

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions
xcl-407

February 2012

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

Table of contents

1.0	Scope	4
2.0	Definitions and references	4
3.0	Eligibility for Clearing	4
4.0	Formation of Single Contracts	5
4.1	Novation between x-clear Members	5
4.2	Novation between x-clear Members and members of a Co-CCP	5
4.3	Reliance on information	5
5.0	Avoidance or cancellation of Single Contracts	6
5.1	Automatic avoidance	6
5.2	Avoidance or withdrawal by x-clear	6
5.3	Cancellation of Inter-CCP Contracts	8
5.4	Consequences of avoidance or cancellation	8
5.5	Notification of cancellation	8
6.0	Terms of Single Contracts	8
6.1	Risks, rights, obligations and entitlements	8
6.2	Settlement	9
6.3	Contract Terms	9
6.4	Interpretation rule based on Companies Act	9
7.0	Permissible Collateral and Margins	9
7.1	Provision of Permissible Collateral	9
7.2	Amendments regarding Permissible Collateral	10
7.3	Margins	10
7.4	Margin Calls	10
7.5	Consequences of insufficient Margin	10
8.0	Default Fund	11
8.1	Default Fund Contribution	11
8.2	Pledge	11
8.3	Payment and delivery terms	11
8.4	Realisation terms	11
8.5	Proceeds of Close-out Netting or Late Contribution	11
9.0	Collateral Accounts	12
10.0	Order of realisation of collateral	12
11.0	Financing Contributions and Additional Financing Contributions	13
11.1	Financing Contribution Accounts	13
11.2	Financing Agreement for the financing of the Inter-CCP Collateral	13

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

12.0	Provisions common to Margins, Default Fund and Financing Contributions	13
12.1	Representations and warranties by x-clear Member	13
12.2	Representations and warranties by x-clear	14
12.3	Liabilities of x-clear Member	14
12.4	Application of Companies Act	14
12.5	Application of EC Collateral Regulations and EC Collateral Directive	14
13.0	Settlement	15
13.1	Provision of transaction details	15
13.2	Confirmation and places of Settlement	15
13.3	Approved Settlement System	15
13.4	No liability of x-clear	15
13.5	Holding of sufficient Chi-X Products or cash	16
13.6	Power of attorney to x-clear NCM	16
13.7	Settlement agent	16
13.8	Settlement netting	16
13.9	Disclosures to Governmental Authorities regarding tax	16
14.0	Late Settlement	16
14.1	Buy-in	16
14.2	Consequences of buy-in	17
14.3	Exclusive governance by Contractual Relationship	17
15.0	Market disorder and bad deliveries	17
16.0	Trading days	17

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

1.0 Scope

These Trading Platform Specific General Terms and Conditions of Business (English Law) (the "**Trading Platform Specific GTCB**") shall form a part of the Contractual Relationship between x-clear and each x-clear Member who has entered into a Contract for Clearing Services (English Law) with x-clear in relation to the Chi-X Market and shall be read in conjunction with the relevant Contract for Clearing Services (English Law), the Pledge Agreements, the Financing Agreement for the financing of the Inter-CCP Collateral, the GTCB and the Rules and Regulations. These Trading Platform Specific GTCB amend and supplement the GTCB as it applies to the Clearing of Chi-X Transactions.

2.0 Definitions and references

In these Trading Platform Specific GTCB the following words and expressions shall have the following meanings:

"**Chi-X**" means the Trading Platform operated by Chi-X Europe;

"**Chi-X Europe**" means Chi-X Europe Limited a company incorporated in England and Wales under registered number 01651728 whose registered office is at 25 Canada Square, Canary Wharf, London E14 5LB, United Kingdom;

"**Chi-X Market**" means a market operated by Chi-X Europe under the Chi-X Rules that is subject to Clearing by x-clear;

"**Chi-X Member**" means a member of Chi-X or other person approved by Chi-X Europe who trades on the Chi-X Market;

"**Chi-X Product**" means a Trading Platform Product traded on the Chi-X Market;

"**Chi-X Rules**" means the Trading Platform Rules for the Chi-X Market as in force from time to time;

"**Chi-X Transaction**" means a Trading Platform Transaction on the Chi-X Market in relation to a Chi-X Product that is eligible for Clearing.

Other capitalised terms shall have the meanings given to them in the GTCB.

