



Rulebook (German Law)

SIX x-clear Ltd

Clearing Services for Members domiciled in the EU/EEA

xcl-302

July 2020

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Clearing Services for Members domiciled in the EU/EEA

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1.0 Definitions and interpretation

1.1 Scope of application

These General Terms and Conditions including the annexes (the "Rulebook") apply to clearing members ("Members") of SIX x-clear Ltd ("X-CLEAR") and are an integral part of the Contract for Clearing Services under German law. The Rulebook is supplemented by the "Operational Manual" pursuant to Chapter 29.0 of this Rulebook.

1.2 Definitions

In these General Terms and Conditions of Business (the "Rulebook"), the following words and expressions shall have the following meanings:

"Account Operator" is the financial institution which operates the accounts as stated in the Operational Manual;

"Affiliate" means, with respect to any undertaking, an undertaking which is a parent undertaking or subsidiary undertaking of that undertaking or a subsidiary undertaking of any parent undertaking of that undertaking;

"Agent" means that this person does not act in their own name or for their own account, but in the name of and for the account of another person;

"Approved Settlement System" means an officially regulated and supervised institution which provides Settlement and other related services in respect of Trading Platform Transactions;

"Applicable Laws" means any state, national, federal, supranational, regional, cantonal, municipal or other standard applicable to the respective Participant(s) (in particular, the Member and/or X-CLEAR) of a legitimate legislator or a legally responsible judiciary or supervisory authority that was issued in the form of a law, ordinance, regulation or any other official form; in particular; in particular, this includes any official regulatory decree of the competent financial supervisory authorities and the applicable accounting standards and principles;

"Auction Participant" is a Member or an NCM which agreed with X-CLEAR to be bound by the Auction Participant Agreement (according to Annex 3) when participating in an Auction Process;

"Auction Participant Agreement" is an agreement as set forth in Annex 3 or separately agreed with the NCM Auction Participant;

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"Auction Process" means a process as set forth in Annex 3;

"Back-up GCM/NCM Agreement" means an agreement between a Back-up GCM and an NCM pursuant to clause 20.1.3 lit. a;

"Banking Act" means the Swiss Federal Act on Banks and Savings of 8 November 1934 (SR 952.0);

"Business Day" / "Business Hour" means a day / hour during which all of the Trading Platform, the provider of Transaction Routing, the Co-CCP (if any), the Approved Settlement System and X-CLEAR are open for business;

"Business Partner Specifications" means the specifications of the technical infrastructure (such as information technology or communications) required to be met by Members as published on the SIX Securities Services Private website;

"Buying Member" means an ICM or GCM (whether or not a relevant Trading Platform Member acting on behalf of an NCM or in its own name) which was, in respect of a Trading Platform Transaction, the buyer of a Trading Platform Product;

"Capital Adequacy Ordinance" ("Eigenmittelverordnung für Banken und Effektenhändler") is the Swiss ordinance on capital adequacy of banks and securities firms of 1 June 2012 as referred to by the Financial Market Infrastructure Ordinance;

"Cash Account" means a currency account held by X-CLEAR with any Collateral and Settlement Bank, being designated to a Member, a Co-CCP, a Registered Client or X-CLEAR, for the purposes of i) providing Permissible Collateral in the form of cash to X-CLEAR and ii) performing Settlement of Cash Settlements between the Members, the Registered Clients, the Co-CCPs and X-CLEAR;

"Cash Service Provider" means a credit institution, bank, trust company or other institution which

- a. has an adequate long-term credit rating of at least A or equivalent issued by at least two recognised credit rating agencies;
- b. participates in the SWIFT messaging system or other message protocol utilised by X-CLEAR;
- c. is capable of ensuring operational availability during the days and times required for payment processes, in particular of complying with the cut-off times consistent with the payment processes;

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- d. has in place business continuity and contingency arrangements necessary to ensure resilience to disruptions to internal systems and processes which may have an adverse effect on the operation of the payment processes; and
- e. has concluded an agreement with X-CLEAR regarding participation in the payment processes.

"Central Counterparty" means X-CLEAR, a Co-CCP (if any) or other Clearing Organisation contracted to act as central counterparty by a trading platform and thereby to be interposed as the counterparty in the sense of art. 48 FMIA or art. 2 EMIR to its members on either or both the "buy" and "sell" legs of a Trading Platform Transaction;

"Clearing Administrator" means a GCM or an ICM which has entered into a Contract for Registered Client with X-CLEAR and a Registered Client, and accordingly is the agent of the Registered Client as set out in the Contractual Relationship;

"Clearing Account" means an account operated in accordance with chapter 13.0 and the Operational Manual and held in the name of the Member for the recording and tracking of claims and liabilities under outstanding Single Contracts of this Member;

"Clearing Notice" means the notice from X-CLEAR to its Members which is designated accordingly and published on the SIX Securities Services Private website;

"Clearing Organisation" means any clearing house or organisation duly authorised, regulated, licensed or recognised under Applicable Laws in any jurisdiction, including, without limitation, any recognised clearing house, recognised overseas clearing house or similar entity;

"Clearing Services" means the central counterparty, collateral, risk management and other related services provided in relation to Trading Platform Transactions;

„Client Account“ or **„Matched Principal Account“** is a Clearing Account for the tracking and booking of Single Contracts from client transactions;

"Close-out Procedure" means the procedure described in clause 19.5 lit. b.;

"Close-out Settlement Amount" is the net amount (per currency) to be paid by the Defaulting Member or X-CLEAR pursuant to clause 19.5 lit. b.;

"Co-CCP" means a Central Counterparty that is party to a Link Agreement with X-CLEAR and is co-providing Clearing Services in respect of a Trading Platform;

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"Co-CCP Clearing Member" means a Co-CCP GCM or a Co-CCP ICM;

"Co-CCP Clearing Services", in relation to a particular Trading Platform Product or category of Trading Platform Products, means Clearing Services provided (or to be provided) by a Co-CCP to a Co-CCP Clearing Member for such Trading Platform Product or category of Trading Platform Products;

"Co-CCP Regulations" means all the rules and regulations of a Co-CCP as from time to time in force and any arrangements, directions, procedures and provisions made hereunder, as the context may require, in the form published from time to time by the Co-CCP;

"Collateral Account" means a Securities account or a cash account under the legal ownership of X-CLEAR which is labelled with the name of the Member for the booking of Permissible Collateral of this Member and which is operated by and held with the Account Operator in accordance with the Financial Collateral Agreement and chapter 13.0 of this Rulebook;

"Collateral Service Provider" means a financial institution (in particular a Central Securities Depository or bank) that was appointed and mandated by a Member, within the scope of the options set by X-CLEAR / for the purpose of providing Inter-CCP Collateral, to accept the Permissible Collateral of this Member / the Inter-CCP Collateral of X-CLEAR and to maintain the Collateral Account(s) held in the name of the Member / X-CLEAR;

"Collateral and Settlement Bank" means a credit institution, bank, trust company or other institution which

- a. has maintained an adequate long-term credit rating of at least A or equivalent issued by at least two recognised credit rating agencies;
- b. is capable of ensuring operational availability during the days and times required for the Collateral and Settlement Bank Procedures;
- c. participates in the SWIFT messaging system or other message protocol utilised by X-CLEAR;
- d. is capable of maintaining cut-off times consistent with the Collateral and Settlement Bank Procedures;
- e. has in place business continuity and contingency arrangements necessary to ensure resilience to disruptions to internal systems and processes which may have an adverse effect on the operation of the Collateral and Settlement Bank Procedures;

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- f. has an agreement with X-CLEAR to participate as a Collateral and Settlement Bank in the Cash Settlement Bank Procedures; and
- g. has satisfied X-CLEAR in relation to maintaining adequate systems and processes for participation in the Cash Settlement Bank Procedures;

"Collateral Institution" means a CSD or an ICSD approved by X-CLEAR for deposits of Financial Instruments as Permissible Collateral;

"Collateral Value Tables" (or "Lending Norms") means the tables of collateral values according to the respective collateral type and collateral designated as acceptable by X-CLEAR. They are published on the Website of SIX;

"Contract for Clearing Services" means the basic agreement under German Law between X-CLEAR and the Member, under which the Member agrees to the Contractual Relationship;

"Contractual Relationship" means, in relation to a Member, the contractual relationship between X-CLEAR and the Member constituted by and comprising the following documents in their currently valid form:

- a. Contract for Clearing Services (German Law),
- b. Financial Collateral Agreement,
- c. Rulebook (previously "GTCB"),
- d. Operational Manual (previously "Clearing Terms"), including its Annexes (previously "Rules and Regulations", which, in accordance with the aforementioned documents, have a contractual effect,
- e. any Single Contracts to which that Member is a party.

Changes to the Contractual Relationship are made in accordance with the change provisions as defined in the Contract for Clearing Services.

"Dedicated Capital Contribution" (also referred to as "skin-in-the-game") means the portion of X-CLEAR's own required capital as assessed pursuant to Swiss Applicable Law, which is one of the layers of Collateral as set forth in clause 11.6; further information can be found in clause 12.0;

"Default" is the status in which a Member is set pursuant to clause 19.4, or X-CLEAR is set pursuant to clause 21.0 if an Event of Default has materialised;

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"**Default Fund**" means the fund that is set up, maintained and used by X-CLEAR using the Default Fund Contributions from Members in accordance with the Financial Collateral Agreement and chapter 11.0 for the coverage of losses and expenditures incurred by X-CLEAR as a result of a Member Default; **Default Fund Segments** can be set up within the fund. Further regulations are set out in the Financial Collateral Agreement and in the Operational Manual.

"**Default Fund Contribution**" means a contribution to the relevant Default Fund made by Members in accordance with the Contractual Relationship, in particular the Financial Collateral Agreement;

"**Default Fund Replenishment Contribution**" means a contribution for the replenishment of the relevant Default Fund after an Extraordinary Default made in accordance with the Financial Collateral Agreement, this Rulebook and the Contractual Relationship;

"**Default with Major Impact**" has the meaning in accordance with the Financial Collateral Agreement;

"**Default Notice**" is a notice as defined in clause 19.4;

"**Default Proceedings**" means the actions and proceedings taken by X-CLEAR under its Default Rules;

"**Default Rules**" means all the rules contained in the Rulebook and other provisions of the Contractual Relationship which provide for the taking of action in the event of a Member being unable, appearing to be unable, or being likely to be unable, to meet its obligations in respect of one or more outstanding Single Contracts;

"**Defaulting Member**" means a Member that has been declared to be in Default pursuant to clause 19.4;

"**Derivative Product**" means any product traded on a Trading Platform Market and designated by X-CLEAR as eligible for Clearing which is a listed derivative or a tailor-made ("TM") derivative, any of which are in the type of either an Option, Futures or Forward contract, whether or not settled in kind or through cash settlement, with a financial instrument as the Underlying Instrument and otherwise on such terms as are set out in the Operational Manual;

"**Depository**" is a service provider as defined in Art. 4 of the Intermediated Securities Act (FISA);

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"**Dispute**" means any dispute, difference, controversy or claim (of any and every kind or type, whether based on contract, tort, statute, regulation, or otherwise) arising out of, in relation to, or in connection with, the provision of Clearing Services by X-CLEAR, or the Contractual Relationship or any of its constituent parts, or with its or their negotiation, including, without limitation, any dispute as to its or their construction, validity, enforceability, performance, or any breach of any of the constituent parts of the Contractual Relationship;

"**EEA**" means the European Economic Area as enlarged zone of free trading of the EU and the European Free Trade Association (EFTA), not including Switzerland and the United Kingdom;

"**EMIR**" is EU Regulation 648/2012 of the European Parliament and of the Council concerning OTC derivatives, central counterparties and trade repositories;

"**Encumbrance**" means any claim, charge, mortgage, security, lien, equity, power of sale, option or other right to purchase, usufruct, hypothecation, retention of title, right of pre-emption or other third-party right or security interest of any kind or an agreement to create any of the foregoing, and any derivations of "Encumbrance" shall be construed accordingly;

"**Exchange**" means a regulated market as defined in Art. 26 lit. b FMIA oder Art. 4 Abs. 21 of the EU Directive on markets in financial instruments (2014/65/EU) which is located in Switzerland, the EU, the EEA or any equivalent market located in a country or territory outside of Switzerland or the EEA;

"**Event of Default**" has the meaning given to it in clauses 19.2 (discretionary Event), 19.3 (mandatory Event) and 21.1 (Event concerning X-CLEAR), whereby each of these circumstances can be a clearly definable individual event in terms of time and subject matter (e.g. the withdrawal of a licence by the competent authority) or several events which, according to X-CLEAR's reasonable discretion, have a direct, comprehensible ("adequate") causal connection and are therefore also to be considered as a single event (e.g. failure of two subsidiaries of a banking group within a few hours, which are both members of X-CLEAR);

"**Event of Force Majeure**" means any occurrence outside the control of X-CLEAR or the relevant Member or Co-CCP or the relevant Registered Client (as applicable) which hinders or prevents the performance in whole or in part of any of its obligations hereunder (other than an obligation to make any payment), including, but not limited to, fire, flood, storm, earthquake, explosion, war, hostilities, diseases, epidemics, accidents howsoever caused, riots, civil commotion, malicious damage, in particular cyber attacks (other than malicious damage caused by employees of the relevant party or its Affiliate), acts of third parties such as the partial or complete disabled state of

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such third party's technical systems (including, without limitation, the systems operated by the Trading Platform, any Approved Settlement System, the provider of Transaction Routing and a Co-CCP (if any) but excluding matters caused by acts of a party and of its sub-contractors and, in the case of a Member, of its NCMs), strike, lockout, work to rule or other industrial dispute, lack of energy supply, the actions or omissions of settlement banks or bank transfer systems or wires, criminal action, embargoes, acts of God, acts of Governmental Authorities, delays in transportation or communications, provided that the persons concerned have taken the necessary measures to minimise the effects of an Event of Force Majeure;

"Exceeding Drawdown" means a loss which cannot be compensated by the relevant Default Fund Segment but necessitates a Top-up Contribution from the Member as a consequence of a Default with Major Impact;

"Excess Collateral" means any Intermediated Securities and/or cash which is transferred by the Member to X-CLEAR in excess of its requirement for the provision of Permissible Collateral as determined and called for by X-CLEAR and forms a portion of the Permissible Collateral;

"Financial Collateral Agreement" means the agreement between X-CLEAR and the Member for the collateralisation of Clearing Services;

