the matter with you. If the matter cannot be resolved in this manner FinClear Services may refer it to Your Financial Institution which will obtain details from you of the disputed transaction.
- 5.2 If FinClear Services concludes as a result of our investigations that the Account has been incorrectly debited FinClear Services will arrange for your Financial Institution to adjust the Account accordingly. FinClear Services will also notify you in writing of the amount by which the Account has been adjusted.
- 5.3 If FinClear Services concludes as a result of our investigations that the Account has not been incorrectly debited FinClear Services will provide you with reasons and any evidence for this finding.

**6. ACCOUNTS**

FinClear Services recommends that you:

- confirm with Your Financial Institution whether direct debiting through the Bulk Electronic Clearing System (BECS) is available from the Account as direct debiting may not be available on all accounts offered by Your Financial Institution; and
- check that the Account details provided to FinClear Services are correct by checking them against a recent Account statement; and
- check with your financial institution before completing the Direct Debit Request if you have any queries about how to complete the Direct Debit Request.

**7. CONFIDENTIALITY**

- 7.1 FinClear Services will keep any information (including Account details) in your Direct Debit confidential.
- 7.2 FinClear Services will only disclose information that it has about you:
- to the extent specifically required by law; or
  - for the purposes of this Agreement (including disclosing information in connection with any query or claim);
  - as permitted by this Agreement.

**8. NOTICE**

- If you wish to notify us in writing about anything to this Agreement, you should write to your financial adviser or broker.
- We may send notices either electronically to your email address or by ordinary post to the address you have given us; and
- If sent by mail, communications are taken to be received on the day they would be received in the ordinary course of post.

**9. GOVERNING LAW**

This Agreement is governed by the laws in force in New South Wales.

**Part E. FinEx Financial Services Guide****FINANCIAL SERVICES GUIDE**

Issued by FinClear Execution Ltd (ABN 56 061 751 102 AFSL 246842).

Issue Date: February 2024

**1. Purpose of this FSG**

This Financial Services Guide (FSG) is to provide you with information about the services provided by FinClear Execution Ltd (FinEx) and to help you decide whether to use any of the services described in this FSG that your financial services provider (Financial Adviser) may arrange on your behalf for FinEx to provide to you. You should read it carefully and make sure you understand it. Together with this FSG, you will have received an FSG from your Financial Adviser. You should read both documents before deciding whether to use the services that we provide.

This FSG contains information about:

- Who we are
- What relationships and associations we have
- What documentation you may receive
- The Services we provide
- Who will be providing the services to you
- Who do we act for when providing services
- Financial crimes monitoring
- How you may provide us with information and instructions
- How you may make payments
- The remuneration that may be provided to us or to other relevant persons for the services we provide
- How we handle complaints
- Compensation arrangements
- Your privacy

## 2. Terms Used in this FSG

<b>AFCA</b>	Australian Financial Complaints Authority
<b>AFSL</b>	Australian Financial Services Licence
<b>ASX</b>	ASX Limited ABN 98 008 624 691 or a market operated by it, as the context requires
<b>ASX Clear</b>	ASX Clear Pty Ltd ABN 48 001 314 503
<b>ASX Settlement</b>	ASX Settlement Pty Ltd ABN 49 008 504 532
<b>Cboe</b>	Cboe Australia Pty Limited ABN 47 129 584 667 or a market operated by it, as the context requires
<b>Clearing Participant</b>	A participant of ASX Clear and ASX Settlement that is engaged by FinEx to clear and settle transaction executed by FinEx on a Relevant Exchange. At the date of this FSG, the Clearing Participant is FinClear. FinEx proposes to enter into new arrangements under which FinClear Services will replace FinClear as the Clearing Participant
<b>Corporations Act</b>	<i>Corporations Act 2001</i> (Cth)
<b>Financial Adviser</b>	An AFSL holder (or a Corporate Authorised Representative of an AFSL Holder) who provides you with financial advice and/or services and who has engaged FinEx to arrange for the execution of transactions on a Relevant Exchange and for the clearing (if applicable) and settlement of those transactions
<b>FinClear</b>	FinClear Pty Ltd ABN 63 607 164 714, AFSL No. 481017
<b>FinClear Services</b>	FinClear Services Pty Ltd ABN 60 136 184 962, AFSL No. 338264
<b>FinEx, we, us, our</b>	FinClear Execution Ltd, ABN 56 061 751 102, AFSL No 246842
<b>FSG</b>	Financial Services Guide
<b>International Securities Trader</b>	A FinClear group entity or a third party authorised to provide securities dealing and/or custody services on an international market
<b>international securities transaction</b>	a transaction in financial products that can be traded on an international market
<b>Market Integrity Rules</b>	ASIC Market Integrity Rules (Securities Markets) 2017 as amended from time to time
<b>Market Transaction</b>	has the meaning given to Cash Market Transaction in the Market Integrity Rules. Generally it means a transaction in financial products that can be traded on a Relevant Exchange, other than exchange traded options
<b>MDA</b>	Managed Discretionary Account
<b>NSX</b>	National Stock Exchange of Australia Limited ABN 11 000 902 063 or a market operated by it, as the context requires
<b>PDS</b>	Product Disclosure Statement
<b>Relevant Exchange</b>	ASX, Cboe or NSX, or the markets operated by them, as the context requires.

## 3. Who is FinEx

FinEx is licensed under the Corporations Act (AFSL No. 246842) to provide financial services and is a Market Participant of each of ASX, Cboe and NSX and an Account Participant of ASX Settlement.

## 4. Associations

- FinEx is part of the FinClear group of companies (**FinClear Group**) of which FinClear Holdings Ltd ABN 53 628 360 323 is the ultimate holding company.
- The FinClear Group includes FinEx and:
  - FinClear Pty Ltd (**FinClear**) which is an AFSL holder, a General Participant of ASX Clearing and a General Settlement Participant of ASX Settlement;
  - FinClear Services Pty Ltd (**FinClear Services**) which is an AFSL holder and a General Participant of ASX Clearing and a General Settlement Participant of ASX Settlement; and
  - FinClear Nominees Pty Ltd ABN 32 608 644 024.

At the date of this FSG FinEx has entered into arrangement with FinClear for the clearing and settling of transactions executed by FinEx on a Relevant Exchange. Accordingly, at the date of this FSG the Clearing Participant is FinClear.

FinEx proposes to enter into new arrangements with FinClear Services which will mean that FinClear Services will replace FinClear as the Clearing Participant. FinEx will notify you when those arrangements are entered into.

FinEx also has an arrangement with FinClear Services under which FinClear Services may provide securities dealing and/or custody services on international markets for clients of FinEx.

FinEx also has commercial agreements in place with your Financial Adviser under which your Financial Advisor is able to arrange for FinEx to execute transactions on a Relevant Exchange on your behalf.

FinEx is not controlled by any issuers, and our directors and staff do not act in that or any other capacity within the business of an issuer of financial products.

## 5. What documentation will you receive

To open an account with FinEx you have to complete and sign or electronically acknowledge our Terms and Conditions which will be made available to you by your Financial Adviser and are on our website, [www.finclear.com.au](http://www.finclear.com.au). Those Terms and Conditions contain acknowledgements, authorisations and consents which govern our dealing related services. In particular, you authorise us to deal and do other things on your behalf in accordance with the instructions of your Financial Adviser. We do not expect you to contact us directly and we will only act on the instructions of your Financial Adviser.

You may also have to agree to certain prescribed product specific agreements (e.g. Warrants Client Agreement or Partly Paid Securities Agreement), and receive prescribed Explanatory Booklets or other documentation, before FinEx can accept any orders from your Financial Adviser on your behalf in relation to that product(s).

If we give you access to our direct market access service (**DMA Service**) you will also have to agree to our DMA Service Terms.

The Warrant Client Agreement, Partly Paid Securities Agreement and DMA Service Terms form part of our Terms and Conditions referred to above.

If FinEx is to act as your CHESSE Controlling Participant, you will need to enter into a CHESSE Sponsorship Agreement with us.



If you wish for FinEx to arrange for FinClear Services to arrange for international securities transactions to be executed for you, you will also receive further documentation, including the FSG of FinClear Services.

You may receive a PDS if we offer to issue or arrange for the issue of certain financial products. A PDS is an important document and sets out the information needed to make an informed investment decision about whether to acquire the product. Any PDS that is required to be provided to you will be provided to you via your Financial Adviser.

**FinEx does NOT** provide personal advice (see Section 12 below). We will never provide advice about whether a product is a suitable investment for you personally, and consequently you will not receive Statements of Advice (SOA) (or advice record) from us.

If you wish to use our MDA (or Managed Account) service you will also receive our Supplementary FSG and the MDA Agreement.