References to chapters and clauses shall be read as references to the chapters and clauses of these Trading Platform Specific GTCB, unless otherwise specified.

3.0 Eligibility for Clearing

x-clear provides Clearing for Chi-X Products which are

- a. traded on the Chi-X Market; and

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

- b. deemed eligible for Clearing by x-clear in coordination with the Co-CCPs providing Clearing for Chi-X Products; and
- c. able to be settled in an Approved Settlement System.

4.0 Formation of Single Contracts

4.1 Novation between x-clear Members

Subject to clause 6.0 of the GTCB and clause 5.0 below, and in an instance where both the Chi-X Members that are party to a Chi-X Transaction are either x-clear GCMs, x-clear ICMs or x-clear NCMs, Single Contracts shall arise between x-clear and each x-clear Member by way of Novation in respect of the Chi-X Product to which the Chi-X Transaction relates. Novation shall occur at the moment that a Chi-X Transaction arises. Where the Single Contract is between x-clear and an x-clear GCM, the x-clear GCM shall be regarded as acting as principal on behalf of the relevant x-clear NCM pursuant to the GCM-NCM Agreement. At the moment of Novation, two Single Contracts shall arise automatically between:

- (i) x-clear and the Selling x-clear Member where x-clear will assume the role of buyer of the Chi-X Product to which the Chi-X Transaction relates, and
- (ii) x-clear and the Buying x-clear Member where x-clear will assume the role of seller of the Chi-X Product to which the Chi-X Transaction relates.

4.2 Novation between x-clear Members and members of a Co-CCP

Subject to clause 6.0 of the GTCB and clause 5.0 below, and in an instance where one Chi-X Member that is party to a Chi-X Transaction is an x-clear GCM, x-clear ICM or x-clear NCM and the counterparty to the same Chi-X Transaction, being a Chi-X Member, has elected for a Co-CCP (if any) to act as Central Counterparty (whether by virtue of that Chi-X Member's agreement with a Co-CCP GCM, if any, or otherwise), a Single Contract shall arise between x-clear and the x-clear Member by way of Novation in respect of the Chi-X Product to which the Chi-X Transaction relates. Novation shall occur on the moment that an Inter-CCP Contract arises. An Inter-CCP Contract shall arise between x-clear and the Co-CCP pursuant to and subject to the relevant Link Agreement where x-clear will assume the role of buyer or seller, as applicable, of the Chi-X Product to which the Chi-X Transaction relates. Where the Single Contract is between x-clear and an x-clear GCM, the x-clear GCM shall be regarded as acting as principal on behalf of the relevant x-clear NCM pursuant to the GCM-NCM Agreement. At the moment of Novation a Single Contract shall arise automatically between x-clear and the Selling x-clear Member or Buying x-clear Member, as applicable, where x-clear will assume the role of buyer or seller of the Chi-X Product to which the Chi-X Transaction relates, respectively.

4.3 Reliance on information

x-clear shall be entitled to rely conclusively and without further enquiry on the accuracy and authenticity of any and all information and data regarding any Chi-X Transaction, Single

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

Contract or Inter-CCP Contract submitted to x-clear by or on behalf of Chi-X Europe, any provider of Transaction Routing (if any), any Approved Settlement System, any Co-CCP (if any) or the x-clear Member whether or not the x-clear Member or an x-clear NCM has authorised the submission of such information or the details so submitted.

5.0 Avoidance or cancellation of Single Contracts

5.1 Automatic avoidance

A Single Contract shall automatically be void *ab initio* if:

- a. the corresponding Chi-X Transaction is cancelled, rejected or avoided in accordance with the Chi-X Rules whether pursuant to a "contra" request or otherwise; or
- b. the Chi-X Product which is the subject of the corresponding Chi-X Transaction is not a Security eligible for Clearing pursuant to chapter 3.0.

