



# ASX Trade Acceptance Service and related Product Services

## REVIEW OF LEGAL TERMS

February 2021

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## Introduction

The trade acceptance service and related product services (referred to collectively as the **TAS**) provide an Approved Market Operator (AMO)<sup>1</sup> with non-discriminatory access to:

- > clearing and settlement arrangements for transactions in CHESSE eligible financial products; and
- > financial product-related services that can be provided to an AMO which is a recipient of the trade acceptance service in relation to CHESSE-eligible financial products admitted for quotation on the market of the AMO (AMO products).

It supports transactions in any CHESSE-eligible financial product executed on the market of an AMO being cleared and settled on an equivalent basis to transactions effected through ASX Limited's cash market.

It also supports clearing and operational support assessments for AMO products, and product set up and maintenance and corporate action processing in CHESSE being provided to the AMO (on behalf of the relevant product issuer) for AMO products, on an equivalent basis to services provided in respect of financial products admitted for quotation on ASX Limited's market (**ASX products**).

The TAS is provided by ASX Clear and ASX Settlement (also referred to collectively in this review as **ASX**) directly to AMOs on the basis of published contractual Legal Terms - the Legal Terms for the Trade Acceptance Service and the Legal Terms for the related Product Services. The Legal Terms include contractual commitments from ASX Clear and ASX Settlement to:

- > provide an AMO with services of comparable quality to those provided to ASX Limited and, in the case of the product services in respect of AMO products, to provide an AMO with services of comparable quality to those provided to an issuer of ASX products;
- > not discriminate on clearing and settlement fees and charges or the requirements for participants on the basis of where a trade is executed, or the market on which the trade has been effected through, or reported to;
- > not charge higher net fees and charges to an AMO in respect of the product services than the net fees and charges that would be payable by an issuer in respect of the equivalent services for an equivalent ASX product, where the mode of service delivery is the same; and
- > protect any competitively sensitive information obtained from an AMO in the course of providing the TAS from disclosure to ASX Limited.

Under the Legal Terms, ASX has made Operational and Technical Standards and an Information Handling Standard. The Operational and Technical Standards set out the key parameters of trade acceptability and specify other operational and technical requirements for AMOs using the TAS to support market stability. The Information Handling Standard sets out the arrangements for the protection of AMO confidential information, including competitively sensitive information.

The Legal Terms came into effect with the establishment of the service on 31 October 2011. The current Legal Terms commenced on 31 October 2016, with a term of five years and were amended on 20 August 2018 without extending the term. The Legal Terms are due to expire on 31 October 2021.

The Legal Terms for the Trade Acceptance Service provide that a review be commenced twelve months prior to the expiry of the Legal Terms and the review published within four months of its commencement<sup>2</sup>. ASX has extended the review to cover the Legal Terms for the related Product Services.

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<sup>1</sup> The TAS and the associated Legal Terms currently apply only to non-ASX affiliated AMOs, however as indicated below they are intended to extend to ASX Limited and its cash market as part of the replacement of the existing CHESSE system in April 2023.

<sup>2</sup> Clause 57 of the Trade Acceptance Service Legal terms sets out the requirement for a review of the Legal Terms.

The objective of the review has been to confirm that the Legal Terms remain appropriate for the service. The extension of the TAS to a second AMO since November 2020 on the basis of the Legal Terms and associated standards indicate that the Legal Terms operate well and provide a good basis for responding to customer needs.

The review has not identified a need for significant changes to the Legal Terms. Accordingly, the TAS will continue to be made available on substantially the same terms for another five year term although noting that, as discussed below, the Legal Terms will be reviewed and updated in conjunction with the replacement of the existing CHES system prior to the expiry of the term. Some relatively minor changes to the Legal Terms will be implemented in response to submissions received by ASX, to better reflect the existing operation of the TAS and to update and simplify the drafting.

### Additional review for CHES Replacement system

As part of the replacement by ASX of its existing CHES system with new post-trade technology and infrastructure for the cash market (the **CHES Replacement system**), further changes will be required to the Legal Terms.

On 28 October 2020, as part of ASX's response to consultation feedback on the CHES Replacement Revised Implementation Timeline, ASX announced a revised go-live date for the CHES Replacement system of April 2023. Given that any revisions to the Legal Terms as part of the current review will be implemented in October 2021, approximately 1.5 years prior to go-live of the CHES Replacement system, the current review of the Legal Terms is not intended to address changes relating to the CHES Replacement system.

Clauses 26A and 14 of the Legal Terms for the Trade Acceptance Service and related Product Services (respectively) allow ASX to amend or replace the Legal Terms to give effect to changes to the TAS as a consequence of new post trade technology and infrastructure.

As part of go-live of the CHES Replacement system, ASX intends to undertake a further review and introduce amendments to the Legal Terms related to the new system. This includes to:

- > extend the Legal Terms so as to apply to ASX Limited (as a market operator), reflecting that from the commencement of the new system all market operators will be accessing the trade acceptance service on the same basis using a FIX gateway;
- > replace existing CHES message references with equivalent FIX message references.

ASX remains committed to consulting with each Approved Market Operator acquiring the trade acceptance service in relation to the new non-discriminatory terms for trade acceptance through the replacement system for all market operators.

ASX intends to commence engaging with Approved Market Operators on the relevant revisions to the Legal Terms in September 2021 with a view to concluding such engagement and finalising the revised terms by the end of 2022, in advance of the April 2023 go-live.

## Overview of the Legal Terms

### Structure of the contract with ASX Clear and ASX Settlement

The Legal Terms consist of:

- > an application form, specifying the applicant's details and whether the requested service is for clearing and settlement of CHES-eligible financial products admitted to quotation on ASX Limited's market and/or on the AMO's market;
- > Trade Acceptance Service Legal terms, setting out the general legal terms applicable to the trade acceptance service, including Schedule 1 (a description of the items of the service), and Schedule 2 (service levels); and

- > Product Services Legal Terms, setting out the provision of financial-product-related services for AMO products, including Schedule 1 (Clearing assessment and operational support assessment), Schedule 2 (Product set-up and maintenance services for AMO products) and Schedule 3 (Service levels – AMO products).

### Terms of the contract with ASX Clear and ASX Settlement

The Legal Terms include the following:

Clause	Term
<b>Trade Acceptance Service Legal Terms</b>	
Clauses 6, 7, 11 and Schedule 1	Description of trade acceptance service
Clause 56	Service provided for up to five years
Clauses 12 to 17, 26, 26A, 31 to 36, 58 and 59	<p>Agreement not to change the description of the services, or the Operational and Technical Standards, other than in limited circumstances:</p> <ul style="list-style-type: none"> <li>&gt; where reasonably necessary to effect a change in the services proposed by ASX Clear and ASX Settlement and following a consultation process</li> <li>&gt; where reasonably necessary to effect an expansion or enhancement of the services requested by an AMO and agreed to by ASX Clear and ASX Settlement following a consultation process</li> <li>&gt; where directed by a regulatory authority or where a change is required to comply with ASX Clear's or ASX Settlement's licence obligations</li> <li>&gt; by consent</li> <li>&gt; to give effect to changes to the trade acceptance service as a consequence of new post-trade technology and infrastructure</li> <li>&gt; ASIC or the RBA take regulatory action or there is a change in law which affects the provision of the trade acceptance service</li> <li>&gt; ASIC or the RBA consent to a review being undertaken</li> <li>&gt; there is a material change in the risk profile of ASX Clear or ASX Settlement in the provision of a trade acceptance service</li> </ul>
Clauses 20 and 21	Application and service fees, and agreement by ASX Clear and ASX Settlement to adjust part of the service fee if the trade acceptance service is being provided to two or more AMOs
Clauses 22 to 25	<p>Commitments to provide :</p> <ul style="list-style-type: none"> <li>&gt; a service to AMOs of comparable quality to the service provided to ASX Limited (as market operator)</li> <li>&gt; clearing and settlement services in accordance with applicable laws, operating rules and procedures</li> <li>&gt; clearing and settlement services (including fees for such services) without discriminating in relation to clearing and settlement participants on the basis of where the trade was effected or reported</li> </ul>
Clauses 27 and 28 and Schedule 2	Agreement to comply with the service levels set out in Schedule 2 and to safeguard competitively sensitive information

Clause	Term
Clause 38	Reporting and information provision requirements for AMOs regarding compliance with the Operational and Technical Standards
Clauses 39 to 42	ASX Clear and ASX Settlement right to suspend or terminate the service to an AMO for material non-compliance with the Legal Terms or technical or operational standards, including where there is a failure to remedy a non-compliance with the Legal Terms following the applicable notice period
Clauses 43 to 51	Dispute resolution process
Clauses 52 to 55	Exclusion of any liability of an AMO to ASX Clear or ASX Settlement Exclusion of any liability of ASX Clear or ASX Settlement to an AMO other than for breach of the service levels which is capped for any year at the service fee paid by the AMO
<b>Product Services Legal Terms</b>	
Clauses 2, 6, 7 and Schedules 1 and 2	Description of the product services
Clause 8	AMO application for product services
Clauses 9 and 41	Services provided for up to five years. Automatically terminates on expiry of Trade Acceptance Service Legal Terms
Clauses 13, 14, 17 and 23	Agreement not to change the terms and conditions on which product services supplied, other than in limited circumstances: <ul style="list-style-type: none"> <li>&gt; to give effect to changes to the trade acceptance service as a consequence of new post-trade technology and infrastructure</li> <li>&gt; to align the services and/or service levels for AMO products with the equivalent services and/or service levels for ASX products</li> <li>&gt; consent</li> </ul> Changes to the Operational and Technical Standards in respect of the product services may also be made in conjunction with any amendment to those standards under the Legal Terms for the Trade Acceptance Service
Clauses 10, 10A, 10B and 10C	Fees and charges
Clauses 15 to 20	Commitments to provide: <ul style="list-style-type: none"> <li>&gt; product services in respect of AMO products of comparable quality to the service provided in respect of ASX products, including to an issuer of ASX products (as applicable)</li> <li>&gt; fees and charges for product services without discriminating on the basis of whether the product is an AMO product or an ASX product</li> </ul>
Clauses 11 and 12 and Schedule 3	Agreement to comply with the service levels set out in Schedule 3 and to safeguard competitively sensitive information
Clauses 25 to 29	ASX Clear and ASX Settlement right to suspend or terminate the provision of the product services to an AMO for material non-compliance with the Legal Terms, including where there is a failure to remedy a non-compliance with the Legal Terms following the applicable notice period

Clause	Term
	ASX Clear and ASX Settlement right to suspend or terminate the product services to an AMO if trade acceptance services to the AMO suspended or terminated
Clauses 30 to 38	Dispute resolution process
Clauses 39 and 40	Exclusion of any liability of ASX Clear or ASX Settlement to an AMO Exclusion of any liability of an AMO to ASX Clear or ASX Settlement

### Obligations of the parties under the Legal Terms

The Legal Terms impose obligations on both ASX Clear and ASX Settlement, and on an AMO that is the recipient of the trade acceptance service or the product services.