#### 6. What financial services can FinEx provide

FinEx is authorised under its AFSL to deal in (by applying for, varying or disposing of it on behalf of another person such as you) the following financial products for both retail and wholesale clients:

- deposit and payment products limited to basic and non-basic deposit products (e.g. bank accounts)
- derivatives (e.g./ exchange traded options (ETOs) and warrants)
- foreign exchange contracts
- any securities (e.g. shares, debentures)
- debentures, stocks or bonds issued or proposed to be issued by a government
- interests in managed investment schemes including investor directed portfolio services
- interests in managed investment schemes limited to MDA services
- retirement savings accounts products
- superannuation
- financial investment products limited to MDA services.

FinEx is also authorised under its AFSL to deal in (by issuing, applying for, varying or disposing of) interests in managed investment schemes limited to MDA services for both retail and wholesale clients.

FinEx is also authorised under its AFSL to provide general financial product advice on the following financial products to both retail and wholesale clients:

- deposit and payment products limited to basic and non-basic deposit products (e.g. bank accounts)
- any securities (e.g. shares, debentures)
- interests in managed investment scheme, including investor directed portfolio services
- interests in managed investment schemes limited to MDA services;

FinEx may also underwrite issues of securities and interests in managed investment schemes and operate custodial or depository services other than investor directed portfolio services to retail and wholesale clients.

#### a) What financial services does FinEx offer

You have received a copy of this FSG because your Financial Adviser has arranged for FinEx to provide one or more of the following services to you.

#### b) Domestic Trade Execution Services

FinEx provides trade execution services on Relevant Exchanges for financial intermediaries including investment advisers, financial planners and their dealer groups and various other FinTechs (collectively referred to as **Financial Advisers** in this FSG).

FinEx arranges for the Clearing Participant to clear (if applicable) and settle the transactions that it executes on a Relevant Exchange on your behalf.

FinEx does not provide execution services in relation to exchange traded options.

#### c) Domestic primary market transaction services

FinEx may provide your Financial Adviser with access to investment opportunities made available by an issuer of financial products (rather than someone selling financial products on market). These involve applying for, or redeeming financial products. Your Financial Adviser can assist you ~~make~~ with applications for Initial Public Offerings (IPOs) and other new issues of securities (e.g. shares) or interests in managed investment schemes (e.g. equity trust units). FinEx can assist your Financial Adviser in arranging applications or redemptions.

FinEx may also arrange for the Clearing Participant to settle such applications and redemptions on your behalf. However, the Clearing Participant will only settle such transactions if, in the case of an acquisition, the necessary funds are made available to the Clearing Participant and, in the case of a disposal, the financial products to be disposed of are made available to the Clearing Participant, in each case in sufficient time before the time the transaction is to be settled.

#### d) CHES sponsorship services

FinEx is also a CHES sponsoring broker and may act as the CHES sponsoring participant for clients who have entered into a CHES Sponsorship Agreement with FinEx.

#### e) International securities transaction services

FinEx through its associated entity, FinClear Services, may also arrange for you to execute international securities transactions. FinClear Services has arrangements with an appropriately authorised third party for the execution and settlement of international securities transactions and for the custody of the international securities held on your behalf. If you wish to use this service, you will also receive further documentation, including the FSG of FinClear Services.

#### f) Nominee and custody services

FinEx may arrange for the Clearing Participant to arrange for the provision of nominee and custody services to you.

#### g) Foreign currency conversion

If FinEx has been instructed to convert your settlement monies from and/or to a foreign currency, we will arrange for a third party to make the foreign currency conversion.

#### h) Stock borrowing for covered short sales

If you wish to arrange for FinEx to execute a covered short sale for you, FinEx may arrange for you to borrow the financial products which are to be the subject of the covered short sale.

**i) MDA Services**

FinEx has arrangements with Investment Managers whereby FinEx is provided with access to the Investment Manager's Model Portfolios. Your Financial Adviser may determine that a direct investment in a portfolio of market traded products would be appropriate as part of your overall financial plan and may instruct FinEx to provide you with MDA Services and arranging for you to invest in a Model Portfolio. FinEx has access to a number of notional Model Portfolios, each having different collective investment/risk characteristics which have been curated by an external third party Investment Manager.

If you wish to use our MDA Service, you will also receive our Supplementary FSG (which will contain information about that service) and the MDA Agreement which will set out the terms and conditions applicable to that service.

**j) Financial product advice**

Financial product advice means recommendations or opinion, whether in written or report form or provided verbally, that are intended to influence a person in making an investment decision. 'Advice' falls within one of two categories: either **General** or **Personal** advice.

**Personal advice**

Personal advice is advice given to a person in circumstances where consideration has been given to whether the product is personally suitable in light of what is known about one or more of the person's objectives, financial situation and needs, or where it might reasonably be expected one or more of those matters has been considered.

FinEx is not authorised to, and will provide you with personal advice.

Your Financial Adviser (and not FinEx), may provide this category of advice to you.

FinEx takes no responsibility for any advice which may be given to you by your Financial Adviser. A Statement of Advice (or advice record) is only relevant in the context of personal advice, not product advice. You will never receive Statement of Advice (or advice record) from FinEx.

**General advice**

General advice is a rating or assessment based solely on the attributes of the financial product, the portfolio or investment strategy alone without considering whether it is also appropriate for someone's financial circumstances. Product advice is considered to be General Advice.

FinEx is authorised to give, and may provide you with, general advice in relation to some basic deposit products, Investor Directed Portfolio Services and MDA services.

**7. Who will be providing the services to you**

FinEx is a specialist provider of wholesale stockbroking services to financial service providers such as financial planners and other AFSL holders, including your Financial Adviser. We supply execution services and arrange for your transactions on a Relevant Exchange to be cleared (if applicable) settled on your behalf. We can also source model portfolios from third party providers. We take no responsibility for the content of the information provided by these third party providers.

If you use our CHES sponsorship services, our Clearing Participant will administer the client's Participant Sponsored Holdings on our behalf of but FinEx remains responsible to you for any actions or matters done or omitted to be done in respect of your Sponsored Holdings.

The Financial Adviser you have engaged will hold an AFSL or be an Authorised Representative of an AFSL holder and will have the necessary financial services/product authorisations to arrange our services on your behalf. FinEx has a wholesale service relationship with your Financial Adviser. You have a direct, primary relationship with your Financial Adviser and a secondary relationship with us.

If you wish to execute transactions using our services, please contact your Financial Adviser who will arrange to have those transactions executed by FinEx. Therefore, the client relationship we have with you is essentially limited to dealings conducted on behalf of your account in accordance with the instructions provided to us by your Financial Adviser on your behalf.

**8. Who do we act for when providing services**

When providing our execution and primary market transaction services, we will be acting on instructions provided by your Financial Adviser on your behalf (or if you have direct market access, then instructions directly from you), and we will be acting as your agent. At times, we may also be acting as agent for another client who is the counterparty to your transaction (e.g. a sale and purchase of shares on market between clients).

On occasions we may act 'as principal' on our own account and appear on the other side of a transaction with you. In such circumstances we cannot charge you brokerage, except as permitted under the Corporations Act and the Market Integrity Rules.

When providing CHES sponsorship services, we act as principal.

When arranging international securities transactions for you, we act as your agent.

If we arrange for you to be provided with nominee or custody services, we act as your agent.

If FinEx arranges a foreign currency conversion for you, it does so as agent.

If FinEx arranges for you to borrow the financial products which are to be the subject of the covered short sale, it borrows the financial products as principal, and on-lends them to you as principal.

**9. Financial crimes monitoring**

Under anti-money laundering and counter terrorism laws, we must meet strict identification requirements before we can provide services to you. Where we are legally obliged to do so, we may disclose the information we have collected about you to regulatory or law enforcement agencies. You should be aware that transactions may be blocked or declined where we have reasonable grounds to believe they may be breach Australian law or the law of any other country.

**10. How you may provide information or instructions to FinEx**

To provide information or instructions to FinEx (including to place an order with FinEx to deal in financial products on your behalf), you must contact your Financial Adviser (and not FinEx directly) who, as your agent, will pass on your information or instructions to FinEx.

FinEx will accept instructions from your Financial Adviser in a number of ways including electronically (email or through an electronic order pad or through a direct market access service if we give your Financial Adviser access to such a service) or over the phone. Notifications and instructions in relation to important matters (e.g. change of your address, payment of sale proceeds to parties other than you) must be provided to us (via your Financial Adviser) in writing, signed by you.

If we provide you with direct market access (under which you may place orders directly, through an online automated client order process, into a trading platform operated by a Relevant Exchange), your instructions will be provided to us electronically and provided your order meets our trade filters, your order will go direct into the Relevant Exchange for execution.

### 11. How you may make payments

As you owe your settlement obligations to the Clearing Participant in respect of transactions executed for you by FinEx, you should provide your settlement monies directly to the Clearing Participant, and not to FinEx.