„Financial Institutions Act / FINIA“ is the Swiss federal law on financial institutions of 15 June 2018 (SR 954.1);

"FINMA" means the Swiss Financial Markets Supervisory Authority;

"Finality Directive" means the EU Directive 98/26 on settlement finality in payment and securities settlement systems (as amended by EU Directive 2009/44/EC, EU Directive 2010/78/EU, EU Regulation 648/2012 and EU Regulation 909/2014);

"FMI" means a Financial Market Infrastructure in accordance with the FMIA and the NBO;

"Financial Market Infrastructure Act / FMIA" is the Swiss federal law on financial market infrastructures of 19 June 2015 (SR 958.1);

"Financial Market Infrastructure Ordinance / FMIO" is the ordinance to the Swiss federal law on financial market infrastructures of 25 November 2015 (SR 958.11);

"Forward" means a derivative contract that gives the buyer and seller the right and the obligation to perform a cash settlement at the Expiration Date, if applicable in combination with delivery of the Underlying Instruments by the forward seller in return

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for payment of the Fixing Value and otherwise in accordance with the Operational Manual;

"Future" means a derivative contract that that gives the buyer and the seller the right and the duty to daily market settlement through to the Expiration Date, if applicable in combination with other forms of settlement at the Expiration Date and otherwise in accordance with the Operational Manual;

"GCM" (General Clearing Member) means a Person admitted by X-CLEAR to its Clearing Services for trades of NCMs and/or own-account trades (including those entered into by an Affiliate that is fully consolidated, but not authorised, exempt or otherwise regulated under the Applicable Laws to deal in Trading Platform Products or, if so authorised or regulated, not a Trading Platform member) in accordance with this Rulebook;

"GCM/Back-up GCM Agreement" means an agreement between a GCM and a Back-up GCM pursuant to clause 20.1.4;

"GCM-NCM Agreement" means the agreement between a GCM and an NCM pursuant to which, *inter alia*, the GCM agrees to act as a contractual counterparty to X-CLEAR in respect of Single Contracts arising from Trading Platform Transactions to which the NCM is a party;

"Governmental Authority" means any federal, national, supranational, state, provincial, local or other government, government department, ministry, secretary of state, governmental or administrative authority, governmental agency, commission, court, tribunal, judicial body or arbitral body or any other Person exercising judicial, executive, interpretative, enforcement, investigative or legislative powers or authority including, without limitation, any Person which exercises a regulatory or supervisory function under the Applicable Laws of any jurisdiction in relation to financial services, the financial markets, Exchanges, MTFs or Clearing Organisations (including especially, without limitation, FINMA and the SNB, ESMA, and any institution or Person given powers under the Applicable Laws);

"Guarantor" means X-CLEAR's role as guarantor in relation to Single Contracts resulting from certain Trading Platform Transactions as further regulated in the Operational Manual;

"Haircut" means a percentage reduction in the value of collateral corresponding to the difference between the market value of a Security (as determined by X-CLEAR at its discretion) and its deemed collateral value;

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„House Account“ or **„Own Account“** or **„Member Account“** are Clearing Accounts for the tracking and booking of Single Contracts of the Member's own transactions;

"ICM" (Individual Clearing Member) means a Person admitted by X-CLEAR to clear own-account trades only (including those entered into by an Affiliate that is fully consolidated, but not authorised, exempt or otherwise regulated under the Applicable Laws to deal in Trading Platform Products or, if so authorised or regulated, not a Trading Platform member) in accordance with this Rulebook;

"Indirect Member" means either an NCM or a Registered Client;

"Initial Margin" means the Permissible Collateral required to be provided to X-CLEAR as security for the obligations of a Member in respect of that member's outstanding Single Contracts, as further described in the Operational Manual;

"Intellectual Property" means copyrights, trademarks, design rights, patents, domain names, database rights and know-how, in each case whether registered or unregistered and including, without limitation, applications to register and rights to apply for registration, and all similar or equivalent rights which may exist anywhere in the world;

"Intended Settlement Date" means the date designated for Settlement of a Single Contract by the rules of the Approved Settlement System or, if applicable, the Trading Platform;

"Inter-CCP Collateral" is the collateral that X-CLEAR provides to the Co-CCPs for the exposure of the Co-CCPs against X-CLEAR arising from Inter-CCP Contracts not settled during a Business Day and/or at the end of a Business Day;

"Inter-CCP Contract" means the contract between X-CLEAR and a Co-CCP that arises when a Trading Platform Transaction involves a Member on the one side and the Co-CCP Clearing Member on the other, which reflects the same terms and conditions (save as to the parties and certain of its terms and conditions as agreed between X-CLEAR and the Co-CCP from time to time) of the corresponding Trading Platform Transaction and which arises pursuant to a Link Agreement;

"Intermediated Securities Act / FISA" is the Swiss federal law on Intermediated Securities of 3 October 2008 (SR 957.1);

"Investment Regulations" are the rules and procedures regulating the investment of X-CLEAR's liquid funds as published on the SIX Securities Services Private website;

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"**Link Agreement**" is an agreement between X-CLEAR and a Co-CCP concerning the link between them to provide Clearing Services for Trading Platform Transactions both by X-CLEAR and the Co-CCP;

"**Link Margin Element**" is the collateral component in accordance with the Financial Collateral Agreement arising due to outstanding Single Contracts whose other leg is cleared by a Co-CCP of X-CLEAR, to which X-CLEAR is obliged to provide collateral;

"**Listed Derivative**" means a standardised derivative product traded on a Trading Platform listed in Annex 1;

"**Margins**" means Initial Margin and Variation Margin and the Link Margin Element;

"**Matching**" means the matching of orders for the sale or purchase of a Trading Platform Product;

"**Matching Service**" means an institution which provides for the matching of Trading Platform Transactions which are concluded bilaterally between a seller and a buyer;

"**Member**" means a GCM or an ICM;

"**Member ID**" is the technical alphanumeric code which identifies a business partner of X-CLEAR, where this Member may have more than one Member ID differentiated according to transaction type and/or location;

"**Membership**" means the membership of the Member of X-CLEAR and its participation in the services of X-CLEAR according to chapter 2.0 and in compliance with the Contractual Relationship;

"**MTF**" means a multilateral trading facility as defined in the Markets in Financial Instruments Directive (Directive 2014/65/EC, "MiFID II") which is located in Switzerland or the EEA or the United Kingdom or is any equivalent facility located in a country outside of Switzerland, the EEA or the United Kingdom;

"**National Bank Ordinance / NBO**" means the ordinance on the Swiss National Bank of 18 March 2004 (SR 951.131, which contains regulations on the systemically important FMIs;

"**NCM**" (Non-Clearing Member) means a Trading Platform Member which is not a Member but participates in the Clearing Services of X-CLEAR with regard to its Trading Platform Transactions through a GCM pursuant to a GCM-NCM Agreement with this GCM;

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"**Non-defaulting Member**" is a Member, that has not been declared to be in Default pursuant to clause 19.4;

"**Novation**" means the automatic generation of Single Contracts by discharging an old obligation with the establishment of a new one;

"**Omnibus Segregation**" means the segregation of accounts of a group of several indirect Members (in particular NCMs) from those of other indirect Members or individual indirect Members;

"**Open Offer**" means the standing offer issued by X-CLEAR to enter into a Single Contract;

"**Operational Manual**" is the set of regulations in accordance with chapter 29.0, including its Annexes:

- a. Collateral Value Tables (or Lending Norms);
- b. User Guides for Settlement;
- c. Business Partner Specifications;
- d. Price List.

"**Option**" means a derivative contract that gives the option buyer a right in return for payment of an agreed option premium to buy or sell an Underlying Instrument as set out in the Operational Manual;

"**Other Loss Event**" is an extraordinary event – in particular an Event of Force Majeure (as defined above) – which resulted in a financially quantifiable loss for X-CLEAR and which was caused by one or more reasons, each of which have a direct, verifiable connection with the loss (adequate causal relationship). X-CLEAR determines whether such an event has occurred at its reasonable discretion;

"**Outstanding Contracts**" means Single Contracts and Inter-CCP Contracts (in relation to a Co-CCP) that have not yet settled;

"**Payment**" / "**Transfer**" means, in the case of a payment, a payment instruction; and in the case of a transfer, a securities transfer instruction;

"**Payment Instruction**" means an instruction in the form of an electronic message from X-CLEAR to a Cash Service Provider (in particular, a SWIFT Financial Markets Direct Debit Message, also known as an MT204 Direct Debit Message):

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- a. to debit a cash account held by a Member or any Co-CCP at the Cash Service Provider and to credit the cash account held by X-CLEAR with the corresponding amount; or
- b. to debit a cash account held by X-CLEAR at the Cash Service Provider and to credit the cash account held by the relevant Member or any Co-CCP with the corresponding amount.

"Permissible Collateral" means Securities or cash which is determined by X-CLEAR to be permissible collateral for all components of the Collateral in accordance with the Financial Collateral Agreement – as described in greater detail in the Operational Manual and the Collateral Value Tables – and which is transferred to X-CLEAR in accordance with the Financial Collateral Agreement, irrespective of whether pursuant to X-CLEAR's requirement or in excess of such requirement;

"Person" means any individual natural person or legal entity, in particular a partnership, firm, corporation, limited liability company, association, trust, unincorporated association, government, state or agency of a state or any association or partnership of two or more of the foregoing (whether or not having a separate legal personality);

"Price List" means the tariff on the basis of which the fees and other amounts to be invoiced by X-CLEAR in respect of the membership of a Member and services provided by X-CLEAR to the Member are calculated, as amended and updated from time to time;

"Principal" means, with respect to the actions of a Person, that this Person is acting in their own name and for their own account;

"Product Segment" means the product segments either being Derivatives Products, Equity Products or SLB Products for which the Member is admitted to have Clearing Services performed by X-CLEAR;

"Registered Client" means a client which has concluded a Contract for Registered Clients with X-CLEAR and the Clearing Administrator, but which themselves are not members of a Trading Platform (and thus cannot have NCM status) and who is not considered a Member in relation to X-CLEAR because he/she is provided the Clearing Services through a Member liable for him/her, the Clearing Administrator;

"Regular Drawdown" means a partial or full usage of the relevant Default Fund as a consequence of a Default with Major Impact of a Member;

"Replenishment Obligation" means the obligation of a non-defaulting Member in the event of a partial or full drawdown on the Default Fund Segment, to make a Default

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Fund Replenishment Contribution to the Default Fund Segment pursuant to the Financial Collateral Agreement and the Contractual Relationship;

"Representative" means any Person that carries out or is responsible for any of the functions of another Person, including, without limitation, any one or more of the other Person's directors, partners, officers, executives, employees, Affiliates, contractors or agents;

"Rulebook" is this document with its rules, including its Annexes;

"Securities" means Intermediated Securities, securities held in collective safe custody, securities and other securities which are traded in dematerialised or immobilised form on an Exchange or MTF and which can be held in and transferred to/from securities/custody accounts via appropriately monitored and regulated clearing/custody and settlement systems; this term also includes non-certificated rights with a comparable function (such as book-entry securities, in particular) which have an ISIN number;

"Securities Firm" is a financial institution as defined in art. 41 of the Swiss Financial Institutions Act (FINIA);

"Securities Transfer Order" means:

- a. an instruction given to X-CLEAR containing trade information relating to a Trading Platform Transaction for the purposes of transferring the title to, or interest in, the security that is the subject of a Trading Platform Transaction; or
- b. a notification given by X-CLEAR to a Back-up GCM that an individually-segregated NCM's Single Contracts will be transferred, or an omnibus-segregated NCM's Single Contracts will be transferred, such that new Single Contracts (corresponding to the transferred Single Contracts) arise between such Back-up GCM and X-CLEAR.

"Segregated Account" means a Clearing Account for the recording and booking of Single Contracts resulting from own-account trades of the Member (a **"Member or own or house account"**) or a Clearing Account for the recording and booking of Single Contracts resulting from client trades (a **"client account or matched principal account"**);

"Selling Member" means the ICM or GCM which was, in respect of a Trading Platform Transaction, the seller of a Trading Platform Product;

"Settlement" means the processes required to effect performance of outstanding Single Contracts (or of Inter-CCP Contracts, as the context requires);

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"**Settlement Agent**" means the party which - based on respective powers of attorney - is involved in executing a transaction between a buyer and seller by transferring securities to the buyer and paying cash or other compensation to the seller;

"**Single Contract**" means the contract between X-CLEAR and a Member arising by way of Novation or acceptance and reflecting the terms and conditions in respect of the type, price and quantity of the Trading Platform Product that is the subject of the Trading Platform Transaction to which the Single Contract relates, and which arises pursuant to this Rulebook;

"**SIX SIS**" means SIX SIS Ltd, a limited company incorporated in Switzerland under number CHE-106.842.854, whose registered office is at Baslerstrasse 100, 4600 Olten, Switzerland; a subsidiary of SIX Group;

"**SIX Group**" means SIX Group Ltd, a limited company incorporated in Switzerland under number CHE-109.870.410, whose registered office is at Hardturmstrasse 201, 8005 Zurich, Switzerland; SIX Group Ltd being the parent of **SIX Securities Services Ltd** (a sub-holding company) which is itself the parent of X-CLEAR and SIX SIS;

„**SLB-Produkt**“ is a Securities Lending and Borrowing product;

"**SNB**" means the Swiss National Bank;

"**SWIFT**" means the computer-based telecommunications network of the Society for Worldwide Interbank Financial Telecommunication (SWIFT);

"**System**" has the meaning given to it in clause 14.2;

"**Technical Default**" is a situation in which the Member, for reasons that are generally outside of its control, is for a short time unable to fulfil its obligations to X-CLEAR, but in which it is however able to clearly demonstrate that it is still fully solvent from a business perspective and that its ability to act over the long term remains intact. A Technical Default is not deemed to be a Default (within the meaning defined above);

"**Top-up Contribution**" means the contribution by a non-defaulting Member to cover the loss resulting from an Exceeding Drawdown;

"**Trading Platform**" means an "exchange" or a multilateral trading facility "MTF"; each as defined by the second chapter of FMIA and the EU Directive on markets in financial instruments (Directive 2014/65/EC); MiFID II) or any other trading platform approved by X-CLEAR;

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"Trading Platform Market" means a market operated by a Trading Platform under the Trading Platform Rules;

"Trading Platform Member" means a participant of a Trading Platform or another person which is admitted by a Trading Platform to trading on a Trading Platform Market;

"Trading Platform Product" means any product traded on a Trading Platform Market and admitted by X-CLEAR for Clearing Services;

"Trading Platform Rules" means all the rules of a particular Trading Platform from time to time in force and any user guides, arrangements, notices, directions, procedures and other provisions as may be prescribed or published from time to time by the operator of a Trading Platform;

"Trading Platform Transaction" means a trade in a Trading Platform Product made in accordance with and subject to the relevant Trading Platform Rules whether or not as a result of Matching, and whether or not binding between the Trading Platform Members;

"Transaction Router" means the equipment which directs messages from the computer system of a provider of Transaction Routing to the networks (and associated systems and equipment) operated or used by a Central Counterparty, and which receives messages sent to the computer system of a provider of Transaction Routing or from the networks (and associated systems and equipment) operated or used by a Central Counterparty;

"Variation Margin" means the Permissible Collateral required to be provided by each Member to X-CLEAR as security for the obligations of such Member in respect of its outstanding Single Contracts, which covers fluctuations in the market prices of Trading Platform Products to which outstanding Single Contracts relate, and which is based on the mark-to-market values of the Member's net position in all outstanding Single Contracts for each Trading Platform Product as further described in the Operational Manual;

"X-CLEAR" means SIX x-clear Ltd, a limited company under Swiss law, incorporated in Switzerland under number CHE-109.036.648, whose registered office is at Hardturmstrasse 201, CH-8005 Zurich, Switzerland; a subsidiary of SIX Group;

1.3 Chapter and clause headings

Chapter and clause headings in all constituent parts of the Contractual Relationship are for ease of reference only and shall not affect their interpretation. Unless stated

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otherwise, references in this Rulebook to a clause or chapter are to a clause or chapter of the Rulebook.

