

AXE ECN PTY LIMITED

(ACN 121 659 658)

OPERATING RULES

March 2007

PREAMBLE

AXE Pty Limited (“AXE”) provides a regulatory and operational facility for the execution and reporting of transactions in securities which are governed by these operating rules (“Rules”) and relevant legislation. AXE will exercise its powers and functions under these Rules efficiently, consistently and with the objective of ensuring execution and reporting on AXE’s facility operates in a fair, orderly and transparent way.

These Rules regulate Participants in relation to AXE’s facility.

As a licensed financial market operator under the Corporations Act 2001, AXE allows execution and reporting through its facility subject to its supervision of Participants’ compliance with the Rules and oversight by external agencies. Pursuant to provisions in these Rules, supported by provisions in the Corporations Act, these Rules have the effect of a contract:

- between each Participant and AXE; and
- between each Participant.

The Rules are to be read in conjunction with procedures (“Procedures”) that are attached to the Rules and which can be viewed at [www.axe-ecm.com]. The Procedures, which do not form part of the Rules, include or will include:

- prescribed procedures which aim to set out in more detail how participants may use AXE’s facility; and
- practice notes providing guidance on how AXE interprets and administers the Rules.

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CHAPTER 1: INTERPRETATION AND DEFINITIONS

1.1 INTERPRETATION

Unless expressed to the contrary, in these Rules the following principles of construction apply:

(a) **Number**

Words in the singular include the plural and vice versa.

(b) **Person**

The word “person” and words importing a person or persons include corporations and companies and include a person’s legal personal representatives, successors and assigns.

(c) **Gender**

Any gender includes the other genders.

(d) **Headings**

Headings shall not affect interpretation.

(e) **Reference to Law or these Rules**

A reference to a law, a statute or a provision of a law, statute or a Rule includes that law, statute, provision or Rule as amended, re-enacted or replaced from time to time.

(f) **Corporations Act Reference**

Reference to a term which is defined in, or which relates to a matter dealt with by a particular provision of, the Corporations Act, has the same meaning as in the relevant definition in or provision of the Corporations Act.

(g) **Inclusion**

“Includes” means includes without limitation.

(h) **Writing or Written**

A reference to “written” or “in writing” means any mode of representing or reproducing words or information in tangible and visible form, including electronically produced, displayed and recorded matter.

(i) **Publish**

“Publish” means make information available to the public and/or to Participants by any means including electronic means.

(j) **Time**

References to time are to local time in Sydney.

(k) **Cognate Expressions**

If a word or phrase is defined, its other grammatical forms have corresponding meanings.

1.2 DEFINITIONS

In these Rules, the words set out in the first column below shall, have the meaning set opposite them.

Words	Meanings
Approved Subordinated Debt	The amount owing by a Participant under a subordination arrangement, which is approved by either AXE or any other market on which the Participant is a participant for the purposes of determining the Participant's compliance with the capital requirements of the relevant market.
ASIC	Australian Securities and Investments Commission or any successor body.
Australian Financial Services Licence or AFSL	A licence granted by ASIC that authorises a person who carries on a financial services business to provide financial services.
Australian Markets Licence	A licence granted by ASIC that authorises a person to operate a Financial Market.
Best Execution Policy	Policy applicable to Participants relating to how best to execute orders from their Clients.
Best Execution Policy Guidance	The guidance referred to in the Procedures.
Board	The whole or any number of the Directors of AXE acting as a Board.
Business Day	Any day on which the office of AXE is open.
Chairman	The chairman of each Disciplinary Committee.
Chief Executive	The chief executive officer of AXE or, in his or her absence, any person appointed by the chief executive officer to perform some or all of the powers and functions of the chief executive officer, (including any power to nominate or delegate) as conferred by AXE or the Rules or, where there is no chief executive officer, or substitute, the chairman of AXE.
Claim	Any claim for pecuniary losses specified by Section 885C CA and not excluded under Section 885D CA that is made by a Retail Client in the manner and within the time specified in these rules.

Claimant	A Client who has made a Claim within the requirements of these rules.
Client	In relation to a Participant, any person, firm or corporation on behalf of whom the Participant executes and reports a Transaction on the ECN, or on whose behalf the Participant proposes to execute and report a Transaction on the ECN or from whom the Participant accepts instructions to enter into a Transaction, which is intended to be executed and reported on the ECN.
Compensation Arrangements	The compensation arrangements established by AXE for the purposes of section 881A of the Corporations Act.
Constitution	The Constitution of AXE as amended from time to time.
Control	“control” as defined in the Corporations Act.
Controller	“controller” as defined in the Corporations Act.
Corporation	“corporation” as defined in the Corporations Act .
Corporations Act	Corporations Act 2001 (Cth).
Data	All data including symbols, information, statistics and any other data in letter or numeral form disclosing, describing, summarising or otherwise commenting on sales or purchases of securities executed and reported through the ECN.
Dealing	“Dealing” as defined in Section 766C of the Corporations Act.
Disciplinary Committee	The committee established in accordance with Rule 5.2.3 from time to time.
Directors	The directors from time to time of a corporation, including any alternative directors.
ECN	The regulatory and operational facility provided by AXE for executing and reporting Transactions, in accordance with the ECN’s system of rules, procedures and other requirements.
ECN Platform	The platform provided by AXE for receiving and displaying Reports.
ECN Software	The software developed by or on behalf of AXE or a related party of AXE from time to time to operate the ECN Platform and required by a Participant in order to access the ECN Platform for the purpose of carrying out its activities as a Participant of AXE.

Emergency	Where the functions of AXE, the ECN or the ECN Platform are, or are threatened to be, severely and adversely affected by an event external to the ECN, such as (but not limited to) fire, accident, flood, bomb threat, threat of violence, substantially inclement weather, power failure, communication breakdown, computer or systems breakdown or malfunction, or danger to personnel.
Employees	Employees, Officers, Representatives and agents including auditors, accountants, lawyers or other professional service providers (including New Zealand Exchange Limited) appointed by the relevant Corporation.
Equity Securities	Shares in a Corporation including redeemable preference shares and convertible notes.
Error Transaction	A Reported Transaction which may be able to be cancelled under Rule 4.7 on the basis that it: <ul style="list-style-type: none"> (a) has been incorrectly reported to the ECN Platform; or (b) was executed in error.
Ex Date	The day which is 4 Business Days before the Record Date unless the Underlying Market notifies a different date.
Execution	The matching of offers to acquire or dispose of Equity Securities through the ECN, that is in accordance with the ECN's rules, procedures and other requirements, conditional upon the submission of a Report to the ECN Platform.
Execution and Reporting Rights	Rights for a Participant to execute a Transaction and submit a Report through the ECN, and in accordance with the ECN's system of rules, procedures and other requirements, and to access the ECN Platform in order to do so.
Family Company	A Corporation: <ul style="list-style-type: none"> (a) controlled by the person or the Immediate Family of the person; or (b) in respect of which the person is beneficially entitled to more than 50% of the issued capital.
Family Trust	A trust in which: <ul style="list-style-type: none"> (a) the person or the Immediate Family of the person is the sole or majority beneficiary; or (b) the person has the ability to remove the trustee of the trust and replace that trustee with his or her own nominee.

Financial Market	“Financial Market” as defined in the Corporations Act.
Financial Product	“Financial Product” as defined in the Corporations Act.
Financial Service	A financial service defined in Division 4, Part 7.1 CA
Immediate Family	A person, that person’s spouse and any non-adult children.
Licence	In Rule 3.6.8 means a licence or sub-licence.
Month	Calendar month.
Net Tangible Assets	<p>The Net Tangible Assets of a Participant are the sum of the values of:</p> <ul style="list-style-type: none"> (a) the assets (both non-current and current) owned by the Participant excluding: <ul style="list-style-type: none"> (i) any future tax benefit, goodwill, patent, trademark, participation rights granted by AXE or the Underlying Market or a Related Body Corporate of either of them, and any preliminary expense; (ii) any other similar item which, in AXE’s opinion, should be excluded or disregarded in current accounting practice as intangible; (iii) any debt owed to the Participant which is disputed or may otherwise be regarded as doubtful; and (iv) any asset which is not capable of being realized within 12 months on a going concern basis; <p>less the sum of:</p> <ul style="list-style-type: none"> (b) any liabilities (secured and unsecured) attaching to those assets or to the Participant: <ul style="list-style-type: none"> (i) including a provision for the Participant’s estimated liability for income tax, long service leave and any other contingency for which, in AXE’s opinion, provision must be properly made in accordance with current accounting practice; and (ii) excluding Approved Subordinated Debt. <p>AXE may prescribe alternative bases for calculating Net Tangible Assets from time to time.</p>