The Clearing Participant will not facilitate or accept the deposit of funds into its trust accounts in the form of cash or cheques over-the-counter in bank branches or via automated telling machines by you, your Financial Adviser or any other party.

You and your Financial Adviser (as appropriate) must only deposit or facilitate the deposit of cleared funds from your bank account by electronic funds transfer or BPay in relation to the financial services provided by the Clearing Participant.

The Clearing Participant is entitled to, and will retain the interest earned on its trust account. The Clearing Participant will not pay any interest to you in respect of the balance of funds held for you from time to time in its trust account.

You can make electronic transfers or arrange for the Clearing Participant to direct debit your nominated bank account to settle your transactions. You will need to sign or agree electronically to the Direct Debit Agreement if you wish the Clearing Participant to be able to direct debit your nominated account.

If FinEx charges any fees directly to you, it will advise you at the time how you may pay those fees to FinEx.

### 12. FinEx Remuneration And Benefits

How are we remunerated and what other benefits might we receive for the services we provide?

FinEx may be paid in one or any combination of the following ways:

12.1 In general, FinEx charges fees to your Financial Adviser and not to you. FinEx generally does not charge you fees for the services that it may provide to you.

Instead, FinEx will charge fees to your Financial Adviser in relation to those services. Those fees may be a fixed monthly fee, a fee per transaction, a fee per services and other fees.

Your Financial Adviser may charge you fees in respect of the services that it arranges for FinEx to provide to you. This may include fees in respect of execution, clearing and settlement of transactions which your Financial Adviser arranges for FinEx to execute on your behalf. Your Financial Adviser determines the amount and structure of those fees.

Information concerning the fees charged by your Financial Adviser can be obtained directly from your Financial Adviser. The fee that your Financial

Adviser charges in respect of a transaction will also be set out in the confirmation (if any) to be given in respect of that transaction.

Brokerage and some other fees charged by your Financial Adviser to you are collected by the Clearing Participant on behalf of your Financial Adviser. The Clearing Participant will account to your Financial Adviser (via FinEx) for such brokerage and other fees (after deducting fees which the Clearing Participant charges to FinEx and after FinEx deducts the fees which it charges to your Financial Adviser).

12.2 There are some fees which FinEx may charge directly to you

There are some fees which FinEx may charge directly to you. For example, FinEx may charge fees directly to you:

- a) for arranging international securities transactions (see further section 13.6 below);
- b) for arranging for the Clearing Participant to arrange for FinClear Nominees (or another entity) to provide nominee and custody services to you;
- c) for some services to be provided under a CHESSE Sponsorship Agreement (see further section 13.3 below); and
- d) for foreign currency exchange transactions (see further section 13.7 below).

Please refer to the Fee Schedule in Appendix A.

#### 12.3 Fees for CHESSE sponsorship service

As at the date of this FSG, FinEx does not charge fees for acting as your CHESSE Controlling Participant, but may do so in the future charge. FinEx will provide you with 20 Business Days' written notice before introducing any fees for acting as your CHESSE Controlling Participant.

#### 12.4 Fees and other charges if you fail to comply with your obligations owed to the Clearing Participant

If you fail to comply with the settlement or other obligations that you owe to the Clearing Participant, the Clearing Participant may be entitled to charge you or FinEx administration fees (including fail fees charge to the Clearing Participant by a Relevant Exchange, ASX Clear or ASX Settlement), interest and other amounts and to recover any costs and losses (including taxes) from you or FinEx, as set out in the Disclosure Statement given by FinEx to you. If the Clearing Participant charges those fees to FinEx, FinEx may pass those fees on to you.

Please refer to the Fee Schedule in Appendix A.

#### 12.5 Assignment of your debts

The Clearing Participant is entitled to assign to FinEx any debt that you owe to the Clearing Participant (including any debt relating to your failure to comply with your settlement or any other obligations that you owe to the Clearing Participant), in which case, you will owe the relevant debt to FinEx.

FinEx is also entitled to assign to your Financial Adviser any debt that you owe to FinEx (including any debt that the Clearing Participant may have assigned to FinEx), in which case you will owe the relevant debt to your Financial Adviser.

#### 12.6 Fees for International securities transactions

FinEx can arrange for FinClear Services to arrange for the execution on your behalf of international securities transactions by a third party (**International Broker**). For international securities transactions, the fees charged may also include the charges of the international broker. Please refer to the Fee Schedule in Appendix A.

#### 12.7 Foreign Currency Exchange Conversion Fees

If FinEx has been instructed to convert your settlement monies from and/or to a foreign currency, it will instruct its Clearing Participant who will arrange for a third party to make the foreign currency conversion.

The Clearing Participant will be charged a fee for this by the third party and it may charge its own administrative fee for any foreign exchange conversion and will pass the total amount on to you.

FinEx may receive a fee for providing that foreign exchange assistance. The fee is the difference between the wholesale exchange rate we have access to and the exchange rate we offer to you, known as the 'spread'. The spread margin is not fixed, and when applied will range from 0.01% to 1% per transaction. The margin will depend on the current interest rates, the availability of the currency you are buying or selling, market volatility, frequency of activity and transaction value.

FinEx may pay a fee or commission to other persons for any FX conversions that they may have arranged for you to do through FinEx.

#### 12.8 Primary market issues of financial products

If you apply for financial products by way of a prospectus, product disclosure statement or other disclosure document, and your application is stamped by us and is accepted, we will usually receive an application / lodgment fee from the issuer in the range of 0.5% - 3% of the value of the application. FinEx may also receive acceptance incentives to encourage clients to accept a takeover or other offer. These range between 0.5% - 6% of the value of acceptance.

All these are disclosed to you in the product disclosure statement or other disclosure document issued in respect of the relevant product.

#### 12.9 Corporate Action Fees or Other Rebates or Benefits payable by Issuers

FinEx may also receive fees directly from issuers as a result of handling or arranging for you to enter into corporate actions including Initial Public Offerings (IPOs) placements and other capital raisings. These fees may be split between your Financial Adviser and FinEx and the amount of that split is negotiated on a commercial basis between your Financial Adviser and FinEx.

#### 12.10 Fees on transactions NOT traded on a Relevant Exchange

We can arrange transactions in products other than financial products traded on a Relevant Exchange (e.g. fixed income securities) with specialists in the relevant product. These fees will be negotiated with your Financial Adviser prior to accepting the order instructions.

#### 12.11 Fees for stock borrowing for covered short sales

If you wish to arrange for FinEx to execute a covered short sale for you, and FinEx arranges for you to borrow the financial products which are to be the subject of the covered short sale, the fees to be charged to you will be advised to you at the time that the borrowing is arranged.

#### 12.12 GST

GST is payable in respect of all fees charged by FinEx.

### 13. Referral fees

FinEx may pay a fee or a commission to other persons for any services that they may have arranged for you to receive from FinEx.

### 15. How are our staff remunerated?

FinEx's directors and staff receive a salary. Directors and staff may also receive other benefits such as bonuses. They are not remunerated on a commission basis and do not receive a proportion of the fees, charges or brokerage fees that you pay.

#### Detail of remuneration and other benefits can be requested

At your request, we will provide particulars of the remuneration or other benefits that our representatives have received or are to receive. Such a request to be made to your Financial Adviser who, as your agent, will provide your request to us. However, we will only provide this information to you if

you have requested it within a reasonable time after this FSG has been given to you and before any financial services identified in this FSG are provided to you.

### 14. What to do if you have a complaint

If you are dissatisfied with the services FinEx that has provided, please take the following steps:

- a) Tell your Financial Adviser and if possible put your complaint in writing. You should include as much detail as possible about the circumstances of your complaint, including the name(s) of any of our staff involved. Your Financial Adviser will then contact FinEx on your behalf. FinEx will review the complaint and we will contact you and if necessary ask you to provide any relevant documentation if required. FinEx's Complaints Manager will provide you with a written acknowledgement of receipt of your complaint, will attempt to resolve your complaint and will advise you of the steps that FinEx will take to review and address your complaint. The issues involved may be complex and subject to special regulations. We will do our best to resolve your complaint quickly and fairly. Unless you advise us that you object to us doing so, we will also keep your Financial Adviser informed on the progress of your complaint.
- b) We will try to resolve your complaint within 30 days of receiving it. However, the matter may be complex and we may not be able to resolve it within 30 days in which case we will provide you with a Delay Notification advising you of the delay and your right to complain to the Australian Financial Complaints Authority (AFCA) if you are dissatisfied.
- c) If your complaint is not resolved to your satisfaction within the applicable period, you may then refer the matter to AFCA. AFCA provides fair and independent financial services complaint resolution that is free to consumers. You may contact AFCA as follows:  
In writing to: Australian Financial Complaints Authority, GPO Box 3, Melbourne Vic 3001  
Website: [www.afca.org.au](http://www.afca.org.au)  
Email: [info@afca.org.au](mailto:info@afca.org.au)  
Telephone: 1800 931 678 (free call)

If you remain unsatisfied with our response to a complaint, you may pursue the matter with a Relevant Exchange. ASIC also has a free call info line on 1300 300 630 which you can use to make a complaint about our services and to obtain information about your rights.