1.4 References

Any reference to a statute, statutory provision, rule or other Applicable Law shall include any notice, order, guidance, example, regulation or subordinate legislation made or provided from time to time under that statute, statutory provision, rule or other Applicable Law which is in force from time to time. Any reference to a statute, statutory provision, rule or other Applicable Law shall include such statute, provision, rule or Applicable Law as amended, re-enacted or consolidated from time to time and shall include also any past statute, statutory provision or Applicable Law (as from time to time amended, re-enacted or consolidated) which was applicable at the time of any relevant act or omission.

1.5 Further interpretation rules

Each provision of this Rulebook or any other element of the Contractual Relationship shall, unless the context otherwise requires, be construed as an independent provision and shall be in addition and without prejudice to any other provision of this Rulebook and any other element of the Contractual Relationship unless otherwise stated. The invalidity, illegality or unenforceability of any provision or part of this Rulebook or any other element of the Contractual Relationship does not affect or impair the continuation in force of the remaining provisions or other parts of the Rulebook or any other element of the Contractual Relationship or the entire Contractual Relationship in any other jurisdiction. The parties shall use all reasonable endeavours to replace any invalid, illegal or unenforceable provision with a valid, legal or enforceable provision, as the case may be, the economic result of which is as close as possible to that envisaged by the invalid or unenforceable provision.

Any matter or right stated to be in, of or at X-CLEAR's discretion or any entitlement conferred on X-CLEAR by any provision of any part of the Contractual Relationship shall be subject to, and exercisable at, X-CLEAR's reasonable but sole, unfettered and absolute discretion.

2.0 Membership

2.1 Categories of Memberships

X-CLEAR offers two categories of Memberships:

a. Individual Clearing Member (ICM)

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An Individual Clearing Member obtains Clearing Services for its own account or for Trading Platform Transactions executed for the account of its end customers.

b. **General Clearing Member (GCM)**

A General Clearing Member obtains Clearing Services for its own account and/or for the account of its end customers or, in relation to Trading Platform Transactions of other participants of a Trading Platform cleared by X-CLEAR.

The latter are so-called **Non-Clearing Members** (NCMs), who are responsible for their own Trading Platform Transactions from the perspective of X-CLEAR. NCMs have no legal relationship to X-CLEAR, but only to their GCM. Therefore X-CLEAR does not maintain direct accounts for NCMs. However, the relevant GCM may choose its account structure with X-CLEAR to meet the requirements of its NCMs (in particular through specific segregations).

2.2 Eligible institutions

A Person who falls within one of the following categories of financial institutions may apply to X-CLEAR to become a Member:

- a. a Swiss **bank** as defined in the Swiss Federal Banking Act;
- b. a Swiss **securities firm** as defined in the Swiss Financial Institutions Act;
- c. a company approved by a regulatory authority in the EU, the United Kingdom, Norway, Liechtenstein and Island with a license as a bank or securities firm;
- d. a bank or securities firm not falling under literae a. to c. which, in the view of X-CLEAR, is subject to an adequate level of regulation and supervision that is equivalent to that of a bank or securities firm in Switzerland.

2.3 Conditions for Membership

An applicant for admission as a Member shall be required to comply with the following conditions of Membership, i.e. the applicant:

- a. shall have made the application in writing using the relevant form, which shall be accompanied by confirmation by the applicable Trading Platform of the applicant's, or, in the case of an application for GCM status where the applicant is not a relevant Trading Platform member, its NCM's, membership as a Trading Platform member;
- b. shall specify which Product Segment the Member desires to clear, and if the Membership is for Derivative Products only, it shall provide confirmation of its

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- arrangement to perform in-kind Settlement of Single Contracts in Derivative Products;
- c. shall have confirmation of its or its Settlement Agent's admission as a participant in the relevant Approved Settlement Systems;
 - d. shall have concluded the Contract for Clearing Services (German Law) and the Financial Collateral Agreement;
 - e. shall be a person who is admitted as a Trading Platform Member on a Trading Platform connected to X-CLEAR or wishes to act as GCM in accordance with a GCM/NCM Agreement with an NCM;
 - f. shall have demonstrated to X-CLEAR's satisfaction that it is able to transfer sufficient Margins and make all required Default Fund Contributions that would be required pursuant to Contractual Relationship upon its Membership becoming approved;
 - g. shall have nominated a Person, satisfactory to X-CLEAR, who is:
 - (i) a director, general partner, trustee or officer of the applicant (or Person occupying a similar status or performing similar functions);
 - (ii) responsible for the clearing transactions of the applicant;
 - (iii) authorised to act on behalf of the applicant in all transactions with or involving X-CLEAR, in particular making and accepting legally binding declarations on behalf of the applicant; and
 - (iv) shall also have nominated a second Person who meets the requirements of (i) to (iii) above and is authorised to act on behalf of the applicant in the event of the death, incapacity or other inability of the first Person so to act;
 - h. must be subject to either Swiss legislation on money laundering or equivalent non-Swiss legislation regarding money laundering deemed by X-CLEAR to be acceptable;
 - i. shall demonstrate to X-CLEAR's satisfaction that it is capable of complying with the technical and operational requirements as prescribed and set out in the Contractual Relationship) and it has such facilities, equipment, operational capability, personnel, hardware and software systems as are capable of supporting its business as a Member, including, without limitation, such IT links to X-CLEAR and software as in the judgment of X-CLEAR are necessary or desirable for a Member to participate in the clearing of Single Contracts;

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- j. shall not be subject to an Insolvency;
- k. shall not be subject to any circumstances which could occur under clause 19.2 or 19.3 were the applicant to be a Member;
- l. shall have an address to which all notices, orders and other communications from X-CLEAR may be transmitted or delivered, staffed during normal business hours necessary for its proposed activities under the direct supervision and responsibility of the Person referred to in let. g. above;
- m. shall have executed all necessary documentation relating to the transfer of such Securities and shall not be in Dispute with X-CLEAR or any third party in relation to the ownership over or rights relating to any Securities which are to be provided as Permissible Collateral.
- n. shall not be a company that is controlled by an individual on the basis of a majority of capital or voting rights.

X-CLEAR may at its discretion attach further conditions to any application for Member status prior to such status being granted.

2.4 Evidencing documentation, representation and warranty

Applicants for Membership must provide, except insofar as X-CLEAR at its discretion waives such obligation, information or documentation to X-CLEAR evidencing compliance to X-CLEAR's satisfaction with each of the criteria set out or required pursuant to clauses 2.1 to 2.4. All information supplied to X-CLEAR in respect of an application for Membership shall be deemed to have been provided by the Member to X-CLEAR on the day of admission as a Member, save to the extent that such information has been amended or revoked at least two Business Days prior to such admission.

The Member hereby represents and warrants that it meets all of the Membership criteria in clauses 2.1, 2.3 and 2.4 and that it is in compliance with all of its obligations under the Contractual Relationship.

2.5 Extension of Membership

A Member may at any time apply to extend its Membership to include additional Product Segment(s). Any such applications are decided upon by X-CLEAR based on the Contractual Relationship.

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For clarification, the admission of the Member does not provide or entitle such Member to any shareholding or other similar interest in X-CLEAR or any of its Affiliates or Controllers.

3.0 Suspension

3.1 Reasons for suspension

Notwithstanding its contractual duty to provide Clearing Services, X-CLEAR shall be entitled at its own discretion to suspend its Clearing Services for a Member in accordance with the following regulations by not accepting Trading Platform Transactions for such period of time as X-CLEAR deems necessary for it to take appropriate consideration of the following circumstances. X-CLEAR may suspend its Clearing Services if it has demonstrable reason to believe that:

- a. the Member was granted Membership on the basis of inaccurate information;
- b. the Member no longer satisfies the Membership criteria or any particular Membership criterion as prescribed pursuant to clauses 2.2 and 2.4;
- c. the Member is obliged to make a notification as described in clause 7.4 and has failed to do so; or
- d. the Member has not provided and transferred Permissible Collateral in accordance with the Financial Collateral Agreement and the Rulebook.

3.2 Immediate consequences of suspension

Immediately upon suspension and for the duration of the suspension, the Member shall refrain from entering into further Trading Platform Transactions that would be subject to Clearing Services by X-CLEAR (were it not for the imposed suspension). X-CLEAR shall not enter into any Single Contracts with such Member for the duration of the suspension and, accordingly, any Trading Platform Transactions entered into by a suspended Member shall not result in corresponding Single Contracts (or Inter-CCP Contracts) between X-CLEAR and the Member (or the Co-CCP).

X-CLEAR informs the Trading Platform(s) concerned about the suspension of a Member.

Trading Platform Transactions concluded prior to the suspension shall not be affected by any suspension and shall continue to be subject to Clearing Services and Settlement by X-CLEAR, subject to the application (where relevant) of the provisions of the Rulebook relating to Default.

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3.3 Continuing consequences of suspension

A Member that has been suspended shall, for the duration of the suspension and thereafter, remain and continue to be:

- a. bound by the Contractual Relationship;
- b. obliged to pay any and all fees and other charges imposed by X-CLEAR; and
- c. liable to X-CLEAR for all obligations arising under Single Contracts and all obligations incurred before, during or after such suspension including, but not limited to, obligations to deposit and maintain Margin and Default Fund Contributions.

3.4 Notification of suspension

X-CLEAR shall notify the Member subject to a suspension. Such notification shall be given in advance of, or otherwise immediately after, the suspension whenever possible and appropriate. X-CLEAR shall also inform the relevant Trading Platform(s) of the suspension of any Member.

4.0 Termination of Membership

4.1 Entitlement to terminate

Subject to clause 4.2 below, X-CLEAR shall be entitled to terminate the Membership of the Member and a Member shall be entitled to terminate its Membership as a Member of the X-CLEAR Clearing System subject to a period of notice of no less than thirty calendar days served in writing by way of registered mail on the other party. The notice period shall start on the last day of the calendar month in which it is served (i.e. following the regular monthly revaluation of the Default Fund).

Special cases: In cases of (as cumulative conditions):

- a. a Default with Major Impact which obliges the Member to transfer a Default Fund Replenishment Contribution and/or a Top-up Contribution; and
- b. the written termination notice is served to the Member within the period between the occurrence of a Default with Major Impact and the revaluation of the relevant Default Fund Segment,

the termination period shall start on the day of such extraordinary revaluation

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4.2 Reasons for termination by X-CLEAR

X-CLEAR shall be entitled to terminate the Membership of a Member with immediate effect if X-CLEAR has reason to believe that in particular:

- a. the Member was granted Membership on the basis of inaccurate relevant information;
- b. the Member no longer satisfies the Membership criteria or any particular Membership criterion as prescribed pursuant to clauses 2.1 and 2.3;
- c. there is a Member Default pursuant to chapter 19.0; or
- d. the Clearing Services Agreement between the Trading Platform and X-CLEAR has been terminated.

The right of extraordinary termination for good cause remains unaffected.

X-CLEAR informs the Trading Platform(s) concerned about the termination of a Membership.

4.3 Reasons for termination by Member

If the Member does not agree with an amendment to the Rulebook in accordance with the Contract for Clearing Services, the Member may terminate its Membership immediately subject to a period of notice of no less than thirty calendar days served in writing by way of registered mail on X-CLEAR. The notice period shall start on the last day of the calendar month in which it is served to X-CLEAR (i.e. following the regular monthly revaluation of the Default Fund).

In particular, in the event of a Default by X-CLEAR on the basis of clause 21.1, the Member is entitled to terminate its Membership with immediate effect.

The right of extraordinary termination for good cause remains unaffected.

4.4 Continuing consequences of termination

Upon any termination of a Member's Membership pursuant to this chapter 4.0, all Margins due from time to time with respect to all relevant outstanding Single Contracts and the Default Fund Contributions of the relevant Member shall remain the property of X-CLEAR until Settlement of all outstanding Single Contracts. The Member shall further be obliged to:

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- a. transfer or liquidate all of its outstanding Single Contracts within the scope of contractual agreements;
- b. provide Margins and Default Fund Contributions until X-CLEAR has completed the Close-Our Process, i.e. has settled the Close-out Settlement Amount;
- c. fulfill all other obligations to X-CLEAR which were entered into or assumed before the termination of the status as Member; in particular pay all fees, fines, assessments or other charges payable by that Person to X-CLEAR as a result of Single Contracts cleared and any other obligations entered into or incurred prior to the termination of its status as a Member;
- d. take such other actions as X-CLEAR at its discretion deems appropriate or necessary to accommodate the termination process.
- e. X-CLEAR in relation to all Single Contracts and obligations entered into or incurred prior to the termination of its status as a Member;
- f. be subject to any complaints proceedings, investigations or disciplinary proceedings which relate in whole or in part to any acts or omissions of that Person whilst it was a Member, and either complete these processes itself or assist X-CLEAR at its reasonable discretion in completing them.