Importantly, ASX Clear and ASX Settlement are obliged under the Legal Terms to:

- > make the trade acceptance service and related product services available and provide the services to any AMO that meets the applicable requirements;
- > provide an AMO with services of comparable quality to the equivalent services provided to ASX Limited and, in the case of the product services in respect of AMO products, of comparable quality to those provided to an issuer of ASX products;
- > provide clearing and settlement services to participants without discriminating on the basis of whether the relevant transaction has been executed on an AMO's market or on ASX Limited's market. This includes not discriminating in relation to the fees and charges payable by participants; and
- > provide product services without discriminating in relation to the fees and charges payable, on the basis of whether the relevant product is ASX Limited-quoted or AMO-quoted.

Under the Legal Terms, an AMO is required to:

- > comply with the Operational and Technical Standards promulgated under the Legal Terms. The Operational and Technical Standards are important in managing counterparty and operational risk to maintain the integrity and proper functioning of the clearing and settlement systems, and to support market stability; and
- > report to ASX Clear and ASX Settlement any material non-compliance with the Operational and Technical Standards.

### Changes to the Legal Terms during the review period

During the period to 31 October 2020, the Legal Terms were updated in 2018 for the purpose of aligning the terms of service available to all AMOs with an interest in the TAS.

Under a review process facilitated under the Legal Terms with the consent of ASIC and the RBA, ASX reviewed the fees in relation to the TAS including for operational support assessments required for each AMO product. As a result of that review process, the Trade Acceptance Service Legal Terms and the Product Services Legal Terms were updated in August 2018.

The 2018 updates included:

- > formalising the existing waiver of the annual service fee relating to the recovery of initial development costs for the TAS (\$175,000 per AMO per annum for current term of the TAS);

- > varying the annual service fee relating to the ongoing cost of service provision to recover allocations for limited categories of costs relating to ongoing resourcing costs and equipment costs and replacement (reduced from \$75,000 to \$66,000 per AMO per annum);
- > changes to the fees and addition of provisions regarding the conduct by ASX of clearing assessments and operational support assessments, as well as providing a framework to address costs arising from the development or testing of systems or any other new or special operational arrangements that need to be put in place to support the delivery of product services to the AMO, in relation to a financial product.

### Extension of TAS Legal Terms to further AMO during the review period

In November 2020, ASX commenced providing the TAS to National Stock Exchange of Australia Limited (**NSX**) on the Legal Terms for the Trade Acceptance Service and the Legal Terms for the Product Services.

### Legal Terms applicable from 31 October 2021

The current Legal Terms operate until 31 October 2021. On the basis of:

- > the Legal Terms having operated well in accommodating an expansion of the service to a further AMO;
- > customer feedback received through the current review process; and
- > upcoming changes as part of go-live of the CHES Replacement system to occur through a subsequent process (including to extend the Legal Terms to apply to ASX Limited (as market operator)),

a need for significant changes to the Legal Terms to apply from October 2021 has not been identified.

Subject to changes in the current regulatory environment for clearing and settlement of cash equities in Australia, ASX Clear and ASX Settlement are committed to continuing to offer the trade acceptance service on substantially the same terms for another five year term although noting that, as discussed above, the Legal Terms will be reviewed and updated in conjunction with the CHES Replacement system prior to the expiry of the term.

While the Legal Terms have operated well during the review period, some changes will be implemented by ASX Clear and ASX Settlement. The changes that have been identified include:

- > Providing a framework to allow for agreement or determination as to longer notice or remediation periods than otherwise prescribed in the Legal Terms
- > Removing the prescription of prices in the Legal Terms and instead relying on the Clearing, Settlement and Issuer Administration Services Schedule of Fees to avoid duplication
- > Accounting for invoicing to, and payment by, the AMO (rather than the issuer of the AMO products) of fees for product set up and maintenance services - where requested by the AMO and agreed by ASX
- > Accounting for differences in the means (i.e. automated v manual) of provision of certain product services in respect of ASX products and AMO products
- > Incorporating a review process under the Product Services Legal Terms to operate in the same way as exists for the Trade Acceptance Service Legal Terms (e.g. every 5 years or if ASIC and RBA consent etc)
- > Allowing further time to conduct the review of the Legal Terms at expiry of each five year term (increase from four months to six months).

The changes proposed to the Trade Acceptance Service Legal Terms are set out in mark-up in Attachment A. The changes proposed to the Product Services Legal Terms are set out in mark-up in Attachment B.

These amendments respond to feedback provided by AMOs that are users of the TAS (or potential future users of the TAS), where appropriate, as well as changes identified by ASX as part of its review of the Legal Terms.



Certain other amendments suggested by those AMOs will be sought to be addressed through the proposed further review and update of the Legal Terms for the CHES Replacement system as discussed above.

#### **Framework for agreement or determination as to additional notice or remediation period**

Following feedback from an AMO, provisions have been included in the Trade Acceptance Service Legal Terms and the Product Services Legal Terms for:

- > ASX Clear, ASX Settlement and each of the AMOs that have acquired the trade acceptance service to be able to agree a different consultation period than the consultation period specified in the Legal Terms in respect of certain changes to the Legal Terms or to the Operational and Technical Standards (clause 13(c) and 32(c) of the Trade Acceptance Service Legal Terms).
- > ASX Clear, ASX Settlement and the relevant AMO to be able to agree to a different remediation period than the remediation period specified in the Legal Terms for remedying a failure to comply with the Legal Terms, with each party to act reasonably for that purpose (clause 41(b) of the Trade Acceptance Service Legal Terms and clause 27(b) of the Product Services Legal Terms).
- > The required notice period to an AMO of a decision by ASX Clear and ASX Settlement to suspend or terminate the provision of or the right to acquire the trade acceptance service or the product services will be extended from 5 to 20 business days' notice. ASX Clear, ASX Settlement and the relevant AMO will also to be able to agree to a different notice period than that 20 business day notice period, with each party to act reasonably for that purpose (clause 42 of the Trade Acceptance Service Legal Terms and clause 28 of the Product Services Legal Terms).
- > The inclusion of a requirement for ASX Clear and ASX Settlement to provide 20 business days' notice of any amendments to the Legal Terms for the Product Services or the related Operational and Technical Standards so as to align the services and/or service levels for AMO products with the equivalent services and/or service levels for ASX products. ASX Clear and ASX Settlement will also to be able to determine a different notice period than that 20 business day notice period, with ASX Clear and ASX Settlement to act reasonably for that purpose. This notice period will not however apply where ASX Clear or ASX Settlement consider that continuing to provide the product services without such amendment contravenes any legal or licence obligation of ASX Clear or ASX Settlement (clause 17 of the Product Services Legal Terms).

#### **Accounting for payment by AMO (rather than issuer of the AMO products) for certain product services**

Currently, certain product services (including product set up and maintenance and corporate actions processing) are charged directly to the issuer of the AMO product. However, an AMO can request that those fees are charged directly to it, with it then able to seek to recover such fees from the relevant issuer. An amendment has been made to the Legal Terms for the Product Services to reflect this (clause 10C of Product Services Legal Terms).

#### **Accounting for differences in the means of provision of certain product services**

Currently, for certain product services (including corporate actions processing) the information provided to ASX Clear and ASX Settlement by AMOs in connection with the provision of such service for AMO products is provided manually by AMOs, including by the AMO populating and emailing to ASX Clear and ASX Settlement certain templates developed by ASX Clear and ASX Settlement to capture the relevant information for that service.

In some circumstances (certain prescribed corporate actions) this differs from the manner in which the relevant information is provided to ASX Clear and ASX Settlement in connection with the provision of such services for ASX products, with such information collected electronically by ASX Limited (as listing market operator) from its issuers via ASX Online for Companies and then made automatically available to ASX Clear and ASX Settlement for such ASX products via ASX internal systems.

This difference in the way the relevant information is made available to ASX Clear and ASX Settlement results in a difference in the means by which such product services are delivered for AMO products and ASX products. An amendment has therefore been made to the Legal Terms for the Product Services to reflect the difference in the

automated or manual processes which support the delivery of such services and to note that a service of comparable quality continues to be provided by ASX Clear and ASX Settlement in respect of AMO products and ASX products notwithstanding any such difference in the means by which the same services are delivered (clause 16(b) of the Product Services Legal Terms).

The drafting for such amendment leverages existing clause 23 in the Trade Acceptance Services Legal Terms (which addresses a similar issue arising from differences in which trade information is currently received by CHESS in respect of trades on ASX Limited's market and trades on other AMOs).

### Removing prescription of prices in Legal Terms

Following feedback from an AMO, the Legal Terms will no longer prescribe prices for services under the trade acceptance service, and instead will refer to the Clearing, Settlement and Issuer Administration Services Schedule of Fees (or any successor document) as applies at that time. The Legal Terms will continue to identify the category of fees that apply e.g. application fee and service fee, including relevant sub-categories of fees (clause 20 and 21 of the Trade Acceptance Services Legal Terms). This change aligns with the specification of pricing for product services and is to the limit duplication of fees across documents and potential inconsistency that may occur between that specified pricing.

### Incorporating a review process under the Product Services Legal Terms

The Trade Acceptance Services Legal Terms currently provide for a review of the Legal Terms to be carried out prior to the expiry of the Legal Terms (i.e. every five years) as well as in circumstances where there is regulatory action by ASIC or the RBA or a change of law affecting the provision of the TAS, where ASIC or the RBA consent to a review being undertaken, or there is a material change in risk profile of ASX Clear or ASX Settlement in the provision of a trade acceptance service. The Trade Acceptance Services Legal Terms also currently provide for ASX Clear and ASX Settlement to consult with AMO's receiving the TAS as part of that review.

The Product Services Legal Terms however do not currently include equivalent requirements for review of those Legal Terms. Equivalent review provisions have now been included in the Product Services Legal Terms (clauses 42 to 44 of the Product Services Legal Terms).

### Allowing further time to conduct review of the Legal Terms

The period for the conduct of the review of the Legal Terms at the end of each contract period has been extended from 4 months to 6 months (clause 57 of the Trade Acceptance Service Legal Terms), noting that this review period includes the Christmas and New Year period. This is to allow further time for consultation with AMOs and completion of the review.

### Changes to contemporise the terms

It is also proposed that some minor changes will be made to the Legal Terms to:

- > Reflect that notice of any suspension or termination of the TAS in respect of an AMO is to be 'provided' to the RBA and ASIC, not 'made' to the RBA and ASIC (clause 42 of the Trade Acceptance Service Legal Terms and clause 28 of the Product Services Legal Terms).
- > Accommodate any successor document to the Clearing, Settlement and Issuer Administration Schedule of Fees that may apply during the contract period, with the relevant fees to be those that apply during the relevant fee period under the relevant document (clause 10 of the Product Services Legal Terms).
- > Expressly identifying the ability for there to be a change to the terms and conditions on which the trade acceptance service and product service is provided which arises from a review of the Legal Terms that is facilitated under the relevant Legal Terms, including where there is a change of law affecting the provision of the TAS or where ASIC or the RBA consent to a review being undertaken (clause 26 of the Trade Acceptance Service Legal Terms and clause 13 of the Product Services Legal Terms).