If your complaint relates to the services provided by your Financial Adviser, you should seek to have your complaint dealt with in the manner set out by your Financial Adviser in its FSG or otherwise.

### 15. Professional Indemnity Insurance Cover

FinEx has in place Professional Indemnity Insurance which it considers is adequate having regard to:

- (a) the volume and type of business carried on by it;
- (b) the number and type of its clients;
- (c) the number of its representatives; and
- (d) any particular or potential claims that may arise pursuant to its participation in external dispute resolution schemes, including the AFCA scheme.

FinEx considers that the professional indemnity insurance satisfies the requirements for compensation arrangements under section 912B of the Corporations Act.

If you require further information about our compensation arrangements please contact FinEx's Head of Compliance.

You may be entitled to make a claim on a compensation fund (such as the National Guarantee Fund (**NGF**) or the Cboe Fidelity Fund) 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 or for information about compensation arrangements generally, contact the Securities Exchanges Guarantee Corporation Limited ABN 19 008 626 793 (in relation to queries about the NGF) or in relation to another Relevant Exchange, that Relevant Exchange.

#### 16. Cboe and compensation arrangements

As a participant of Cboe, FinEx is required under the operating rules of Cboe to provide the following disclosure to you:

There are two different compensation arrangements that may provide protection for retail investors trading on Cboe (formerly known as Chi-X): NGF Arrangements or Division 3 Arrangements. This is because on 26 October 2020, Cboe became a member of the SEGC, which operates the National Guarantee Fund (NGF).

**When do the NGF Arrangements apply?** From 26 October 2020, the National Guarantee Fund (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).

**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 Cboe 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 Cboe participant.

#### 17. Privacy

The privacy of your personal information is important to us. Our privacy policy is contained on our website and sets out important information about the personal information that we collect and how we use and handle it.

#### 18. Contact details

Our contact details are as follows:

FinClear Execution Pty Ltd  
Level 8, 118 Mount Street, North Sydney New South Wales, 2060  
Ph: 02 8039 6000

#### Appendix A: Fee Schedule

This Appendix sets out fees which FinEx may charge directly to you, or alternatively to your Financial Adviser. If FinEx charges the fee to your Financial Adviser, then your Financial Adviser may pass that fee on to you.

Fees for international securities transactions (exclusive of GST)	
Settlement Fees for Non DTC Markets (Europe)	USD \$75.00 - \$250.00
Settlement Fees for DTC Markets (North America)	USD 400 - \$1,000.00
International stock transfer fee	\$75.00 - \$250.00
Administration Fees (exclusive of GST)	
Booking Correction/Rebooking	\$25.00 - \$50.00
Fee if FinClear borrows stock to settle a sale where you have failed to meet your settlement obligations	\$200 if the value of the stock borrowed is less than \$1 million
	\$300 if the value of the stock borrowed is \$1 million or more
Initial Settlement Fail Fee (ASX levied fee)	\$250.00 (min) or 0.10% of failed trade value capped at \$5,000 per day per security
Subsequent day settlement fail fee (ASX levied fee)	\$100.00 (min) or 0.10% of failed trade value capped at \$5,000 per day per security
Interest charge on failed settlements	Reserve Bank of Australia Official Cash Rate plus 8%
Direct Debit Dishonour	\$50.00 - \$100.00
Aged Debtor (fail fee charge per day)	\$50.00 - \$100.00
Foreign Exchange Conversion fees (exclusive of GST)	
FX Conversion Fee	The margin is not fixed, and when applied will range from 0.01% to 1% per transaction. See further paragraph 13.7 above
Other fees (exclusive of GST)	
Printing and postage of contract notes	\$2.00 - \$10.00
RTGS Payments	\$50.00 - \$100.00
Off Market Transfers	\$25.00 - \$50.00
Off Market Transfers (Estates)	\$50.00 - \$100.00 per transfer
SRN search request	\$20.00 - \$50.00 per security
Fees for stock borrowing for covered short sales	To be advised to you at the time that the relevant stock borrowing is being arranged



## Part F. FinClear Services Financial Services Guide

### Financial Services Guide

Issued by FinClear Services Pty Ltd (ABN 60 136 184 962 AFSL No. 338264)

Issue Date: February 2024

#### 1. Purpose of this FSG

This Financial Services Guide (**FSG**) is to provide you with information about the services provided by Finclear Services Pty Ltd (**FinClear Services**) and to help you decide whether to use any of these services described in the FSG that your Broker may arrange on your behalf for FinClear Services to provide to you. You should read it carefully and make sure you understand it. Together with this FSG, you will have received an FSG from the Broker. You should read both documents before deciding whether to use the services that we provide.

#### 2. Terms used in this FSG

This FSG provides information about:

- Who we are
- What relationships and associations we have
- The services we provide
- How you may provide us with information and instructions
- How you may make payments into our trust account
- The remuneration that may be provided to us or to other relevant persons for the services we provide
- The documents you may receive
- How we handle complaints and
- Your privacy and how we use your personal information.

**AFCA** Australian Financial Complaints Authority

**AFSL** Australian Financial Services Licence

**ASX** ASX Limited ABN 98 008 624 691 or a market operated by it, as the context requires

**ASX Clear** ASX Clear Pty Ltd ABN 48 001 314 503

**ASX Settlement** ASX Settlement Pty Ltd ABN 49 008 504 532

**Broker** A Participant of one or more Relevant Exchanges which has engaged FinClear Services to clear and settle transactions executed by it on a Relevant Exchange on your behalf. It is your financial adviser or financial intermediary

**Cboe** Cboe Australia Pty Limited ABN 47 129 584 667 or a market operated by it, as the context requires

**Corporations Act** *Corporations Act 2001* (Cth)

**ETOs** Exchange Traded Options

**FCX** Is the name of the business under FinClear Services that provides capital management and bare trust services

**FinClear Services, we, us, our** FinClear Services Pty Ltd ABN 60 136 184 962; AFSL No. 338 264

**FinClear Services Nominees** FinClear Services Nominees Pty Ltd ABN 38 137 911 730, a wholly owned subsidiary of FinClear Services, or another nominee company appointed by FinClear Services

**FSG** Financial Services Guide

**International Securities Trader** A FinClear Services group entity or a third party authorised to provide securities dealing and/or custody services on an international market

**international securities transaction** A transaction in financial products that can be traded on an international market

**Market Integrity Rules** ASIC Market Integrity Rules (Securities Markets) 2017 as amended from time to time

**Market Transaction** A transaction in financial products that can be traded on a Relevant Exchange, other than ETOs

**MDA** Managed discretionary accounts, being a service which the Broker may provide to you under which you authorise the Broker to manage an investment portfolio on your behalf and to make investment decisions in

relation to the portfolio in accordance with an investment program agreed with you

**NSX** National Stock Exchange of Australia Limited ABN 11 000 902 063 or a market operated by it, as the context requires

**Relevant Exchange** ASX, Cboe or NSX, or the financial markets operated by them, as the context requires

**Trading Participant** Has the meaning given to that term in the Market Integrity Rules

#### 3. Who is FinClear Services

FinClear Services is licensed under the Corporations Act (AFSL No 338 264) to provide financial services and is a General Participant of ASX Clear and a General Settlement Participant of ASX Settlement Pty Ltd. FinClear Services provides third party clearing and settlement services to Trading Participants.

#### 4. Associations

FinClear Services is part of the FinClear group of companies (**FinClear Group**) of which FinClear Holdings Ltd ABN 53 628 360 323 is the ultimate holding company.

The FinClear Group includes:

- FinClear Services which is an AFSL holder, a General Participant of ASX Clear and a General Settlement Participant of ASX Settlement;
- FinClear Execution Ltd (**FinEx**) which is an AFSL holder and a Market Participant of each of ASX, Cboe and NSX and an Account Participant of ASX Settlement;
- FinClear Pty Ltd (**FinClear**) which is an AFSL holder, a General Participant of ASX Clear and a General Settlement Participant of ASX Settlement; and
- FinClear Services Nominees Ltd (**FinClear Services Nominees**) ABN 38 137 911 730 .

FinClear Services may also have arrangements in place with FinEx for FinClear Services to provide third party clearing and settlement services to FinEx.

#### 5. What financial services can FinClear Services provide

FinClear Services is authorised under its AFSL to deal in (by applying for, acquiring, varying or disposing of), on behalf of another person such as you, the following financial products for both retail and wholesale clients:

- securities (such as shares, options and warrants that can be traded on a Relevant Exchange);
- interests in managed investment schemes (other than an Investor Directed Portfolio Service) such as units in ASX listed trusts;
- derivatives, such as ETOs; and
- foreign exchange contracts.