AXE	AXE Pty Limited (ACN 121 659 658). Where the Rules confer on AXE a power to do or refrain from doing some act or to exercise a discretion, a reference to AXE includes a reference to AXE, acting through its Board or a committee, the Chief Executive or any other Officer or agent of AXE authorised by AXE or by the Chief Executive to exercise that power or who is otherwise properly authorised to exercise that power. A schedule of delegation of authority will be provided by AXE to Participants.
AXE Board	The whole or any number of directors of AXE acting as a Board.
AXE Compliance Officer	The Compliance Officer appointed by AXE to that role.
AXE ECN	The regulatory and operational facility provided by AXE for executing and reporting Transactions.
AXE Fund	The compensation fund established by AXE to meet its obligations under Part 7.5 CA.
AXE GC	The General Counsel appointed by AXE to ensure compliance with its statutory obligations.
Officer	“Officer” as defined in the Corporations Act.
Participant	Any person who is admitted and remains recognised as a Participant under Chapter 3 of the Rules.
Practice Notes	Guidelines published by AXE on how it interprets and administers the Rules, which are available on [www.AXE.com.au].
Principal	<p>Except where the Participant is acting as trustee of a trust in which it has no direct or indirect beneficial interest, a Participant executing and reporting a Reported Transaction on its own behalf or on behalf of any of the following persons:</p> <ul style="list-style-type: none"> (a) a director, company secretary or Substantial Holder of the Participant; (b) the Immediate Family, Family Company or Family Trust of a director, company secretary or Substantial Holder of the Participant; and (c) a Related Body Corporate of the Participant.
Procedures	The procedures which are attached to the Rules to facilitate execution and reporting on the ECN and which are available on [www.AXE.com.au].
Record Date	The date defined in the Listing Rules of the Underlying Market in relation to a corporate action such as an entitlement to

	dividends, interest, capital returns, bonus issues, rights issues, priorities and other entitlements (each an ‘Entitlement’).
Related Body Corporate	“Related Body Corporate” as defined in Section 50 of the Corporations Act.
Related Party	“Related Party” as defined in the Corporations Act.
Report	A report of a Transaction submitted by a Participant and received by the ECN Platform.
Reported Transaction	A Transaction which has been reported to the ECN Platform.
Representative	“Representative” as defined in Chapter 910A of the Corporations Act.
Responsible Officer	“Responsible Officer” as defined in the Corporations Act.
Retail Client	“Retail Client” as defined in Section 761G of the Corporations Act.
Rules	The Rules and regulations made by AXE that deal with the activities and conduct of AXE, the ECN and the ECN’s Participants, and the activities and conduct of other persons in relation to AXE, the ECN and the ECN Platform.
Session State	A period of time specified by AXE during which execution and reporting will take place in accordance with parameters specified by AXE. Unless otherwise specified, the parameters specified in the Procedures will apply.
Settlement Facility	A settlement facility approved by AXE, whose operator has been granted an Australian clearing and settlement facility licence under the Corporations Act.
Statement of Findings	Statement of Findings as described in Rule 5.3.7.
Substantial Holder	A person who has a substantial holding, as defined in the Corporations Act, in the relevant Corporation.
Technical Halt	A period of time when the Executing and Reporting of Transactions on the ECN has been temporarily suspended by AXE as a result of an Emergency or other technical breakdown of the ECN Platform or failure in a connection or connections with the ECN Platform.
Third Party	Any person (including a Client) other than AXE, an AXE Representative or a Participant.
Transaction	Sale and/or purchase of Financial Products quoted on an Underlying Market which is executed and reported through and in accordance with the ECN’s system of rules, procedures and

	other requirements and which is not effected through or reported to the Underlying Market and is not cleared through any clearing facility of any kind, whether in Australia or elsewhere.
Trading Representative	Representative of a Participant authorised by the Participant to execute and report Transactions through the ECN.
Underlying Market	In relation to Financial Products, in respect of which Transactions are executed and reported through the ECN from time to time, means the Financial Market on which those Financial Products are quoted.
Unprofessional Conduct	<p>Conduct which:</p> <ul style="list-style-type: none"> (a) amounts to impropriety affecting professional character and which is indicative of a failure either to understand or to practice the principles of honesty or fair dealing in relation to other Participants, Clients or the public; (b) involves a substantial or consistent failure to reach reasonable standards of professional competence and diligence; or (c) is, or could reasonably be considered as likely to be, prejudicial to the interests of other Participants, the ECN or an Underlying Market.
Wholesale Transaction	A Transaction which meets the requirements set out in Rule 4.1 and to which both counterparties are either a Wholesale Client as defined in the Corporations Act or a Participant acting as Principal.
Year	Calendar year.

CHAPTER 2: AXE

2.1 GOVERNING LAW AND SUBMISSION TO JURISDICTION

2.1.1 Governing Law for Rules

These Rules will be interpreted in accordance with the laws applying in New South Wales.

2.1.2 Submission to Jurisdiction

AXE and each Participant shall:

- (a) irrevocably submit to the exclusive jurisdiction of the courts exercising jurisdiction in New South Wales; and
- (b) irrevocably waive any immunity from, or any objection to, any action in the courts exercising jurisdiction in New South Wales.

2.2 EFFECT AND AMENDMENT OF RULES

2.2.1 Rules Constitute a Contract

These Rules shall constitute a contract between AXE and each Participant and between each Participant.

2.2.2 Amendment, Deletion and Addition to Rules

The Rules may only be added to, amended or deleted by AXE.

2.2.3 Effective Date Determined by AXE

Unless otherwise provided in this Chapter 2 any new Rule or variation shall be effective from the date determined by AXE.

2.2.4 Notice of New and Amended Rules

AXE shall cause notice of all new Rules and variations to be made publicly available. Failure to give such notice shall not invalidate a new Rule or vary or delay its operation.

2.3 PROCEDURES

2.3.1 AXE may approve Procedures

AXE may from time to time approve written Procedures relating to the operations of AXE and the ECN.

2.3.2 Procedures are not part of the Rules

The Procedures do not form part of these Rules. However, if a Rule requires a person to comply with any part of the Procedures, failure by the person to comply with that part of the Procedures is a contravention of the Rule.

2.3.3 **Changes to Procedures**

AXE may approve changes to the Procedures from time to time or may grant waivers of them from time to time where the underlying principle of the Procedure is maintained and must give such notice as is reasonable in the circumstances of any changes or waivers before those changes or waivers take place.

2.4 **NOTICE, NOTIFICATION AND SERVICE OF DOCUMENTS**

2.4.1 **Notice must be in writing**

If any Rule requires or permits the giving of notice of any matters to any person, the notice must be in writing.

2.4.2 **Methods of giving notice in writing**

Without limiting any other provision of this Rule 2.4, any notice to be given by a Participant to AXE must be given to AXE as set out in the Procedures.

2.4.3 **Delivery of notice**

For the purposes of any Rule that requires or permits a document to be given to a person, whether the expression “serve”, “give” or “send” or any other expression is used, the document may be given, and will be taken to have been received, at the time and in the manner set out in the Procedures.

2.4.4 **Participant to have e-mail**

A Participant must have and maintain an operating e-mail system for the purposes of receiving notices under these Rules.

2.4.5 **Failure to notify**

If AXE must give a notice under these Rules to some or all Participants, accidental omission by AXE to give notice to one or more Participants does not affect the validity or enforceability of any resolution, decision, proceeding or act in connection with which the notice was to be given.

2.5 **DISRUPTIONS**

2.5.1 **AXE’s Powers to Deal with Undesirable Situations or Practice**

- (a) If in the opinion of AXE, an undesirable situation or practice has developed or is developing, AXE may take any steps whatsoever to correct the situation or practice and may give directions to Participants accordingly.
- (b) AXE may, but is not obliged to, consult with, obtain a report from, or take advice from, other persons as it sees fit to assist it in making a decision to deal with the situation or practice.
- (c) If AXE consults with, seeks a report from, or seeks advice from, any person, AXE may make a decision prior to any consultation, or receipt of report or advice, and need not take the results of any consultation, report or advice into consideration in making its decision.

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- (d) If AXE determines that the undesirable situation or practice has sufficiently abated to permit the orderly functioning of the ECN, AXE shall order the removal of any restrictions which may have been imposed under this Rule 2.5, and may make such additional orders (including, but not limited to, extending trading hours) as it deems necessary or appropriate to minimise the effect of the situation or practice.

2.5.2 What Constitutes Undesirable Situations and Practices

An undesirable situation or practice is a situation or practice which threatens or may threaten fair, orderly and transparent execution and reporting through the ECN and includes:

- (a) an Emergency; and
- (b) action or proposed action by a government, government instrumentality, a Financial Market, a Settlement Facility or any other body in Australia or overseas, or any exceptional or unforeseen circumstance, which is at variance with or which threatens or may threaten just and equitable principles of trading or the public interest.

2.5.3 Steps Which AXE May Take

Without limiting any other rights it may have, AXE may, in its absolute discretion, take any one or more of the following steps:

- (a) suspend execution and reporting on the ECN;
- (b) limit execution and reporting in respect of a particular Financial Product and take any other action it considers necessary as a consequence of limiting the execution and reporting;
- (c) limit execution and reporting in respect of a particular Participant or Participants and take any other action it considers necessary as a consequence of limiting the execution and reporting;
- (d) cancel a Reported Transaction provided that it has not been transmitted to a Settlement Facility;
- (e) give directions to a Participant or Participants to act in such a manner as will in its opinion correct or assist in overcoming the situation or practice; or
- (f) refrain from taking any action which it might normally take.

2.5.4 AXE Decision is Binding

A decision of AXE under this Rule 2.5, whether to act or not and as to what action is taken, shall be binding on all the Participants.