4.5 Consequences regarding Single Contracts

Single Contracts concluded prior to the termination of Membership or prior to the termination of the Registered Client Contract will continue to be subject to Clearing Services, except when there has been a Default of a Member, in which case the rules set out in clause 19.0 shall apply. After termination of Membership of a Member or of a of the Registered Client Contract, X-CLEAR will not accept any new Single Contracts for Clearing Services to which such Member/Registered Client purports to be a party or for which the Member/Registered Client for which it is a Clearing Administrator purports to be a party.

Furthermore, where a notice of termination has been given pursuant to clause 4.1, further Single Contracts shall only be accepted for Clearing Services on or prior to the tenth Business Day before the last day of Membership.

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5.0 Regulations with regard to the NCM

5.1 Relationship of X-CLEAR with the NCM

A Trading Platform member shall not be obliged to become a Member of X-CLEAR. It may, however, enter into a GCM/NCM Agreement with a GCM and be given the status of an NCM (Non-Clearing Member).

An NCM participates in the Clearing of the Trading Platform Transactions it has concluded within the framework of the regulations and conditions of the GCM/NCM Agreement (pursuant to clause 5.2) via the GCM it has specified. Within the ongoing Clearing process, the NCM thus has no direct contractual relationship with X-CLEAR and X-CLEAR shall accept no direct responsibility vis-à-vis the NCM for losses or claims of any kind. The GCM acts towards X-CLEAR as principal, in particular with regard to the provision of Collateral.

This shall be clearly defined in the GCM/NCM Agreement and shall be accepted by the NCM – unless the NCM, as an option with respect to the possible Default of the GCM, applies for its own (subsidiary) Membership (pursuant to clause 20.1.3 lit. b).

5.2 Relationship of the GCM to the NCM

Within the ongoing clearing process, the GCM acts towards X-CLEAR as principal and not as an agent on behalf and for the account of the NCM.

In relation to the selection of account segregation pursuant to clause 13.0 and the selection and issuance of orders pursuant to clauses 20.1.3 and 20.1.4 (with respect to the possible Default of the GCM), the GCM acts towards X-CLEAR as an agent on behalf and for the account of the NCM on the basis of the authorisation granted to it by the NCM in the GCM/NCM Agreement.

The GCM shall conclude a **GCM/NCM Agreement** with each NCM linked to it. The GCM shall ensure that each GCM/NCM Agreement into which it enters with an NCM correctly contains all of the elements listed in Annex 2 to this Rulebook and shall give them due consideration. In particular, the GCM/NCM Agreement shall govern the authorisation of the GCM as the agent of the NCM with regard to

- a. the selection of account segregation (pursuant to chapter 13.0); and
- b. the selection of the option to be carried out in the event of the possible Default of the GCM (pursuant to clause 20.1.3). For this purpose the GCM shall submit to X-CLEAR the form that has been co-signed by the NCM (pursuant to the schedule to the GCM/NCM Agreement in Annex 2).

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In the case of individual client account segregation (pursuant to chapter 13.0), the GCM shall request from the NCM at least the same level of Margins (equivalent values) as the GCM based on the Contractual Relationship is required to provide to the X-CLEAR Collateral Accounts for the net obligations of the NCM ("pass-through principle").

5.3 Contractual obligations of the GCM vis-à-vis X-CLEAR

The GCM shall submit to X-CLEAR a copy of the authorisation(s) pursuant to clause 5.2 and Annex 2 and inform X-CLEAR immediately of any revocation thereof. X-CLEAR has the right to at any time request information on the current status of the Member's GCM/NCM Agreement currently in force.

In the case of individual client account segregation,

- a. the GCM shall inform X-CLEAR of the names, addresses and contact details of the NCMs linked to it. X-CLEAR shall be notified of any new NCMs, changes or departing NCMs in advance, and in any event 10 Business Days at the latest before these become effective, using the "Clearing and Settlement Standing Instructions (CSSI)" form. The GCM shall also notify X-CLEAR of any changes to a GCM/NCM Agreement which are essential for Clearing Services by X-CLEAR.
- b. the GCM shall issue to X-CLEAR the order that the Margin requirement needed for each NCM be calculated separately and agrees that this will be charged to it.

6.0 Conditions for Clearing Services

6.1 Trading Platform Products and Trading Platforms

X-CLEAR shall provide Clearing Services in accordance with the Contractual Relationship only in respect of those Trading Platform Products that are designated as eligible for clearing pursuant to clause 8.1 and only in respect of those Single Contracts resulting from Trading Platform Transactions to which it becomes a party.

X-CLEAR may, from time to time, at its reasonable discretion suspend Clearing Services in relation to one or more Trading Platforms for all Members for such period of time as it may determine or terminate these services with the relevant Trading Platform in accordance with the Clearing Services Agreement.

6.2 Conditions for Trading Platform Transactions

X-CLEAR shall act as the Central Counterparty for the Member for Trading Platform Transactions subject to the following conditions:

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- a. the Membership of the relevant Member has not been suspended or terminated by X-CLEAR;
- b. where the Member is a Trading Platform member, the Member's status as a Trading Platform member has not been suspended or terminated by the Trading Platform;
- c. in the case of a GCM who has entered into a GCM-NCM Agreement with an NCM:
 - the status as a Trading Platform member of the NCM who is a party to the Trading Platform Transaction subject to Clearing Services has not been suspended or terminated by the Trading Platform; or
 - the GCM has not notified X-CLEAR that it has ceased to provide services to the NCM or that it has terminated the GCM-NCM Agreement;
- d. the listing of the Trading Platform Product in respect of which Clearing Services are provided has not been suspended or cancelled by the Listing Authority / other body responsible for this (where applicable);
- e. the Trading Platform Transaction under the Single Contract based on the Trading Platform Rules pursuant to Matching has not been cancelled or rendered void for any reason;
- f. the Single Contract has been formed pursuant to the Rulebook and has not been rendered void by X-CLEAR in accordance with the provisions of the Contractual Relationship and the corresponding Inter-CCP Contract (if applicable) has been formed pursuant to the relevant Link Agreement (if any) and has not been rendered void by X-CLEAR or the Co-CCP;
- g. the data submitted to X-CLEAR by the provider of Transaction Routing is in a format suitable for the provision of Clearing Services by X-CLEAR and is accurate; and
- h. there is in place at the moment of formation of the Single Contract and its Settlement an agreement between X-CLEAR and the Trading Platform relating to X-CLEAR's provision of Clearing Services (Clearing Service Agreement), an agreement between X-CLEAR and the Approved Settlement System, an agreement between X-CLEAR and the provider of Transaction Routing and, if applicable, a Link Agreement with the Co-CCP.

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7.0 Obligations of the Member

7.1 Positive representations and warranties

In connection with this Contractual Relationship, any and all Single Contracts, the Member's Membership of X-CLEAR and its business and activities as a Member, the Member represents and warrants that it shall at all times:

- a. comply with the Contractual Relationship and any other agreement it has with X-CLEAR;
- b. comply with all Applicable Laws;
- c. comply with the Trading Platform Rules if it is a Trading Platform member;
- d. act in good faith in its dealings with X-CLEAR;
- e. pay all fees and other charges promptly in accordance with the Contractual Relationship;
- f. be familiar with and bear responsibility for the tax requirements and consequences of clearing with X-CLEAR pursuant to the Applicable Law;
- g. provide Margins and Link Margin Element to X-CLEAR pursuant to the Contractual Relationship, in particular the Financial Collateral Agreement and this Rulebook;
- h. make all such Default Fund Contribution, Default Fund Replenishment Contribution and Top-up Contribution and Non-Default Loss Allocation as are required pursuant to the Contractual Relationship, in particular the Financial Collateral Agreement and this Rulebook;
- i. make all payments/deliveries as and when they fall due pursuant to the terms of all Single Contracts to which it is or becomes party;
- j. respond promptly to all enquiries or requests for information made by X-CLEAR;
- k. adequately support X-CLEAR in the event of X-CLEAR being confronted with judicial or administrative proceedings, whether in Switzerland or abroad, in which X-CLEAR is named instead of the Member or the beneficial owner or in addition to these and where such proceedings are not obviously in contradiction to the Applicable Laws and applicable regulatory standards, and reimburse X-CLEAR for all costs incurred in connection with such proceedings (e.g. legal fees, costs in relation to expert consultations, other third-party costs, internal costs);

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- l. promptly file with X-CLEAR such information regarding its financial statements (including copies thereof), financial standing, Controllers, Affiliates, ownership and/or management as X-CLEAR may from time to time require in accordance with the Contractual Relationship or otherwise;
- m. maintain an account or accounts (if required) at an Account Operator for the deposit of funds required to be transmitted to and from such Member pursuant to this Rulebook and the Contractual Relationship (in particular, by way of Margin and/or Default Fund Contributions) and have arrangements with a Bank satisfactory to X-CLEAR for the transfer by wire or other means of funds into and out of such account or accounts on the order of X-CLEAR, which X-CLEAR may at its reasonable discretion require to properly fulfil the obligations arising out of this Contractual Relationship; in each case, this is done without the need for X-CLEAR or the Bank or any other Person to seek the consent of such Member or any NCM;
- n. immediately notify X-CLEAR if any information previously provided to X-CLEAR by or on behalf of it is or becomes, for any reason, materially false, inaccurate or misleading;
- o. make staff of suitable seniority available to attend such meetings as are called by X-CLEAR at reasonable notice for the purpose of assessing the Member's compliance with the Contractual Relationship, the risks to which X-CLEAR or the Member is exposed or any other issues of X-CLEAR relating to the proper fulfilment of the obligations arising out of the Contractual Relationship; and
- p. have adequate systems and controls in place in order to ensure that all clearing business conducted by it, including, without limitation, in relation to individual Single Contracts, complies with the Member's obligations under the Contractual Relationship and Applicable Laws.

7.2 Negative representations and warranties

In connection with the Contractual Relationship, any and all Single Contracts, its Membership of X-CLEAR and its business and activities as a Member, the Member represents and warrants that it shall not at any time:

- a. provide any information to X-CLEAR (including, without limitation, information for the purpose of obtaining or reinstating Membership) which is false, misleading or inaccurate in any material respect;
- b. enter into or fail to perform any Single Contract either being unable to fulfil its obligations in respect of one or more Single Contracts or in respect of any other obligation owed to X-CLEAR;

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- c. engage in any other activity or practice or participate in, facilitate, procure, counsel, incite, encourage, aid or abet any conduct by a third party which could reasonably be considered by X-CLEAR to seriously impair the orderly provision of central counterparty Clearing Services by X-CLEAR;
- d. take any action or make any omission or knowingly or recklessly permit the use of its services, facilities or Membership or clearing privileges by any Person in a manner which under normal circumstances is liable to:
 - (i) create, maintain or exacerbate actual or attempted breaches, infringements or violations of the Contractual Relationship (or arrangements, provisions or directions made or given thereunder); or
 - (ii) otherwise be substantially detrimental to the interests or objectives of X-CLEAR as a clearing house;
- e. engage in conduct that, in the opinion of X-CLEAR, would render the Member unable to satisfy the Membership criteria pursuant to chapter 2.0;
- f. knowingly or negligently allow any Person to engage in any conduct on behalf and for the account of the Member (as an agent) that might itself breach the Contractual Relationship or render the Member unable to satisfy the Membership criteria pursuant to chapter 2.0;
- g. breach any terms of the Single Contract; or
- h. engage in any other conduct in breach of the Contractual Relationship.

7.3 Maintenance of records by Member

- a. General rule
The Member undertakes to keep detailed, accurate records showing the details of each Single Contract to which it is a party and any other information in such form as shall be required by X-CLEAR from time to time in accordance with Applicable Laws.
- b. Copies
The Member who provides or presents any documentation or other materials to X-CLEAR is required to make a copy (whether electronic or physical) prior to each occasion of doing so and must maintain each such copy for such time as the Member considers necessary for the purposes of statutory limitation periods, statutory record keeping obligations under any Applicable Laws or otherwise.

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- c. Return of documents
X-CLEAR shall not be obliged to return or provide a copy of any document or other materials presented or provided by the Member or other Person to X-CLEAR, except where an express right to such copy or return is set out in this Rulebook.

7.4 Reporting requirements of Member

In relation to the Contractual Relationship, the Member shall promptly notify X-CLEAR in writing providing full particulars known to it:

- a. where the Member intends or implements a change in its regulatory status. Notice must be given no later than on the issue of any provisional or interim notice or on the issue of the relevant ruling, decree or notice by a Governmental Authority;
- b. in relation to any change of Control, prior to such change of Control or as soon as it becomes aware of that change or proposed change, whichever is the earlier;
- c. where the Member becomes aware of any facts and/or changes that may give rise to:
 - a situation in which the financial or operational condition of the Member would not, under normal circumstances, be adequate for the Member to meet its obligations (including, without limitation, its obligations under the Contractual Relationship) or to engage in the business of a being a Member;
 - an investigation, enforcement action, fine, disciplinary action or other intervention in relation to activities as a Member by the Trading Platform, an Approved Settlement System, any other Clearing Organisation, Exchange or MTF in relation to which the Member is a member or participant;
 - commencement of proceedings or investigations against the Member by any Governmental Authority, the threat of withdrawal or actual withdrawal of the Member's license or authorisation in any jurisdiction or a threat to the Member's creditworthiness, stability or operational reliability; or
 - any other situation where it would not be in the best interests of X-CLEAR or the marketplace for such Member to continue to be a Member;
- d. in the event that it fails to meet any obligation to deposit or pay any Margins or Default Fund Contributions or any other outstanding liabilities towards X-CLEAR or any other Clearing Organisation of which it is a member;
- e. of any financial or commercial difficulty which is likely to lead to an Event of Default;

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- f. in relation to any other circumstances that represent or could probably lead to an Event of Default within the meaning of clauses 19.1, 19.2 or 19.3;
- g. where it is or will be no longer possible for the Member to comply with the technical and operational requirements prescribed by X-CLEAR in the Operational Manual;
- h. in the event that it fails to comply with any applicable financial requirements of any Governmental Authority, Exchange, MTF, Approved Settlement System or Clearing Organisation;
- i. in the event of an Insolvency affecting it or any of its Affiliates;
- j. in the event of any action taken against it (including, without limitation, any notice, fine, censure, warning, default proceeding, disciplinary proceeding, investigation, suspension or expulsion or any withdrawal of, revocation of or failure to renew any permission, license or authorisation) by any Governmental Authority, Exchange, MTF, Approved Settlement System or Clearing Organisation;
- k. in the event of any circumstance, change or occurrence which would cause a statement provided pursuant to this clause 7.4 or any information supplied in connection with the Member's application for Membership to be inaccurate or incomplete;
- l. in the event of any breaches of its obligations under the Contractual Relationship or of breaches by it of the Applicable Laws including full particulars of the breach; and
- m. in the event of anything relating to the Member of which X-CLEAR would reasonably expect notice.