FinClear is also authorised under its AFSL to provide a custodial or depository scheme service (other than an Investor Director Portfolio Service) to retail and wholesale clients.

FinClear Services is authorised under its AFSL to deal in (by issuing, applying for, varying or disposing of) securities, derivatives, foreign exchange contracts and interests in managed investment schemes (other than an Investor Directed Portfolio Service) for both retail and wholesale clients.

FinClear Services is also authorised under its AFSL to provide general financial product advice to wholesale clients only in respect of securities, derivatives, foreign exchange contracts and interests in managed investment schemes (other than an Investor Directed Portfolio Service).

FinClear Services is not authorised to, and does not provide, financial product advice to retail clients.

##### 5. What financial services does FinClear Services offer

You have received a copy of this FSG because the Broker has arranged for FinClear Services to provide one or more of the following services to you.

###### a) Clearing and settlement services for transactions in financial products executed on a Relevant Exchange

FinClear Services may be engaged by Brokers to clear and settle the transactions in financial products executed on or facilitated through a Relevant Exchange by the Broker. If you are a client of one of those Brokers and you effect a transaction in financial products on a Relevant Exchange through the Broker, FinClear Services (as clearer) will be responsible for the settlement obligations in respect of that transaction.

For this purpose, you will become a client of FinClear Services and you will owe your settlement obligations in respect of that transaction directly to FinClear Services and not to the Broker. If you are a client of one of those Brokers, you will be provided with a Disclosure Statement which contains more information concerning the clearing and settlement services FinClear Services provides and the terms of your agreement with FinClear Services in respect of those services.

###### b) Other settlement services

FinClear Services may also be engaged by the Broker to provide to clients of the Broker settlement services in relation to transactions in financial products which are not executed by the Broker on a Relevant Exchange (such as primary market transactions, initial public offerings, other capital raisings, foreign exchange or other off-market transactions). This means that FinClear Services will settle transactions arranged for you by the Broker in relation to the proposed transaction for you.

However, FinClear Services will only settle such transactions if, in the case of an acquisition, the necessary funds are made available to FinClear Services and, in the case of a disposal, the financial products to be disposed of are made available to FinClear Services, in each case in sufficient time before the time the transaction is to be settled.

###### c) Clearing and settlement services for transactions in Exchange Traded Options executed on ASX

FinClear Services may also be engaged by Brokers to clear and settle the transactions in ETOs executed on ASX by the Broker.

If you are a client of one of those Brokers and you effect a transaction in an ETO on ASX through the Broker, FinClear Services (as clearer) will be responsible for the settlement obligations in respect of that transaction. For this purpose, you will become a client of FinClear Services and you will owe your settlement obligations in respect of that transaction directly to FinClear Services, and not to the Broker.

###### d) Clearing services for transactions in Exchange Traded Options "given up" to FinClear Services on ASX

FinClear Services may clear a transaction in ETOs executed on ASX by another Participant of ASX Group if the transaction is "given up" to FinClear Services. If FinClear Services accepts the "give up" of such a transaction executed for you, FinClear Services will be responsible for the settlement obligations in respect of that transaction. For this purpose, you will become a client of FinClear Services and you will owe your settlement obligations in respect of that transaction directly to FinClear Services and not to the other Participant.

###### e) Execution, clearing and settlement services for transactions in securities on international markets

FinClear Services may also be engaged by a Broker to arrange execution, clearing and settlement services in respect of securities on international markets for clients of the Broker. This means that FinClear Services will arrange for the execution, clearing and settlement of the transaction with an entity which holds the appropriate authorisation to do so in that market (**International Securities Trader**). The International Securities Trader may be a FinClear Group entity or a third party entity.

As a client of one of those Brokers, you may effect an international securities transaction on an international market by providing instructions to the Broker. The Broker, acting as your agent, will then communicate your instructions to FinClear Services who, in acting for you, will communicate them to the International Securities Trader.

FinClear Services will also arrange for the International Securities Trader to clear (if applicable) and settle all transactions in securities that have been executed on your behalf under this arrangement. Accordingly, FinClear Services will be responsible for the settlement obligations in respect of those transactions. For this purpose, you will become a client of FinClear Services and you will owe your settlement obligations in respect of those transactions directly to FinClear Services and not to the Broker or the International Securities Trader.

###### f) CHES Sponsorship services

FinClear Services may act as a CHES Sponsoring Participant for the clients of the Brokers.

###### g) Nominee and custody services

FinClear Services may arrange for FinClear Nominees and/or another entity to provide nominee and other custody services for clients of the Broker.

FinClear Services may arrange for its wholly owned subsidiary, FinClear Services Nominees and/or another entity to provide nominee and other custody services for clients of the Broker for whom it provides clearing and settlement services and other clients. If you want FinClear Services to arrange for the provision of nominee or custody services to you, you will need to enter into an agreement for this purpose. Where FinClear Services provides nominee services the financial products held by FinClear Services Nominees on your behalf may be held in the same account in which FinClear Services Nominees holds financial products for other persons.

###### h) Foreign currency conversion

If FinClear Services has been instructed to convert your settlement monies from and/or to a foreign currency, we will arrange for a third party to make the foreign currency conversion.

###### i) Stock borrowing for covered short sales

If you wish to arrange for the Broker to execute a covered short sale for you, FinClear Services may arrange for you to borrow the financial products which are to be the subject of the covered short sale.

###### j) No financial product advice to retail clients

FinClear Services does not provide any financial product advice to retail clients. FinClear Services is authorised under its AFSL to provide general financial product advice to wholesale clients only for the following classes of financial products:

- derivatives;
- foreign exchange contracts;

- interests in managed investment schemes excluding investor directed portfolio services; and
- securities.

## 7. Capacity in which FinClear Services acts

The capacity in which FinClear Services acts depends on the service to be provided as follows:

### a) Clearing and settlement services for transactions in financial products executed on a Relevant Exchange

FinClear Services acts as principal in relation to the clearing and settlement of transactions in financial products executed on a Relevant Exchange on your behalf. However, there may be certain activities which FinClear Services will perform as agent for another person (such as the despatch by FinClear Services of confirmations to clients as agent for the Broker that executed the transaction).

In clearing and settling the transaction, FinClear Services acts as agent for the client for whom the transaction was executed. However, FinClear Services will owe the settlement obligations in respect of that transaction to ASX Clear or ASX Settlement as principal.

### b) Other settlement services

FinClear Services acts as your agent in relation to the settlement of transactions in financial products which the Broker has arranged on your behalf which are not executed on a Relevant Exchange.

### c) Clearing and settlement services for transactions in Exchange Traded Options executed on ASX

FinClear Services acts as principal in relation to the clearing and settlement of transactions in ETOs executed on ASX on your behalf. FinClear Services also acts as principal in respect of the clearing and settlement of transactions in ETOs executed on ASX on your behalf for which FinClear Services accepts the "give up".

However, there may be certain activities which FinClear Services will perform as agent for another person (such as the despatch by FinClear Services of confirmations to clients as agent for the Broker that executed the transaction).

The rights of FinClear Services against the ASX Group in respect of any transaction in ETOs executed on ASX for which FinClear Services has the settlement obligations will be personal to FinClear Services, and the benefit of those rights will not pass to the client for whom the transaction was executed. Accordingly, in clearing the transaction and being the registered holder of the ETO, FinClear Services acts as principal and not as an agent or trustee for the client. However, FinClear Services will owe corresponding obligations to the client as a principal.

### d) Execution and clearing services for transactions in securities on international markets

When FinClear Services enters into a contract with you to arrange for the execution, clearing and settlement of international securities transactions on a foreign market by an International Securities Trader for you, it does so as principal on its own behalf, and not as your agent.

When FinClear Services arranges for the provision of international securities trading services to you, FinClear Services acts as agent for you.

In order to provide these services to you, FinClear Services (as principal) will enter into agreements with an International Securities Trader, and will owe obligations in relation to any transactions directly to the International Securities Trader. It is then your separate agreement with FinClear Services (under which FinClear Services arranges international transactions for you) under which you owe obligations to FinClear

Services in respect of those transactions, and which enables FinClear Services to ultimately call upon you to satisfy these obligations.

### e) CHESS Sponsorship services

FinClear Services acts as principal in providing sponsorship services to clients.

### f) Nominee and custody services

FinClear Services may arrange for FinClear Services Nominees and/or another entity to provide nominee and other custody services to you. FinClear Services Nominees or the other entity, will act as nominee or trustee for you in providing the service.

### g) Foreign currency conversions

If FinClear Services arranges a foreign currency conversion for you, it does so as agent.

### h) Stock borrowing for covered short sales

If FinClear Services arranges for you to borrow the financial products which are to be the subject of the covered short sale, it borrows the financial products as principal, and on-lends them to you as principal.