- > Recognising that product services relating to clearing assessment and operational support assessments are provided to AMOs not issuers, including for the purposes of the application of clause 16(a) of the Product Services Legal Terms (clause 15 of the Product Services Legal Terms).
- > Update the commencement date for the new Legal Terms to 31 October 2021 (from 31 October 2016) (clause 56 of the Trade Acceptance Service Legal Terms and clause 41 of the Product Services Legal Terms).

Attached are draft copies of the proposed updated Legal Terms incorporating the changes discussed above. Additional changes may be made in the finalisation of the Legal Terms.

### Finalisation of updated Legal Terms

ASX Clear and ASX Settlement will engage with AMOs ahead of the expiry of the Legal Terms on 31 October 2021 to finalise the updated terms discussed in this paper that will apply from 31 October 2021.

### Attachments

A – draft Trade Acceptance Service Legal Terms from 31 October 2021

B – draft Product Services Legal Terms from 31 October 2021



**Attachment A – draft Trade Acceptance Service Legal Terms from 31 October 2021**



Trade Acceptance Service

Legal Terms

ASX Clear Pty Limited and ASX Settlement Pty Limited

~~20 August 2018~~ 31 October 2021

## The object of these Legal Terms

- 1 ASX Clear Pty Limited (**ASX Clear**) and ASX Settlement Pty Limited (**ASX Settlement**) operate licensed clearing and settlement facilities (**CS facility**).
- 2 Under section 795B of the Corporations Act, the relevant Minister may grant an applicant an Australian market licence if the Minister is satisfied of a number of things, including that the applicant has adequate clearing and settlement arrangements for transactions effected through the trade facility to be operated by it.
- 3 Under the operating rules of ASX Clear and ASX Settlement an Australian market licence holder (or an applicant for an Australian market licence) can apply to become an Approved Market Operator (**AMO**).
- 4 ASX Clear and ASX Settlement provide clearing and settlement arrangements which include services to AMOs and to parties to transactions in relation to CHESS-eligible financial products.
- 5 There are two categories of service relating to clearing and settlement of financial products transactions:
  - (a) a service to be provided by a CS facility licence holder to AMOs, being the acceptance of transactions effected through that AMO for clearing and settlement in the CS facility (**trade acceptance service**).
  - (b) a service provided to participants of the CS facility, being post-trade processing of transactions effected in accordance with the rules of an AMO (**clearing and settlement service**).
- 6 These Legal Terms govern the provision of a trade acceptance service to AMOs. They do not govern the provision of a clearing and settlement service to the parties to a financial product transaction effected through, or reported to, an AMO. The provision of a clearing and settlement service in respect of a financial product transaction accepted by ASX Clear and ASX Settlement under the trade acceptance service is subject to the

operating rules of ASX Clear and ASX Settlement. These Legal Terms do not govern the provision of a facility for the acceptance of settlement instructions from an Approved Clearing Facility (as defined in the operating rules of ASX Settlement).

- 7 The object of these Legal Terms is the provision by ASX Clear and ASX Settlement of:
  - (a) a trade acceptance service to an AMO; and
  - (b) certain commitments in relation to clearing and settlement services in respect of transactions effected through, or reported to, the AMO (but not clearing and settlement itself).

## Binding nature of Legal Terms

- 8 Each of ASX Clear and ASX Settlement agree to be jointly bound by the obligations in these Legal Terms and to supply a trade acceptance service in accordance with these Legal Terms.
- 9 ASX Clear and ASX Settlement have no obligation to supply the trade acceptance service unless the AMO obtains an Australian market licence and agrees to be bound by these Legal Terms.
- 10 Each AMO that acquires a trade acceptance service agrees with both ASX Clear and ASX Settlement to be bound by the obligations in these Legal Terms.

## The trade acceptance service

- 11 A trade acceptance service comprises the items set out in Schedule 1 to these Legal Terms as amended from time to time.
- 12 ASX Clear and ASX Settlement will not, subject to clauses 13 to 17 amend the schedule of items comprising the trade acceptance service.
- 13 ASX Clear and ASX Settlement may amend the schedule of items comprising the trade acceptance service where ASX Clear and ASX Settlement reasonably consider that a change is necessary in order to give effect to a proposed change in the clearing and settlement services that

ASX Clear and ASX Settlement provide to clearing and settlement participants. If ASX Clear and ASX Settlement propose to amend the schedule of items:

- (a) ASX Clear and ASX Settlement will publish on the ASX website a draft updated schedule of items comprising the trade acceptance service and provide written notice of the draft updated schedule of items to any AMO which has acquired a trade acceptance service.
- (b) Following notice of the draft updated schedule of items ASX Clear and ASX Settlement will consult in good faith with any AMO which has acquired a trade acceptance service about the content of the draft updated schedule of items and the time frame for its implementation.
- (c) The consultation period will be 21 days from the date of publication of the draft updated schedule of items unless another consultation period has been agreed to with each AMO which has acquired a trade acceptance service.
- (d) Following the consultation period, ASX Clear and ASX Settlement will publish on the ASX website a final updated schedule of items and the date those items will come into effect (**Implementation Date**) and provide written notice of those items to any AMO which has acquired a trade acceptance service. The Implementation Date will be at least 90 days from the publishing of the final updated schedule of items, unless another date has been agreed to with each AMO which has acquired a trade acceptance service.
- 14 If an AMO, in good faith and acting reasonably, requests an expansion or enhancement of the service which requires an amendment to the schedule of items comprising the trade acceptance service, ASX Clear and ASX Settlement will, acting reasonably and in good faith, consult with the AMO in respect of the AMO's proposed expansion or enhancement and consequent amendment to the schedule of items.
- (a) If the proposed expansion or enhancement and consequent amendment is acceptable to ASX Clear and ASX Settlement, they will, to the extent that there are any other AMOs which have acquired a trade acceptance service, implement the notice and consultation process set out in clause 13.
- (b) If the proposed expansion or enhancement and consequent amendment is acceptable to ASX Clear and ASX Settlement, but no other AMO has acquired the trade acceptance service, the expansion or enhancement and consequent amendment will be implemented as agreed by ASX Clear, ASX Settlement and the AMO.
- 15 Should ASX Clear and ASX Settlement agree to expand or enhance the trade acceptance service, the AMO requesting such expansion or enhancement and consequent amendment to the schedule of items comprising the trade acceptance service must make a monetary contribution towards the capital cost of such expansion or enhancement to ASX Clear or ASX Settlement (as specified by ASX Clear and ASX Settlement), in an amount to be agreed between that AMO and ASX Clear and ASX Settlement.
- 16 If no agreement as to the amount of the monetary contribution to ASX Clear or ASX Settlement can be reached, ASX Clear and ASX Settlement are not obliged to provide that expansion or enhancement or implement the consequent amendment to the schedule of items.
- 17 Clause 13 does not apply if any regulatory authority directs that ASX Clear and ASX Settlement must change the schedule of items, or if ASX Clear and ASX Settlement consider, in good faith and acting reasonably but otherwise in their absolute discretion, that a change is required to comply with ASX Clear's or ASX Settlement's licence obligations. ASX Clear and ASX Settlement will

- notify the AMO as soon as practicable of such a change.
- 18 An AMO may request that ASX Clear and ASX Settlement provide a trade acceptance service by lodging an application for that service with ASX Clear and ASX Settlement. The application must be in the form prescribed by ASX Clear and ASX Settlement from time to time.
- 19 The trade acceptance service will be provided to the AMO for the period (**contract period**) commencing on the date specified in the application form and ending on the earlier of:
- the last day of the service term for a trade acceptance service nominated by the AMO in its application form (or in correspondence accompanying its application form); and
  - the termination date of these Legal Terms as determined under clause 56.
- incurred in providing the trade acceptance service as follows:
- ongoing resourcing costs ~~\$23,000- (excluding GST)~~ (towards staff and occupancy costs); plus
  - equipment costs (towards the cost of technology and other equipment related support and maintenance services) ~~— (including currency conversion costs at the prevailing exchange rate) such amount to be determined by ASX Clear and ASX Settlement acting reasonably and in good faith and advised in the invoice for the service fee.~~

## Pricing

- 20 As a condition of obtaining and continuing to receive a trade acceptance service, an AMO acquiring a trade acceptance service must pay ~~the following amounts~~ to, or as directed by, ASX Clear and ASX Settlement, the relevant amounts set out in the Clearing, Settlement and Issuer Administration Services Schedule of Fees (or any successor document), as applies at that time, for the following fees:
- an application fee ~~of \$10,000 (excluding GST)~~ to be paid on lodgement of the application to receive a trade acceptance service;
  - a service fee for a 12 month period, paid annually in advance, to be paid on a pro rata basis on the commencement date specified in the application form and at the commencement of each financial year on ~~each anniversary of the commencement date~~ during the contract period. The service fee is calculated by reference to limited categories of costs
- 21 If ASX Clear and ASX Settlement are providing a trade acceptance service to two or more AMOs, ASX Clear and ASX Settlement will adjust the amount paid or payable by each AMO under clause 20(b)(ii) on an equitable basis. The manner in which the service fee is adjusted will be ~~determined by ASX Clear and ASX Settlement, acting reasonably and in good faith~~ set out in the Clearing, Settlement and Issuer Administration Services Schedule of Fees (or any successor document), as applies at that time.

## Service of comparable quality

- 22 ASX Clear and ASX Settlement will provide to AMOs a service of comparable quality to that provided to ASX Limited.
- 23 For the purposes of clause 22, a service of comparable quality is provided where any difference between the trade acceptance service provided to an AMO and the service provided to ASX Limited results solely from any differences in the means by which those services are delivered. These means include, without limitation, the technical and operational systems and software

which support the delivery of the services.

### Clearing and settlement service

- 24 ASX Clear and ASX Settlement will provide clearing and settlement services to participants of ASX Clear and ASX Settlement for transactions effected through, or reported to, an AMO acquiring the trade acceptance service in accordance with applicable laws, operating rules and procedures.
- 25 ASX Clear and ASX Settlement will not discriminate, when providing clearing and settlement services to clearing and settlement participants, on the basis of whether a trade has been effected through, or reported to ASX (**ASX trade**) or has been effected through or reported to an AMO (**AMO trade**). Without limiting this clause 25:
- (a) the net fees and charges payable to ASX Clear and ASX Settlement in respect of each AMO trade will be no higher than the net fees and charges that would be payable had such trade been executed by the same participants at the same time on the market operated by ASX;
  - (b) the operating rules and procedures of ASX Clear and ASX Settlement will not impose any requirements on their respective participants (or on prospective participants) as a result of those participants receiving or seeking to receive clearing and settlement services in relation to AMO trades which are different to those which ASX Clear and ASX Settlement impose on participants receiving or seeking to receive clearing and settlement services in relation to ASX trades;
  - (c) ASX Clear and ASX Settlement may under their respective operating rules require participants of ASX Clear and ASX Settlement to certify that they have the necessary systems, procedures and controls to manage the clearing and settlement of ASX trades and AMO trades; and

- (d) where the financial product, the basis of quotation and the settlement date of an ASX trade is the same as the financial product, the basis of quotation and the settlement date of an AMO trade, the AMO trade and the ASX trade will be able to be netted for settlement under the operating rules of ASX Clear and ASX Settlement.