5.2 Avoidance or withdrawal by x-clear

x-clear may, at its discretion,

- (i) elect to avoid any Single Contract (but only on or before the Business Day following the trade date of the Chi-X Transaction) rendering the Single Contract void *ab initio* and
- (ii) decline to accede to Novation either in relation to a specific Chi-X Product or the x-clear Member, where:
 - a. the membership of the x-clear Member has been suspended by x-clear;
 - b. in the case of an x-clear Member who is a Chi-X Member, the x-clear Member's status as a Chi-X Member has been suspended or terminated by Chi-X Europe;
 - c. in the case of an x-clear GCM who is not a Chi-X Member, the status as a Chi-X Member of a relevant x-clear NCM with whom the x-clear GCM has in force a GCM-NCM Agreement has been suspended or terminated by Chi-X Europe;
 - d. the listing of the Chi-X Product in respect of which Clearing is provided has been suspended by a Listing Authority;
 - e. the Chi-X Transaction corresponding to the Single Contract has been cancelled or avoided for any reason (other than in accordance with circumstances falling within clause 5.1 a. above);
 - f. the data submitted to x-clear in relation to the corresponding Chi-X Transaction by the provider of Transaction Routing is not in a format suitable for the provision of Clearing by x-clear or is not accurate;

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

- g. the agreement or agreements x-clear has entered into with Chi-X Europe (in relation to x-clear's provision of Clearing), the Approved Settlement System, the provider of Transaction Routing, or, if applicable, a Link Agreement with a Co-CCP has or have been terminated or is or are otherwise not in force;
- h. the Single Contract between x-clear and the x-clear Member representing that leg of the corresponding Chi-X Transaction which is opposite to the leg corresponding to the Single Contract which is the subject of x-clear's election to avoid has been cancelled pursuant to these Trading Platform Specific GTCB;
- i. the corresponding Inter-CCP Contract, if applicable, has not been formed in accordance with the Link Agreement or has been cancelled by x-clear or the Co-CCP in accordance with the Link Agreement or otherwise;
- j. the x-clear Member that is a party to the Single Contract is in Default or a declaration of default has been issued by Chi-X Europe in respect of the Chi-X Member that is party to the Single Contract or corresponding Chi-X Transaction;
- k. the Approved Settlement System is not proceeding or has failed to effect Settlement of the Single Contract or corresponding Inter-CCP Contract (if applicable) in accordance with the rules of the Approved Settlement System or otherwise;
- l. x-clear determines at its discretion following information received from another source that incomplete, erroneous or conflicting details have been submitted in relation to such Single Contract, the corresponding Inter-CCP Contract (if applicable) or Chi-X Transaction, including (without limitation) information received from Chi-X Europe, a Co-CCP, any other x-clear Member or any Governmental Authority;
- m. the Single Contract or corresponding Inter-CCP Contract or Chi-X Transaction results or appears to result from a communications or information technology error or problem;
- n. the Single Contract or the corresponding Inter-CCP Contract or Chi-X Transaction is or appears to be tainted by or connected with fraud, illegality, insider dealing, market abuse, money laundering or any other breach of Applicable Laws;
- o. the Single Contract or corresponding Inter-CCP Contract or Chi-X Transaction is or appears to be a result of or affected by an Event of Force Majeure;
- p. the Single Contract or corresponding Inter-CCP Contract or Chi-X Transaction is one which any Governmental Authority, a Co-CCP (if applicable), any Approved Settlement System or Chi-X Europe requires or requests that x-clear treat as void and x-clear considers, at its discretion, that compliance with such a request would be appropriate;
- q. x-clear considers at its discretion that, at the time of formation of the Single Contract, the corresponding Inter-CCP Contract (if applicable) or the corresponding Chi-X Transaction, the relevant x-clear Member is not in compliance with its obligations relating to the provision of Margin, Default Fund Contributions, Financing Contributions or Additional Financing Contributions; or

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

- r. the Clearing of the Single Contract or corresponding Inter-CCP Contract (if applicable) is not appropriate in x-clear's reasonable opinion.

For the avoidance of doubt, x-clear shall not incur any liability as a result of losses, damages, injuries, delays, costs or expenses incurred or sustained by the x-clear Member by reason of such avoidance of a Single Contract or by x-clear declining to accede to Novation.

5.3 Cancellation of Inter-CCP Contracts

The x-clear Member acknowledges that, in accordance with the Link Agreement (if applicable), the Co-CCP may, in certain circumstances (including, without limitation, events relating to market disorder, impossibility of performance and trade emergency) implement measures to cancel concluded Inter-CCP Contracts to which it is a party, by revoking the registration of such Inter-CCP Contracts or otherwise, whether as a result of its suspension or cancellation of the provision of services offered by it as a Central Counterparty in respect of specific Chi-X Products or otherwise. If such Co-CCP implements such measures, x-clear shall be entitled to cancel concluded corresponding Single Contracts to which it is a party or suspend or cancel Clearing services in respect of the Chi-X Products subject to those measures.