## 8. How you may provide information or instructions to FinClear Services

To provide information or instructions to FinClear Services, you must contact the Broker (and not FinClear Services directly) who, as your agent, will pass on your information or instructions to FinClear Services.

## 9. How you may make payments into our trust account

You may only deposit funds into a FinClear Services trust account if the funds are paid in connection with financial services provided (or to be provided) by FinClear Services to you.

FinClear Services' trust accounts are not "holding" accounts where your funds, with no connection to FinClear Services or the financial services provided by FinClear Services to you, may be deposited for convenience or by any other party other than you or the Broker on your behalf.

FinClear Services will not facilitate or accept the deposit of funds into its trust accounts in the form of cash or cheques over-the-counter in bank branches or via automated telling machines by you, the Broker or any other party.

You and the Broker (as appropriate) must only deposit or facilitate the deposit of cleared funds from your client bank account by electronic funds transfer or BPay in relation to the financial services provided by FinClear Services.

FinClear Services (or the Broker) is entitled to, and will retain the interest earned on FinClear Services' trust account. FinClear Services will not pay any interest to you in respect of the balance of funds held for you from time to time in FinClear Services trust account.

## 10. How we are remunerated

### a) In general, FinClear Services charges fees to the Broker and not to you

FinClear Services generally does not charge you fees for the services that it may provide to you.

Instead, FinClear Services will charge fees to the Broker in relation to those services. Those fees may be a fixed monthly fee, a fee per transaction, a fee per services and other fees.

The Broker may charge you fees in respect of the services that it arranges FinClear to provide to you. This may include fees in respect of execution of transactions which the Broker arranges for FinClear to clear (if applicable) and settle on your behalf. The Broker determines the amount and structure of those fees. Information concerning the fees charged by your Broker can be obtained directly from your Broker. The fee that the Broker charges in respect of a transaction will also be set out in the confirmation (if any) to be given in respect of that transaction. Brokerage and some other fees charged by the Broker to you is also collected by FinClear Services on behalf of the Broker. FinClear Services will account to the Broker for such brokerage and other fees after deducting fees which FinClear Services charges to the Broker.

**b) There are some fees which FinClear may charge directly to you**

There are some fees which FinClear Services may charge directly to you. Details of those fees are set out in Appendix A to this FSG.

**c) Fees for CHESS sponsorship services**

As at the date of this FSG, FinClear Services does not charge fees for acting as your CHESS Controlling Participant, but may do so in the future charge. FinClear Services will provide you with 20 Business Days' written notice before introducing any fees for acting as your CHESS Controlling Participant.

**d) Fees and other charges if you fail to comply with your obligations owed to FinClear Services**

If you fail to comply with the settlement or other obligations that you owe to FinClear Services, FinClear Services may be entitled to charge you or the Broker administration fees (including fail fees charged to FinClear Services by a Relevant Exchange, ASX Clear or ASX Settlement), interest and other amounts and to recover any costs and losses (including taxes) from you or the Broker, as set out in the Disclosure Statement given by the Broker to you. Details of those administration fees and interest charges are set out in Appendix A to this FSG.

**e) The Broker may pass on to you fees charged by FinClear Services to the Broker**

If FinClear Services charges any of the amounts referred to above to the Broker, the Broker may pass those amounts on to you. The Broker will provide you with information concerning those amounts which it may pass on to you.

**f) FinClear Services may assign to the Broker any debt that you owe to FinClear Services**

FinClear Services is entitled to assign to the Broker any debt that you owe to FinClear Services (including any debt relating to your failure to comply with you settlement or any other obligations that you owe to FinClear Services), in which case, you will owe the relevant debt to the Broker.

**g) Foreign Currency Conversion Fees**

If FinClear Services has been instructed to convert your settlement monies from and/or to a foreign currency, we will arrange for a third party to make the foreign currency conversion. FinClear Services will be charged a fee for this by the third party and FinClear Services may charge its own administrative fee for any foreign exchange conversion and will pass the total amount on to you.

FinClear Services may receive a fee for providing that foreign exchange assistance. The fee is the difference between the wholesale exchange rate we have access to and the exchange rate we offer to you, known as the 'spread'. The spread margin is not fixed, and when applied will range from 0.01% to 1% per transaction. The margin will depend on the

current interest rates, the availability of the currency you are buying or selling, market volatility, frequency of activity and transaction value.

FinClear Services may pay a fee or commission to other persons for any FX conversions that they may have arranged for you to do with FinClear.

**h) Fees for stock borrowing for covered short sales**

If you wish to arrange for the Broker to execute a covered short sale for you, and FinClear Services arranges for you to borrow the financial products which are to be the subject of the covered short sale, the fees to be charged to you will be advised to you at the time that the borrowing is arranged.

**i) GST**

GST is payable in respect of all fees charged by FinClear Services.

**11. How our representatives are remunerated**

Our representatives are remunerated by way of salary and they do not directly receive any remuneration calculated by reference to the amount of fees or commissions received by FinClear Services. They may also be entitled to a bonus or other employment benefits based upon performance and achievement of various objectives by both the representative and FinClear Services.

**Detail of remuneration and other benefits can be requested**

At your request, we will provide particulars of the remuneration or other benefits that our representative has received or is to receive.. Such a request to be made to your Broker who, as your agent, will provide your request to us. However, we will only provide this information to you if you have requested it within a reasonable time after this FSG has been given to you and before any financial services identified in this FSG are provided to you.

**12. Referral fees**

FinClear Services may pay a fee or a commission to other persons for any services that they may have arranged for you to receive from FinClear Services.

**13. Relationships or associations with financial product providers**

FinClear Services may enter into arrangements with financial product providers or financial services providers. Details of the benefits which FinClear Services may receive in connection with those arrangements are disclosed elsewhere in this FSG, or will be disclosed to you at the time that you seek to invest on the relevant products or use the relevant financial services.

**14. Documents you will receive**

**a) Clearing and settlement services for transactions executed by the Broker**

You will receive a Disclosure Statement which will contain more information relating to the clearing and settlement services provided by FinClear Services and the terms and conditions of those services where FinClear Services is to clear and settle transactions executed for you by a Broker through a Relevant Exchange.

**b) Other settlement services**

The Broker will provide you with any documentation that is relevant to the other settlement services that the Broker may arrange for FinClear Services to provide to you.

**c) Transactions in ETOs**

If the Broker executes ETOs on your behalf and has arranged for FinClear Services to clear those ETO transactions, you will need to enter a Derivatives Client Agreement with FinClear Services. You will also need to enter into a Derivatives Client Agreement with FinClear Services if FinClear Services is to accept the "give up" of any ETO executed by another Participant of ASX Group for you.

You may also need to enter into a Derivatives Client Agreement with the Broker (or other Participant of ASX Group) that executes transactions in ETOs on your behalf and be given an ETO Product Disclosure Statement by the Broker (or that other Participant). The ETO Product Disclosure Statement will contain important information regarding trading ETOs, including the fees charged by ASX Clear.

**d) Execution and clearing services for transactions in securities on international markets**

If FinClear Services is to arrange for the execution, clearing and settlement of international securities transactions on a foreign market by an International Securities Trader for you, the Broker will provide you with any documentation that is relevant to that service.

**e) CHESS Sponsorship Services**

If FinClear Services is to act as your CHESS Sponsoring Participant, you will need to enter into a Sponsorship Agreement with FinClear Services.

**f) Nominee and custody services**

If FinClear Services is to arrange for FinClear Services Nominees or another entity to provide nominee or other custody services to you, you will need to enter into an agreement with FinClear Services for this purpose.

**g) Advice**

You will not receive a Statement of Advice (or advice record) from FinClear Services as we do not provide any personal financial product advice. If you receive personal financial product advice from the Broker, the Broker may be required to give you a Statement of Advice (or advice record).

**15. Complaints**

If you are dissatisfied with the services that FinClear Services has provided, please take the following steps:

- a) Tell the Broker and if possible put your complaint in writing. You should include as much detail as possible about the circumstances of your complaint, including the name(s) of any of our staff involved. The Broker will then contact FinClear Services on your behalf. FinClear Services will review the complaint and we will contact you and if necessary ask you to provide any relevant documentation if required. FinClear Services' Complaints Manager will provide you with a written acknowledgement of receipt of your complaint, will attempt to resolve your complaint and will advise you of the steps that FinClear Services will take to review and address your complaint. The issues involved may be complex and subject to special regulations. We will do our best to resolve your complaint quickly and fairly. Unless you advise us that you object to us doing so, we will also keep the Broker informed on the progress of your complaint.
- b) We will try to resolve your complaint within 30 days of receiving it. However, the matter may be complex and we may not be able to resolve

it within 30 days in which case we will provide you with a Delay Notification advising you of the delay and your right to complain to the Australian Financial Complaints Authority (AFCA) if you are dissatisfied.