### No changes without consent

- 26 Subject to clauses 13 to 17, clause 26A, ~~and~~ clauses 32 to 36, and clauses 58 and 59, ASX Clear and ASX Settlement will not, during the term of these Legal Terms, change the terms and conditions on which they supply a trade acceptance service, except by consent.
- 26A The parties acknowledge that ASX has announced its intention to invest in new post-trade technology and infrastructure for the cash market. ASX Clear and ASX Settlement may amend or replace these Legal Terms and/ or the standards referred to in clause 29 in order to give effect to changes to the trade acceptance service as a consequence of new post-trade technology and infrastructure. The new Legal Terms and/ or standards must confirm ASX Clear's and ASX Settlement's commitment to the provision of the trade acceptance service on a non-discriminatory basis through the new technology. ASX Clear and ASX Settlement will, in good faith and acting reasonably, consult with each AMO which is acquiring a trade acceptance service in relation to any such new Legal Terms and/ or standards.

### Service levels

- 27 ASX Clear and ASX Settlement will comply with the service levels set out in Schedule 2 (Service Levels).

### Safeguards

- 28 If ASX Clear or ASX Settlement acquire actual knowledge of competitively sensitive information in the course of providing the trade acceptance service under these Legal Terms, they will implement as an

operational standard promulgated under these Legal Terms, appropriate safeguards (to be determined in their absolute discretion) to protect that information from disclosure to ASX Limited.

## Standards

- 29 ASX Clear and ASX Settlement may, from time to time, promulgate:
- (a) technical standards; or
  - (b) operational standards
- (standards).
- 30 ASX Clear and ASX Settlement will publish on the ASX website any applicable standards at the time of these Legal Terms coming into effect.
- 31 ASX Clear and ASX Settlement will not, subject to clause 26A and clauses 32 to 36 amend the applicable standards.
- 32 ASX Clear and ASX Settlement may amend the applicable standards where ASX Clear and ASX Settlement reasonably consider that a change is necessary in order to give effect to a proposed change in the clearing and settlement services that ASX Clear and ASX Settlement provide to clearing and settlement participants. If ASX Clear and ASX Settlement propose to amend the standards:
- (a) ASX Clear and ASX Settlement will publish on the ASX website draft updated standards and provide written notice of the draft updated standards to any AMO which has acquired a trade acceptance service.
  - (b) Following notice of draft updated standards ASX Clear and ASX Settlement will consult in good faith with any AMO which has acquired a trade acceptance service about the content of draft updated standards and the time frame for their implementation.
  - (c) The consultation period will be 21 days from the date of publication of draft updated standards unless another consultation period has been agreed to with each AMO which has acquired a trade acceptance service.
- (d) Following the consultation period, ASX Clear and ASX Settlement will publish on the ASX website final updated standards and the date those standards will come into effect (Implementation Date) and provide written notice of those items to any AMO which has acquired a trade acceptance service
- (e) The Implementation Date will be at least 90 days from the publishing of the final updated standards, unless another date has been agreed to with each AMO which has acquired a trade acceptance service.
- 33 If an AMO, in good faith and acting reasonably, requests an expansion or enhancement of the service which requires an amendment to the standards, ASX Clear and ASX Settlement will in good faith and acting reasonably, consult with the AMO in respect of the AMO's proposed expansion or enhancement and consequent amendment to the standards.
- (a) If the proposed expansion or enhancement and consequent amendment is acceptable to ASX Clear and ASX Settlement, they will, to the extent that there are any other AMOs which have acquired a trade acceptance service, implement the notice and consultation process set out in clause 32.
  - (b) If the proposed expansion or enhancement and consequent amendment is acceptable to ASX Clear and ASX Settlement, but no other AMO has acquired the trade acceptance service, the expansion and enhancement and consequent amendment will be implemented as agreed by ASX Clear, ASX Settlement and the AMO.
- 34 Should ASX Clear and ASX Settlement agree to expand or enhance the trade acceptance service, the AMO requesting such expansion or enhancement and consequent amendment to the standards must make a monetary contribution towards

the capital cost of such expansion or enhancement to ASX Clear or ASX Settlement (as specified by ASX Clear and ASX Settlement), in an amount to be agreed between that AMO and ASX Clear and ASX Settlement.

- 35 If no agreement as to the amount of the monetary contribution to ASX Clear or ASX Settlement can be reached, ASX Clear and ASX Settlement are not obliged to provide that expansion or enhancement or implement the consequent amendment to the standards.
- 36 Clause 32 does not apply if any regulatory authority directs that ASX Clear and ASX Settlement must change the applicable standards, or if ASX Clear and ASX Settlement consider, in good faith and acting reasonably but otherwise in their absolute discretion, that a change is required to comply with ASX Clear's or ASX Settlement's licence obligations. ASX Clear and ASX Settlement will notify the AMO as soon as practicable of such a change.
- 37 As a condition of obtaining and continuing to receive the trade acceptance service, AMOs must comply with the standards as they are published from time to time. To the extent of any inconsistency between these Legal Terms and the standards, these Legal Terms will prevail.

### Reporting obligations

- 38 AMOs acquiring the trade acceptance service must:
- (a) immediately upon becoming aware, report to ASX Clear and ASX Settlement any material non-compliance with any of the standards; and
  - (b) if ASX Clear and ASX Settlement have reasonable grounds to believe that the AMO may not have complied or may not be complying with the standards, provide promptly such information as ASX Clear and ASX Settlement may request for the purpose of ascertaining whether the AMO has complied or is complying with the standards. ASX Clear and ASX Settlement must state

the grounds for their belief in any request for information.

### Remedies for failure to comply

- 39 If an AMO that has acquired the trade acceptance service fails to comply with any provision of these Legal Terms, and ASX Clear and ASX Settlement consider (acting reasonably) that failure to be material, ASX Clear and ASX Settlement will first notify the RBA and ASIC and subsequently may, in their absolute discretion, either:
- (a) suspend the provision of the trade acceptance service until such time as they are satisfied that the AMO will comply with all of the provisions of these Legal Terms; or
  - (b) terminate the right of the AMO to obtain the trade acceptance service.
- 40 In considering whether a failure to comply is material, ASX Clear and ASX Settlement may in their absolute discretion, have regard to their respective licence obligations and the objectives set out in s760A of the Corporations Act.
- 41 Without limiting the previous clauses of these Legal Terms there is a material failure to comply with a provision of these Legal Terms if:
- (a) ASX Clear and ASX Settlement reasonably believe that the AMO is failing to comply with a standard or any provision of these Legal Terms, and ASX Clear and ASX Settlement consider that failure to be material; or
  - (b) ASX Clear and ASX Settlement (acting reasonably) direct an AMO to remedy any failure to comply with these Legal Terms and that AMO does not demonstrate to the satisfaction of ASX Clear and ASX Settlement, in their absolute discretion, that the failure has been remedied within 20 business days or such other remediation period that has been agreed to between the AMO, ASX Clear and ASX

Settlement (acting reasonably).

42 Except in circumstances where ASX Clear and ASX Settlement consider that continuing to provide the trade acceptance service contravenes any legal or licence obligation of ASX Clear and / or ASX Settlement, ASX Clear and ASX Settlement will provide an AMO with ~~five~~ 20 business days' notice of a decision to suspend the provision of the trade acceptance service or to terminate the right of the AMO to acquire the trade acceptance service or such other notice period that has been agreed to between the AMO, ASX Clear and ASX Settlement (acting reasonably). Notice of any suspension or termination will be ~~made~~ provided to the RBA and ASIC.

**Dispute resolution**

43 If a dispute arises between ASX Clear or ASX Settlement and an AMO that has acquired a trade acceptance service concerning any aspect of these Legal Terms or their operation, other than one that is the subject of an absolute discretion of ASX Clear or ASX Settlement, either party may deliver to the other party a written notice which identifies the dispute (**Notice of Dispute**). The parties must then negotiate in good faith to resolve the dispute.

44 If after 30 days following receipt of the Notice of Dispute commercial negotiation fails to resolve the dispute, either party may refer the dispute to binding arbitration by a single arbitrator by written notice to the other party (**Arbitration Notice**).

45 The arbitrator must be a person agreed by the parties. However, if the parties fail to agree on the arbitrator within 14 days after the Arbitration Notice was delivered, the arbitrator will be the person nominated, at the request of either party, by the President of the Institute of Arbitrators & Mediators Australia or his or her nominee.

46 Except where they are inconsistent with the provisions of these Legal Terms, the rules published in 2014 by the Institute of Arbitrators & Mediators Australia entitled the IAMA Arbitration Rules will govern the conduct of any

arbitration conducted under these Legal Terms.

47 The arbitrator must have regard to and take into account as fundamental elements the following matters in resolving the dispute:

- (a) the object of these Legal Terms;
- (b) the legitimate business interests of ASX Clear and ASX Settlement, including the protection of any investment by them in the CS facility;
- (c) the statutory and licence obligations of ASX Clear and ASX Settlement under the Corporations Act; and
- (d) the interests under contract made under these Legal Terms of all other persons.

48 Subject to clause 49 an arbitration will be private and the result of the arbitration will not be published.

49 The result of an arbitration will be provided to the RBA and ASIC on condition that they keep the results confidential subject to any statutory reporting obligation.

50 The parties must bear their own costs of the arbitration, including the costs of any representatives.

51 The cost of the arbitrator and the costs of any facilities used for the arbitration shall be borne equally by both parties.

**Exclusions of liability**

52 Subject to clause 55, neither ASX Clear nor ASX Settlement are liable for any direct or indirect loss however caused (including, but not limited to, by the negligence of ASX Clear or ASX Settlement), suffered or incurred by an AMO that has acquired a trade acceptance service or arising out of or in connection with the relationship established by these Legal Terms.

53 No AMO is liable for any direct or indirect loss however caused (including, but not limited to, by the negligence of that AMO), suffered or incurred by ASX Clear or ASX Settlement through the supply of a trade acceptance service to that AMO or arising out of or in connection with the relationship established by these

- Legal Terms.
- 54 As a condition of obtaining and continuing to receive the trade acceptance service, an AMO that has acquired a trade acceptance service may make no claim against ASX Clear or ASX Settlement with respect to any liability arising out of the provision by ASX Clear or ASX Settlement of a clearing and settlement service to a party to a transaction effected through, or reported to, a trade facility operated by that AMO.
- 55 If an AMO demonstrates to the reasonable satisfaction of ASX Clear and ASX Settlement that ASX Clear and ASX Settlement have failed to comply with the Service Levels, ASX Clear and ASX Settlement will, subject to the following sentence, pay to that AMO a sum of \$2000 in respect of each day the Service Levels have not been complied with as that AMO's sole and exclusive remedy in respect of such failure. The aggregate liability of ASX Clear and ASX Settlement to an AMO under this clause 55 in any year is limited to the amount of the service fee for a 12 month period paid by that AMO in that year, net of the adjustment made under clause 21 (if any).
- (b) ASIC or the RBA consent to a review being undertaken;
- (c) there is any material change to the risk profile of ASX Clear or ASX Settlement in the provision of a trade acceptance service.
- 59 ASX Clear and ASX Settlement will, in good faith and acting reasonably, consult with each AMO which is acquiring a trade acceptance service as part of the review.