5.4 Consequences of avoidance or cancellation

In the event that a Single Contract is cancelled, void or avoided pursuant to clauses 5.1 to 5.3 x-clear and the affected x-clear Member shall immediately be released from any and all rights, liabilities and obligations under the affected Single Contract and all amounts paid pursuant to such Single Contract shall be returned by the Buying x-clear Member to x-clear or by x-clear to the Selling x-clear Member, as the case may be, in each case without interest.

Any further consequences related to the affected Single Contracts are subject to the rules of the respective Trading Platform.

5.5 Notification of cancellation

x-clear shall promptly notify Chi-X Europe and the affected x-clear Member of the cancellation or avoiding of any Single Contract pursuant to clauses 5.1 to 5.3.

6.0 Terms of Single Contracts

6.1 Risks, rights, obligations and entitlements

Under each Single Contract to which a Buying x-clear Member or a Co-CCP (if applicable and as buyer) is a party the benefits, risks, rights and obligations associated with the Chi-X Product that is the subject of the Single Contract shall pass to the Buying x-clear Member (or the Co-CCP in the capacity of buyer) at the moment that the Single Contract is formed in accordance with these Trading Platform Specific GTCB. Where, in respect of a Chi-X Product, there is an entitlement to receive interest, dividends and any other distributions, such rights (referred to as "Entitlements" for the purposes of this clause) shall also form part

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

of the Single Contract, provided that the Single Contract is formed before such Entitlement has expired. Where the Single Contract is formed on or after the expiry of an Entitlement, the Entitlement shall not form part of the Single Contract. Where income earned by the Buying x-clear Member (or the Co-CCP, if applicable and as buyer) accrues to the Selling x-clear Member (or the Co-CCP, if applicable and as seller) as a result of late delivery of the Chi-X Product, it shall be a term of the Single Contract that the Selling x-clear Member (or the Co-CCP, if applicable and as seller) is subject to an obligation to transfer the value accruing under the Entitlement to the Buying x-clear Member (or the Co-CCP, if applicable and as buyer).

6.2 Settlement

Settlement of a Single Contract shall take place on the Intended Settlement Date or within such period after formation as is agreed between x-clear and the Approved Settlement System, all as further described in the Clearing Terms.

6.3 Contract Terms

The Contract Terms constitute the whole agreement between x-clear and the x-clear Member with respect to a Single Contract and supersede any previous arrangement, understanding or agreement between them relating to the subject matter of a Single Contract. The x-clear Member represents and warrants to x-clear that, in entering into each Single Contract, it does not rely on any statement, representation, assurance or warranty of x-clear or any other Person other than as expressly set out in the Contract Terms. The x-clear Member agrees that the only rights and remedies available to it arising out of or in connection with a Single Contract or their subject matter shall be solely in contract (and not in tort or otherwise), in accordance with the Contract Terms. Nothing in this clause shall limit or exclude any liability for fraud, death or personal injury or for any other liability which by law cannot be excluded.

6.4 Interpretation rule based on Companies Act

A Single Contract shall be regarded as a "market contract" within the meaning of Section 155 of the Companies Act 1989.

7.0 Permissible Collateral and Margins

7.1 Provision of Permissible Collateral

As security for its liabilities in respect of Outstanding Contracts, each x-clear Member is required to provide Permissible Collateral by way of:

- a. Initial Margin and Variation Margin, and shall meet Margin calls if x-clear considers the Permissible Collateral provided by the x-clear Member to be insufficient; and
- b. Default Fund Contributions,

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

and such provision of Permissible Collateral shall be provided in accordance with and subject to the Pledge Agreements.

7.2 Amendments regarding Permissible Collateral

x-clear may at its discretion and at any time review and amend the Securities or assets accepted as Permissible Collateral by amendment to the Clearing Terms, provided that any such amendment is in accordance with chapter 3 of the Contract for Clearing Services (English Law). x-clear shall also be entitled at any time to require the x-clear Member to substitute individual Securities with other Securities. If a particular Security is no longer accepted by x-clear as Permissible Collateral, x-clear shall grant the x-clear Member a period of two Business Days to provide substitute Securities or cash. x-clear shall periodically or otherwise and at its discretion (and as described in the Clearing Terms) perform a valuation (including applying Haircuts) of the Permissible Collateral provided by an x-clear Member, and shall be entitled to adjust such values at any time with immediate effect in respect of Outstanding Contracts outstanding at the time the adjustment is announced and in respect of Single Contracts concluded after such adjustment (or otherwise).