- c) If your complaint is not resolved to your satisfaction within the applicable period, you may then refer the matter to AFCA. AFCA provides fair and independent financial services complaint resolution that is free to consumers. You may contact AFCA as follows:

In writing to: Australian Financial Complaints Authority, GPO Box 3, Melbourne Vic 3001

Website: [www.afca.org.au](http://www.afca.org.au)

Email: [jinfo@afca.org.au](mailto:jinfo@afca.org.au)

Telephone: 1800 931 678 (free call)

If you remain unsatisfied with our response to a complaint, you are at all times free to pursue the matter with ASX Clear or ASX Settlement. ASIC also has a free call info line on 1300 300 630 which you can use to make a complaint about our services and to obtain information about your rights.

If your complaint relates to the services provided by the Broker, you should seek to have your complaint dealt with in the manner set out by the Broker in its FSG or otherwise.

**16. Compensation Arrangements**

FinClear Services has arranged for professional indemnity insurance cover which it considers to be adequate, having regard to the following:

- volume and nature of FinClear Services' business;
- number and kind of its clients;
- the number of representatives and Authorised Representatives it has; and
- any particular or potential claims that may arise pursuant to its participation in external dispute resolution schemes, including the AFCA scheme.

FinClear Services considers that the professional indemnity insurance satisfies the requirements for compensation arrangements under section 912B of the Corporations Act. If you require further information about our compensation arrangements please contact FinClear Services' Head of Compliance. You may be entitled to make a claim on a compensation fund (such as the National Guarantee Fund (NGF) or the Cboe Fidelity Fund) 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 or for information about compensation arrangements generally, contact the Securities Exchanges Guarantee Corporation Limited ABN 19 008 626 793 (in relation to queries about the NGF) or in relation to another Relevant Exchange, that Relevant Exchange.

**17. Privacy**

The privacy of your personal information is important to us. Our privacy policy is contained on our website and sets out important information about the personal information that we collect and how we use and handle it.

**18. Contact Details**

Our contact details are as follows:

FinClear Services Pty Ltd

Level 8, 118 Mount Street, North Sydney

New South Wales, 2060

Ph: 02 8039 6000



## Appendix A: Fee Schedule

This Appendix sets out fees which FinClear Services may charge directly to you, or alternatively to the Broker. If FinClear Services charges the fee to the Broker, then the Broker may pass that fee on to you.

Fees for international securities transactions (exclusive of GST)	
Settlement Fees for Non DTC Markets (Europe)	USD \$75.00 - \$250.00
Settlement Fees for DTC Markets (North America)	USD \$400 - \$1,000.00
International stock transfer fee	\$75.00 - \$250.00
Administration Fees (exclusive of GST)	
Booking Correction/Rebooking	\$25.00 - \$50.00
Fee if FinClear Services borrows stock to settle a sale where you have failed to meet your settlement obligations	\$200 if the value of the stock borrowed is less than \$1 million
	\$300 if the value of the stock borrowed is \$1 million or more
Initial Settlement Fail Fee (ASX levied fee)	\$100.00 (min) or 0.10% of failed trade value capped at \$5,000 per day per security
Subsequent day settlement fail fee (ASX levied fee)	\$100.00 (min) or 0.10% of failed trade value capped at \$5,000 per day per security
Interest charge on failed settlements	Reserve Bank of Australia Official Cash Rate plus 8%
Direct Debit Dishonour	\$50.00 - \$100.00
Aged Debtor (fail fee charge per day)	\$50.00 - \$100.00
Foreign exchange conversion fees (exclusive of GST)	
FX Conversion Fee	The margin is not fixed, and when applied will range from 0.01% to 1% per transaction. See further paragraph 10(e) above
Other fees (exclusive of GST)	
Printing and postage of paper confirmations	\$2.00 - \$10.00
RTGS Payments	\$50.00 - \$100.00
Off Market Transfers	\$25.00 - \$50.00
Off Market Transfers (Estates)	\$50.00 - \$100.00 per transfer
SRN search request	\$20.00 - \$50.00 per security
Fees for stock borrowing for covered short sales	To be advised to you at the time that the relevant stock borrowing is being arranged

## Part G. Privacy Policy

This policy applies to information collected by the FinClear Group which includes FinClear Execution Ltd and FinClear Pty Ltd and its related bodies corporate (collectively "FinClear", "we" or "us"). It outlines how we collect and use personal information that we hold about you in accordance with the *Privacy Act 1988* (Cth) (**Privacy Act**).

### 1. What personal information is collected?

We collect personal information that is reasonably necessary for us to provide you with a service. This includes personal information that we are required to collect under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) to identify you and verify your identity. If you do not provide the information that we ask for, we may not be able to provide the products or services you have requested.

We may collect information such as your name, address, phone number, email address, tax file number, bank account details, other information that may be required for identification purposes, information about your investments and transactions and other information related to the services we provide.

### 4. How personal information is collected?

We will generally collect your personal information from your financial adviser or stockbroker in the course of you applying to open an account with your financial adviser or stockbroker and FinClear and transacting on that account. By using FinClear services you consent to FinClear collecting your information from your financial adviser or stockbroker or other person or entity who provides services to you. We may also collect information directly from you, such as when you provide the information by phone, email or in an application form or when you deal with us as a key contact or employee of a client or counterparty of FinClear.

### 5. Use and disclosure of your personal information

FinClear may use your personal information for the primary purpose of providing financial products trading and settlement services to you, as well as for related purposes such as:

- to verify your identity or transactions which you may enter into with us;
- to administer and manage the provision of our products and services;
- to provide you with offers of other FinClear products or services;
- to comply with laws and regulatory requirements, including complying with any request made by a governmental authority or regulator, such as in connection with legal proceedings or the prevention or detection of fraud and crime;
- to comply with FinClear's risk management policies and procedures;
- conducting due diligence as part of a pre-employment screening or acceptance of your account with FinClear; or
- another purpose related to the primary purpose.

For the purposes we have described, we may disclose your personal information:

- to our suppliers (including service and content providers), contract and service providers, professional advisers, dealers and agents;
- to government agencies or individuals responsible for the investigation and resolution of disputes or complaints covering your use of our services and facilities including for example ASIC, AUSTRAC or the OAIC;
- other parties involved in the administration of your investments

including stock exchanges, clearing and settlement facilities, product issuers, investment registries or mailing houses;

- anyone to whom our assets or business (or any part of it) is transferred (or offered to be transferred, subject to confidentiality provisions);
- other entities in the wider FinClear group; or
- where you have otherwise consented or as otherwise required or authorised by law.

#### 6. Access and correction and updating personal information

You can request access to the personal information that we hold about you by contacting us using the contact details at the end of this statement. Generally, we will provide you with access to personal information that we hold about you within a reasonable time of a request, unless an exception applies under the Privacy Act.

If you believe the personal information that we hold about you is inaccurate, incomplete or out-of-date, you can seek the correction of that personal information by contacting us using the contact details at the end of this statement. If we disagree with you about the accuracy, completeness or currency of our records, you have the right to request that we note your disagreement in our records. You should keep us informed of any changes to your information by notifying us in writing (which may be through your financial adviser or stockbroker). We may also ask you to review, confirm and advise of us changes to your personal information.

#### 7. Storage and security of information

FinClear stores personal information in a combination of computer storage facilities, paper-based files and other records. We will take reasonable steps to protect personal information from loss, misuse, unauthorised access, modification or disclosure.

#### 8. Cross-border disclosure of personal information

We may transfer personal information to unaffiliated service providers in locations beyond Australia (including, but not limited to, the United States) in the course of using or disclosing it for one of the purposes referred to above or storing that information. When transferring personal information to foreign jurisdictions, FinClear may take steps to ensure the overseas recipient of the information does not breach the Australian Privacy Principles in relation to the information. However, FinClear may be unable to ensure the overseas recipient does not breach the Australian Privacy Principles in relation to your information. This may mean for information sent overseas you do not have the protections of or any redress under the Privacy Act or in the foreign jurisdiction for any breach. The overseas recipient may not be subject to privacy obligations equivalent those under the Privacy Act and could be compelled by foreign law to make disclosure of the information. By using FinClear services you consent to FinClear making the disclosure to overseas recipients on this basis.

#### 9. Complaints

You can make a complaint about the way we have handled your personal information (including if you think we have breached the Privacy Act) to our Privacy Officer in writing, by mail or email to number set out at the end of this statement. When you contact us, include your email address, name, address and telephone number and clearly describe your complaint. Our Privacy Officer will investigate the complaint and respond to you promptly. If you consider that we have failed to resolve the complaint satisfactorily, and you are an individual located in Australia, you can complain to the Office of the Australian Information Commissioner.

#### 10. Changes to this Statement

This statement is subject to change from time to time as FinClear considers necessary. We will publish material changes by making them available to you through your financial adviser or stockbroker or elsewhere updating the

statement in the places it is published including in our standard forms and documents.