2.5.5 **Contravention of AXE Decision Deemed to be Breach of Rules**

A Participant contravening or failing to observe a decision or direction of AXE under this Rule 2.5 will be liable to the same sanctions, including fining, suspension or termination of its Execution and Reporting Rights, as if a breach of the Rules had been committed.

2.6 **AXE'S LIABILITY**

2.6.1 **Limitation of Liability**

- (a) Neither AXE nor the developer of the ECN Platform or of any computer system connecting to or from the ECN Platform utilised by AXE for any purpose (collectively "ECN Systems"), will accept or bear any liability whatsoever in respect of the operation of any ECN System or otherwise, whether for any breach of a provision of any relevant legislation, any act or omission (whether negligent or not), injury, death, damage to physical property, any direct or indirect losses including lost profits, loss of files, loss of contracts, loss of Data or use of Data (including any error in information supplied or made available), loss of operation time or loss of use of equipment or process, economic loss, loss of reputation or losses or damages incidental or consequential to the installation, use or operation of the ECN Systems. All warranties and conditions, both express and implied as to condition, description, quality, performance, durability, or fitness for the purpose or otherwise of any of the ECN Systems or any component thereof are excluded except as required by law; and AXE does not warrant or forecast that the ECN Systems or any component of them or any services performed in respect of them will meet the requirements of any user, or that operation of the ECN Systems will be uninterrupted or error-free, or that any services performed in respect of the ECN Systems will be uninterrupted or error-free. Nothing in this Rule limits any liability of a developer of any ECN Systems to AXE.
- (b) AXE will not accept or bear any liability whatsoever in respect of any act done or omitted, in good faith and in the performance or purported performance of a function or power conferred on it by the Rules, the Corporations Act or by any other legislative instrument or direction of any legislature or government authority having jurisdiction over it.

2.6.2 **AXE Principals**

Subject to Rule 2.6.1, every exemption from liability, defence or immunity applicable to AXE or to which AXE is entitled under this Chapter 2 shall also be available and shall extend to protect all of the Employees from time to time of AXE and any developer of any ECN Systems (collectively called "Developers" in this Rule 2.6).

2.6.3 **AXE Bound**

To the extent necessary at law, and for the purpose only of making those exemptions from liability defences and immunities available to the Developers, AXE shall be bound by this Rule 2.6 on its own behalf and as agent or trustee for the Developers and each of them.

2.6.4 **Exclusion of Terms**

Where the Trade Practices Act 1974 (Cth) or any similar State, Territorial or other legislation implies in this Rule 2.6 any term, condition or warranty, such term, condition or warranty shall be

deemed to be included in Rule 2.6.1. However, the liability of AXE for any breach of such term, condition or warranty shall be limited, at the option of AXE, to any one or more of the following:

- (a) if the breach relates to goods:
 - (i) the replacement of the goods or the supply of equivalent or similar goods;
 - (ii) the repair of the goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) the payment of the cost of having the goods repaired, or
- (b) if the breach relates to services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

2.7 CONNECTIONS TO THE ECN PLATFORM

Subject to the Rules, the ability for Participants to operate on the ECN shall be at the absolute discretion of AXE. AXE may determine at its absolute discretion, whether to disconnect a Participant's access to the ECN Platform in any of the following circumstances:

- (a) if AXE believes that the continued use of the connection will affect the operation of fair, orderly and transparent execution and reporting on the ECN;
- (b) the Execution and Reporting Rights of a Participant are to be suspended or terminated under Rule 3.4; or
- (c) in any of the situations set out in Rule 2.5.

2.8 HOURS OF OPERATION

2.8.1 Open of ECN

The ECN shall be available for execution and reporting at such time and shall remain open for such periods as determined by AXE and as set out in the Procedures.

2.8.2 Session States

AXE may place the ECN into a Session State with respect to Execution and Reporting in one or more Financial Products including placing the ECN into different Session States with respect to Execution and Reporting in different Financial Products at the same time.

2.8.3 Notice of Session States

AXE will use reasonable endeavours to notify Participants, in such reasonable manner as AXE considers appropriate, which Session State is in force in respect of Execution and Reporting in a particular Financial Product at all times at which the ECN is operating in respect of the Financial Product.

2.9 INTERRUPTION TO OPERATIONS

2.9.1 **ECN Platform Not in Operation**

For the purposes of this Rule 2.9, access to the ECN Platform is not allowed when:

- (a) the computer system or connections to or from it are not operating because of hardware or software breakdown; or
- (b) AXE determines that for any reason execution and reporting of Transactions on the ECN cannot occur in an orderly manner and gives notice by effecting a Technical Halt in respect of all Financial Products.

2.9.2 **Recommencement of Execution and Reporting**

Execution and reporting of Transactions will recommence after a Technical Halt, as determined by AXE and in accordance with the Procedures as determined by AXE.

2.9.3 **Participant to Notify of its System to Access Settlement Facility**

A Participant must notify AXE, in accordance with the Procedures, of the system the Participant uses to access the Settlement Facility which is selected by the Participant in respect of Reported Transactions for the purpose of allowing AXE to transmit messages to that system, and must inform AXE of any changes to that system.

2.10 **CONFIDENTIALITY**

AXE will take all reasonable measures to protect from unauthorised use or disclosure information provided to it in confidence by or on behalf of a Participant pursuant to the Rules. For the purposes of this Rule disclosure of information to the following people or in the following circumstances does not constitute unauthorised use or disclosure:

- (a) to ASIC, the Reserve Bank of Australia, a Settlement Facility or a clearing facility approved by AXE whose operator has been granted an Australian clearing and settlement facility licence under the Corporations Act;
- (b) pursuant to an agreement or arrangement between AXE and any governmental agency or regulatory authority including an exchange, market operator, clearing house or clearing and settlement facility in Australia or elsewhere whose functions include the regulation or supervision of trading in, or clearing and settlement of Financial Products (in Australia or elsewhere);
- (c) where required to be disclosed by AXE under any law or any order of any court or tribunal, authority or regulatory body;
- (d) which at the time of disclosure to or by AXE, was generally available to and known by the public;
- (e) for the purposes of monitoring compliance with, or the enforcement of, the Rules or the adjudication of those matters including to the Disciplinary Committee;
- (f) to a Related Body Corporate of AXE for the purpose of enabling that Related Body Corporate to assess whether the Participant is complying with, will comply with or has complied with the operating rules of, or any contractual arrangement with, that Related Body Corporate;

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- (g) to any governmental agency or regulatory authority including another market operator, clearing house or clearing and settlement facility (in Australia or elsewhere) which requests AXE to provide the information to it, in the proper exercise of its powers relating to:
 - (i) the order and good government of Participants; or
 - (ii) the efficient, honest, fair, competitive and informed trading, clearing and settlement of Financial Products (in Australia or elsewhere); and
 - (h) to any entity which provides financial backing or insurance to AXE for the purpose of enabling that entity to assess the risk to AXE or that entity from trading activities generally or to assess any claim made in connection with the Participant's activities.

2.11 COMPLAINTS

AXE will handle and record all complaints in the manner set out in its complaints handling policy.

CHAPTER 3: PARTICIPANTS

3.1 PARTICIPANTS

3.1.1 Admission

Admission as a Participant and suspension and termination of rights as a Participant shall be determined as set out in these Rules and the Procedures.

3.1.2 Participants to be Bound by Rules

Every Participant agrees to be bound by the Rules of AXE.

3.1.3 No Recognition of Participant Rights on Trust

Except as required by law, no Participant shall be recognised by AXE as holding its rights as a Participant on trust and AXE shall not be bound or compelled in any way to recognise (even where it has notice) any equitable contingent future or partial interest of any other person in any rights or entitlements in respect of any Participant.

3.1.4 No Admission on Certain Grounds

No Corporation shall be eligible for admission as a Participant where any Director of the Corporation has been declared bankrupt or has been convicted of an offence referred to in Section 206B of the Corporations Act in the 5 year period preceding the Participant's application for admission as a Participant.

3.1.5 No Transfer of Status and Rights

A Participant's rights are not transferable.

3.2 APPROVAL AND ADMISSION

3.2.1 Approval

For an applicant to be eligible for admission as a Participant, in accordance with the Procedures, the applicant must:

- (a) hold an appropriate Australian Financial Services Licence or an Australian Markets Licence;
- (b) be a Corporation;
- (c) demonstrate to AXE's satisfaction that it either complies with the financial requirements imposed on it in its capacity as the holder of an AFSL (taking into account any exemptions to which it may also be entitled) or that its Net Tangible Assets are at least \$1,000,000 or such higher amount as AXE may determine;
- (d) have in place adequate arrangements approved by AXE for the settlement of Reported Transactions, as set out in Chapter 7;

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- (e) meet any obligations in respect of Compensation Arrangements;
 - (f) demonstrate to AXE's satisfaction that it has financial resources to perform its obligations as a Participant;
 - (g) provide any undertaking required by AXE;
 - (h) have in place a Best Execution Policy approved by AXE in accordance with Rule 4.4;
 - (i) provide AXE with details of any person which Controls the Participant; and
 - (j) have in place appropriate arrangements, in accordance with the Procedures, for managing conflicts between the Participant's obligations under these rules and its commercial interests, including appropriate information barriers.

3.2.2 Approval Procedure

The procedure for the approval of a Participant is as follows.