7.3 Margins

Margins shall be provided by the x-clear Member on a consolidated basis taking into account all the Outstanding Contracts of that member on all Trading Platforms or equivalent positions on all other Exchanges and MTFs in respect of which x-clear provides Clearing. The nature, type, scope and parameters of Permissible Collateral, Initial Margin and Variation Margin are set out in and subject to the requirements of the Clearing Terms.

7.4 Margin Calls

In the event that the Permissible Collateral provided as cover for Margin is determined by x-clear to be insufficient, either as a result of the decline in the value of the Permissible Collateral or an increase in the liability in respect of the Outstanding Contracts with x-clear or an x-clear Member fails to meet its obligations under this chapter 7.0, whether in whole or in part, x-clear shall, in accordance with the provisions of the Pledge Agreements, be entitled to make Margin calls and require the x-clear Member to provide additional Permissible Collateral as determined in an amount and type by x-clear. Margin calls must be satisfied within 60 minutes of notification to the x-clear Member. x-clear shall be entitled to make Margin calls at any time.

7.5 Consequences of insufficient Margin

If a Margin call is not satisfied in accordance with these Trading Platform Specific GTCB, x-clear is entitled to:

- a. suspend the membership of the x-clear Member in accordance with chapter 3.0 of the GTCB;
- b. treat the x-clear Member as being in Default in accordance with chapter 18.0 of the GTCB; and

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

- c. realise some or all of the Permissible Collateral provided by the x-clear Member, and set off the Permissible Collateral (as x-clear values such Permissible Collateral at its discretion) or proceeds of such realisation of Permissible Collateral against any and all outstanding obligations of the x-clear Member.

8.0 Default Fund

8.1 Default Fund Contribution

Each x-clear Member shall, in addition to the provision of Permissible Collateral provided as Margin, be obliged to make a Default Fund Contribution to the relevant Default Fund pursuant to the Pledge Agreement for the Default Funds.

8.2 Pledge

Default Fund Contribution requirements and the constituents of Permissible Collateral relevant to such requirements shall be defined in the Clearing Terms. An x-clear Member shall open Default Fund Collateral Accounts (as defined in the Clearing Terms) in its name at SIX SIS for the Permissible Collateral required to be provided by way of Default Fund Contributions and such accounts shall be pledged to x-clear pursuant to the Pledge Agreement for Default Funds.

8.3 Payment and delivery terms

If at any time the total amount provided by way of a Default Fund Contribution is insufficient to meet the amount required by x-clear as a result of

- (i) a decline in the value of the pledged Securities or
- (ii) an increase in the x-clear Member's liability to make a Default Fund Contribution,

the relevant x-clear Member shall be obliged to provide additional Permissible Collateral to meet its Default Fund Contribution obligations which shall, in the case of (i), be provided within 60 minutes of notification from x-clear, and in the case of (ii), be met within two Business Days of receipt of notification from x-clear, all in accordance with the Clearing Terms.

8.4 Realisation terms

x-clear shall be entitled to realise the Permissible Collateral provided as a Default Fund Contribution and booked to the x-clear Member's Default Fund Collateral Accounts in the event of a drawdown on the Default Funds and to use the proceeds of any realisation as specified in the Pledge Agreement for the Default Funds.

8.5 Proceeds of Close-out Netting or Late Contribution

In the event that:

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

- a. Default Fund Contributions of non-Defaulting x-clear Members have been realised pursuant to the Pledge Agreement for Default Funds and excess amounts remain after proceeds arising from the process of Close-out Netting (as defined in clause 18.5 d. of the GTCB) have been applied to meet liabilities associated with the Defaulting x-clear Member's Outstanding Contracts; or
- b. a Defaulting x-clear Member makes a Default Fund Contribution after the Default Fund Contributions of other x-clear Members have been realised but only in cases where such Default Fund Contribution by the Defaulting x-clear Member is made pursuant to obligations arising prior to such realisation (hereinafter referred to as a "**Late Contribution**"),

then (subject to x-clear first using any such Late Contribution to meet the losses and liabilities attributable to the Defaulting x-clear Member), x-clear shall compensate the non-Defaulting x-clear Members whose Default Fund Contributions have been realised from such proceeds of Close-out Netting or Late Contribution *pro rata* up to the maximum amount realised and not exceeding the total of the Default Fund Contributions made by all x-clear Members at the time of the realisation.