#### 11. Contact details

You can contact us by:

**Post:** Privacy Officer  
PO Box 1523  
North Sydney NSW 2060

**Email:** [compliance@finclear.com.au](mailto:compliance@finclear.com.au)

When you contact us, include your email address, name, address and telephone number and clearly describe the reason why you are contacting us.

### Part H. Warrants Agreement

This agreement applies if you wish to trade in warrants through FinEx. You hereby declare to FinEx and FinClear that you:

- have received and read a copy of the Explanatory Booklet issued by the ASX in respect of Warrants;
- are aware that a Warrant has a limited life and cannot be traded after its expiry date;
- are aware that Warrants do not have standardised terms of issue and acknowledge that it's ~~their~~ your responsibility to become aware of the terms of issue of any Warrant in which you choose to invest;
- are aware that Warrants may be subject to adjustments after their initial issue and acknowledge that it is ~~their~~ your responsibility to become aware of any adjustments which may have been made to any Warrant in which you choose to invest;
- are aware that admission to trading status of a Warrant does not imply that ASX or the Securities Exchange Guarantee Corporation Limited gives any guarantee or warranty as to the viability of the Warrant-issuer or guarantor; and
- acknowledge that the failure of the Warrant issuer or the Guarantor (if applicable) to fulfil their obligations does not give rise to a claim against ASX, handling Market Participants or the Securities Exchanges Guarantee Corporation Limited.

### Part I. Partly Paid Securities Agreement

This agreement applies if you wish to trade in Partly Paid Securities through FinEx. You acknowledge to FinEx and FinClear that you are aware that:

- a Partly Paid Security is a security which may require you to make a further payment or payments at some time in the future;
- 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 you place an order to buy a Partly Paid Security;
- you may be required to make 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 required to make a further payment on a Partly Paid Security despite the fact that you may have disposed of a Partly Paid Security before 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 dates or circumstances that a further payment falls due and the last day that you can dispose of the Partly Paid Security before you become required to make 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) your obligation in relation to a Partly Paid Security, including an obligation to make a further payment, does not give rise to a claim against ASX or the Securities Exchanges Guarantee Corporation.

You warrant and represent to FinEx and FinClear that, before placing an Order with your Financial Advisor that relates to the purchase of a Partly Paid Security that you have made arrangements with FinClear (to the satisfaction of FinClear) to pay the Clearing a sufficient amount to cover any liability arising from all possible future calls in respect of the Partly Paid Security.

## Part J. Terms of your use of a DMA Service

The following terms and conditions apply if you are given access to the DMA Service.

### 1. ACCESS TO THE TRADING SYSTEM

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

FinEx may in its discretion at any time limit the number of Authorised Persons who are permitted to submit Orders for you through the DMA Service.

You must not authorise, allow nor permit any person other than an Authorised Person to access or use the DMA Service using the Security Information.

You acknowledge and agree that FinEx may, in its absolute discretion:

- a. refuse to approve as an Authorised Person any person nominated by you for that purpose;
- b. revoke its approval of an Authorised Person at any time;
- 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 an Relevant Exchange relevant to the type of order submission facilities given to the Authorised Person by FinEx; and
- d. You must notify your Financial Adviser immediately once any Authorised Person ceases to be authorised by you to access the DMA Service on your behalf.

### 2. USE OF THE SYSTEM

You acknowledge that:

- a. the DMA Service is accessible through the DMA System;
- b. you are solely responsible for determining whether or not placing Orders through a DMA System is appropriate for you; and
- c. it is your responsibility to obtain, at your own expense, all hardware and software to be used by you in connection with use of the DMA Service.

### 3. SECURITY INFORMATION

You acknowledge that the Security Information is confidential and agree that you are responsible for maintaining its confidentiality.

You agree that you 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 FinEx 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.

### 4. SUBMITTING ORDERS THROUGH THE DMA SERVICE

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

You acknowledge and agree that you (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.

#### 4.2 Responsibility for submitting Orders

You:

- a. determine the time at which Orders are submitted through the DMA Service;
- b. are 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. are bound by any agreement entered into on your behalf in reliance on such Orders;
- d. are liable for any reasonable expense incurred by FinEx or FinClear in reliance on such Orders; and
- e. accept the sole risk and responsibility for Orders submitted by you through the DMA Service, including any Order submitted in error.

#### 4.3 Order priority

You acknowledge 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 FinEx's principal orders being satisfied ahead of an Order.

#### 4.4 Acknowledgment about resubmitting purged Orders

You acknowledge that Orders purged from a Trading Platform by a Relevant Exchange will not be resubmitted to that Trading Platform by FinEx or your Financial Adviser.

#### 4.5 No pre-arranged Orders

You undertake to ensure that any Orders placed through the DMA Service which match opposite orders placed by FinEx 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 FinEx, and will not detract in any way from your Orders transacting in a Trading Platform under strict rules of time and price priority.

## 5. TRADING RULES

### 5.1 DMA Trading Limits

FinEx may at any time through the DMA Service impose, and from time to time vary, DMA Trading Limits. Without limitation, FinEx 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.

You must comply, and ensure that each Authorised Person complies, with all applicable DMA Trading Limits.

### 5.2 Prohibited orders

You 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. you 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. you do 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 you, FinEx or your Financial Adviser 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 FinEx from time to time in relation to the DMA Service.

### 5.3 Filters

FinEx 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 Relevant Exchange or with the proper functioning of any Trading Platform; or
- d. facilitate compliance with, and prevent breaches of, the Applicable Regulations.

FinEx has, and accepts, no responsibility or liability to you or any person claiming through you for failing to submit such Orders to a Trading Platform.

### 5.4 Delays

You acknowledge 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. you remain liable to FinEx and FinClear to settle the original Order, until any relevant amendment or cancellation is effected; and
- c. FinEx will not be liable for any loss or damage to you by reason of any delay in processing any Order submitted through the DMA Service.

### 5.5 FinEx takes no responsibility

You acknowledge that FinEx 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.

### 5.6 Reconciliation

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

## 6. PRINCIPAL TRADING BY FINEX

You acknowledge that FinEx and/or any of FinEx's related bodies corporate or affiliates may:

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

## 7. FINEX'S WARRANTIES AND LIABILITIES

### 7.1 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, FinEx makes no representations or warranties with respect to the DMA Service and the DMA System (including as to its accuracy, currency, availability, completeness or quality) other than a warranty or representation which is implied by law and cannot be excluded.

### 7.2 Exclusion of liability

You acknowledge that the DMA Service is provided at your risk and that, to the extent permitted by law, FinEx 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 you 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 FinEx's control, except to the extent that any liability, loss or damage has resulted directly from FinClear's fraud, negligence or misconduct.

### 7.3 Limitation of liability in any event

FinEx's 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.

#### 7.4 System and trading risks

You acknowledge 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 you 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 FinEx or being lost, rejected or partially received or sent, such that they are not accurately received or sent by you or FinEx 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; and
  - v. your 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 you and other communications relating to trading and execution without your (or FinEx's) consent and that third parties (including persons on private networks) may have the ability to attach to your network;
- b. Orders and other communications relating to trading and execution and other data submitted to the DMA Service will not remain confidential;
- c. your system may not be compatible with the DMA Service or a Trading Platform, and that this incompatibility may lead to an unstable environment; and
- d. Orders may be placed through the DMA Service without your authority by a person using the Security Information given to you and accordingly, that trades which have not been authorised by you may be executed.

#### 8. TERMINATION

FinEx may terminate your participation in the DMA Service by notice in writing if you fail to comply with your obligations under these DMA Service terms and conditions.

FinEx may terminate your participation in the DMA Service at any time by giving you not less than 20 Business Days' notice in writing.

You may terminate your participation in the DMA Service by request in writing to FinEx. You acknowledge that if your Financial Adviser's participation in the DMA Service is terminated, your participation may also be terminated.

Termination of your participation does not affect its outstanding obligations under these terms and conditions or any other agreement you have with FinEx.

#### 9. DEFINITIONS

**Authorised Person** means a person who is nominated and permitted by FinEx to submit Orders through the DMA Service using the Security Information provided by FinEx or your Financial Adviser.

**DMA System** means the on-line system through which you are able to connect to the DMA Service, and where applicable includes the software and hardware applicable to that system.

**DMA Trading Limits** means the limits that FinEx 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 FinEx imposes, whether by automated or manual means, to limit your ability to place Orders through the DMA Service.

**Order** means an order for the purchase or sale of (or other dealing in) financial products made through the DMA Service using the Security Information provided to you and, as the context requires, includes (without limitation) an order or instruction to amend or cancel an existing order submitted through the DMA Service.

**Security Information** means the user code, user name and password given to you by FinEx or your Financial Adviser in connection with use of the DMA Service.

**Trading Platform** has the meaning given to that term in the Market Integrity Rules.