- (a) An applicant shall lodge with AXE an application, in such form and providing such undertakings and information as AXE shall from time to time require, together with any application processing fee as determined by AXE.
- (b) AXE shall consider the application and may call for such further information as it considers necessary.
- (c) In determining whether to approve an applicant AXE shall be entitled to consider the business integrity, financial probity and standard of training and experience of the applicant, its Representatives, its Directors, and those concerned in its management and/or who have Control over the Corporation (together "Relevant People") as well as such other matters as AXE regards as relevant from time to time.
- (d) AXE shall determine within a reasonable time whether to approve a Participant's application and shall not be obliged to furnish any reason for its decision to approve or reject the applicant.

3.2.3 Actions on Approval

Following a determination of approval by AXE under Rule 3.2.2(d) the applicant shall, within 2 months of notification of the determination from AXE, or such further period as AXE may otherwise allow:

- (a) pay to AXE the access fee as determined by AXE; and
- (b) enter into such agreement or agreements as may be necessary in relation to how a Participant may access the ECN Platform including in respect of any ECN Software.

3.2.4 Lapse of Approval

If the applicant has not complied with Rule 3.2.3 within the time allowed, the determination of approval for its admission shall be deemed to have lapsed.

3.2.5 Formal Admission

Participant status shall be effective when the applicant's application has been approved, notified by AXE to the Participant and the applicant has complied with Rule 3.2.3 within the time allowed by AXE.

3.3 EXECUTION AND REPORTING RIGHTS

A Participant shall:

- (a) subject to these Rules and the Corporations Act, be entitled to execute and report Transactions through the ECN through its Representatives as Principal, or on behalf of Clients, or as otherwise permitted by the Rules;
- (b) be responsible for all Reports of Transactions sent by it to AXE;
- (c) be entitled to access the ECN Platform to allow the entry of Reports; and
- (d) be entitled to use any ECN Software or ECN related equipment, as provided for under any access agreement referred to in Rule 3.2.3(b).

3.4 SUSPENSION AND TERMINATION OF EXECUTION AND REPORTING RIGHTS

3.4.1 Cessation of Execution and Reporting Rights

- (a) AXE may suspend or terminate the Execution and Reporting Rights of a Participant in accordance with the provisions set out below.
- (b) The Execution and Reporting Rights of a Participant shall cease entirely for the duration of any period of suspension of a Participant or Representative.
- (c) No suspension or termination of a Participant's Execution and Reporting Rights shall affect a Participant's obligation to comply with any direction given or condition imposed pursuant to the Rules or affect the operation of the Rules.
- (d) Action by AXE under this Rule 3.4 does not prevent AXE from commencing proceedings under Chapter 5 in connection with the circumstances giving rise to that action or from taking any other action under this Rule 3.4.
- (e) A Participant may appeal, in accordance with the procedures referred to in Rule 5.4, a decision made by AXE in the exercise of its rights under this Rule 3.4. Such an appeal will not affect AXE's rights to continue or recommence any suspension or termination of the Participant's Execution and Reporting Rights under this Rule 3.4.

3.4.2 Grounds for Suspension of Execution and Reporting Rights

Without prejudice to any other action which AXE may decide to take, and subject to Rule 3.4.3, AXE may suspend a Participant's Execution and Reporting Rights, if at any time:

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- (a) the Participant no longer satisfies the criteria for, or the conditions of, admission that originally applied to it or AXE decides there has been a material breach of the Rules by the Participant;
 - (b) a liquidator, receiver, receiver and manager or administrator or some other form of Controller, is appointed in respect of the property of the Participant or to the Participant itself;
 - (c) the Participant fails to lodge a signed undertaking referred to in Rule 3.6.5 within the time determined by AXE;
 - (d) the Participant fails to pay the fees referred to in Rule 3.6.4 by the due date, unless AXE grants an extension of time for payment;
 - (e) the Participant fails to provide information required by AXE under Rule 3.6.7 or Rule 3.7 or any statement or report under any other Rule or Procedure within 7 days (“Due Date”) of the due date referred to in that Rule; or
 - (f) if an action or event is such that it significantly threatens or may threaten fair orderly and transparent execution and reporting on the ECN.

3.4.3 Effective time of Suspension

- (a) Where a Participant’s Execution and Reporting Rights are suspended under Rule 3.4.2(e), the suspension shall be effective on the Due Date or on such later date that AXE stipulates for compliance and the Participant shall be liable to pay on that date a fine of \$1,000 or such other amount as is prescribed by AXE.
- (b) Failure to pay a fine imposed under Rule 3.4.3(a) within 14 days shall result in continuation of the suspension until the fine is paid in full.

3.4.4 Other Immediate Action

- (a) If any of the following events occurs, AXE may in its absolute discretion take any of the actions or exercise any of the powers set out in paragraph (b) immediately below:
 - (i) if, for any reason, Reported Transactions cannot proceed to settlement on a Settlement Facility;
 - (ii) if the Participant fails to pay any amount due and payable to AXE or to perform any of its obligations to AXE or fails to comply with any reasonable direction, decision or requirement of AXE;
 - (iii) if any of the grounds for cessation, immediate suspension or discretionary suspension of Execution and Reporting Rights, as set out in this Rule 3.4 occurs;
 - (iv) if an investigator, inspector or other officer is appointed or an investigation directed or commenced under the Corporations Act or other legislation to investigate all or part of the affairs of the Participant or a Related Party in circumstances which are, in the opinion of AXE, material to the capacity of AXE to meet its obligations under these Rules;

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- (v) if the Participant made a willful omission or misstatement in respect of a material matter prior to, or in connection with, its application for admission as a Participant;
 - (vi) if the Participant or a Related Party is suspended, expelled or terminated as a member or participant of any Australian or overseas securities exchange, market, clearing house or clearing and/or settlement facility; and
 - (vii) if an action or event is such that it threatens or may threaten fair orderly and transparent execution and reporting on the ECN.
- (b) If AXE considers that an event as described in paragraph (a) above has occurred, AXE may take any or all of the following actions in respect of the Participant, at the expense of the Participant, in any order immediately or at any other time AXE determines, and without the need for any prior notice to or consent of the Participant or any other person:
- (i) cancel the Report of a Transaction which has not been transmitted to a Settlement Facility;
 - (ii) impose restrictions on the Participant's Execution and Reporting Rights; and
 - (iii) without prejudice to any other rights of AXE under the Rules, or at law or in equity, take any other action, or take no action, or direct the Participant to take any action or no action, in order to eliminate or minimise risk with respect to Reported Transactions or Transactions to be reported by the Participant on the ECN or which AXE considers appropriate for the protection of the ECN or the Settlement Facility or other Participants.

3.4.5 Lifting of Suspension of Execution and Reporting Rights

Where a Participant's Execution and Reporting Rights have been suspended, the suspension may be lifted in any of the following circumstances.

- (a) Where the suspension has been exercised under Rule 3.4.2(a), it shall be lifted when AXE decides that the Participant is able to continue to meet all conditions of admission and has remedied any material breach of the Rules.
- (b) Where the suspension has been exercised under Rule 3.4.2(b), it shall be lifted at the expiration of any liquidation, receivership, administration, bankruptcy or external management unless AXE in its absolute discretion determines otherwise.
- (c) Where the suspension has been exercised under Rule 3.4.2(c), it shall be lifted when the signed undertaking is received.
- (d) Where the suspension has been exercised under Rule 3.4.2(d), it shall be lifted when the sum due is paid together with interest at 12% per annum, or such other rate as determined by AXE.
- (e) Where the suspension has been exercised under Rule 3.4.2(e), it shall be lifted when the information required under Rule 3.6.7 or Rule 3.7 or other relevant Rule has been received by AXE.

3.5 TERMINATION

3.5.1 Termination of Participant's Execution and Reporting Rights

Should the acts or omissions that gave rise to the suspension in Rule 3.4.2 not be remedied within 1 month of the suspension date, or such other time as determined by AXE, AXE may without further notice terminate the Execution and Reporting Rights of the Participant.

3.5.2 Notification of Suspension/Termination

Where the Execution and Reporting Rights of a Participant have been suspended or terminated or a Participant has given notice of resignation:

- (a) AXE shall cause a notice to that effect to be published to Participants and may make any such other public announcements as it sees fit, following consultation with the Participant, and AXE may notify such other persons as it sees fit;
- (b) AXE shall advise ASIC of such action and all subsequent action taken by AXE in respect of that Participant; and
- (c) AXE may, in any notice published pursuant to this Rule, indicate the grounds on which the decision was made.

3.5.3 Resignation

- (a) A Participant may resign by giving written notice of its intention to do so and upon receipt of that written notice by AXE, or if the resignation is expressed to become effective after a period of time then, upon expiry of that time, the Participant shall be deemed to have resigned; and
- (b) the resignation of a Participant shall not be effective unless and until AXE consents in writing, which shall not be unreasonably withheld.

3.5.4 No Refund of Fees and Continued Obligation to pay Fees on suspension

There shall be no entitlement to a refund of any portion of the fees paid to AXE by a Participant upon the suspension, termination or resignation of the Participant. Even if a Participant's Execution and Reporting Rights have been suspended, its obligations to pay any fees to AXE during the suspension continue.

