

# INSTITUTIONAL TERMS AND CONDITIONS

## DEFINITIONS

Unless otherwise stated, definitions used in this Agreement are terms defined in the Corporations Act.

**"Agreement"** means the terms and conditions set out below and three Annexures (Rate Schedule, Standard Settlement Instructions and Authorised Persons)

**"ASIC"** means Australian Securities and Investment Corporation

**"ASX"** means ASX Limited

**"ASX Clear"** means ASX Clearing Corporation

**"ASX Settlement"** means ASX Settlement Corporation

**"Cboe Australia"** means Cboe Australia Pty Limited

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

**"CHES"** means Clearing House Electronic Sub-register System

**"Market Integrity Rules"** means any Market Integrity Rules issued by ASIC

**"Market Operating Rules"** means the ASX Operating Rules, the Cboe Australia Operating Rules, the ASX Clear Operating Rules and the ASX Settlement Operating Rules and the operating rules of the relevant market on which the transaction is executed

**"Settlement Date"** means 10.00am on the settlement date specified on the face of the relevant Trade Confirmation or, if not specified, in accordance with the ASX Group Rules, the Cboe Australia Operating Rules or the rules of the exchange on which the transaction is executed.

## 1. BELL POTTER

Bell Potter is a Market, Clearing and Settlement Participant of ASX, a Participant of Cboe Australia and a Participant of the National Stock Exchange. It is regulated by both the ASX and the Australian Securities and Investments Commission and holds Australian Financial Services Licence No: 243480.

## 2. REGULATORY COMPLIANCE

These terms and conditions are subject to, and the Client agrees to comply with, the ASX Operating Rules, the ASX Clear Operating Rules and the ASX Settlement Operating Rules (as applicable) (together referred to as the ASX Group Rules), the Cboe Australia Operating Rules, the Market Integrity Rules, the rules, customs and usages of any other relevant

exchange and clearing house, the Corporations Act and any other applicable law as amended from time to time.

## 3. SERVICES

3.1 The Client appoints Bell Potter as the Client's broker in relation to the provision of research and advice and the execution, clearing and settlement of transactions together with the arrangement of custody services in relation to:

- a. shares in Australian exchange listed companies;
- b. debentures, loans, bonds, notes, certificates of deposit, commercial paper or other debt instruments;
- c. warrants for investments falling within (a) and (b);
- d. options falling within (a), (b) or (c) above;
- e. managed investment schemes in Australia; and
- f. investments which are related to the above.

3.2 Financial Product services provided by Bell Potter to the Client pursuant to this Agreement are provided to the Client only as an institutional client, being a Professional Investor within the meaning of the Corporations Act.

3.3 The Client is not obliged to seek advice from Bell Potter about the investment merits of a proposed transaction and may give instructions to Bell Potter on an Execution Only basis.

## 4. BROKERAGE AND OTHER CHARGES

The Client must pay to Bell Potter by the Settlement Date the brokerage charge, plus all fees, taxes and duties Bell Potter incurs, including GST on the brokerage charge, for each Financial Product transaction in accordance with the Rate Schedule set out in Annexure 1 or as amended and as applicable at the time of each Financial Product transaction, or at such rates otherwise agreed between Bell Potter and the Client. The charges will be confirmed in the Trade Confirmation for the particular Financial Product transaction.

## 5. CONFLICTS OF INTEREST

5.1 Bell Potter has a statutory obligation to have in place adequate arrangements for

the management of conflicts of interest in relation to activities undertaken by Bell Potter or its representatives.

5.2 Bell Potter has established procedures to restrict the dissemination of information about securities in order to prevent insider trading activity and to avoid conflicts of interest within Bell Potter.

## 6. INSTRUCTIONS

6.1 Bell Potter may act on any verbal, written or electronic (facsimile or email) instruction of a person nominated as an Authorised Person in Annexure 3 or any other person authorised in their place by the Client providing Bell Potter with another Annexure 3 signed by two officers or managers of the Client ("Authorised Person"), provided that such person and authorisation are acceptable to Bell Potter. Written or electronic instructions will only be accepted and acted upon if Bell Potter acknowledges receipt by return written or electronic acknowledgement.

6.2 Unless Bell Potter has received written notice of the revocation of the authority of any Authorised Person, it is entitled to assume the genuineness and authenticity of any instruction, which will constitute an instruction by the Client for the purposes of these terms and conditions.

6.3 Bell Potter is not liable for anything it does do or does not do as a result of acting on the instruction given by a person Bell Potter reasonably believes to be an Authorised Person.

6.4 The Client acknowledges that Bell Potter may require verbal, written or electronic confirmatory instructions from the Client.

6.5 Bell Potter may decline any instructions given by the Client or an Authorised Person at any time.

6.6 An Authorised Person shall not be entitled to direct Bell Potter as to the provision of the Client's securities as third party collateral of another Client's Account or to direct the payment of funds to anyone other than the Client.