8.0 Single Contracts

8.1 Eligibility of Trading Platform Products

X-CLEAR provides Clearing Services for Trading Platform Products which are

- a. traded on the relevant Trading Platform Market; and
- b. in consultation with the Co-CCPs providing Clearing Services for such Trading Platform Products, deemed eligible for Clearing Services by X-CLEAR; and
- c. able to be settled in an Approved Settlement System.

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8.2 General regarding formation of Single Contracts

Clearing by X-CLEAR is based on the conclusion of Single Contracts with Members which are participating in the relevant Trading Platform Transaction, or with the participating Co-CCP – in particular:

- a. a Single Contract between X-CLEAR and the Selling Member, under which X-CLEAR assumes the role of the buyer of the Trading Platform Product which is the subject of the Trading Platform Transaction; and
- b. a Single Contract between X-CLEAR and the Selling Member, under which X-CLEAR assumes the role of the seller of the Trading Platform Product which is the subject of the Trading Platform Transaction.
- c. If one of the parties to the Trading Platform Transaction is not a Member of X-CLEAR, but this party is a member of a Co-CCP, the Single Contract is concluded with this Co-CCP (based on the provisions of the Link Agreement with this Co-CCP).

8.3 Open Offer or Novation by X-CLEAR

Subject to chapters 6.0 and 10.0, and in an instance where both trading parties that are party to a Trading Platform Transaction are either GCMs, ICMs or NCMs, Single Contracts are formed for a Trading Platform Transaction agreed on a Trading Platform between X-CLEAR and the relevant Member via one of the two methods set out below:

- a. X-CLEAR makes an “**Open Offer**” to each Member participating in the trade to conclude a Single Contract. This offer is accepted immediately by the Members for each Trading Party Transaction; or
- b. X-CLEAR becomes involved as a new party in each Trading Platform Transaction, whereby the agreed trade contract between the original parties is rescinded and X-CLEAR concludes new Single Contracts with the Members concerned, which are identical to the respective Trading Platform Transaction (“**Novation**”).

8.4 Trading days

The trading days relevant for the Trading Platform Market are determined by the Trading Platform.

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9.0 Terms of Single Contracts

9.1 Applicable Law and primacy of Contractual Relationship

All Single Contracts are subject to German law and are to be interpreted in agreement with it.

Each Single Contract is subject to the Contractual Relationship, which forms an integral part of the terms of the Single Contracts and is integrated into it by means of a reference. In the event of any contradiction between the terms of the Single Contract and the Contractual Relationship, the latter shall take precedence.

9.2 Validity of the terms of the Single Contract

The terms of the Single Contract constitute the sole agreements between X-CLEAR, the Member and the Registered Client with respect to the Single Contract. They replace all previous arrangements, conventions and agreements between them with regard to the contractual content of the Single Contract. The Member represents and warrants to X-CLEAR that in concluding each Single Contract, it shall not rely on any statement, representation, assurance or warranty made by X-CLEAR or another Person unless this is expressly set out in the terms of the Single Contract and/or Contractual Relationship.

The Member and the Registered Client each individually, 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.

9.3 Intervention by Governmental Authorities

Where X-CLEAR is required or requested by a Governmental Authority to vary or suspend performance of a Single Contract or an Inter-CCP Contract (if applicable) at any time, it shall notify the Member and take such action as is required of it as soon as reasonably practicable. The Member acknowledges and agrees that any affected Single Contract shall be suspended or varied accordingly.

9.4 Acting as principal

Each Member that is party to a Single Contract shall act in its own name and for its own account, i.e. as the principal and not as an agent.

In performing its obligations and exercising its rights under the Contractual Relationship, X-CLEAR shall treat the entitlement to rights of the Member pursuant to

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Single Contracts to be a full legal and beneficial entitlement, and not subject to any Encumbrance in favour of any Person other than X-CLEAR.

9.5 Third parties

The liabilities and obligations of X-CLEAR pursuant to Single Contracts extend only to and are enforceable only by the Member. A Person who is not a party to a Single Contract shall have no rights under or in respect of such Single Contract. Rights of third parties to enforce any term of any Single Contract are expressly excluded.

9.6 Liabilities and obligations of X-CLEAR

X-CLEAR shall have no liability or obligation in relation to any Trading Platform Transaction unless and until a Single Contract arises in accordance with this Rulebook and such Single Contract is not rendered void or suspended, at which point X-CLEAR's liabilities and obligations in respect of the Trading Platform Transaction shall be as determined under the Single Contract. X-CLEAR's obligations and liabilities under any Single Contract shall be limited to those arising pursuant to the Contractual Relationship, and are subject to X-CLEAR's right to avoid a voidable Single Contract.

9.7 Risks, rights and obligations of the Member

Under each Single Contract to which a Buying Member or a Co-CCP (if applicable and as buyer) is a party to the benefits, risks, rights and obligations associated with the Trading Platform Product that is the subject of the Single Contract shall pass to the Buying Member (or the Co-CCP in the capacity of buyer) at the moment that the Single Contract is formed in accordance with this Rulebook.

Where, in respect of a Trading Platform Product, there is an entitlement to receive interest, dividends and any other distributions, such rights shall also form part 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 Member (or the Co-CCP, if applicable and as buyer) accrues to the Selling Member (or the Co-CCP, if applicable and as seller) as a result of late delivery of the Trading Platform Product, it shall be a term of the Single Contract that the Selling 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 Member (or the Co-CCP, if applicable and as buyer).

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9.8 Representations and warranties of Member

In relation to each Single Contract, the Member makes the following representations and warranties as at the formation of each Single Contract and also on a continuing basis throughout the duration of such Single Contract, that:

- a. the data submitted by it to the Trading Platform is complete and correct in all respects, noting that no representation or warranty is made as to the operational aspects related to Transaction Routing;
- b. the Trading Platform Rules and all Applicable Laws have been complied with in respect of the corresponding Trading Platform Transaction;
- c. it is acting as principal and not as agent;
- d. except as permitted by the Trading Platform Rules, the Single Contract and the corresponding Trading Platform Transaction are free of all Encumbrances;
- e. neither the execution nor performance of the Single Contract by or on behalf of the Member or X-CLEAR will breach any provision of the constitutional or other organisational document of the Member, or with any agreement or Applicable Law which is binding upon or affects the Member (and in this respect, the Member further acknowledges that X-CLEAR will neither review nor be responsible for reviewing any provision of the Member's constitutional or other organisational document, any agreement into which the Member has entered or which affects it or any Applicable Law which is binding upon or affects the Member with a view to determining the authority or ability of the Member to enter into or perform any Single Contract);
- f. the Member has full power and all necessary authority to enter into the Single Contract and perform any act that may be required pursuant to the Single Contract and pursuant to the Contractual Relationship in respect of the Single Contract; and
- g. a GCM-NCM agreement is in place (if the Member is a GCM) with an NCM in respect of whom it acts as a Member in relation to any Single Contract. This GCM/NCM Agreement is satisfying the requirements of Annex 2; in particular the NCM agrees that it has no direct contractual relationship to X-CLEAR.

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10.0 Avoidance of Single Contracts and suspension of Clearing Services

10.1 Automatic avoidance of Single Contracts

A Single Contract shall be void automatically (if it should be at all formed in view of the circumstances listed below) if:

- a. the corresponding Trading Platform Transaction is cancelled, rejected or avoided in accordance with the Trading Platform Rules; or
- b. the Trading Platform Product which is the subject of the corresponding Trading Platform Transaction is not a Trading Platform Product eligible for Clearing Services (pursuant to clause 8.1).

10.2 Avoidance of Single Contracts and suspension by X-CLEAR

If, at its discretion, X-CLEAR has reason to believe and deems it necessary in order to ensure the proper and timely fulfilment of the obligations set out in this Rulebook, and subject to notification being given to the Member concerned, it may:

1. on the Business Day the Trading Platform Transaction is effected or on the Business Day following this Business Day elect to avoid any Single Contract and thus rendering the Single Contract void with immediate effect; and
2. withdraw or suspend its Open Offer pursuant to clause 8.3 in relation to a specific Trading Platform Product or a Member (or a Registered Client, if applicable), if:

one or more of the following situations apply:

- a. the Membership of the Member has been suspended or terminated by X-CLEAR;
- b. in the case of a Member who is a Trading Platform member, the Member's status as a Trading Platform member has been suspended or terminated by the Trading Platform;
- c. in the case of a GCM who is not a Trading Platform member, the status as a Trading Platform member of a relevant NCM with whom the GCM has concluded a GCM-NCM Agreement has been suspended or terminated by the Trading Platform;
- d. the listing of the Trading Platform Product in respect of which Clearing Services are provided has been suspended or otherwise terminated by a Listing Authority;

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- e. the data submitted to X-CLEAR in relation to the corresponding Trading Platform Transaction by the provider of Transaction Routing is not in a format suitable for the provision of Clearing Services by X-CLEAR or is not accurate;
- f. the agreement or agreements X-CLEAR has entered into with the Trading Platform, 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;
- g. 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;
- h. the Member (or Registered Client, if applicable) that is a party to the Single Contract is in Default in accordance with this Rulebook or a declaration of default has been issued by the operator of the Trading Platform for the corresponding Trading Platform Transaction in respect of this Member;
- i. 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;
- j. X-CLEAR determines at its discretion based on 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 Trading Platform Transaction, including (without limitation) information received from Trading Platform, a Co-CCP, any other Member or any Governmental Authority;
- k. X-CLEAR has, at its discretion, reason to believe that the Single Contract or corresponding Inter-CCP Contract or Trading Platform Transaction results or appears to result from a communications or information technology error or problem;
- l. X-CLEAR has, at its discretion on the basis of solid grounds, reason to believe that the Single Contract or the corresponding Inter-CCP Contract or Trading Platform 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;
- m. X-CLEAR has, at its discretion, reason to believe that the Single Contract or corresponding Inter-CCP Contract or Trading Platform Transaction is or appears to be a result of or affected by an Event of Force Majeure;

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- n. the Single Contract or corresponding Inter-CCP Contract or Trading Platform Transaction is one which any Governmental Authority, a Co-CCP (if applicable), an Approved Settlement System or Trading Platform 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;
- o. 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 Trading Platform Transaction, the relevant Member (or the corresponding Registered Client, if applicable) is not in compliance with its obligations relating to the provision of Margins and/or Default Fund Contributions.

For the avoidance of doubt, unless expressly stipulated otherwise in clause 16.2, X-CLEAR shall not incur any liability as a result of losses or damages sustained by the Member (or the Registered Client, if applicable) resulting from any of the measures in accordance with this clause 10.2.

10.3 Cancellation of Inter-CCP Contracts

The Member (and the Registered Client, if applicable) acknowledges that, in accordance with the Link Agreement (if applicable), the Co-CCP may, in certain circumstances (in particular events relating to market disorder) implement measures to cancel concluded Inter-CCP Contracts by revoking or otherwise cancelling the registration of such Inter-CCP Contracts (in particular, as a result of the termination of its Clearing Services with regard to certain Trading Platform Products).

If such Co-CCP implements such measures, X-CLEAR shall be entitled to cancel the corresponding Single Contracts to which it is a party or suspend or cancel Clearing Services in respect of the Trading Platform Products subject to those measures.

10.4 Consequences of cancellation

In the event that a Single Contract is void or avoided pursuant to clauses 10.1 to 10.3 X-CLEAR and the affected Member (and the Registered Client, if applicable) 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 Member to X-CLEAR or by X-CLEAR to the Selling Member, as the case may be, in each case without interest.

Any margins already provided by the Member (and/or the Registered Client, if applicable) on such Single Contracts pursuant to the Contractual Relationship are not reimbursed individually.

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

X-CLEAR shall promptly notify the operator of the Trading Platform and the affected Member (and the Registered Client, if applicable) of the cancellation of the Single Contract pursuant to clauses 10.1 to 10.3.

11.0 Permissible Collateral

11.1 General

The Member acknowledges that the purpose of the regulations of X-CLEAR regarding collateralisation (chapters 11.0 and 12.0) is to counteract and prevent the occurrence of any systemic risk in relation to the

- a. Clearing Services
- b. Trading Platform Markets, or
- c. respective Trading Platform.

The provision and transfer of Permissible Collateral shall be effected in accordance with the **Financial Collateral Agreement**, the **Operational Manual** and the **Collateral Value Tables**.

The Member transfers the required Permissible Collateral to X-CLEAR by means of its own instruction to the respective custodian / bank, or it concludes an agreement with the custodian / bank in which it grants the custodian / bank an authorisation to execute the instructions of X-CLEAR for the transfer of the Permissible Collateral without further consent or cooperation of the Member.

The provision and transfer of Permissible Collateral is required to:

- a. fully meet (delivery and/or payment) the liabilities resulting from the ongoing Clearing Services of X-CLEAR, in particular in the case of a Member Default or a Default of a Co-CCP; and
- b. settle uncovered losses that were not caused by a Member Default or a Default of a Co-CCP ("Non-Default Losses").

11.2 Requirements for Permissible Collateral

X-CLEAR accepts Cash and Securities as Permissible Collateral.

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Permissible Collateral is valued at market value and accepted as collateral after deduction of a haircut. Securities issued in the United States of America cannot be accepted as Permissible Collateral due to Applicable Law.

Securities-specific **concentration limits** are in place to ensure sufficient diversification of the Permissible Collateral and to enable its liquidation without significant market impact.

Further regulations with regard to the Lending Norms (in particular collateral values), the provision and administration of Permissible Collateral are set out in the Operational Manual.