### Transitional arrangements

- 60 If an AMO requests, that AMO and ASX Clear and ASX Settlement will develop in consultation with each other and subsequently implement a plan for the orderly termination of the Legal Terms or the transitioned end of the delivery of the trade acceptance service to the AMO (**Transition Plan**).
- 61 An AMO requesting the development of a Transition Plan will reimburse reasonable costs and expenses incurred by ASX Clear and ASX Settlement in developing and implementing the Transition Plan.

### Term of Legal Terms

- 56 Unless terminated earlier under the review provisions in these Legal Terms, (which includes, without limitation, clause 26A) these Legal Terms will operate for the period of 5 years commencing on 31 October ~~2016~~2021.

### Review

- 57 Twelve months prior to the expiry of these Legal Terms a review of the Legal Terms will be carried out and published by ASX Clear and ASX Settlement within ~~four~~six months from the commencement of the review.
- 58 A review will be carried out and published by ASX Clear and ASX Settlement if:
- (a) ASIC or the RBA take any regulatory action or there is a change of law which affects the provision of the trade acceptance service;

### Governing law

- 62 These Legal Terms are governed by the laws of New South Wales, Australia.
- 63 ASX Clear, ASX Settlement and any AMO that acquires a trade acceptance service irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

## Schedule 1

### Description of the items of the service (clause 11)

A trade acceptance service comprises the following items:

1. Trade Acceptance	
Description	CHESSE Message
Trade acceptance effected by electronic messages as follows:	
(a) <b>Trade Acceptance:</b> Trades submitted by an AMO that have been accepted by ASX Clear and ASX Settlement will be confirmed back to the AMO through CHESSE via a response message.	184
(b) <b>Trade Rejection:</b> Trades submitted by an AMO that have been rejected by ASX Clear and ASX Settlement will be notified back to the AMO through CHESSE via a response message.	518
(c) <b>Trade Cancellation:</b> Trades submitted by an AMO that have been cancelled by the AMO (by the submission of a new trade message to CHESSE) and have been accepted by ASX Clear and ASX Settlement will be notified back to the AMO through CHESSE via a response message.	184
(d) <b>Trade Removal:</b> Trades submitted by an AMO that have been initially accepted and then subsequently removed by ASX Clear and ASX Settlement will be notified back to the AMO through CHESSE via a notification message.	100
2. CHESSE Help Desk and Customer Support	
Operational and technical CHESSE support is provided via telephone (1800 814 051) or email ( <a href="mailto:chesshelp@asx.com.au">chesshelp@asx.com.au</a> ) between 8.00am and 6.00pm (Sydney time) on each Business Day (as that term is defined in ASX Settlement Operating Rule 2.13.1) ( <b>CHESSE Help Desk Operating Hours</b> ) in relation to the following matters:	
(a) connectivity and messaging;	
(b) general operational or technical queries.	
3. After Hours Technical Support	
Technical support for production system problems is provided via telephone ((02) 9227 0821) from 6.00pm to 8.00am (Sydney time) on each Business Day (as that term is defined in ASX Settlement Operating Rule 2.13.1). Support is restricted to connectivity and related technical queries. General operational and test system problems are not supported during this period.	
4. ASX Clear and ASX Settlement Notices and Bulletins	
An AMO may request ASX Clear and ASX Settlement to disseminate to clearing and settlement participants via ASX Clear and ASX Settlement notices and bulletins regarding any critical operational or technical information relating to the AMO which may affect the provision of clearing and settlement services to clearing and settlement participants by ASX Clear and ASX Settlement in respect of AMO trades, for example:	
§ AMO technical outages;	
§ changes to AMO operating hours;	
§ termination of clearing arrangements between a participant of ASX Clear and a participant of the AMO.	
The content of notices or bulletins is subject to approval by ASX Clear and ASX Settlement.	

## 5. Business Relationship Management

Business relationship management as follows:

- (a) trade acceptance service review meetings; and
- (b) reports by ASX Clear and ASX Settlement as follows:
  - (i) quarterly reporting on performance against the service levels set out in clause 1 of Schedule 2;
  - (ii) monthly reporting on number of trades submitted by the AMO and CHES Help Desk Incident Management.

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## Schedule 2

### Service levels (clause 27)

#### 1. TRADE ACCEPTANCE

##### (a) Operating Hours

An AMO may submit trades to ASX Clear and ASX Settlement during the hours of 7.10am to 7.00pm (Sydney time) on each Business Day (as that term is defined in ASX Settlement Operating Rule 2.13.1) or such other hours of operation as ASX Clear and ASX Settlement may from time to time notify all AMOs (**Operating Hours**).

ASX Clear and ASX Settlement will ensure that the CS facilities will be available for trade acceptance for not less than 99.8% of Operating Hours (measured as a percentage of the total number of Operating Hours in a given month).

##### (b) Processing

###### (i) *Processing on the day the trade is received*

Subject to subparagraph (b)(ii), on each Business Day ASX Clear and ASX Settlement will process every trade submitted by an AMO in accordance with the Operational and Technical Standards on that day.

*Note 1: For the purpose of this service level, a trade submitted by an AMO is taken to be processed when ASX Clear and ASX Settlement have transmitted either a Trade Acceptance or Trade Rejection response message (refer to Items 1(a) and 1(b) of Schedule 1).*

*Note 2: A trade submitted by an AMO that is accepted by ASX Clear and ASX Settlement will be novated to ASX Clear with effect from:*

§ *if the trade is the result of the matching of bids and offers on the market of the AMO, immediately after the matching of those bids and offers (as that time is notified to ASX Clear and ASX Settlement by the AMO); and*

§ *if the trade is the result of a transaction being recorded by the AMO, immediately after the transaction is recorded (as that time is notified to ASX Clear and ASX Settlement),*

*in accordance with ASX Clear Operating Rule 12.2.1. Accordingly, the time taken by ASX Clear and ASX Settlement to process a trade submitted by an AMO does not affect the time of novation of the trade.*

###### (ii) *Exception: Management of operational and system risk*

ASX Clear and ASX Settlement may decline to process trades submitted by an AMO on a Business Day if the volume of trades submitted by all AMOs and ASX on that day or up to any point in time during that day makes this necessary, as determined by ASX Clear and ASX Settlement in their absolute discretion, in order to preserve the orderly operation or the integrity of the CS facilities.

ASX Clear and ASX Settlement must give notice of this determination to the AMO, ASIC and the RBA.

## 2. CHESS HELP DESK AND CUSTOMER SUPPORT

### (a) Response times: operational and technical queries

ASX Clear and ASX Settlement will provide item 2 of the trade acceptance service (as per Schedule 1) during CHES Help Desk Operating Hours to the standards described below:

Category of technical or operational query	Initial response time (within)	Update every	Escalation after
Connectivity and messaging:			
(a) Unable to connect to CHES	20 mins	45 mins	60 mins
(b) Not receiving acceptance, cancellation, rejection or removal messages from CHES	20 mins	60 mins	90 mins
General CHES queries	4 hrs	24 hrs	1 week
CHES Support requests	4 hrs	24 hrs	Not applicable

For the purposes of the table above:

**Initial response time** means the time taken to acknowledge receipt of a request for operational or technical support.

**Update** means a verbal or email update to be provided to an AMO at stated intervals during CHES Help Desk Operating Hours if the operational or technical matter remains unresolved.

**Escalation** means the time by which the CHES Help Desk will notify a senior representative of ASX Clear or ASX Settlement of an unresolved issue following the initial response.

### (b) When queries are taken to have been received

An AMO's request for operational or technical support will be deemed to have been received by ASX Clear and ASX Settlement:

- (i) if sent by email, when the email is received by ASX Clear and ASX Settlement as recorded by ASX Clear's and ASX Settlement's server;
- (ii) if made by telephone, when the CHES Help Desk receives the call.

A request made outside of CHES Help Desk Operating Hours is taken to have been received half an hour after the re-commencement of CHES Help Desk Operating Hours.

### 3. NOTIFICATION OF CHANGES IMPACTING THE TAS

ASX Clear and ASX Settlement will from time to time make changes to CHES and/or the TAS application or undertake maintenance that may have an impact on the TAS. Notice periods for communicating such changes are listed below:

#### (a) Scheduled Changes

The following notice periods apply to scheduled changes unless an alternative period or specific date is agreed by ASX Settlement, ASX Clear and the impacted AMO(s).

Category of technical or operational change	Minimum Notice Period	Format
<i>1. Technical Enhancements to the TAS</i>		
TAS Application functional upgrade requiring an external CHES Release	3 Months	Bulletin
Changes to TAS CHES messages or additional messages	3 Months	
Infrastructure change impacting CHES including BCP Tests	3 Months	Bulletin Website
TAS Application non-functional enhancements requiring an internal CHES Release	2 Months	Email
<i>2. Technical Enhancements potentially impacting the TAS</i>		
CHES upgrade having external CHES user impact	3 months	Bulletin
<i>3. Operational changes impacting the TAS<sup>†</sup></i>		
New Clearing Participant Accreditation	Within 1 hour of CHES set-up	Email
New Clearing Participant PID	1 day	
Change in Clearing Participant PID Mapping		
Clearing Participant technical issues impacting clearance of AMO transactions	Within 30 minutes of a confirmed issue	Phone
Clearing Participant default or restrictions (O&TS No. 37)	ASAP but within 30 minutes of Participant being advised of action to be taken	Phone initially followed by email confirmation

<sup>†</sup> It is expected that the AMO's operating rules require an AMO participant to inform the AMO of these changes as well.

Note: the notice periods referred to in the above table run from when the end to end test environment is available.

(b) **State of Emergency**

Depending on the circumstances, in emergency situations, urgent software fault correction will be developed, tested and implemented as soon as possible and notified to AMOs as soon as practical which may be after implementation.

Similarly, depending on the circumstances, notification to AMOs of emergency operational changes may not be possible until after implementation of the change.

**4. BUSINESS RELATIONSHIP MANAGEMENT**

(a) **Trade Acceptance Service Review Meetings**

The General Manager with responsibility for the trade acceptance service (or where the General Manager is unavailable, their delegate) will meet with the AMO quarterly to discuss the provision of the trade acceptance service including, without limitation:

- (i) compliance by ASX Clear and ASX Settlement with the service levels in this Schedule 2; and
- (ii) the AMO's forward looking service requirements.