## 7. TELEPHONE RECORDING

The Client consents to the recording of telephone conversations with representatives

# INSTITUTIONAL TERMS AND CONDITIONS (CONTINUED...)

of Bell Potter (with or without a tone warning device).

## 8. AGGREGATION OF ORDERS

Bell Potter may execute transactions for the Client's Account together with its own orders, orders of any associated company or persons connected with it and orders of other clients but only where Bell Potter reasonably believes it will obtain a more favourable price by so doing. Aggregation of orders does not guarantee a more favourable price than the execution of separate transactions.

## 9. TRADE CONFIRMATIONS

9.1 Trade Confirmations are issued subject to:

- (i) the directions, decisions and requirements of the Market Operator, the Market Integrity Rules and the Market Operating Rules;
- (ii) the customs and usages of the Exchange on which the transaction is executed; and
- (iii) the correction of errors and omissions.

9.2 The Client agrees to be bound by the terms set out on Trade Confirmations issued by Bell Potter.

9.3 Trade Confirmations are conclusive evidence of the transaction unless the Client objects in writing prior to the Settlement Date.

9.4 By electing to receive Trade Confirmations by email the Client authorises Trade Confirmations to be dispatched to the Client electronically by Bell Potter.

## 10. SETTLEMENT

10.1 The Client agrees to settle all transactions (by paying for all purchases and making good delivery of all Financial Products sold by the Delivery versus Payment ("DvP") method) to enable Bell Potter to settle the Client's dealings with the relevant market on or before the Settlement Date appearing in the Trade Confirmation.

10.2 Bell Potter may pay, appropriate or allocate all credits of and all moneys received from or on behalf of the Client as it thinks fit in order to satisfy or discharge any amount owed by the Client to Bell Potter on any account whatsoever.

10.3 Payment for purchases must be received by Bell Potter to enable Bell Potter to effect settlement with the relevant market by the Settlement Date. Bell Potter may demand immediate payment on the Settlement Date or may apply on or after the Settlement Date any moneys held in any account of the Client to satisfy this obligation. Payment in Cash is not acceptable.

## 11. FAILURE TO SETTLE

11.1 If the Client fails to make payment or deliver any security holder information or documents to Bell Potter by the Settlement Date (or fails to meet its margin obligations in respect of a short sale) ("fails to settle") Bell Potter may do any one or more of the following:

- a. charge a fail fee calculated by reference to the additional cost incurred by Bell Potter;
- b. sell any Financial Products purchased or otherwise held on the Client's behalf and apply the proceeds in reduction of the Client's liability to Bell Potter and Bell Potter's costs;
- c. buy any Financial Products to close out any unsettled sale.

11.2 In the event that the Client fails to settle, the Client authorises Bell Potter and each of its directors, officers and managers as the Client's attorney to give any instructions on the Client's behalf which Bell Potter or any such attorney deems fit in their absolute discretion in respect of:

- a. the Client's purchased Financial Products awaiting registration; and
- b. the Client's Financial Products held by any custodial or depository company controlled by Bell Potter or its associate companies;

to enable Bell Potter to realise those funds, charge and/or nominee those Financial Products or sell those Financial Products and generally to place Bell Potter in a position to apply the Financial Products and the proceeds of sale in reduction of the Client's liability to Bell Potter and Bell Potter's costs.

## 12. INTEREST

If the Client fails to pay any amount owing to

Bell Potter by the due date for payment, the Client must immediately pay to Bell Potter, on demand, interest at a rate of five (5) percentage points above Bell Potter's bank's base rate, calculated and payable daily from the due date of payment until the amount is paid in full.

## 13. CANCELLATION OF A TRANSACTION

13.1 The Client authorises Bell Potter in any of the following circumstances:

- a. in its absolute discretion having regard to the desirability of maintaining a fair and orderly market; or
- b. if requested by ASX, Cboe Australia or any other exchange on which the transaction is executed; or
- c. pursuant to or as contemplated by the ASX Group Rules, the Cboe Australia Operating Rules or the rules of the exchange on which the transaction is executed, and its clearing house; or
- d. in accordance with the customs, usages, practices or procedures of the ASX Group, Cboe Australia, the exchange on which the transaction is executed and its clearing house;

to request or agree to the cancellation of any transactions relating to the sale or purchase of some or all of the Financial Products to which a Trade Confirmation issued to the Client relates, without the consent of the Client.

13.2 All obligations in relation to the settlement of a transaction, cease to apply in respect of a cancelled transaction from the time it is cancelled.

## 14. CURRENCY CONVERSION

Bell Potter will be entitled without prior notice to the Client to make any currency conversions it considers necessary or desirable for the purpose of complying with its obligations or exercising its rights under this Agreement. Any such conversion will be effected by Bell Potter in such manner and at such rates as it may at its discretion determine having due regard to the prevailing rates for freely convertible currencies.

## 15. CLIENT MONEY

The Client's money will be held by Bell Potter

# INSTITUTIONAL TERMS AND CONDITIONS (CONTINUED...)

as client money in accordance with the provisions of the Corporations Act.