11.3 Representations and warranties of the Member

The Member shall act in its own name and for its own account, i.e. as the principal and not as an agent, when providing Margins and Default Fund Contributions. X-CLEAR will take no account of any right or interest which any Person other than the Member has or may have in connection with any Permissible Collateral. The Member represents and warrants to X-CLEAR on each date on which the Member provides to X-CLEAR Permissible Collateral and on a continuing basis whilst such Permissible Collateral remains held by X-CLEAR, that:

- a. such Permissible Collateral is provided on the basis that it may be used by X-CLEAR and applied in accordance with the relevant Financial Collateral Agreement and the Contractual Relationship;
- b. the Member is the sole legal owner and beneficial owner with respect to the Permissible Collateral;
- c. the Permissible Collateral is free and clear of any Encumbrances of the Member or of any third person (other than a lien routinely imposed on all securities in a relevant settlement system or central securities depository, as well as any rights of X-CLEAR);
- d. all rights to any Permissible Collateral transferred shall vest in X-CLEAR free and clear of any rights of any third person accordingly; and
- e. the Member is not in breach of any of its contractual obligations towards any third party (including towards any NCM or any Registered Client) or of any Applicable Laws as a result of the transfer of Permissible Collateral by the Member.

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11.4 Representations and warranties by X-CLEAR

X-CLEAR represents and warrants to the Member that

- a. any Securities transferred to the Member on the basis of the provisions governing the release and return of collateral in accordance with the Contractual Relationship (in particular, the Financial Collateral Agreement)
- b. these Securities are not subject to any trust, agreement, arrangement or Encumbrances created or granted by X-CLEAR – with the exception of those expressly permitted under the Financial Collateral Agreement – and
- c. the return of these Securities to the Member is not in breach of any contractual obligation of X-CLEAR towards any third party or of any Applicable Laws.

11.5 Realisation of Permissible Collateral – general rule

X-CLEAR shall be entitled to realise the book money and/or Securities which are provided by the Member and booked to the Collateral Accounts, and to use the proceeds of any realisation as specified in the Contractual Relationship.

11.6 Default of Member – order of realisation of collateral (Waterfall of Resources)

In the event of the Default of a Member, X-CLEAR shall be entitled and obliged to realise the Permissible Collateral provided by the Member and its own Dedicated Capital Contribution in the following order ("Layers of Collateral"):

- a. Permissible Collateral provided by the Defaulting Member to satisfy its Margin obligations and equivalent obligations in respect of Single Contracts (Initial and Variation Margin and Link Margin Element) subject to Clearing Services by X-CLEAR; more specific regulations can be found in the Financial Collateral Agreement;
- b. Default Fund Contribution of the Defaulting Member to the relevant Default Fund Segment; more specific regulations can be found in the Financial Collateral Agreement;
- c. Dedicated Capital Contribution of X-CLEAR, as defined in clause 12.1 below;
- d. Default Fund Contributions of the non-defaulting Members to the relevant Default Fund Segment; more specific regulations can be found in the Financial Collateral Agreement;
- e. Top-up Contributions made by non-defaulting Members; more specific regulations can be found in the Financial Collateral Agreement; and

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- f. the remainder of X-CLEAR's own reserves and capital.

11.7 Use of Default Fund Contribution after Auction Process

Any losses or expenses incurred by X-CLEAR as a result of an Auction Process (pursuant to Annex 3) and within the scope of the liquidation of the portfolio of a Defaulting Member will be covered by the Layers of Collateral in accordance with the order of realisation (Waterfall of Resources) pursuant to clause 11.6 of the Rulebook.

Any losses or expenses that must be covered by the layer of a Default Fund (clause 11.6 lit. d.) shall be offset as follows:

1. By the cumulative Default Fund Contributions of the following two groups of Member in the following sequence (first a., then b.):
 - a. By all Members who clear Derivative Products with X-CLEAR and have not won the Auction Process;
 - b. By the best bidder of the Auction Process and all other Members who do not clear Derivative Products with X-CLEAR.
2. Within the respective group, they are allocated on a proportional basis to the individual Members based on the size of the Default Fund Contribution of the relevant Member in relation to the total size of the Default Fund Contribution of all Members of this Group.

11.8 Replenishment of Default Fund Segment

In the event of a full or partial drawdown on the Default Fund Segment, the non-defaulting Members must make a Default Fund Replenishment Contribution in order to replenish the Default Fund Segment. Details in this regard are laid down in the Financial Collateral Agreement.

11.9 Non-Default Loss Allocation (NDLA)

The NDLA provides cover by the Members for losses on the Permissible Collateral and/or X-CLEAR's capital which were not caused by the Default of a Member or Co-CCP and for which X-CLEAR is not liable pursuant to chapter 16.0 and thus must be covered by the Members.

The respective contractual provisions are set out in the Financial Collateral Agreement.

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11.10 Non-Default Loss - order of realisation

The following order of realization to cover losses in the event of a Non-Default Loss from an **Other Loss Event** applies ("NDLA Waterfall of Resources"):

- a. NDL Own Contribution of X-CLEAR
X-CLEAR has segregated special own funds ("skin in the game"), which are primarily used to cover Non-Default Losses. This contribution is defined in clause 12.2.
- b. NDL Loss Contribution by the Members
After consumption of the NDL Own Contribution of X-CLEAR, the losses not yet covered will be charged proportionally to the Members of X-CLEAR. The distribution is based on the pro rata Default Fund Contribution of each individual member. The NDL Loss Contribution is limited per event to CHF 40 million for all Members ("Cap Amount NDLA Other Loss Event").
- c. Equity reserves of X-CLEAR
If there are still losses remaining after the coverages a. and b., they will be borne by the equity reserves of X-CLEAR.

11.11 Charges and fees from Permissible Collateral

The Member shall be liable to X-CLEAR for any fees, costs and other expenses incurred by X-CLEAR as a result of X-CLEAR trading, possessing, holding or exercising its Entitlements to or in any way with regard to all Securities or cash provided to X-CLEAR by the Member as Permissible Collateral.

12.0 X-CLEAR's Dedicated Capital Contribution

12.1 X-CLEAR's Own Contribution in the event of a Member Default

Before using Default Fund Contributions of non-defaulting Members, X-CLEAR shall make an own contribution for each Default to cover losses caused by a Member Default.

The Dedicated Capital Contribution is determined as a percentage of the required capital, where the latter is assessed pursuant to the provisions of the Swiss Financial Market Infrastructure Ordinance (FMIO) and the Swiss Capital Adequacy Ordinance, and is published on the website of SIX / Clearing / Profile in the last Annual Report.

X-CLEAR fixes the Dedicated Capital Contribution at a minimum of 25% of the required capital. The Dedicated Capital Contribution is calculated in accordance with the requirements of the Swiss Applicable Laws and the Operational Manual. X-CLEAR shall

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make a Dedicated Capital Contribution for the entire amount (totalling at least 25% of its required capital) only once in a period of 1 month following any Member Default which necessitated the use of such contribution ("Cooling-off Period of X-CLEAR"). After any use of the Dedicated Capital Contribution, X-CLEAR shall reinstate its own reserves (part of capital of X-CLEAR) to the extent as required by the Swiss Applicable Laws within the period of time determined by FINMA/SNB.

Clarification: For the Cooling-off Period caused by a Member Default (pursuant to clause 12.1) and the Cooling-off Period caused by an Other Loss Event (pursuant to clause 12.2 below), separate accrual accounts are maintained in each case. The Dedicated Capital Contribution (pursuant to clause 12.1) and the NDL Own Contribution (pursuant to clause 12.2) are, however, financed via the same reserves of X-CLEAR.

In case of use of only a portion of the Dedicated Capital Contribution (being a fraction of the 25 per cent of X-CLEAR's capital), the Cooling-off Period of X-CLEAR shall also apply to that portion only. Any losses arising within the Cooling-off Period which are exceeding any residual Dedicated Capital Contribution shall be absorbed by the "Layers of Collateral" items d. to f. of clause 11.6 (above).

12.2 X-CLEAR's Own Contribution in the event of a Non Default Loss (NDL)

In the event of an Other Loss Event, X-CLEAR will, before using the Non-Default Loss Allocation of the Members, for each event provide an own contribution to cover a loss caused by an Other Loss Event.

The NDL Own Contribution is calculated as a percentage of the required capital, where the latter is assessed pursuant to the provisions of the Swiss Financial Market Infrastructure Ordinance (FMIO) and the Swiss Capital Adequacy Ordinance, and is published on the website of SIX > Clearing > Profile in the last Annual Report.

X-CLEAR fixes the NDL Own Contribution at a minimum of 25% of the required capital. This Own Contribution is calculated in the same way as for a Member Default (clause 12.1).

X-CLEAR shall make the NDL Own Contribution for the entire amount only once in a period of 1 month following the Other Loss Event which necessitated the use of such contribution ("Cooling-off Period of X-CLEAR"). After any use of the NDL Own Contribution, X-CLEAR shall reinstate its own reserves (part of capital of X-CLEAR) to the extent as required by the Swiss Applicable Laws within the period of time determined by FINMA/SNB.

Clarification: For the Cooling-off Period caused by a Member Default (pursuant to clause 12.1) and the Cooling-off Period caused by an Other Loss Event (pursuant to

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clause 12.2 below), separate accrual accounts are maintained in each case. The Dedicated Capital Contribution (pursuant to clause 12.1) and the NDL Own Contribution (pursuant to clause 12.2) are, however, financed via the same reserves of X-CLEAR.

If only a portion of the NDL Own Contribution is used, the Cooling-off Period of X-CLEAR shall also apply to that portion only. Any losses occurring within the Cooling-off Period which are exceeding any residual NDL Own Contribution shall be absorbed by the Members (pursuant to the Financial Collateral Agreement).

13.0 Account structure

The Member shall have at its disposal the structures more specifically defined in the Operational Manual with respect to its **House Accounts** (or “own accounts”) and its **Client Accounts** (or “matched principal accounts”). The latter are to be segregated from all other accounts as individual client and omnibus client accounts. The Member shall select the structure that best suits its accounts and custody accounts for claims and liabilities from Outstanding Contracts as well as for depositing Permissible Collateral (Collateral Accounts) and that is in accordance with its Applicable Law. Collateral Accounts shall be held by the Member at the Account Operator.

For Clearing Services by X-CLEAR carried out by the Member as a GCM for NCMs linked to it, the latter shall be granted a mandatory right in the GCM/NCM Agreement (pursuant to clause 5.2 and Annex 2) to select in favour or against **individual client account segregation**. After this choice has been made, the Member is responsible for implementing it in consultation with X-CLEAR.

14.0 Finality

14.1 Legal basis

The Member acknowledges that

- a. X-CLEAR performs its function in accordance with the Contractual Relationship as the system within the meaning of the Finality Provisions as well as in accordance with §§ 1 para. 16, 24b of the German Banking Act (GBA, deutsche Kreditwesengesetz), and as a central counterparty domiciled in a non-EU/EEA state on the basis of an acknowledgment in accordance with Article 25 of the EMIR ordinance, and as a consequence thereof
- b. in particular the following statutory provisions with regard to protecting the system of X-CLEAR shall apply:
 - under Swiss Law: Art. 89 FMIA;

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- under German Law (inter alia) the following §§ of the Insolvency Ordinance (InsO), the Introductory Act to InsO (IAInsoO), the GBA as well as the German Securities Deposit Act (SDA, Depotgesetz): § 1 para. 17 GBA (financial collateral) 21 para. 2 p. 2 InsO (financial collateral in the case of preliminary measures), 61 para. 2 InsO (financial collateral after opening proceedings), 96 para. 2 InsO (financial collateral in case of netting difficulties), 104 para. 3 InsO (termination of central counterparties in master agreements) 166 para. 3 no. 1 InsO (limitations on administrator's right to realise collateral in case of system collateral), 223 para. 1 no. 1 InsO (rights of separation in case of a system), 340 para. 3 InsO (applicability of system in event of participant default), as well as 102b IAInsoO (central counterparty default provisions) and 17a SDA (cross-border decrees of applicable law).

14.2 System

The payment and processing system of X-CLEAR comprises the rules, regulations and arrangements set out in relation the Clearing of Trading Platform Transactions, in particular in the Contract for Clearing Services (German Law), the Rulebook, the Financial Collateral Agreement and the Link Agreements, which:

- a. in relation to the Clearing of Trading Platform Transactions on Trading Platforms, facilitate the provision to X-CLEAR (or to SIX SIS on behalf of X-CLEAR) by Members or Co-CCPs of funds for the purposes of satisfying those Members' or Co-CCP's obligations to satisfy Margin calls from time to time and, in connection therewith, facilitate the debiting of accounts held by Members or Co-CCPs at Cash Service Providers;
- b. in relation to the Clearing of Trading Platform Transactions on Trading Platforms, facilitate the provision to a Member or a Co-CCP by X-CLEAR (or SIX SIS on X-CLEAR's behalf) of funds for the purposes of returning excess cash Margin from time to time and, in connection therewith, facilitate the debiting of the account held by X-CLEAR at Cash Service Providers;
- c. facilitate X-CLEAR's role as Central Counterparty in connection with Clearing Services and, in relation thereto, facilitate the entering into of Single Contracts and Inter-CCP Contracts (as applicable) between X-CLEAR and each of the following parties:
 - Members,
 - Co-CCPs,

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- Back-up GCMs, in respect of the porting of Members' Single Contracts with regard to individually- and omnibus-segregated Trading Platform Transactions of an NCM or group of NCMs, respectively.

14.3 Principles

To achieve the objective of system protection, the following principles apply:

- a. A Trading Platform Transaction is sent into the Clearing System of X-CLEAR and is then irrevocable from the time at which the trading data relating to this Trading Platform Transaction has been entered in the system at X-CLEAR by a provider of Transaction Routing or in any other way.
- b. The provision of Permissible Collateral is sent into the Clearing System of X-CLEAR and is then irrevocable from the time at which the Securities and/or payment has been transferred, i.e. from when the corresponding credit has been booked into the Collateral Account of X-CLEAR.
- c. With regard to the settlement of payments or Securities in relation to Trading Platform Transactions, the rules of the Approved Settlement System being used shall apply.