9.0 Collateral Accounts

Accounts and custody accounts for the deposit of collateral shall be maintained by the x-clear Member at the Account Operator as further described in the Clearing Terms.

10.0 Order of realisation of collateral

In the event of Default of an x-clear Member, x-clear shall be entitled to realise the Permissible Collateral provided as Margins and Default Fund Contributions in the following order:

- a. Permissible Collateral provided by the Defaulting x-clear Member to satisfy its Margin obligations and equivalent obligations in respect of trades executed on all Trading Platforms in respect of which x-clear provides Clearing;
- b. Default Fund Contributions of the Defaulting x-clear Member to the relevant Default Fund (pursuant to the Pledge Agreement for the Default Funds);
- c. per calendar year, a maximum of 50 per cent of available provisions set aside by x-clear;
- d. Default Fund Contributions made by non-Defaulting x-clear Members to the relevant Default Fund (pursuant to the Pledge Agreement for the Default Funds);
- e. additional collateral (whether or not Permissible Collateral) arising from replenishment of the relevant Default Fund (pursuant to the Pledge Agreement for the Default Funds); and
- f. the remainder of x-clear's provision and its capital and reserves,

all in accordance with the Clearing Terms.

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

The x-clear Member acknowledges and agrees that the purpose of this chapter 10.0 and, *inter alia*, the provision of Margin and Default Fund Contributions is to address and prevent the incidence of systemic risk that may arise in relation to Clearing, the Chi-X Market and other markets or trading platforms operated by Chi-X Europe or other markets or trading platforms (including the Trading Platforms as defined in the GTCB).

11.0 Financing Contributions and Additional Financing Contributions

11.1 Financing Contribution Accounts

Per each x-clear Member Financing Contribution Accounts for the depositing of Financing Contribution and Additional Financing Contribution shall be maintained by the Account Operator in the name of x-clear as further described in the Clearing Terms.

11.2 Financing Agreement for the financing of the Inter-CCP Collateral

Each x-clear Member shall, in addition to providing Margin and making Default Fund Contributions, provide Financing Contributions and Additional Financing Contributions to x-clear for the financing of the Inter-CCP Collateral. Such Financing Contributions or Additional Financing Contributions shall be provided in accordance with and subject to the Financing Agreement for the financing of the Inter-CCP Collateral.

12.0 Provisions common to Margins, Default Fund and Financing Contributions

12.1 Representations and warranties by x-clear Member

The x-clear Member will act as principal and not as agent when providing Margins, making Default Fund Contributions and providing Financing Contributions or Additional Financing Contributions. x-clear will take no account of any right or interest which any Person other than the x-clear Member has or may have in connection with any Margin, a Default Fund Contribution, Financing Contributions or Additional Financing Contributions. The x-clear Member represents and warrants to x-clear on each date on which the x-clear Member provides to x-clear Margin, Default Fund Contribution, Financing Contribution or Additional Financing Contribution and on a continuing basis whilst such Margin, Financing Contribution, Additional Financing Contribution or Default Fund Contribution remains held by or on behalf of x-clear, that:

- a. the x-clear Member is the sole legal and beneficial owner of all Securities or cash used for the Margins, Default Fund Contributions, Financing Contributions or Additional Financing Contributions;
- b. no such Securities or cash used for the Margins, Default Fund Contributions, Financing Contributions or Additional Financing Contributions is subject to any trust, agreement, arrangement or Encumbrance whatsoever; and
- c. the use or application of Securities for the purposes of providing Margin, Default Fund Contribution, Financing Contribution or Additional Financing Contribution pursuant to the Contractual Relationship is not in breach of any of the x-clear Member's contractual

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

obligations towards any third party (including towards any x-clear NCM) or of Applicable Laws.