3.5.5 Liability not diminished

The resignation, suspension or termination of a Participant shall not in any way diminish any liability which that Participant may have incurred to AXE or any other Participant arising out of its activities and obligations as a Participant and such liability shall continue until satisfied or discharged.

3.6 CONTINUOUS OBLIGATIONS

3.6.1 Compliance with Rules and Notification of Breaches

A Participant shall:

- (a) at all times satisfy the criteria for, and any conditions of, its admission;
- (b) at all times comply, and ensure that its Representatives comply with the Rules, and any condition of an exemption granted from the Rules, and the Corporations Act;
- (c) notify AXE within 5 business days of becoming aware that there has been a significant breach of any provision of the Rules or Procedures or any law relating to the regulation of the ECN. Whether a breach is significant is determined by reference to the criteria set out in section 912D(1)(b) of the Corporations Act; and
- (d) notify AXE upon becoming aware that ASIC or another regulatory body is instituting proceedings against it.

3.6.2 Cooperation with Disciplinary Committee and Employees and Provision of Records

A Participant shall co-operate with the Disciplinary Committee and Employees of AXE in the performance by the Disciplinary Committee and AXE Employees of their respective duties and in particular make available to the Disciplinary Committee or AXE Employees any of its records as are properly required under Chapter 5.

3.6.3 Communications with AXE

A Participant must not submit information to AXE which the Participant knows, or ought reasonably to know, to be false or misleading.

3.6.4 Payment of Fees and Compensation Contribution

- (a) A Participant shall pay, in addition to the application fee and any other admission fee imposed by AXE, fees of such amount and structure as may be determined by AXE.
- (b) A Participant shall pay any contributions due under the Compensation Arrangements.
- (c) Payment shall be due on such date as determined by AXE.
- (d) If a Participant fails to pay any fee or contribution on the due date, its Execution and Reporting Rights may be immediately suspended, unless AXE grants an extension for payment, until the sum due is paid together with interest at 12% per annum or at such other rate as may be determined by AXE.
- (e) Should default not be remedied within a month of the due date, as extended, then AXE may terminate the defaulting Participant's Execution and Reporting Rights.
- (f) Notwithstanding AXE's decision, AXE may by legal action pursue outstanding fees and interest or accept security for payment.

3.6.5 Undertakings

A Participant shall lodge with AXE on request from time to time, such undertaking as AXE may determine is necessary in the form determined by AXE, duly signed by the Participant.

3.6.6 Notification of External Administration

A Participant must notify AXE in writing immediately when one or more of the following occurs:

- (a) the appointment of a receiver, liquidator or other Controller in respect of the property of the Participant; and/or
- (b) the bankruptcy of any Director of the Participant.

3.6.7 Prudential Requirements

A Participant:

- (a) must choose to either comply with:
 - (i) the Net Tangible Assets test set out in Rule 3.7 and the other requirements under Rule 3.7; or
 - (ii) the financial requirements that apply to it as a holder of an AFSL (taking into account any exemptions to which it may also be entitled and other conditions to which it may be subject);
- (b) must have in place processes and procedures to ensure its compliance with the financial requirements regime it has chosen under Rule 3.6.7(a) at all times; and
- (c) at AXE's request, must provide evidence of those processes and procedures and:
 - (i) must notify AXE as required under Rule 3.7, if it has chosen to comply with that Rule; or
 - (ii) if it has chosen to comply with Rule 3.6.7(a)(ii), must notify AXE of any non-compliance by it with the financial requirements applicable to it and must provide copies of all returns and all other information that it is required to produce under any legislation or market rules or by any regulatory authority or the Underlying Market, where either such non-compliance has occurred or the ratio of its liquid capital to its total risk requirement (each as defined for the purposes of the relevant Underlying Market) falls below 1.2.

3.6.8 Licence Obligations

- (a) A Participant shall provide to AXE a copy of any licence that may be issued to the Participant pursuant to the Corporations Act.
- (b) The Participant will notify AXE in writing:
 - (i) within 21 days of the occurrence of any variation to the conditions of such licence, including changes to Responsible Officers; or

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- (ii) immediately of the suspension or cancellation of such licence.
 - (c) AXE may suspend or terminate a Participant's Execution and Reporting Rights where there has been a suspension, termination or variation to the conditions of such licence.

3.6.9 Trading Representatives' Obligations

A Participant must provide the name and other details of its Trading Representatives and ensure that each of its Trading Representatives:

- (a) always uses his or her user identification whenever accessing the ECN;
- (b) complies with any instructions or directions issued by AXE; and
- (c) demonstrates knowledge of the Rules and the relevant practices, directions, decisions and requirements of AXE, in such manner as set out in the Procedures.

3.6.10 Suspension of Trading Representatives

AXE may require a Participant to cease to allow one or more of its Trading Representatives to continue acting as a Trading Representative if the Trading Representative does not meet one of the requirements set out in Rule 3.6.9 at any time or if AXE believes the Trading Representative has engaged in Unprofessional Conduct.

3.6.11 Client Complaints

A Participant must establish procedures for receiving, investigating and resolving complaints received from Clients in accordance with the Procedures.

3.7 CAPITAL REQUIREMENTS

3.7.1 Minimum Net Tangible Assets Requirement

If a Participant has chosen to comply with the net tangible assets regime under Rule 3.6.7(a)(i), the Participant must at all times have Net Tangible Assets of such amount as is set out in the Procedures ("Minimum Requirement").

3.7.2 Notice to AXE

The Participant must immediately notify AXE in any of the following circumstances:

- (a) its Net Tangible Assets fall below the Minimum Requirement;
- (b) its Net Tangible Assets fall below 150% of the Minimum Requirement;
- (c) its Net Tangible Assets have decreased by more than 20% since the amount last notified to AXE under this rule 3.7.2, and

the notice must include details of the Participant's Net Tangible Assets at the time of the notice.

3.7.3 Records, Accounts and Returns

Without limiting the Participant's obligations to maintain or provide information under any other Rule, the Participant must:

- (a) maintain records and working papers for at least 7 years, in sufficient detail to show continuous compliance with this Rule 3.7;
- (b) prepare and lodge returns which accurately reflect the Participant's accounts and financial position, by the time and in the manner and in the form set out in the Procedures; and
- (c) if the Participant has given a notice under Rule 3.7.2, prepare and lodge such additional returns as AXE may request, by the time and in the manner and form specified by AXE in that request.

3.7.4 Information and Certification

The Participant:

- (a) must provide such documents or other information or explanation as AXE requires to satisfy itself that the Participant is complying, has been complying and will comply with this Rule 3.7 within the time, in the form and in the manner specified by AXE; and
- (b) must ensure that all returns lodged by it under this Rule 3.7 are certified by the number of directors of the Participant prescribed by AXE, as having been prepared in accordance with the Rules.

3.7.5 Subordinated Debt

- (a) Subordinated debt of a Participant only qualifies as Approved Subordinated Debt if it has either been so approved by the holder of another Australian Markets Licence or if:
 - (i) the subordination arrangement has the prior approval of AXE; and
 - (ii) the amount is notified to and approved by AXE prior to being drawn down under the subordination arrangement.
- (b) AXE will not approve an amount under Rule 3.7.5(a) unless in the opinion of AXE:
 - (i) the Participant has at least the amount of paid-up capital prescribed in the Procedures;
 - (ii) the amount is not more than twice the amount of shareholders equity excluding Approved Subordinated Debt;
 - (iii) subject to Rule 3.7.5(e), the amount owing to the lender under the subordination arrangement will not be repaid until all other debts which the Participant owes to any other persons are repaid in full; and

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- (iv) the obligation to pay any amount owing to the lender under the subordination arrangement is suspended if Rule 3.7.5(c) or (d) are not being complied with.
 - (c) AXE will not approve a subordination arrangement unless the Participant and the lender have executed a subordinated loan deed in a form approved by AXE in respect of the subordination arrangement.
 - (d) A Participant must comply with the terms of a subordinated loan deed which has been approved by AXE and any associated agreement and must ensure the lender's compliance with these documents.
 - (e) If:
 - (i) a Participant becomes an externally administered Corporation within the meaning of the Corporations Act;
 - (ii) the Participant becomes insolvent within the meaning of section 95A(2) of the Corporations Act;
 - (iii) a person takes control of a Participant's property for the benefit of its creditors because the Participant is, or is likely to become, insolvent;
 - (iv) the Participant enters into an arrangement, composition or compromise with or assignment for the benefit of, all of its creditors or any class of them; or
 - (v) anything analogous to, or having a substantially similar effect to the events specified in paragraphs (i) to (iv) happens under the laws of any applicable jurisdiction or appears to AXE to be reasonably likely to happen,

then amounts owing to the lender under the subordination arrangements may not be paid by the Participant until all the Participant's obligations to AXE, other Participants and any other third party under, or in connection with these Rules, have been discharged. In all other circumstances, the Participant may only repay an amount owing to the lender under an approved subordination arrangement if it has received the prior written consent of AXE.

- (f) AXE will not withhold consent under Rule 3.7.5(e) if in AXE's opinion, the Participant's Net Tangible Assets are capable of continuing, on repayment, to be greater than 150% of the Minimum Requirement, as described in Rule 3.7.1.