(b) **Reports**

ASX Clear and ASX Settlement will provide the reports as per paragraph 5(b) of Schedule 1 by the times set out in the table below:

Name of report	Contents of report	Timing to provide
<b>Trade Acceptance Report</b>	Number of trades submitted by the AMO each Business Day, including: <ul style="list-style-type: none"> <li>§ number of trades accepted;</li> <li>§ number of trades rejected;</li> <li>§ number of trades cancelled;</li> <li>§ number of trades removed.</li> </ul>	Monthly (within 2 weeks after the end of each month).
<b>CHESS Help Desk Incident Management Report</b>	<ul style="list-style-type: none"> <li>§ number of queries received;</li> <li>§ response times.</li> </ul>	Monthly (within 2 weeks after the end of each month).
<b>Performance Report</b>	ASX Clear's and ASX Settlement's Performance against the service levels set out in Clause 1 of this Schedule 2	Quarterly (within one month after the end of each calendar quarter).

**5. REQUESTS TO ENHANCE OR EXPAND THE TAS**

An AMO may request an enhancement or extension to the TAS at any time by submitting a Change Request Application Form.

The form and the procedures for such a request are provided by ASX Clear and ASX Settlement on request.

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**Attachment B - draft Product Services Legal Terms from 31 October 2021**



Product Services

Legal Terms

ASX Clear Pty Limited and ASX Settlement Pty Limited

~~20 August 2018~~ 31 October 2021

## Object of the Legal Terms

1. ASX Clear and ASX Settlement provide a trade acceptance service to Approved Market Operators (**AMOs**) under the Trade Acceptance Service Legal Terms (**TAS Legal Terms**). The trade acceptance service is provided in respect of transactions in CHES-eligible financial products, including CHES-eligible financial products admitted for quotation on ASX's market (**ASX products**) or on the market of an AMO (**AMO products**).
2. The object of these Legal Terms is the provision by ASX Clear and ASX Settlement of financial product-related services to an AMO which is the recipient of the trade acceptance service. The services are described in clauses 6 and 7 and may be provided to an AMO in relation to an AMO product (**product services**).

## Binding nature of Legal Terms

3. Each of ASX Clear and ASX Settlement agree to be jointly bound by the obligations in these Legal Terms and to supply product services in accordance with these Legal Terms.
4. ASX Clear and ASX Settlement have no obligation to supply the product services unless the AMO is the recipient of the trade acceptance service and agrees to be bound by these Legal Terms.
5. Each AMO that acquires product services agrees with both ASX Clear and ASX Settlement to be bound by the obligations in these Legal Terms.

## Product services

6. The product services include clearing assessments and operational support assessments as set out in Schedule 1 for a financial product submitted by an AMO for the trade acceptance service which is an AMO product (which includes, in the case of a clearing assessment and operational support assessment, a CHES-eligible financial product which meets the requirements for approval, and is to be admitted, as an AMO product).
7. The product services include set-up and maintenance as set out in Schedule 2 for a financial product submitted by an AMO for the trade acceptance service which is an AMO product (which includes, in the case of product set-up services, a

CHES-eligible financial product which meets the requirements for admission, and is to be admitted, as an AMO product).

8. An AMO may request that ASX Clear and ASX Settlement provide product services by lodging an application for that service with ASX Clear and ASX Settlement. The application must be in the form prescribed by ASX Clear and ASX Settlement from time to time.
9. The product services will be provided to the AMO for the period commencing on the date specified in the application form and ending on the earlier of termination of these Legal Terms under clause 41 or termination of the AMO's right to receive product services under clause 25 or clause 29.

## Pricing

10. An AMO acquiring product services under these Legal Terms must pay to or as directed by ASX Clear and ASX Settlement, the relevant amounts set out in the Clearing, Settlement and Issuer Administration Schedule of Fees ([or any successor document](#)), [as applies at that time](#), at such reasonable intervals agreed between an AMO and ASX Clear and ASX Settlement. This includes the clearing assessment fee and operational support assessment fee (if applicable).

10A. Notwithstanding clause 10, if the operational support assessment identifies that ASX Clear, ASX Settlement or their related bodies corporate (as that term is defined in the Corporations Act) will be reasonably required to:

- (a) develop or test systems in connection with the provision of product services to an AMO; or
- (b) put in place new or special operational arrangements to support the provision of product services to an AMO,

the AMO must pay to or as directed by ASX Clear and ASX Settlement, an amount that reflects the cost of these activities as agreed between the AMO and ASX Clear and ASX Settlement. If no agreement can be reached, ASX Clear and ASX Settlement are not obliged to provide the product services to the AMO.

10B. ASX Clear and ASX Settlement will provide an AMO with:

- (a) an estimate of the cost of the

clearing assessment and operational support assessment prior to such product services being provided; and

- (b) a record of the cost of the clearing assessment and operational support assessment at such reasonable intervals as agreed between the AMO and ASX Clear and ASX Settlement.

10C. Where in respect of product services referred to in clause 7 of these Legal Terms, an AMO requests, and ASX Clear and/or ASX Settlement (as applicable) agree, to invoice the AMO directly for those product services rather than the relevant issuer of the AMO products, the AMO must pay to or as directed by ASX Clear and/or ASX Settlement (as applicable), the relevant amounts for those services set out in the Clearing, Settlement and Issuer Administration Schedule of Fees (or any successor document), as applies at that time, at such reasonable intervals agreed between an AMO and ASX Clear and ASX Settlement. This includes fees for product set up and maintenance services (if applicable).

### Service levels

11. ASX Clear and ASX Settlement will comply with the service levels set out in Schedule 3.

### Safeguards

12. If ASX Clear or ASX Settlement acquire actual knowledge of competitively sensitive information in the course of providing the product services under these Legal Terms, they will implement as an operational standard promulgated under these Legal Terms, appropriate safeguards (to be determined in their absolute discretion) to protect that information from disclosure to ASX Limited.

### No changes without consent

13. Subject to clauses 14, 17, ~~and 23, 43 and 44~~, ASX Clear and ASX Settlement will not, during the term of these Legal Terms, change the terms and conditions on which they supply the product services, except by consent.
14. The parties acknowledge that ASX has announced its intention to invest in new

post-trade technology and infrastructure for the cash market. ASX Clear and ASX Settlement may amend or replace these Legal Terms and/ or the standards referred to in clause 21 in order to give effect to changes to the trade acceptance service as a consequence of new post-trade technology and infrastructure. The new Legal Terms and/ or standards must confirm ASX Clear's and ASX Settlement's commitment to the provision of the product services on a non-discriminatory basis through the new technology. ASX Clear and ASX Settlement will, in good faith and acting reasonably, consult with each AMO which is acquiring product services in relation to any such new Legal Terms and/ or standards.

### Service of comparable quality

15. ASX Clear and ASX Settlement will provide to an AMO under these Legal Terms product services in respect of AMO products of comparable quality to those provided in respect of ASX products, including in the case of product services referred to in clause 7 of these Legal Terms to an issuer of ASX products.

16. For the purposes of clause 15, a service of comparable quality is provided:

- (a) in the case of clearing assessments and operational support assessments, where the methodology used by ASX Clear (and in the case of an operational support assessment, ASX Settlement) to conduct the assessment is the same for an ASX product and an equivalent AMO product, and an AMO product receives no less favourable treatment in terms of resourcing, priority and processing timeframes to that received by an equivalent ASX product; and
- (b) in the case of product set-up and maintenance services, where:

a. there is no difference in the means by which the services for AMO products are delivered, and the means by which the same services are delivered in respect of ASX products.

b. there is a difference in the

means by which the services for AMO products are delivered, but any difference between the same services delivered in respect of ASX products and AMO products results solely from any means by which those services are delivered. These means include, without limitation, any automated or manual processes which support the delivery of the services.

~~a.c.~~ (For the avoidance of doubt, in the circumstances in sub-paragraphs a. and b. above, this means that the product set-up and maintenance services for AMO products are provided ~~in the same manner and~~ to the same quality as the same services provided for ASX products.)

17. For the purpose of complying with clauses 15 and 16, ASX Clear and ASX Settlement may amend Schedules 1, 2 and 3 and/or the standards referred to in clause 21 in order to align the services and/or service levels for AMO products with the equivalent services and/or service levels for ASX products. Any such amendment must be notified in writing to each AMO which is the recipient of product services. Except in circumstances where ASX Clear and/or ASX Settlement consider that continuing to provide the product services without such amendment contravenes any legal or licence obligation of ASX Clear and/or ASX Settlement (as applicable), ASX Clear and ASX Settlement will provide AMOs with 20 business days' notice of such amendments or such other notice period as determined by ASX Clear and/or ASX Settlement (acting reasonably).
18. ASX Clear and ASX Settlement will report to the independent non-executive directors of ASX Clear:
- (a) on a quarterly basis showing a comparison of the processing times for the following services provided to an issuer of ASX products and to other AMOs: (i) clearing assessments; (ii) new issuer establishment; (iii) new issuance set up; and (iv) operational support assessments; and

- (b) on an annual basis with a certification as to the service of comparable quality commitment in respect of: (i) clearing assessments conducted under Schedule 1; (ii) product set-up and maintenance services provided under Schedule 2; and (iii) operational support assessments conducted under Schedule 1.

## Non-discrimination

19. Other than any fees or charges that are different because the mode of service delivery is not the same, the net fees and charges payable to ASX Clear and ASX Settlement by an AMO in respect of the product services will be no higher than the net fees and charges that would be payable by an issuer in respect of the equivalent services for an equivalent ASX product.
20. All fees and charges in respect of product services will be set out in the Clearing, Settlement and Issuer Administration Services Schedule of Fees which may be updated from time to time. ASX Clear and ASX Settlement will not enter into any other agreement or arrangement, including but not limited to an agreement or arrangement with ASX Limited or any other AMO, that would derogate from the commitment to non-discrimination under this clause.

## Standards

21. ASX Clear and ASX Settlement may, from time to time, promulgate:
  - (a) technical standards; or
  - (b) operational standards **(standards)**.
22. The standards may be incorporated in any standards promulgated by ASX Clear and ASX Settlement under the TAS Legal Terms and otherwise will be published by ASX Clear and ASX Settlement on the ASX website.
23. The standards may be amended by ASX Clear and ASX Settlement:
  - (a) under clause 17; or
  - (b) in conjunction with an amendment to any standards promulgated by ASX Clear and ASX Settlement under the TAS Legal Terms; or
  - (c) if any regulatory authority directs

that ASX Clear and ASX Settlement must change the applicable standards, or if ASX Clear and ASX Settlement consider, in good faith and acting reasonably but otherwise in their absolute discretion, that a change is required to comply with ASX Clear's or ASX Settlement's licence obligations. ASX Clear and ASX Settlement will notify the AMO as soon as practicable of such a change.

(d) with the AMO's consent.

24. As a condition of obtaining and continuing to receive the product services, AMOs must comply with the standards as they are published from time to time. To the extent of any inconsistency between these Legal Terms and the standards, these Legal Terms will prevail.