12.2 Representations and warranties by x-clear

x-clear represents and warrants to the x-clear Member that any Securities provided as Margin, Default Fund Contribution, Financing Contribution or Additional Financing Contribution and returned to the x-clear Member are not subject to any trust, agreement, arrangement or Encumbrances created or granted by x-clear and that the return of such securities or Securities to the x-clear Member is not in breach of any contractual obligation of x-clear towards any third party or of any Applicable Laws.

12.3 Liabilities of x-clear Member

The x-clear Member shall be liable to x-clear for any fees, costs, losses, damages, expenses, delays or liabilities incurred or suffered by x-clear as a result of x-clear possessing, holding, perfecting the title to or otherwise being associated with, or dealing with, any Securities or monies provided to it by the x-clear Member by way of Margin, Default Fund Contribution, Financing Contribution or Additional Financing Contribution.

12.4 Application of Companies Act

Each x-clear Member is given notice that Part VII of the Companies Act 1989 applies in relation to all Margin, Default Fund Contributions, Financing Contributions and Additional Financing Contributions and that, as a result, in accordance with the Companies Act 1989 and pursuant to these Trading Platform Specific GTCB, *inter alia*:

- a. certain of the English Courts' and insolvency officials' rights to disclaim property, onerous transactions, transactions at an undervalue and similar transactions in relation to Margin, Default Fund Contributions, Financing Contributions and Additional Financing Contributions will not apply; and
- b. neither the provision of Margin, the making of Default Fund Contributions nor the provision of Financing Contributions or Additional Financing Contributions is invalid on grounds of inconsistency with Applicable Laws of the United Kingdom relating to Insolvency.

12.5 Application of EC Collateral Regulations and EC Collateral Directive

Each x-clear Member is given notice that the Financial Collateral Arrangements (No. 2) Regulations 2003 (the "Collateral Regulations") (which implement Directive 2002/47/EC on financial collateral arrangements (the "Collateral Directive")) applies in relation to the provision of Margin and Default Fund Contributions (including security arrangements made under the Pledge Agreements) and that, as a result, in accordance with the Collateral Regulations and the Collateral Directive, *inter alia*:

- a. certain Applicable Laws in the EEA relating to formalities and the registration of charges are not applicable in relation to Margin or Default Fund Contributions;

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

- b. certain Applicable Laws in the EEA relating to Insolvency, to the extent that they restrict x-clear's enforcement of its rights in relation to Margin or Default Fund Contributions are not applicable; and

the provisions in relation to Close-out Netting will take precedence notwithstanding an Insolvency of the x-clear Member.

13.0 Settlement

13.1 Provision of transaction details

Chi-X Europe will send relevant details in relation to Chi-X Transactions involving an x-clear Member to x-clear for Clearing, netting and the preparation of settlement instructions.

13.2 Confirmation and places of Settlement

x-clear will confirm the Chi-X Transaction and the associated Clearing, netting and settlement instruction details to the x-clear Members or the Co-CCP (if applicable) who are counterparties to the Single Contracts or the Inter-CCP Contract, respectively, arising from the relevant Chi-X Transaction. Settlement of the Single Contracts or the Inter-CCP Contract, if applicable, will be effected in the relevant central securities depository or other Approved Settlement System, all in accordance with the Clearing Terms.

13.3 Approved Settlement System

The x-clear Member and the Co-CCP (if applicable) shall settle Outstanding Contracts through their participation (whether or not through settlement agents) in the Approved Settlement System and shall have appropriate settlement arrangements in place to enable Settlement of Outstanding Contracts to take place in accordance with these Trading Platform Specific GTCB and the Clearing Terms.

The x-clear Member and the Co-CCP (if applicable) shall, either themselves or through settlement agents, in accordance with the rules of the Approved Settlement System, maintain at least one custody account to hold Chi-X Products and a cash memorandum account at a bank accepted by the Approved Settlement System for the purposes of Settlement.

The x-clear Member and the Co-CCP (if applicable) or their settlement agents (if any) shall comply with the rules, requirements and obligations applicable to them pursuant to the rules of the Approved Settlement System.

13.4 No liability of x-clear

No liability shall attach to x-clear if the standards as defined in the Clearing Terms and the Rules and Regulations for communication, authentication and data security are not met by a relevant Approved Settlement System, settlement agent or settlement bank.