3.8 NOTIFICATION

A Participant must notify AXE in writing of any of the following changes within 21 days of such change occurring in relation to the Participant:

- (a) the resignation of a Director or appointment of a new Director; or
- (b) the entering into of any agreement, as a result of which act or event, the Control of the Participant becomes (or could on the happening of any event contemplated in such agreement or related document or arrangement by operation of law, become) vested in persons other than those recorded with AXE and AXE shall keep information about the

proposed change in Control confidential until such time as the change in Control occurs, subject to any disclosure obligations AXE may have at law.

CHAPTER 4: EXECUTION AND REPORTING PRINCIPLES

4.1 TRANSACTIONS

A Transaction may be executed and reported on the ECN if it meets the following criteria:

- (a) the Transaction relates to Equity Securities quoted on an Australian licensed Financial Market approved by AXE; and
- (b) one of the following circumstances applies:
 - (i) the Transaction is between the Participant acting as Principal and a Client of the Participant;
 - (ii) the Transaction is between two Clients of the same Participant; or
- (c) the Transaction is between two Participants acting as Principal or agent.

4.2 EXECUTION

4.2.1 A Participant may execute a Transaction through the ECN, which meets the criteria set out in Rule 4.1 in the following ways:

- (a)
 - (i) a Participant acting as Principal makes an offer to acquire or dispose of certain Equity Securities, and the ECN Platform is available to receive Reports in respect of that Equity Security at the time that the Participant submits the Report; and
 - (ii) the same Participant acting as agent for a Client or another Participant acting either as Principal or as agent for a Client makes a matching offer to acquire or dispose of the same Equity Securities and the ECN Platform is available to receive Reports in respect of that Equity Security at the time that the Participant submits the Report ; and
 - (iii) the Participant(s) match(es) the offers and submit(s) a Report to the ECN Platform in accordance with the requirements set out below, which, if received by the ECN Platform, completes the execution of the Transaction; or
- (b)
 - (i) a Participant acting as agent for a Client makes an offer to acquire or dispose of certain Equity Securities, and the ECN Platform is available to receive Reports in respect of that Equity Security at the time that the Participant submits the Report; and
 - (ii) the same Participant or another Participant, acting as agent for a Client makes a matching offer to acquire or dispose of the same Equity Securities, and the ECN Platform is available to receive Reports in respect of that Equity Security at the time that the Participant submits the Report ; and
 - (iii) the Participant(s) match(es) the offers and submit(s) a Report to the ECN Platform in accordance with the requirements set out below, which, if received by the ECN Platform, completes the execution of the Transaction.

4.3 REPORTING OBLIGATIONS

- 4.3.1 A Transaction which meets the criteria set out in Rule 4.1 and is executed and reported in accordance with the Rules is deemed to be a Reported Transaction when AXE receives the Report.
- 4.3.2 A Transaction which meets the criteria in Rule 4.1 and which the Participant chooses to execute and report on the ECN must be reported to the ECN immediately that the Transaction occurs. If the Transaction is between two Participants, the Participant representing the seller must provide the Report.
- 4.3.3 A Report must identify the Financial Product and show the price and the volume of the Financial Product which comprise the Transaction and must include such additional information as is set out in the Procedures.
- 4.3.4 A Participant is responsible for the accuracy and integrity of the Data constituting a Report.
- 4.3.5 AXE will reject a Report that does not contain the information required under these Rules and has the power to cancel a Transaction in respect of which the reported Data is inaccurate or misleading.

4.4 BEST EXECUTION POLICY

- 4.4.1 A Participant must have in place a Best Execution Policy approved by AXE. When acting on behalf of a Client, a Participant must act consistently with its Best Execution Policy. A Participant's Best Execution Policy must be consistent with the Best Execution Policy Guidance and must address at least the following factors:
- (a) Client instructions;
 - (b) price;
 - (c) size;
 - (d) costs;
 - (e) speed; and
 - (f) choice of execution and reporting venue.

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- 4.4.2 AXE will approve a Participant's Best Execution Policy where that policy addresses each of the factors set out in rule 4.4.1 above, is consistent with the Best Execution Policy Guidance and clearly articulates the factors considered and measures adopted by the Participant to provide the best possible outcome in respect of each Transaction for each Client, according to their requirements and the specific circumstances of each Transaction.
- 4.4.3 A Participant must provide its Best Execution Policy to AXE for approval whenever any significant changes are made to this. AXE will approve a revised Best Execution Policy in the manner set out in rule 4.4.2 above.
- 4.4.4 If AXE does not approve a Participant's Best Execution Policy (including any significant revision to it under Rule 4.4.3 above), AXE may:
- (a) reject an application for admission as a Participant under Rule 3.2; or
 - (b) exercise its rights to suspend or terminate a Participant's Reporting Rights in accordance with Rule 3.4. Participants must inform Clients of their Best Execution Policy.
- 4.4.6 AXE will monitor each Participant's execution and reporting of Transactions and may require a Participant to demonstrate that a particular order or a number of orders has/have been executed consistently with that Participant's Best Execution Policy.
- 4.4.7 The Participant must maintain sufficient records, to show that a particular Client's order has been executed consistently with the Participant's Best Execution Policy and make them available to AXE on request.
- 4.4.8 Where a Participant is unable to demonstrate to the satisfaction of AXE that its Best Execution Policy has been followed in respect of a particular Transaction, AXE may take disciplinary action under Chapter 5 and/or may exercise its powers under Rule 3.4 to cancel a Report of a Transaction, where that Transaction may threaten the fair, orderly and transparent execution and reporting on the ECN.

4.5 DELAYED REPORTING

- 4.5.1 If:
- (a) a Transaction meets the criteria in Rule 4.1;
 - (b) is of a value of at least \$2,000,000 or such other amount as set out in the Procedures;
 - (c) the counterparties to the Transaction are a Participant acting as Principal and a Client for whom that Participant is acting;
 - (d) the Transaction is not effected to unwind, close out or liquidate, all or part of a position established by another Transaction which meets the criteria in (b) and (c) above; and
 - (e) the Transaction is notified to AXE immediately,

then the Transaction need not be reported immediately on the ECN. The Participant must Report the Transaction on or before the earlier of:

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- (i) the time which is exactly 3 Business Days after the Transaction was executed; and
 - (ii) the time when Transactions and other trades in the same Financial Product with an aggregate value of 5 times the value of the Participant's Transaction have either been effected through or reported on the ECN and the Underlying Market since the Transaction was executed.

4.5.2 If:

- (a) a Transaction meets the criteria set out in Rule 4.1;
- (b) the Transaction comprises at least 10 sales and/or purchases of different Financial Products of at least \$200,000 each, pursuant to a single agreement for an agreed price of at least \$5,000,000 or such other number and value as set out in the Procedures;
- (c) the counterparties to the Transaction are a Participant acting either as Principal or for a Client and another Client for whom that Participant is acting;
- (d) [the Transaction is not effected to unwind, close out or liquidate, all or part of a position established by another Transaction which meets the criteria in (b) and (c) above;] and
- (e) the Transaction is notified to AXE immediately,

then the Transaction need not be reported immediately on the ECN. The Participant must report the Transaction:

- (i) at latest by 9.45 am on the next Business Day after the Transaction was executed, if the Transaction was executed before 1pm on the date of execution; or
- (ii) before 1pm on the next Business Day after the Transaction was executed, if the Transaction was executed after 1pm on the date of execution.

4.5.3 Where a Participant delays Reporting a Transaction in breach of the above requirements, then the Participant may be required to pay a fine as prescribed in the Procedures. Imposition of a fine does not prevent AXE from commencing proceedings under Chapter 5 in connection with the circumstances giving rise to the fine.

4.6 MARKET MANIPULATION

4.6.1 General prohibitions

A Participant must not:

- (a) breach Chapter 7 of the Corporations Act or any regulations made under that Chapter in relation to its activities as a Participant in relation to any activity on the ECN;
- (b) breach the conditions of the AFSL held by the Participant;
- (c) breach any Rule;

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- (d) intentionally take advantage of a situation arising as a result of a breakdown or malfunction in AXE systems or procedures; or
 - (e) engage in Unprofessional Conduct.

4.6.2 Market Manipulation

A Participant must not engage in conduct on the ECN amounting to prohibited conduct as described in Divisions 2 and 3 of Part 7.10 of the Corporations Act.

4.7 MARKET HALTS

A Participant may not execute and report Transactions on the ECN, and the ECN Platform will not allow access to a Participant, in relation to a Financial Product:

- (a) if that Financial Product has been issued by a Corporation which is no longer listed on an Underlying Market; or
- (b) during such period that the Financial Product is no longer quoted or is the subject of a market halt or suspension or similar action prohibiting trades in the Financial Product on the Underlying Market.

4.8 CANCELLATION

4.8.1 If both sides to an Error Transaction agree to cancel and:

- (a) where only one Participant was involved in the Error Transaction, that Participant must use its best endeavours to cancel the Error Transaction, in accordance with the Procedures, by the end of the day on which the Error Transaction was executed and reported and, in any event, may only cancel the Error Transaction until the close of business on the Business Day following the date on which the Error Transaction was executed and reported; or
- (b) where two Participants were involved in the Error Transaction, the Participant who initiated cancellation of the Error Transaction must use its best endeavours to cancel the Error Transaction, in accordance with the Procedures, by the end of the day on which the Error Transaction was executed and reported and, in any event, may only cancel the Error Transaction until the close of business on the Business Day following the date on which the Error Transaction was executed and reported.