### Remedies for failure to comply

25. If an AMO that has acquired the product services fails to comply with any provision of these Legal Terms, and ASX Clear and ASX Settlement consider (acting reasonably) that failure to be material, ASX Clear and ASX Settlement will first notify the RBA and ASIC and subsequently may, in their absolute discretion, either:

- (a) suspend the provision of the product services until such time as they are satisfied that the AMO will comply with all of the provisions of these Legal Terms; or
- (b) terminate the right of the AMO to obtain the product services.

26. In considering whether a failure to comply is material, ASX Clear and ASX Settlement may in their absolute discretion, have regard to their respective licence obligations and the objectives set out in s760A of the Corporations Act.

27. Without limiting the previous clauses of these Legal Terms there is a material failure to comply with a provision of these Legal Terms if:

- (a) ASX Clear and ASX Settlement reasonably believe that the AMO is failing to comply with a standard or any provision of these Legal Terms, and ASX Clear and ASX Settlement consider that failure to be material; or

- (b) ASX Clear and ASX Settlement (acting reasonably) direct an AMO to remedy any failure to comply with these Legal Terms and that AMO does not demonstrate to the satisfaction of ASX Clear and ASX Settlement, in their absolute discretion, that the failure has been remedied within 20 business days or such other remediation period that has been agreed to between the AMO, ASX Clear and ASX Settlement (acting reasonably).

28. Except in circumstances where ASX Clear and/or ASX Settlement consider that continuing to provide the product services contravenes any legal or licence obligation of ASX Clear and/or ASX Settlement (as applicable), or where the provision of product services is suspended or terminated under clause 29, ASX Clear and ASX Settlement will provide an AMO with ~~five~~ 20 business days' notice of a decision to suspend the provision of the product services or to terminate the right of the AMO to acquire the product services or such other notice period that has been agreed to between the AMO, ASX Clear and ASX Settlement (acting reasonably). Notice of any suspension or termination will be ~~made~~ provided to the RBA and ASIC.

29. ASX Clear and ASX Settlement may:

- (a) suspend the provision of product services to an AMO during any period of suspension of trade acceptance services to the AMO under the TAS Legal Terms; or
- (b) terminate the right of an AMO to receive product services if the AMO's right to receive trade acceptance services is terminated under the TAS Legal Terms.

### Dispute resolution

30. If a dispute arises between ASX Clear or ASX Settlement and an AMO that has acquired product services concerning any aspect of these Legal Terms or their operation, other than one that is the subject of an absolute discretion of ASX Clear or ASX Settlement, either party may deliver to the other party a written notice which identifies the dispute (**Notice of Dispute**). The parties must then negotiate in good faith to resolve the dispute.

31. If after 30 days following receipt of the

Notice of Dispute commercial negotiation fails to resolve the dispute, either party may refer the dispute to binding arbitration by a single arbitrator by written notice to the other party (**Arbitration Notice**).

32. The arbitrator must be a person agreed by the parties. However, if the parties fail to agree on the arbitrator within 14 days after the Arbitration Notice was delivered, the arbitrator will be the person nominated, at the request of either party, by the President of the Institute of Arbitrators & Mediators Australia or his or her nominee.
33. Except where they are inconsistent with the provisions of these Legal Terms, the rules published in 2014 by the Institute of Arbitrators & Mediators Australia entitled the IAMA Arbitration Rules will govern the conduct of any arbitration conducted under these Legal Terms.
34. The arbitrator must have regard to and take into account as fundamental elements the following matters in resolving the dispute:
  - (a) the object of these Legal Terms;
  - (b) the legitimate business interests of ASX Clear and ASX Settlement, including the protection of any investment by them in the CS facility;
  - (c) the statutory and licence obligations of ASX Clear and ASX Settlement under the Corporations Act; and
  - (d) the interests under contract made under these Legal Terms of all other persons.
35. Subject to clause 36 an arbitration will be private and the result of the arbitration will not be published.
36. The result of an arbitration will be provided to the RBA and ASIC on condition that they keep the results confidential subject to any statutory reporting obligation.
37. The parties must bear their own costs of the arbitration, including the costs of any representatives.
38. The cost of the arbitrator and the costs of any facilities used for the arbitration shall be borne equally by both parties.

## Exclusions of liability

39. Neither ASX Clear nor ASX Settlement are liable for any direct or indirect loss however caused (including, but not limited to, by the negligence of ASX Clear or ASX Settlement), suffered or incurred by an AMO that has acquired product services or arising out of or in connection with the relationship established by these Legal Terms.
40. No AMO is liable for any direct or indirect loss however caused (including, but not limited to, by the negligence of that AMO), suffered or incurred by ASX Clear or ASX Settlement through the supply of product services to that AMO or arising out of or in connection with the relationship established by these Legal Terms.

## Term of Legal Terms

- ~~41.~~ These Legal Terms operate for the period of 5 years commencing on 31 October ~~2016~~ 2021 but will automatically terminate on termination of the TAS Legal Terms.

## Review

- ~~42.~~ Twelve months prior to the expiry of these Legal Terms a review of the Legal Terms will be carried out and published by ASX Clear and ASX Settlement within six months from the commencement of the review.
- ~~43.~~ A review will be carried out and published by ASX Clear and ASX Settlement if:
  - ~~(a)~~ ASIC or the RBA take any regulatory action or there is a change of law which affects the provision of the product services;
  - ~~(b)~~ ASIC or the RBA consent to a review being undertaken;
  - ~~(c)~~ there is any material change to the risk profile of ASX Clear or ASX Settlement in the provision of the product services.
- ~~44.~~ ASX Clear and ASX Settlement will, in good faith and acting reasonably, consult with each AMO which is acquiring product services as part of the review.

## Intellectual property rights

- ~~42-45.~~ No intellectual property rights are passed, transferred or licensed to an AMO or to ASX Clear and ASX Settlement under these Legal Terms.

## Governing law

~~43.~~46. These Legal Terms are governed by the laws of New South Wales, Australia.

~~44.~~47. ASX Clear, ASX Settlement and any AMO that acquires product services under these Legal Terms irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

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## Schedule 1

### Clearing assessment and operational support assessment (clause 6)

#### 1. Background

For an AMO product to be approved and remain approved as an approved financial product:

- The AMO product must meet all requirements to be admitted for quotation under the operating rules of the AMO.
- All relevant regulatory approvals for the issuer and/or AMO product must be satisfied so that there is no impediment to trading, clearing and settlement of the AMO product.
- Where applicable, ASX Clear must perform a clearing assessment of the AMO product.
- ASX Clear and ASX Settlement must perform an operational support assessment of the AMO product.

The clearing assessment will be performed in accordance with ASX Clear's Clearability Policy in place from time to time. A clearing assessment is not required for financial products issued on terms that are identical to the terms of a financial product in the existing product set. The relevant terms of the existing product set include any feature of the financial product or any way of trading, pricing, settling, clearing or condition on which the financial product is quoted, which is relevant to ASX Clear's assessment of its risk. The existing product set refers to all "Financial Products" (as that term is defined in the ASX Settlement Operating Rules) that have met the clearing assessment and operational support assessment criteria and that are cleared by ASX Clear at the time the clearing assessment is performed.

A clearing assessment may also be required where there is a change to the terms of an approved AMO product which, in the reasonable opinion of ASX Clear, causes the AMO product to be issued on terms that are not identical to the remainder of the existing product set.

An operational support assessment is required for each financial product submitted by an AMO for the trade acceptance service and is also required whenever a clearing assessment has been performed. An operational support assessment will determine whether systems need to be developed or tested or any other new or special operational arrangements need to be put in place to support the delivery of clearing, settlement or issuer services, or services to the AMO, in relation to the financial product submitted by the AMO.

#### 2. What is required from an AMO – Clearing Assessment

All AMO products to be submitted by an AMO for the trade acceptance service must be submitted by the AMO for a clearing assessment, other than AMO products issued on terms that are identical to the terms of a financial product in the existing product set. An approved AMO product may also be submitted for a clearing assessment where there is a change to the terms of an approved AMO product which, in the reasonable opinion of ASX Clear, causes the AMO product to be issued on terms that are not identical to the remainder of the existing product set.

In order for ASX Clear to perform the clearing assessment, AMOs are required to provide ASX Clear with the following information:

- comprehensive product description, including the nature of the product and in particular having regard to features of the product that impact price determination and liquidity;
- issuer;
- underlying security / asset;
- operating rule framework that governs the listing or quotation of the financial product; and
- any other relevant information reasonably required by ASX Clear.

#### 3. What is required from an AMO - Operational support assessment

All AMO products to be submitted by an AMO for the trade acceptance service must be submitted by the AMO for an operational support assessment. An operational support assessment is also required whenever a clearing assessment has been performed in relation to a particular AMO product.

In order for ASX Clear and ASX Settlement to perform an operational support assessment, AMOs are required to:

- fully complete an ASX Clearing and Settlement Services New Product Form in the form prescribed by ASX Clear and ASX Settlement from time to time;
- provide contact details for the issuer of the product, for the purpose of ASX Clear or ASX Settlement requesting information from the issuer where they consider it necessary to do so;
- where the AMO product did not require a clearing assessment, provide the information that would have been provided to ASX Clear to perform a clearing assessment under section 2 of this Schedule 1; and
- provide any other relevant information reasonably required by ASX Clear and ASX Settlement.

#### **4. Service levels**

ASX Clear will conduct a clearing assessment of an AMO product in accordance with the service levels set out in section 1 of Schedule 3.

ASX Clear and ASX Settlement will conduct an operational support assessment of an AMO product in accordance with the service levels set out in section 2A of Schedule 3.

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## Schedule 2

### Product set-up and maintenance (clause 7)

#### 1. Product set-up and maintenance services for AMO products

Description	CHES message
<b>a) Product setup and maintenance:</b>	
(i) Issuance set up: this includes setting up the financial products in the clearing and settlement and risk systems (in the case of warrant products, via the Warrants Management Interface), creation of the sub-registry and CHES subregister detail report confirming the available sub-registry, ticker and ISIN code allocation and management.	
Reporting request	503
Accepted reporting request	526
Security detail	096
End of reporting	538
(ii) Maintenance: this includes suspensions and terminations of AMO products.	
<b>b) Corporate actions:</b>	
(i) Establishment of corporate action event in the clearing and settlement system.	
(ii) Clearing and settlement system support for corporate actions: including cum balances and adjustments.	
<b>c) Primary market facility:</b> a service provided for processing allocation components of primary and secondary product issues through the clearing and settlement system.	

#### 2. CHES Help Desk and Customer Support

Operational and technical support is provided via telephone (1800 814 051 or another telephone number notified by ASX Settlement) or email ([chesshelp@asx.com.au](mailto:chesshelp@asx.com.au) or another email address notified by ASX Settlement) between 8.00am and 6.00pm (Sydney time) on each Business Day (**CHES Help Desk Operating Hours**) in relation to the following matters:

- (a) Connectivity and messaging.
- (b) Operational or technical queries.