14.4 Transfer Orders / payments entering the System

- a. A Securities Transfer Order enters the System upon:
 - the receipt by X-CLEAR from the provider of Transaction Routing of trade data relating to a Trading Platform Transaction in the form of a Securities Transfer Instruction;
 - Single Contracts being transferred pursuant to clauses 20.1.3 and/or 20.1.4 of the Rulebook.
- b. A Securities Transfer Order shall apply and have effect between (i) X-CLEAR and the Member who are parties to the Single Contract and, where applicable, between (ii) X-CLEAR and a Co-CCP who are parties to the relevant Inter-CCP Contract.
- c. A Payment Instruction enters the System at the moment that X-CLEAR sends an instruction to the relevant Cash Service Provider requiring the Cash Service Provider either

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- to debit a cash account held by a Member or any Co-CCP at the Cash Service Provider and to credit the cash account held by X-CLEAR at that Cash Service Provider with the corresponding amount; or
 - to debit X-CLEAR's account (or SIX SIS's account held on X-CLEAR's behalf) at that Cash Service Provider and make a corresponding credit of such debited amount to the Member's or Co-CCP's account held at that Cash Service Provider.
- d. A Payment Transfer Order shall have effect between the Member, a Co-CCP (as applicable) and the Cash Service Provider at which the Member or Co-CCP (as applicable) is maintaining a Cash Account, and X-CLEAR.

14.5 Irrevocability of payments and transfers

The status of a payment / transfer shall not be affected by any application of netting, set-off, or closing out of any Single Contracts or Inter-CCP Contracts to which the Transfer Order relates, in particular with regard to its effect, legal obligation and irrevocability.

14.5.1 Irrevocability of Securities Transfer Orders

- a. A Securities Transfer Order (excl. Securities Transfer Orders for the purpose of transferring Single Contracts pursuant to clauses 20.1.3 and 20.1.4 of the Rulebook) shall be revocable during the period prior to the end of the Business Day following the trade date of the Trading Platform Transaction, and is neither effective nor binding after the following measures have been taken, by way of:
- the Single Contract being either void under clause 10.1 or rendered void with immediate effect under clause 10.2; or
 - the Inter-CCP Contract being either void or rendered void with immediate effect under any similar ground under the Link Agreement.
- b. Thereafter a Securities Transfer Order (excl. Securities Transfer Orders for the purpose of transferring Single Contracts pursuant to clauses 20.1.3 and 20.1.4 of the Rulebook) shall be legally binding and irrevocable and may not be revoked by either X-CLEAR, a Member or a Co-CCP.
- c. A Securities Transfer Order for the purpose of transferring Single Contracts pursuant to clauses 20.1.3 and 20.1.4 of the Rulebook is legally binding and irrevocable immediately upon completion of the transfer in question.

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- d. For clarification, a Securities Transfer Order for the purpose of transferring Single Contracts pursuant to clauses 20.1.3 and 20.1.4 of the Rulebook and its irrevocability have no impact on the potential revocability of the Securities Transfer Orders received together with the Single Contracts to be transferred.

14.5.2 Irrevocability of Payment Transfer Orders

A Payment Transfer Order shall be irrevocable at the moment that the Cash Service Provider debits the account of the Member or Co-CCP, or debits the account of X-CLEAR (or SIX SIS on X-CLEAR's behalf). Thereafter, neither X-CLEAR, nor a Member, nor a Co-CCP nor a Cash Service Provider shall be able to revoke that Payment Transfer Order

14.6 Termination of Transfer Orders

Each Securities Transfer Order shall terminate immediately and automatically once Settlement has occurred within the Approved Settlement System.

Each Payment Transfer Order shall terminate immediately and automatically upon all payments required pursuant to the Payment Transfer Order being received in cleared funds or full satisfaction of the relevant underlying obligations is otherwise made, in either case not subject to any Encumbrances.

14.7 Provision of Information

X-CLEAR and each Member shall provide, upon payment of a reasonable charge, the following information to any person who requests it (save where the request is frivolous or vexatious) within fourteen days of a request being made:

- a. details of X-CLEAR's System and of any other system in which X-CLEAR participates in relation to the Clearing of Trading Platform Transactions for the Member; and
- b. information about the rules relevant to the functioning of those systems (including those set out in this Rulebook).

Each Member shall provide X-CLEAR on demand with such information as X-CLEAR may reasonably require for the purposes of X-CLEAR meeting its obligations as operator of the System.

15.0 Settlement

Trading Platform Transactions subject to clearing by X-CLEAR will be settled on the basis of the Applicable Laws, rules and market practices prevailing in the market of the relevant Security. Each Member must have appropriate settlement arrangements in

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place to enable settlement to take place in accordance with these terms and as set forth in the Operational Manual. Members shall notify X-CLEAR of their settlement arrangements for different countries and markets.

Special provisions apply with regard to the settlement of securities delivered late, i.e. after the Intended Settlement Date (ISD).

16.0 Liability

16.1 Validity and general interpretation rule

The provisions of this chapter 16.0 shall apply:

- a. without prejudice to the liability of another person subject to the Contractual Relationship or the Trading Platform Rules;
- b. in the event of a contradiction with another provision of the Contractual Relationship with priority over the other provision;
- c. irrespective of whether the persons acting on behalf and for the account of the Member (as an agent) are subject to the Contractual Relationship.

The Contractual Relationship and in particular the following provisions on liability shall at all times be observed, interpreted and given effect in the manner most conducive to the promotion and maintenance of:

- a. the status of X-CLEAR as a Financial Market Infrastructure regulated by FINMA and supervised by the SNB;
- b. the recognition of X-CLEAR as a Third Country CCP by ESMA;
- c. the recognition of X-CLEAR as a system within the meaning of § 1 para. 16 of the German Banking Act (GBA, deutsche Kreditwesengesetz) and the Finality Provisions (chapter 14.0); and
- d. X-CLEAR's and Members' good reputation, high standards of integrity and fair dealing.

16.2 Liability of X-CLEAR

X-CLEAR shall be liable to the Member for any wilful or gross negligence (including by its representatives) as well as for culpable injuries to life, limb or health under the statutory provisions.

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X-CLEAR shall also be liable for any negligent breaches of fundamental contractual obligations, i.e. those obligations the Member can confidently and regularly expect to be met in order to fulfil the contract, but in this case, strictly limited to foreseeable losses that could typically arise.

X-CLEAR assumes no liability for any other losses or claims, including, without limitation, in relation to indirect or consequential losses, loss of bargain, lost profits or loss of earnings, unrealised savings or additional expense incurred.

In particular, X-CLEAR shall not be liable for any losses arising from the relevant Approved Settlement System, Settlement Agent or Settlement Bank failing to meet the standards relating to communication, authentication and data security set out in the Contractual Relationship.

In particular, X-CLEAR assumes no liability for any charges or any other negative consequences arising in conjunction with Clearing through X-CLEAR that are a result of tax laws or ordinances issued by tax authorities pursuant to the Applicable Law. With regard to tax issues, X-CLEAR only provides the services related to the provision of Permissible Collateral stipulated in this Rulebook, for which X-CLEAR is liable in accordance with this chapter 16.0.

16.3 Reliability of data and information

X-CLEAR shall be entitled to definitively, and without further clarification as to accuracy and authenticity, rely on all the data and information it receives regarding Trading Platform Transactions, Single Contracts or Inter-CCP Contracts that X-CLEAR receives from or on behalf of the operator of the Trading Platform, a provider of Transaction Routing (if applicable), an Approved Settlement System, a Co-CCP (if applicable) or the Member, irrespective of whether the Member or an NCM has authorised the submission of such information or details, unless X-CLEAR acknowledges the inaccuracies or lack of authenticity or this is plainly obvious.

16.4 Responsibility of Member

The Member shall bear sole responsibility for the completeness, accuracy and authenticity of information and data transmitted to X-CLEAR in relation to a Trading Platform Transaction to which the Member is a party (save in relation to a Trading Platform Transaction where an NCM, in relation to which the Member has entered into a GCM-NCM Agreement, is a party), This responsibility extend to instances where X-CLEAR does not receive such information or data directly from the Member, but from the Trading Platform, the NCM, a Co-CCP (if applicable), the provider of Transaction Routing, the paying agent, the Approved Settlement System, the providers of messaging services, networks or other technical infrastructure (e.g. networks).

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In the above-mentioned case, authenticity means the fact that the information and data relating to a Trading Platform Transaction was obtained from a source recognised by X-CLEAR.

Furthermore it shall be made clear that:

- a. X-CLEAR shall not be responsible for the information provided to it in respect of a Trading Platform Transaction and the Member shall bear any losses arising as a result of information submitted to X-CLEAR in relation to a Trading Platform Transaction that is illegible or cannot be read correctly, as well as losses caused by forged or incorrect information; and
- b. the Member shall not be responsible for the operational aspects related to Transaction Routing.

16.5 Arrangements with Affiliates of X-CLEAR

X-CLEAR may, from time to time, enter into certain arrangements with an Affiliate of X-CLEAR under which such Affiliate provides certain services to X-CLEAR or which otherwise facilitates X-CLEAR's performance of its obligations under the Contractual Relationship or in any other way (outsourcing).

Subject to clause 16.2 and to any other agreement between the Affiliate of X-CLEAR and the Member, no such Affiliate shall have any non-contractual obligations towards any Member (in particular, a duty of care) in relation to the operation of such arrangements. Neither shall a Member have any right to take any action against any such Affiliate (or any person for whom any such Affiliate is vicariously liable) for damages, compensation, payment or remedy of any other nature on any ground whatsoever in respect of any acts or omissions or events which occur as a result of such arrangements. The Member further shall have no other rights against such Affiliate in connection with the operation of such arrangements.

16.6 Limitation of liability of X-CLEAR

Subject to clause 16.2 and the standard of care pursuant to clause 16.1, X-CLEAR shall not be liable for any losses, damages, injuries, delays, costs or expenses incurred or suffered by a Member or Person arising out of or in connection with the following non-exhaustive grounds:

- a. any suspension, restriction or closure of X-CLEAR or its services;

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- b. measures, orders or decrees issued by a Governmental Authority in relation to a Member, an NCM, Trading Platform, a Co-CCP (if any), the provider of Transaction Routing, the Approved Settlement System or a third party;
- c. any act or omission of the Trading Platform (including, without limitation, suspension or restriction of services by the Trading Platform), a Co-CCP (if applicable), the provider of Transaction Routing, the Approved Settlement System, any other Member, an NCM, or any other third party such as providers of messaging services, networks or other technical infrastructure necessary or appropriate for X-CLEAR's provision of Clearing Services;
- d. any failure by the Member to put in place and maintain appropriate settlement arrangements to enable Settlement to take place in accordance with the Contractual Relationship, including, but not limited to, failure by the Member or its settlement agent to meet the functional requirements, time deadlines or other requirements of an Approved Settlement System;
- e. except in relation to any provider of outsourced services appointed by X-CLEAR in accordance with clause 22.4.5, any act or omission of a third party providing any services or functionality in relation to Settlement, including, but not limited to, any settlement agents appointed by X-CLEAR or by the Member (save that X-CLEAR shall, when appointing settlement agents to act on its behalf and where such appointment has been made by the exercise of reasonable discretion by X-CLEAR, exercise due care in selecting, instructing and monitoring such agents);
- f. any Event of Force Majeure affecting X-CLEAR, its provision of Clearing Services or any other of its services;
- g. any Dispute relating to the validity, existence or terms of any Single Contract;
- h. the exercise (or failure to exercise) by X-CLEAR of any discretion or right conferred upon it pursuant to the Contractual Relationship;
- i. the exercise (or failure to exercise) by a Member, an NCM, the Trading Platform, a Co-CCP (if applicable), the provider of Transaction Routing, the Approved Settlement System of any discretion or right conferred upon it pursuant to the Trading Platform Rules (including, without limitation, in relation to erroneous trades);
- j. any action in defamation in connection with the issue of any Default Notice, conduct of any proceedings relating to Default, rejection of any application to become a Member or otherwise for exercise of any of its discretions or rights hereunder;

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- k. any Single Contract being void or avoided, the corresponding Single Contract representing the opposite leg of the Trading Platform Transaction being cancelled pursuant to the Contractual Relationship, the corresponding Trading Platform Transaction being cancelled pursuant to the Trading Platform Rules or the corresponding Inter-CCP Contract (if applicable) being cancelled pursuant to a Link Agreement; and
- l. any implied warranties or representations in relation to X-CLEAR's systems.

16.7 Liability of Second Member

If X-CLEAR is found liable to a Member in respect of a Single Contract, but another Member (the "Second Member") is found liable to X-CLEAR in respect of a Single Contract which arose pursuant to the same Trading Platform Transaction corresponding to the first Single Contract, then the liability of X-CLEAR under the first Single Contract shall be deemed to be a foreseeable consequence of the breach by the Second Member of the second Single Contract and X-CLEAR shall be entitled to be indemnified by the Second Member in accordance with chapter 17.0.

16.8 Delayed performance by X-CLEAR

Where an obligation of X-CLEAR must be performed immediately, promptly or by or prior to a specified time or date but performance does not occur at that time or on that date, X-CLEAR shall not be in breach of the Contractual Relationship if X-CLEAR is not responsible for the delay, has exercised all reasonable endeavours to perform the obligation as agreed and it performs the relevant obligation when it is able to after such specified time or date.

17.0 Indemnity

17.1 Indemnity of Member

The Member shall indemnify and hold harmless X-CLEAR and its officers and employees against any and all losses, liabilities, damages, injuries, delays, costs and expenses incurred or suffered by any of them arising out of, or in connection with a breach by the Member of any of its obligations under the Contractual Relationship or a breach by the Member of any Applicable Laws.

Clarification: In this respect, a Member is equally responsible for the conduct of its representatives as it is for its own conduct. However, notwithstanding the attribution of such conduct to the Member, this clause 17.1 does not affect any loss or liability which the representative responsible for such conduct may also suffer or incur under any Applicable Laws.

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17.2 Assumption of responsibility in procedures

X-CLEAR shall notify the Member promptly in writing as soon as it becomes aware of any action, proceeding, suit, arbitration, Dispute, claim, demand, inquiry, investigation or hearing to which clause 17.1 may apply.

Subject to the Member's written consent, X-CLEAR shall assign to the Member sole responsibility for the conduct of any litigation in connection with such claims or legal action, or the conduct of any settlement negotiations or other Dispute resolution procedures, at the Member's own discretion and at its own expense. X-CLEAR shall not be entitled to fulfil any demand, grant any concession or reach a settlement without the Member's prior written consent, such consent not to be unreasonably withheld; and X-CLEAR shall provide the Member with all information and, at the Member's expense, with such support as is reasonably required.

18.0 Market disorder

18.1 Measures

The Member acknowledges that, in accordance with the Trading Platform Rules, the operator of the Trading Platform may:

- a. exercise certain rights in respect of the non-performance or Default of a Trading Platform member;
- b. in certain circumstances, cancel a Trading Platform Transaction (pursuant to a request or otherwise), "contra" in respect of a Trading Platform Transaction or suspend or halt trading in specific Trading Platform Products; and
- c. X-CLEAR and the Member shall, in such circumstances, be bound by such measures.