4.9 EXECUTION AND REPORTING HOURS

Subject to Rule 4.5 above and the provisions in the Procedures for Transactions executed outside normal business hours, all Transactions that are to be executed and reported on the ECN must be executed and reported during the normal business hours of the ECN which are set out in the Procedures.

4.10 DISPUTE RESOLUTION

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- 4.10.1 A Participant may notify AXE of any dispute between the Participant and another Participant, arising in relation to any Transaction.
- 4.10.2 AXE may take any action it sees fit to investigate the dispute and may take any action it considers necessary to resolve the dispute, including but not limited to:
- (a) seeking agreement between the Participants to cancel, amend the relevant Transaction(s);
 - (b) cancelling or amending the relevant Transaction(s).
- 4.10.3 Nothing in this section precludes AXE from taking any other action it is permitted to take under these rules, including taking disciplinary action.
- 4.10.4 AXE may take any action it sees fit to investigate and resolve a dispute between a Participant and a Client, in accordance with the complaints handling policy.

CHAPTER 5: SUPERVISION

5.1 SURVEILLANCE AND INVESTIGATION

5.1.1 AXE has responsibility for the surveillance of execution and reporting of Reported Transactions and the investigation of potential and alleged breaches of the Rules and Procedures. Accordingly, AXE shall:

- (a) monitor the execution and reporting of Reported Transactions for the purpose of ensuring a fair, orderly and transparent ECN;
- (b) conduct such investigations as it sees fit, including investigations arising out of allegations by a Participant or any other person which it considers to warrant investigation;
- (c) refer matters to the Disciplinary Committee where it considers that a breach of the Rules may have occurred;
- (d) refer matters to ASIC:
 - (i) where AXE has reason to suspect that a Participant has committed, is committing or is about to commit a significant contravention of the Corporations Act; or
 - (ii) by agreement between AXE and ASIC.

5.1.2 For the purposes set out in Rule 5.1.1, AXE shall have, at any time, the power to:

- (a) require a Participant to produce promptly for inspection by AXE or Employees of AXE records, documents (including in electronic form) and any other information relating to any Reported Transaction or to that Participant's business; and
- (b) require a Participant to make its Employees available to AXE at any reasonable time and to provide such information as may be required in connection with any Reported Transaction or to that Participant's business.

5.1.3 AXE may at any time, where it is reasonable to do so, require a Participant to provide a report from an independent auditor or other expert in relation to the performance of the Participant, its capacity to continue to meet the obligations under the rules and any other matter that AXE may reasonably require.

5.1.4 AXE may, after consultation with a Participant, require that the Participant shall meet the reasonable costs incurred by AXE and Employees of AXE in ensuring that Participant's compliance with these Rules. Liability for costs under this Rule does not prevent the Participant being liable to disciplinary charges. If a Participant fails to pay any reasonable demand under this Rule within 10 Business Days, its Execution and Reporting Rights are liable to be suspended.

5.2 DISCIPLINE

- 5.2.1 The members of the Disciplinary Panel shall be appointed by the Board in the manner set out in the Procedures.
- 5.2.2 A Chairman will be appointed by the Board as set out in the Procedures.
- 5.2.3 For each disciplinary matter, the Chairman (or his delegate) will constitute a committee consisting of himself (or his delegate) and two additional members of the Disciplinary Panel, as set out in the Procedures.
- 5.2.4 The Board may delegate powers to the Disciplinary Committee in relation to the investigation, hearing and imposition of penalties for breaches of the Rules.

5.3 CONDUCT OF PROCEEDINGS

- 5.3.1 The conduct of proceedings is set out in the Procedures.
- 5.3.2 The conduct of proceedings shall be by way of Summary Hearing, unless a Full Hearing is required under Rule 5.3.4 or Rule 5.3.5.
- 5.3.3 In a Summary Hearing the Disciplinary Committee's decision is made based on documentary submissions and evidence only. In a Full Hearing the Disciplinary Committee may also consider oral submissions and evidence.
- 5.3.4 Subject to Rule 5.3.5, if the Disciplinary Committee considers a matter is sufficiently serious to require a Full Hearing, it may choose to hear and determine that matter by way of a Full Hearing. In determining whether a matter should be heard and determined by way of a Summary Hearing, the Disciplinary Committee shall consider the requirements of the market for speed and certainty of interpretation and administration of the Rules.
- 5.3.5 If a Participant or AXE believes a Full Hearing is necessary to establish all the facts relevant to a matter, either may require that such matter be heard and determined by way of a Full Hearing.
- 5.3.6 All decisions of the Disciplinary Committee shall be determined according to a simple majority of votes. Each member shall exercise one vote.
- 5.3.7 The Disciplinary Committee constituted to hear and determine a matter shall provide a written statement of its reasons for any decision it makes in determining a matter and its choice of any penalty imposed. The Statement of Findings will be published in accordance with the Procedures.

5.4 APPEALS

The Disciplinary Committee shall also hear an appeal from a AXE decision to suspend or terminate a Participant's Execution and Reporting Rights under Rule 3.4 in accordance with the Procedures.

5.5 SETTLEMENT

5.5.1 The Disciplinary Committee will be constituted to review a proposed settlement and may approve such proposed settlement as the determination in that matter. The Disciplinary Committee may reject the proposed settlement, in which case proceedings will continue as set out in the Procedures.

5.5.2 The conduct of proceedings set out in the Procedures will not be affected by the parties to a matter entering into settlement negotiations.

5.5.3 If the Disciplinary Committee does not approve a proposed settlement:

(a) there shall be no reference in any documents or oral hearing before the Disciplinary Committee to the negotiations, the proposed settlement or the submissions to the Disciplinary Committee all of which are confidential; and

(b) any member of the Disciplinary Committee constituted to consider a proposed settlement must not sit on the Disciplinary Committee constituted to hear and determine the matter that is the subject of that proposed settlement.

5.6 FINING POWER

5.6.1 AXE may impose a fine of an amount specified in the Procedures on a Participant whom it believes has breached a Rule.

5.6.2 The Participant may agree to this fine in lieu of a hearing of the matter and determination by the Disciplinary Committee.

5.6.3 If the Participant does not agree to the fine, proceedings may be initiated by AXE or the conduct of proceedings will continue as set out in the Procedures.

5.7 SANCTIONS

5.7.1 If, after hearing any matter, the Disciplinary Committee finds the Participant to be guilty of a breach of any Rule, it may impose any of the sanctions provided in the Procedures.

5.7.2 If a Participant fails to pay a financial penalty or carry out an order by the Disciplinary Committee in the period determined by, or otherwise satisfactory to, the Disciplinary Committee then, without limiting any other remedies or sanctions available, the Disciplinary Committee may suspend that Participant's Execution and Reporting Rights until that order is complied with.

5.8 COSTS

In the course of or after conducting a hearing or an appeal, the Disciplinary Committee may, at its discretion and after hearing from the parties, make an order as to costs against any Participant in the manner set out in the Procedures.

5.9 REMUNERATION

Members of each Disciplinary Committee will be remunerated in accordance with the rates set by AXE from time to time.

5.10 INDEMNITY

AXE indemnifies each member of each Disciplinary Committee and each employee of AXE and each person acting for or on behalf of AXE against any liability arising in connection with the conduct of proceedings and determination of a hearing.

CHAPTER 6: COMPENSATION ARRANGEMENT

6.1 INTRODUCTION

- 6.1.1 AXE maintains investor confidence in the integrity of its market by regulating the activities of its Participants and monitoring market activity for any irregularities. The AXE Fund provides a mechanism whereby Retail Clients of AXE Participants may claim recompense for losses arising under certain circumstances.
- 6.1.2 These rules have effect as a contract under seal between AXE and each Participant under which each of those persons agrees to observe the rules to the extent that they apply to that person and engage in conduct that the person is required by the rules to engage in.
- 6.1.3 **CA requirements:** Section 881A of the Corporations Act imposes a requirement on licensed financial markets to have in place compensation arrangements if any of the participants in the licensed market, in effecting transactions through the market, provide financial services for persons as Retail Clients, where in connection with those financial services, those persons will or may give money or other property or authority over property to those participants.
- 6.1.4 **Provision of financial services to Retail Clients** AXE anticipates that certain of its participants may from time to time provide financial services to Retail Clients in the circumstances set out above.
- 6.1.5 **AXE Fund:** AXE has established a compensation fund (AXE Fund) to meet these requirements. AXE Fund operates under Part 7.5 Corporations Act for the purpose of covering Division 3 losses specified by Section 885C, but excluding losses under section 885D.
- 6.1.6 AXE Fund will be administered in accordance with the rules set out below.