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

13.5 **Holding of sufficient Chi-X Products or cash**

The x-clear Member shall ensure that there is a sufficient quantity of Chi-X Products or sufficient cash, as the case may be, available to enable Settlement of Outstanding Contracts to take place on the Intended Settlement Date. If the x-clear Member does not hold a sufficient quantity of Chi-X Products or sufficient cash, as the case may be, to enable Settlement of Outstanding Contracts to take place on the Intended Settlement Date, the provisions in chapter 14.0 of these Trading Platform Specific GTCB and chapter 18.0 of the GTCB in respect of an x-clear Member's non-performance and Default shall apply.

13.6 **Power of attorney to x-clear NCM**

If the x-clear GCM wishes an x-clear NCM (in respect of which the x-clear GCM has executed a GCM-NCM Agreement) to receive delivery of the Chi-X Product or payment, as the case may be, as agent of the x-clear GCM, the x-clear GCM shall grant a legally valid and binding power of attorney to the x-clear NCM in favour of such x-clear NCM. The x-clear GCM shall notify x-clear of this power of attorney in writing, including a copy of such power of attorney with such notification.

13.7 **Settlement agent**

An x-clear Member may only use a settlement agent for the purposes of Settlement if required or permitted by the rules of the Approved Settlement System.

13.8 **Settlement netting**

x-clear will carry out settlement netting in accordance with the rules of the relevant Approved Settlement System and the Clearing Terms.

13.9 **Disclosures to Governmental Authorities regarding tax**

x-clear shall be entitled to disclose to any Governmental Authority (including HM Revenue & Customs) any information relating to Single Contracts as is necessary to facilitate or maintain any applicable exemptions from stamp duty reserve tax (or such other similar tax as may be in force from time to time).

14.0 **Late Settlement**

14.1 **Buy-in**

Where the Selling x-clear Member fails to deliver the Chi-X Product on the Intended Settlement Date such that Settlement of the relevant Outstanding Contract does not occur on that date, x-clear shall be entitled to perform a buy-in in accordance with the following procedures as further defined in the Clearing Terms:

- a. x-clear will start the buy-in process by submitting a buy-in notice to the Selling x-clear Member;

Trading Platform Specific General Terms and Conditions of Business SIX x-clear Ltd

for Clearing of Chi-X Transactions

- b. on completion of the buy-in, x-clear will advise the Selling x-clear Member on the same day by facsimile or electronic means, providing details of the buy-in that has been effected to settle the relevant Outstanding Contract. The Selling x-clear Member shall be liable to x-clear for any difference between the price of the Chi-X Product under the relevant Outstanding Contract and the price paid in connection with a buy-in;
- c. x-clear is entitled to charge the Selling x-clear Member any costs incurred by x-clear (including, without limitation, expenses, commissions and other charges) or passed on to x-clear by third parties in connection with the performance of a buy-in; and
- d. without prejudice to the generality of paragraph c. x-clear will charge an administration fee per buy-in notice;

14.2 **Consequences of buy-in**

The payment obligations of the x-clear Member, arising from the buy-in effected by x-clear, shall be due and payable immediately upon notification of the same by x-clear. If the x-clear Member fails to satisfy such payment obligation, x-clear may at its discretion treat such failure as an Event of Default as defined in chapter 18.0 of the GTCB.

14.3 **Exclusive governance by Contractual Relationship**

The Contractual Relationship shall exclusively govern late Settlement, including any processes (such as buy-in) carried out as part of late Settlement, including, but not limited to, any costs associated with such settlement. The Chi-X Rules shall not apply to any of the aforesaid matters.

15.0 **Market disorder and bad deliveries**

If Chi-X Europe determines in accordance with the Chi-X Rules that an excessive position or unwarranted speculation or any other undesirable situation or practice is developing or has developed which is affecting or capable of affecting the Chi-X Market, x-clear may at its discretion take such action as is requested of it by Chi-X Europe in respect of one or more Outstanding Contracts in an x-clear Member's name as may be provided for by the Chi-X Rules or as may be agreed between Chi-X Europe and x-clear.

16.0 **Trading days**

The trading days relevant for the Chi-X Market are published by Chi-X-Europe.

SIX x-clear Ltd
Brandschenkestrasse 47
CH-8002 Zurich

Mailing address:
P.O. Box 1758
CH-8021 Zurich

T +41 58 399 4311
F +41 58 499 4311
www.six-securities-services.com