In these Legal Terms, **Business Day** has the meaning given to it in ASX Settlement Operating Rule 2.13.1.

#### 3. After Hours Technical Support

Technical support for production system problems is provided via telephone ((02) 9227 0821 or another telephone number notified by ASX Settlement) from 6.00pm to 8.00am (Sydney time) on each Business Day. Support is restricted to connectivity and related technical queries. General operational and test system problems are not supported during this period.

#### 4. ASX Settlement Notices and Bulletins

ASX Settlement will disseminate notices and bulletins to participants regarding issues relating to the systems used for providing the product set-up and maintenance services which may affect those services, for example, issues with:

- clearing and settlement systems or services;
- changes to the Operating Hours.

In these Legal Terms, **Operating Hours** means the hours of 7.10am to 7.00pm (Sydney time) on each Business Day or such other hours of operation as ASX Clear and ASX Settlement may from time to time notify all AMOs.

**5. Business relationship management**

Business relationship management as follows:

- (a) product services review meetings as described in clause 5(a) of Schedule 3; and
- (b) reports by ASX Settlement as follows:
  - (i) quarterly reporting on performance against the service levels set out in Schedule 3;
  - (ii) monthly reporting including, but not limited to, the number of issuance creation requests submitted by the AMO and CHESS Help Desk Incident Management and those reports set out in Schedule 3.

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## Schedule 3

### Service levels – AMO products (clause 11)

#### 1. Clearing assessment

ASX Clear will conduct the clearing assessment and advise the AMO of the outcome within the following timeframes:

- For products issued on terms that are similar but not identical to the terms of a product that is in the existing product set: 10 Business Days; and
- For products issued on terms that are significantly different to the terms of a product that is in the existing product set: 40 Business Days (other than in the case of the blackout periods specified below).

The clearing assessment fee is payable both for products that are similar but not identical, and products that are significantly different to, products in the existing product set. The clearing assessment fee is also payable where there is a change to the terms of an approved AMO product which, in the reasonable opinion of ASX Clear, causes the AMO product to be issued on terms that are not identical to the remainder of the existing product set.

The timeframes above commence when all of the following have occurred:

- ASX Clear confirms to the AMO that ASX Clear has received all of the relevant information it reasonably requires to complete the clearing assessment; and
- ASX Clear has provided the AMO with an estimate for the clearing assessment in accordance with clause 10B(a); and
- the AMO has confirmed to ASX Clear that it accepts the estimate for the clearing assessment,

(Day 0).

If a product is issued on terms that are considered by ASX Clear to be significantly different to the terms of a product that is in the existing product set, ASX Clear will advise the AMO within 10 Business Days after Day 0 that a detailed clearing assessment is required. The timeframes are overlapping and not cumulative. For the avoidance of doubt that means,

- before 5:00pm on Business Day 10 after Day 0 the outcome of the clearing assessment will be confirmed if it is a similar but not identical product; and
- before 5:00pm on Business Day 40 after Day 0 the outcome of the clearing assessment will be confirmed if it is a significantly different product.

#### Blackout periods

ASX Clear's commitment to perform a clearing assessment for products issued on terms that are significantly different to the terms of a product that is in the existing product set does not apply if that would require Board approval during the periods from 1 July to 1 August (inclusive) or 1 December to 1 February (inclusive). In those cases, ASX Clear will complete the clearing assessment as soon as reasonably practicable including using reasonable endeavours to obtain the necessary Board approval within 40 Business Days and in any case will provide a clearing assessment service in relation to AMO products of comparable quality, in accordance with the commitment in clause 16(a) of the Legal Terms, to that provided for equivalent ASX products.

#### 2A. Operational support assessment

ASX Clear and ASX Settlement will conduct the operational support assessment and advise the AMO of the outcome within 40 Business Days.

This timeframe will commence when all of the following have occurred:

- ASX Clear and ASX Settlement confirm to the AMO that ASX Clear and ASX Settlement have received all of the relevant information they reasonably require to complete the operational support assessment of financial products, including a duly completed New Product Form and the outcome of the clearing assessment; and
- ASX Clear and ASX Settlement have provided the AMO with an estimate for the operational support assessment in accordance with clause 10B(a); and

- the AMO has confirmed to ASX Clear and ASX Settlement that it accepts the estimate for the operational support assessment,

(Day 0).

## 2. Product set-up and maintenance services

### (a) Operating Hours

An AMO may submit AMO products for issuance set up to ASX Settlement during the Operating Hours.

ASX Settlement will ensure that the technical infrastructure required to provide the product set-up and maintenance services is available for not less than 99.95% of Operating Hours (measured as a percentage of the total number of Operating Hours in a given month on a per system basis). The technical infrastructure comprises the designated ASX portal for the submission of issuance templates, which includes:

- the systems designated for AMO management of AMO products, excluding warrants (currently by email); and
- the interface for direct AMO management of warrants (Warrants Management Interface or WMI).

### (b) Issuance set up:

#### *New issuer*

ASX Settlement will set up a new issuer in the clearing and settlement system within 5 Business Days of receiving such a request from an AMO together with the required documentation.

Note: an issuer is a 'new issuer' if it is not currently set up in the clearing and settlement system as an issuer on any licensed market.

#### *Existing issuer – issuance templates submitted via the Warrants Management Interface*

Issuance templates correctly submitted by an AMO to ASX Settlement prior to 5:00pm on a Business Day will be processed so that the AMO product is available for clearing on the next Business Day. For the avoidance of doubt this includes the creation of the sub-registry and CHESSE custom report confirming the available sub-registry.

Within 10 minutes of an AMO submitting an issuance template, ASX Settlement will confirm to the AMO, via return electronic alert, the result of the processing and any exceptions.

#### *Warrants Management Interface BCP arrangements*

In the event the WMI is not available, ASX Settlement will implement the agreed BCP arrangements including that an AMO may submit the issuance templates via email to:

ALMNotifications@asx.com.au or a different email address as advised by ASX Settlement from time to time. The format for those email communications will be compliant with the agreed interface specifications.

#### *Existing issuer – issuance templates submitted via email*

Issuance templates correctly submitted via email by an AMO to ASX Settlement prior to 5:00pm on a Business Day will be processed so that the AMO product is available for clearing two (2) Business Days later. For the avoidance of doubt this includes the creation of the sub-registry and CHESSE custom report confirming the available sub-registry.

#### *Confirmation of issuance set up*

ASX Settlement, upon receipt of a valid report request (CHESSE message 503), will

- for the standing request for the end of day report confirm prior to 10.30pm on each Business Day by CHESSE message 096 and 538 all AMO products successfully processed and available for clearing on the next Business Day; and
- for ad hoc requests for on demand reports confirm prior to 7:00am on each Business Day by CHESSE message 096 and 538 those AMO products successfully processed and available for clearing on that Business Day from issuance templates submitted before 5:00pm on the previous Business Day.

### (c) Corporate actions:

Where ASX Settlement is notified of a corporate action event for an AMO product, ASX Settlement will establish a corporate action event in the clearing and settlement system in accordance with the following timeframes:

- i. where the AMO product is a warrant and the underlying security is an ASX-quoted security, creation of a dividend event is automated; or
- ii. in all other circumstances, creation of corporate actions is manual. If the AMO advises ASX Settlement no later than 12:00pm on a Business Day the corporate action event will be established the following Business Day.

### 3. CHESSE Help Desk and Customer Support

#### (a) Response times: operational and technical queries

ASX Settlement will provide CHESSE Help Desk and Customer Support during CHESSE Help Desk Operating Hours to the standards described below:

Category of technical or operational query	Initial response time (within)	Update every	Escalation after
Connectivity and messaging:			
(a) Unable to connect to CHESSE	20 mins	45 mins	60 mins
(b) Not receiving acceptance, cancellation, rejection or removal messages from CHESSE	20 mins	60 mins	90 mins
Product set up and maintenance services:			
(a) Unable to access ASX Portal			
(b) Issuance template issues (including rejection by WMI)			
(c) Rejection of report request (CHESSE message 503)	20 mins	45 mins	60 mins
(d) Non delivery of CHESSE message 526			
(e) Non delivery of end of day report by 10.30pm (CHESSE message 096 and 538)			
(f) Price registration rejections			
General CHESSE queries	4 hrs	24 hrs	1 week
CHESSE Support requests	4 hrs	24 hrs	Not applicable

For the purposes of the table above:

**Initial response time** means the time taken to acknowledge receipt of a request for operational or technical support.

**Update** means a verbal or email update to be provided to an AMO at stated intervals during CHESSE Help Desk Operating Hours if the operational or technical matter remains unresolved.

**Escalation** means the time by which the CHESSE Help Desk will notify a senior representative of ASX Settlement of an unresolved issue following the initial response.

#### (b) When queries are taken to have been received

An AMO's request for operational or technical support will be deemed to have been received by ASX Settlement:

- i. if sent by email, when the email is received by ASX Settlement as recorded by ASX Settlement's server;
- ii. if made by telephone, when the CHES Help Desk receives the call.

A request made outside of CHES Help Desk Operating Hours is taken to have been received half an hour after the re-commencement of CHES Help Desk Operating Hours.

#### 4. Notification of changes impacting the product services

##### (a) Scheduled Changes

The following notice periods apply to scheduled changes unless an alternative period or specific date is agreed by ASX Settlement, ASX Clear and the impacted AMO(s).

Category of technical or operational change	Minimum Notice Period	Format
<i>Operational changes impacting the TAS</i>		
Any external interface change impacting the product services	3 months	Bulletin/email

Note: the notice periods referred to in the above table run from when the end to end test environment is available.

#### 5. Business relationship management

##### (a) Trade acceptance service and product services review meetings

The General Manager with responsibility for the trade acceptance service (or where the General Manager is unavailable, their delegate) will meet with the AMO quarterly to discuss the provision of the trade acceptance service including, without limitation, if the AMO is a recipient of product services:

- i. compliance by ASX Clear and ASX Settlement with the service levels in this Schedule 3; and
- ii. the AMO's forward looking service requirements.

##### (b) Reports

ASX Clear and ASX Settlement will provide the reports as per paragraph 5(b) of Schedule 2 by the times set out in the table below:

Name of report	Contents of report	Timing to provide
<b>CHES Help Desk Incident Management Report</b>	<ul style="list-style-type: none"> <li>• number of queries received;</li> <li>• response times.</li> </ul>	Monthly (within 2 weeks after the end of each month).
<b>Performance Report</b>	ASX Clear's and ASX Settlement's performance against the service levels set out in clause 2 of this Schedule 3	Quarterly (within one month after the end of each calendar quarter).
<b>Product Services Report</b>	<ul style="list-style-type: none"> <li>• The number of issuance templates submitted by the AMO.</li> <li>• The number of issuance templates and the number of AMO products rejected</li> <li>• The number of AMO</li> </ul>	Monthly (within 2 weeks after the end of each month)

	products issued in the preceding month.	
<b>Product Services Incident Management Report</b>	Whenever an AMO notifies that an incident has occurred	Within 5 business days of the incident occurring

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