6.2 CLAIMS

- 6.2.1 **Losses covered (885C CA):** The following losses are covered by the AXE Fund:
- (a) A Retail Client gave money or other property, or authority over property, to a Participant or a person whom the Retail Client reasonably believed was a Participant, who has been a Participant at an earlier time; and
 - (b) The money or property or authority over property was given to the Participant in connection with executing and reporting a Transaction or a proposed Transaction covered by the operating rules of AXE ECN; and
 - (c) The execution and reporting of the Transaction through AXE ECN constitutes or would constitute the provision of a Financial Service to a Retail Client; and
 - (d) The Retail Client suffers a loss because of:
 - (i) in the case of money or other property, the defalcation or fraudulent misuse of the money or other property by the Participant; or

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- (ii) in the case of authority over property, the fraudulent misuse of that authority by the Participant.

6.2.2 A Claim relating to an alleged loss or defalcation may be allowed even if the relevant Participant (and/or his Trading Representative) has not been prosecuted or convicted and/or the evidence on which the claim is allowed does not meet the criminal standard.

6.2.3 **Losses excluded:** If a loss of the nature described above is suffered, it is not covered by the AXE Fund in the following circumstances:

- (e) if the loss may relate to AXE ECN or another licensed financial market and the Retail Client did not instruct the Participant to use a particular market and this is not reasonably apparent from the usual business practice of the Participant when acting for that Retail Client;
- (f) if the loss may relate to AXE ECN or to ASX and the Retail Client did not (expressly or impliedly) instruct the Participant to use a particular market and this is not reasonably apparent from the usual business practice of the Participant when acting for that Retail Client;
- (g) if the transaction could have been effected otherwise than through a market and the Retail Client did not instruct the Participant to effect the transaction through a market and this is not reasonably apparent from the usual business practice of the Participant when acting for that Retail Client.

6.2.4 **Making a claim:** A Retail Client who has suffered a loss of the nature described at 6.2.1, may make a claim for compensation from the ASX Fund in writing, by completing the claims notification form located at [web address] and sending this to AXE GC within 28 days of the loss arising.

6.2.5 The Claimant must include all details required on the claims form, including the following:

- (h) name, address and contact details;
- (i) date when the loss occurred;
- (j) description of circumstances giving rise to the loss;
- (k) details of relevant transaction, including security details, price and volume and any other relevant details;
- (l) Participant (s) involved;
- (m) pecuniary amount of loss;
- (n) how this loss was calculated;
- (o) any other relevant information; and
- (p) any information reasonably sought by AXE ECN in the course of its investigation.

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- 6.2.6 **Determination of the claim:** AXE GC will review the claim and seek any additional information or submissions from the Claimant.
- 6.2.7 AXE GC will advise AXE Board (and provide a copy to AXE Compliance Officer) in relation to the following:
- (q) whether the loss may properly be claimed under these rules;
 - (r) whether the claim and evidence supports the loss;
 - (s) whether the claim should be fully or partially accepted (and the extent of any apportionment); and
 - (t) how much money should be paid to the Claimant.
- 6.2.8 AXE Board has power, under the Act, to settle valid claims.
- 6.2.9 AXE Board will make a determination on the status of the claim within 2 months of receipt of the claim in writing.
- 6.2.10 **Amount of compensation:** Subject to Rule 6.2.11, the amount of compensation payable in respect of a Retail Client loss is the sum of:
- (u) the actual pecuniary loss suffered by the Claimant, calculated by reference to the market value of any relevant assets or liabilities as at the date on which the loss was suffered; and
 - (v) the Claimant's reasonable costs of and disbursements incidental to the making and proof of the claim.
- 6.2.11 In any case, the maximum amount of compensation payable to a Claimant, in relation to a loss or series of losses arising from the same set of circumstances is \$100,000, and the maximum amount of compensation payable (including all interest payable under Rule 6.2.13) to all Claimants in respect of all claims referable to a particular event or circumstance is \$1,000,000. AXE shall prioritise claims on a proportional basis.
- 6.2.12 This limit will be reviewed annually by AXE Board. AXE Board may amend this limit in accordance with Section 884B of the Corporations Act.
- 6.2.13 The Claimant will be entitled to interest on the amount of the loss at the rate of 5% per annum (or such other rate as prescribed by the Corporations Act from time to time) calculated from and including the day on which the loss was suffered until the day on which the claim is satisfied.
- 6.2.14 **Notification of Outcome of Determination:** AXE will notify the Claimant in writing of the success or otherwise of their claim within 2 months of the written notice of claim having been received by AXE.
- 6.2.15 AXE may find that the claim was partially successful, where AXE Board in its discretion finds that the person making the claim contributed to the pecuniary loss.
- 6.2.16 Where this is found, the amount payable by AXE will be reduced by the same proportion that it is determined that the Retail Client contributed to the loss.

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- 6.2.17 Once a Claim has been found to be successful (either fully or partially), and payment has been made, the Claimant may not make a claim in respect of the same subject matter of the Claim.
- 6.2.18 **Payment of compensation:** Payment will be made within 28 days of the determination by AXE Board.
- 6.2.19 Claims may be paid in a lump sum or by way of instalments, as determined by AXE Board in its discretion.
- 6.2.20 Where the AXE Fund has insufficient funds to meet all allowed Claims, available funds will be apportioned between Retail Clients on a pro rata basis.
- 6.2.21 In circumstances where the AXE Fund is subsequently restored, the remainder due to each Claimant will be paid.

6.3 SOURCE OF FUNDS

- 6.3.1 **Initial fund:** AXE will make a payment of \$200,000 into the AXE Fund prior to the commencement of trading of AXE ECN.
- 6.3.2 **Insurance:** In addition to the funds available under Rule 6.3.1 AXE shall arrange prior to the commencement of trading of AXE ECN, AXE and maintain with an insurer approved by the board of AXE, insurance arrangements to provide adequate funds to cover claims made under 3.4, up to the limits prescribed by 6.2.11. Premiums in relation to the insurance shall be paid by AXE.
- 6.3.3 AXE Board will annually review the level of retail participation, claims made and claims paid and balance of the AXE Fund and make an assessment as to whether additional funds are required to top-up the initial payment or whether additional insurance arrangements are necessary.
- 6.3.4 Where a top-up payment is required, AXE may provide funds from its own capital.
- 6.3.5 **Fund management:** AXE shall ensure that the funds are managed in such a way as to maximise the earnings on the balance without compromising AXE's ability to make a payment to a Claimant within the timeframe set out in these rules.

6.4 ADMINISTRATION AND MONITORING

- 6.4.1 The compensation arrangements in these Rules will be administered by the AXE GC. The AXE GC will be responsible for:
- (w) receipt of Claims in accordance with Rule 6.2.4;
 - (x) review of Claims and request for additional information under Rule 3.6;
 - (y) provision of advice to the AXE Board under Rule 6.2.7;
 - (z) notification of the outcome of claims to Claimants under Rule 6.2.14; and
 - (aa) arrangement of payment of compensation to successful Claimants under Rule 6.2.18.

6.4.2 The compensation arrangements in these Rules, including the performance of the AXE GC under 6.4.1, will be monitored by the AXE Compliance Officer. The AXE Compliance Officer will be responsible for:

- (bb) monitoring compliance with the compensation arrangements;
- (cc) reporting any breaches to the AXE Board; and
- (dd) monitoring the adequacy of the arrangements and reporting to the AXE Board on the need for or desirability of changes to the compensation arrangements.

6.5 TERMINATION

6.5.1 If AXE Fund is terminated for any reason, the following measures will be taken to ensure that any rights accrued to Retail Clients are adequately protected:

- (ee) Outstanding Claims will be managed in accordance with these rules by the persons designated in these rules, or, in their absence, by alternates designated by the Board at the time of termination;
- (ff) Adequate funds will be left in the AXE Fund for a period of 12 months after termination of the fund and Claims made during this period will be managed in accordance with these rules by the persons designated in these rules, or, in their absence, by alternates designated by the Board at the time of termination;
- (gg) Payments will be made in relation to allowed Claims in accordance with these rules up to 12 months from the termination of the AXE Fund.

CHAPTER 7: SETTLEMENT ARRANGEMENTS

7.1 APPROPRIATE SETTLEMENT ARRANGEMENTS

- 7.1.1 A Participant must have in place and maintain adequate arrangements approved by AXE for the settlement of all Transactions executed and reported by the Participant.
- 7.1.2 AXE will approve a Participant's settlement arrangements where the Participant can demonstrate that those arrangements entitle a Participant (either itself or through another party) to settle all Transactions through a Settlement Facility.
- 7.1.3 A Participant must notify to AXE any significant changes to its settlement arrangements. AXE will approve these revised arrangements in the manner set out in rule 7.1.2 above.
- 7.1.4 If AXE does not approve a Participant's settlement arrangements (including any significant revision to these under Rule 7.1.3 above), AXE may:
- (a) reject an application for admission as a Participant under Rule 3.2; or
 - (b) exercise its rights to suspend or terminate a Participant's Reporting Rights in accordance with Rule 3.4.

7.2 TIME FOR SETTLEMENT AND EX PERIODS

- 7.2.1 A Participant must ensure that each Transaction is settled on the third Business Day following after the date that the Transaction was executed and reported, unless the Participants (or the Participant acting on behalf of two Clients or as Principal and behalf of a Client) agrees to a later date for settlement which is no more than 30 days after the date that the Transaction was executed and reported.
- 7.2.2 A Participant who executes and reports a Transaction as a buyer during the period from the Ex Date to and including the Record Date will not be entitled to the Entitlement on settlement of the Transaction.