## 16. REGISTRATION AND CUSTODY

16.1 Financial Product transactions executed by Bell Potter and settled according to this Agreement shall be registered according to the Standard Settlement Instructions as set out in Annexure 2 as amended by notice in writing from time to time signed by two officers or managers of the Client.

16.2 The Client may elect to have the Client's Financial Products held for the account of the Client in the name of Bell Potter's Custodian pursuant to the Market Integrity Rules. Bell Potter's wholly owned subsidiary, Bell Potter Nominees Limited, is authorised under its Australian Financial Services License No. 269278 to provide custodial and depository services.

16.3 The Client agrees to notify Bell Potter immediately of any change to, or inaccuracy in any information pertinent to the registration of Financial Products in the name of the Client.

## 17. WARRANTIES

The Client represents and warrants that:

- a. all the information provided by the Client in relation to the Client's domicile, operations and financial position or as notified to Bell Potter from time to time is complete and correct and can be relied upon by Bell Potter until Bell Potter receives written notification of any change;
- b. the Client has the legal right and power to enter into this Agreement;
- c. if the Client is, or purports to be, a body corporate, the Client is duly incorporated and existing;
- d. if the Client is a trustee:
  - (i) the Client agrees that this Agreement will bind the Client in both a personal capacity and in the Client's capacity as a trustee;
  - (ii) the Client represents and warrants to Bell Potter that;
    - the Client can be indemnified out of the assets of the trust for all liabilities incurred under this Agreement; and

- the Client has properly exercised the Client's trust powers and has full authority under the trust to enter into this Agreement.

(iii) if the Client is a trustee of an Australian superannuation fund, the Client further represents and warrants to Bell Potter that;

- the Client has formulated and given effect to an Investment Strategy for the superannuation fund, in accordance with Australian superannuation law; and
- when seeking personal securities advice from Bell Potter, the Client will keep Bell Potter informed of such Investment Strategy; and
- the Client's investment instructions to Bell Potter will be in accordance with, and are consistent with, the superannuation fund's Investment Strategy; and
- when a Risk Management Statement is required pursuant to Australian superannuation law or by the Australian regulator, the Client will not instruct Bell Potter in relation to the opening of derivative transactions without such a Risk Management Statement being in existence and any such instructions shall be in accordance with the Risk Management Statement;

- e. by giving instructions to Bell Potter:
  - (i) it is not an employee of another Participant of the ASX Group of companies, a Participant of Cboe Australia or of a Participant of another Australian exchange;
  - (ii) it has sufficient funds and Financial Products, and is otherwise able, to meet any obligations which may arise from those instructions; and
- f. if a duly appointed attorney of the Client has executed this Agreement, and gives instructions to Bell Potter pursuant to it, the power of attorney has not been revoked and validly empowers the attorney to so act.

## 18. LIMITATION AND INDEMNITY

18.1 Subject to clause 18.2, Bell Potter will not be liable to the Client for any loss,

damage, costs and expenses of any kind, resulting from or caused by:

- a. the Client giving instructions under this Agreement or otherwise;
- b. Bell Potter refusing to act on the Client's instructions;
- c. the Client's use of or reliance on any research reports provided by Bell Potter; without seeking advice from the Client's Adviser;
- d. the Client's default under this Agreement;
- e. anything lawfully done by Bell Potter in accordance with this Agreement or at the Client's request;
- f. Bell Potter complying with any direction, request or requirement of the ASX Group Rules, the Cboe Australia Operating Rules, other relevant Exchange Rules, the Corporations Act or any other regulatory authority;
- g. failure of a Securities Exchange; and
- h. any events or circumstances which Bell Potter cannot reasonably control.

18.2 Bell Potter does not exclude or limit the application of any statute where to do so would contravene that statute or cause any part of this Agreement to be void. Bell Potter excludes all conditions, warranties or terms implied by statute, general law or custom except to the extent that such exclusion would contravene any statute or cause this provision to be void. Bell Potter's liability for a breach of any provision implied by law which cannot be excluded is limited to the supplying of the services again.

18.3 The Client agrees to indemnify Bell Potter against all third party liabilities (including legal costs) arising out of or in connection with the execution of the Client's instructions pursuant to this Agreement save where that liability is caused by Bell Potter's breach of any contractual or statutory duty to the Client.

## 19. VARIATION

# INSTITUTIONAL TERMS AND CONDITIONS (CONTINUED...)

This Agreement may be amended by any written notification to the Client from Bell Potter and/or by any notification as disclosed on Bell Potter's website [www.bellpotter.com.au](http://www.bellpotter.com.au) prior to the time that the Client instructs Bell Potter in relation to a transaction.

## **20. GOVERNING LAW**

These terms and conditions are governed by the laws of New South Wales, Australia. Each party submits to the exclusive jurisdiction of the courts exercising jurisdiction there, and waives any right to claim that those courts are an inconvenient forum.

## **21. TERMINATION**

This agreement may be terminated by notice in writing to that effect by either party to the other. Termination will not affect any rights or obligations that have arisen before that time.