If the operator of the Trading Platform determines in accordance with the Trading Platform 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 Trading Platform Market, X-CLEAR may at its discretion take such action as is requested of it by the operator of the Trading Platform in respect of one or more outstanding Single Contracts in a Member's name as may be provided for by the Trading Platform Rules or as may be agreed between the operator of the Trading Platform and X-CLEAR.

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18.2 General rule in case of Event of Force Majeure

Neither X-CLEAR nor the Member (in the relevant case, an "Affected Party") shall be liable for any failure or delay in performing any of its obligations under or pursuant to the Contractual Relationship to the extent that such failure or delay is due to an Event of Force Majeure and it shall be entitled to a reasonable extension of the time for performing such obligations as a result of such Event of Force Majeure.

18.3 Consequences of Event of Force Majeure

On the occurrence of an Event of Force Majeure:

- a. the Affected Party, if it is a Member, shall immediately notify X-CLEAR of the same (or, if the Affected Party is X-CLEAR, it shall issue a circular to the Member that is affected) and the Affected Party shall exercise reasonable endeavours to resume performance of any of its obligations affected by the Event of Force Majeure;
- b. X-CLEAR shall be entitled to require the Member to take such action pursuant to clause 18.1 and clause 18.2 above as X-CLEAR may direct in respect of Single Contracts affected by the Event of Force Majeure; and
- c. X-CLEAR shall be entitled to perform Clearing Services and/or Settlement for affected outstanding Single Contracts in accordance with X-CLEAR's directions to be issued at X-CLEAR's discretion, and X-CLEAR shall be entitled to require or implement appropriate measures to achieve such Clearing and/or Settlement. X-CLEAR shall, where relevant and practicable, endeavour to consult any Affected Party in advance of requiring or implementing such measures.

19.0 Default of Member

19.1 General rule

If the Member is unable or likely to be unable to fulfil its obligations relating to one or more outstanding Single Contracts or other obligations under the Contractual Relationship towards X-CLEAR, X-CLEAR is authorised at its discretion to take the measures described in clause 19.5 of this Rulebook.

19.2 Discretionary Events of Default

Discretionary Events of Default may result in termination with immediate effect.

X-CLEAR determines at its discretion and taking into account the Member's credit-worthiness, solvency and other ability to act with regard to the proper fulfilment of

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obligations in accordance with this Rulebook, whether one or more of the following conditions are met and there is a good cause for termination within the meaning of § 314 of the German Civil Code (Bundesgesetzbuch; GCC). On this basis, X-CLEAR decides whether the corresponding Member is to be placed into Default in accordance with clause 19.4.

- a. The Member is unable to fulfil its performance and/or payment obligations based on the Contractual Relationship, in particular based on the Financial Collateral Agreement or in the course of a buy-in process, or is unable to fulfil these in good time.
- b. The responsible Governmental Authority revokes the admission (licence) of the Member to a market that is considered by X-CLEAR to be of importance for that Member.
- c. The Member seriously breaches the Rules and Regulations of a Trading Platform or Clearing Organisation or has been declared to be in Default, suspended or excluded by the respective Trading Platform or Clearing Organisation.
- d. The Member is or was subject to restrictive or disciplinary measures ordered by a responsible Governmental Authority or a Trading Platform, recognized Settlement System or another Clearing Organisation, such as investigations, suspension or criminal proceedings.
- e. One or more creditors of the Member have applied/are applying to seize ownership of one or more assets of the Member or are exercising similar rights, which at X-CLEAR's discretion, could seriously impact the Member's ability to meet the obligations of an X-CLEAR Member.
- f. The Member has been declared insolvent and has entered into an agreement, settlement or other beneficial act in favour of one or more creditors in order to avoid insolvency or for other comparable reasons.
- g. The shareholders of the Member have passed a resolution on the liquidation of the latter.
- h. The Member is in another situation in which, in the reasonable opinion of X-CLEAR, there is good cause within the meaning of § 314 GCC to believe that it is in the interests of X-CLEAR or the relevant market place (including but not limited to the other Members) to terminate the membership of that Member.

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19.3 Mandatory Events of Default

If any of the following situations apply in particular, there is deemed to be good cause within the meaning of § 314 GCC for the Member to be declared to be in Default:

- a. The responsible Governmental Authority has opened bankruptcy proceedings against the Member or a ruling (e.g. moratorium, prohibition on transfers) has been issued appointing a bankruptcy liquidator with regards to the assets of the Member.
- b. The responsible Governmental Authority has issued a decree that prohibits the Member from carrying out securities transactions and/or invokes a moratorium and deferment of payment of the Member's obligations, and in particular prohibits interest payments.

19.4 Occurrence of Default

If it is determined that there is an Event of Default pursuant to clause 19.2, the Default sets in with the Member upon the Default declaration by the competent Default Management Committee of X-CLEAR. The Default enters into effect at the time the **Default Notice** is sent to the last known contact address of the Member.

In the case of an Event of Default pursuant to clause 19.3 (mandatory Event of Default), the Member shall be in Default as of the occurrence of the event, i.e. as of the date of the official entry into force specified in the order of the insolvency authority when it was issued, or as of the date of receipt of the corresponding advance notification by X-CLEAR. The Member is also oriented by means of a Default Notice to the Member's contact address last reported to X-CLEAR.

The issue of a Default Notice shall be disclosed to the Swiss supervisory authorities of X-CLEAR, the relevant Trading Platform(s), the Co-CCPs (if applicable), the European Association of Clearing Houses and the Approved Settlement System. The Default Notice shall also be published on the website of SIX.

In cases of an Event of Default pursuant to clause 19.2 that X-CLEAR does not deem to be serious, X-CLEAR may, prior to the issue of a Default Notice, at its discretion issue a reminder to the Member and allow a period for corrective action to be taken.

In the event of only a **Technical Default**, the Member shall promptly notify X-CLEAR in writing of the reasons for the incident or situation. X-CLEAR will give the Member an appropriate period of time to remedy the breach and its cause. The Member shall immediately take steps accordingly and reimburse X-CLEAR for any losses that X-CLEAR has had to bear as a result of the non-fulfilment or inadequate fulfilment.

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19.5 Measures by X-CLEAR upon Default

If X-CLEAR, in the event of a discretionary Event of Default, is of the opinion, based on the facts in its possession and at its reasonable discretion, that there is an immediate risk of further losses, it may suspend the Open Offer or Novation to the potential Defaulting Member with immediate effect, i.e. before sending a Default Notice (clause 19.4).

On occurrence of the Default (according to clause 19.4), X-CLEAR shall take with immediate effect each of the following measures (letters a. to c.) if not already executed:

a. Suspension of Open Offer and/or Novation

The Open Offer and/or Novation process as well as the provision of Clearing Services to the Member is suspended with immediate effect.

b. Blocking of Permissible Collateral in Collateral Account

All Permissible Collateral positions shall be blocked, i.e. will not be released and re-transferred to the Defaulting Member (or its bankrupt estate) until the Close-out Procedure is concluded and any Close-out Settlement Amount payable by the Defaulting Member is covered.

c. Close-out Procedure

A Close-out Procedure shall be initiated with respect to all the outstanding Single Contracts of a Defaulting Member.

The elements of this procedure are as follows:

1. The outstanding Single Contracts of the Defaulting Member are either
 - where legally permissible and practicable and in consultation with the recovery agent or (provisional) bankruptcy liquidator, **fulfilled and settled in the regular process** in accordance with their terms and the Contractual Relationship; or
 - where fulfilment and settlement in the regular process is deemed to be unlikely or impossible or impracticable, fulfilled and settled by X-CLEAR following a **buy-in or sell-out** of the net positions of the contracted Trading Platform Products.
2. After sending the Default Notice, X-CLEAR will, where legally permissible at its own reasonable discretion but in consultation with the recovery agent or (provisional) bankruptcy liquidator, initiate all necessary buy-in and sell-out activities.

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After the buy-in or sell-out orders have been initiated by X-CLEAR and notified accordingly, the settlement instructions of the Defaulting Member vis-à-vis X-CLEAR (DVP and/or RVP) must be stopped with immediate effect by the Defaulting Member by setting them to "hold" status in the system. After completion of the Close-out Procedure and corresponding notification by X-CLEAR, the orders must be cancelled in the System by the Member.

Annex 3 describes the Auction Process with regard to a portfolio of Derivative Products.

3. As part of this process, the differential values of the net positions are determined per ISIN and currency of the outstanding Single Contracts based on the actual purchase costs/sales proceeds. By aggregating and netting all of the amounts to be paid to and by the Defaulting x-clear Member (per currency), a Close-out Settlement Amount is calculated, which is owed either by the x-clear Member or by X-CLEAR from the time the Default Notice is sent (pursuant to clause 19.4), respectively the Mandatory Event of Default (pursuant to clause 19.3) occurs, in particular the opening of bankruptcy proceedings or other bankruptcy-law-related measures (e.g. moratorium, prohibition on transfers).

This amount is netted against or credited to the Permissible Collateral of the Defaulting Member (or the Registered Client, where applicable). The details of this procedure are regulated in the Operational Manual and the Financial Collateral Agreement.

In any case, the above procedure is subject to the contractual provisions relating to the avoidance of Single Contracts (chapter 10.0).

4. In addition to the amounts calculated in the Close-out Procedure, the X-CLEAR Member shall be charged all costs and expenses arising in conjunction with the Event of Default – this includes, but is not limited to, costs relating to the liquidation of Collateral, compensation payments for Late Settlement, costs relating to buy-ins or sell-outs, legal fees or any related extrajudicial expenses as well as, where legally permissible, any interest costs.
5. Furthermore and notwithstanding the other provisions of this clause 19.5, X-CLEAR may decide to terminate the Membership of the Defaulting Member in accordance with chapter 4.0.
6. X-CLEAR shall inform the Member in advance of the measures to be taken, except in the event of the situations that X-CLEAR deems to be urgent.

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19.6 Postponement of measures

X-CLEAR can postpone the taking of such measures as per clause 19.5 in accordance with the Applicable Law, especially if a respective order by a Governmental Authority has been issued.

In the event that X-CLEAR does not take any steps described in clause 19.5 following a Default, X-CLEAR shall not be regarded as having waived its entitlement to take any such step immediately or at all.

19.7 Members with more than one Member ID

If a Member clears transactions with X-CLEAR via more than one Member ID, all outstanding Single Contracts under all Member IDs of this Member shall be subject, on an unrestricted basis, to the measures taken by X-CLEAR pursuant to clause 19.4 from the point at which the Default occurs pursuant to clause 19.5 in relation to this Member. In particular, a collective Close-out Procedure shall take place, which results in a single Close-out Settlement Amount per currency being calculated for this Member.

19.8 Netting for affiliated Members ("Group Netting Clause")

Each Member that belongs to a legally affiliated group of companies within the meaning of § 15 of the German Stock Corporation Act (Aktiengesetz, SCA) (affected Group) and has signed a separate, written declaration of consent to the Group Netting Clause (as per the template on the website of SIX / Clearing / "Forms") shall hereinafter be referred to as a "Consenting Member".

Unless there are any mandatory rules under Applicable Law to the contrary, X-CLEAR shall be entitled (but not obliged) for Consenting Members of this affected Group which are in Default or were set in Default by X-CLEAR (the "Defaulting Consenting Members") to calculate the Close-out Settlement Amounts and to net these Close-out Settlement Amounts together per currency into one net amount.

If this net amount is in favour of the Defaulting Consenting Members, X-CLEAR shall transfer this net amount on a pro rata basis according to the individual Close-out Settlement Amounts to those Defaulting Consenting Members which have positive Close-out Settlement Amounts. The individual pro rata positions result from the individual positive Close-out Settlement Amounts of the respective Defaulting Consenting Member which are divided by the sum of all positive Close-out Settlement Amounts.

If this net amount is owed by the Defaulting Consenting Members, this net amount shall be allocated to the single Defaulting Consenting Members on a pro rata basis

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according to the individual Margin requirements (i.e. in relation to the individual total Margin requirements of each Defaulting Consenting Members to the sum of the total Margin requirements of all Defaulting Consenting Members) and shall be settled accordingly by the realisation proceeds of the Permissible Collateral of the single Defaulting Consenting Members.

If, for a Member that belongs to an affected Group, consent for the Group Netting Clause has not been obtained from all Members of this Group, the requirements for the provision of Permissible Collateral may be amended at the discretion of X-CLEAR in line with the risk involved.

19.9 Excess proceeds of Close-out Procedure or Late Contribution

In the event that:

- a. Default Fund Contributions and/or Top-up Contributions of non-defaulting Members have been realised / made pursuant to the Financial Collateral Agreement and excess amounts remain at X-CLEAR after the Close-out process (as defined in clause 19.5 lit. b.); or
- b. a Defaulting Member makes a Default Fund Contribution after the Default Fund Contributions and/or Top-up Contributions of non-defaulting Members have been realised but only in cases where such contributions by the Defaulting Member are made pursuant to obligations arising prior to such realisation (here referred to as a "Late Contribution"),

then X-CLEAR shall make on a pro rata basis a total compensation to the non-defaulting Members whose Default Fund Contributions and/or Top-up Contributions have been realised from such proceeds of the Close-out process or Late Contribution up to the maximum amount of the Default Fund Contributions and/or Top-up Contributions made by all Members at the time of the realisation.

20.0 Claims, liabilities and Margins of NCMs in the Default of the GCM

20.1 Pre-arranged solutions

20.1.1 Key principles and requirements

In the event of a Default by a GCM, X-CLEAR shall ensure that the pre-arranged solutions are carried out by treating all claims and liabilities against X-CLEAR as well as the Margins (according to clause 5.2) of the NCMs linked to the Defaulting GCM in accordance with the applicable contractual agreements and orders, which are in particular:

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- a. the Contractual Relationship of X-CLEAR with the GCM and the Back-up GCM
- b. the order from the Back-up GCM to X-CLEAR (pursuant to clauses 20.1.3 and 20.1.4)
- c. in the case of individual client account segregation, the selection made by the individual NCMs (pursuant to clause 20.1.3).
- d. X-CLEAR shall carry out the pre-arranged solution selected by the NCM (in accordance with the options defined in clauses 20.1.3 and 20.1.4) within 48 hours after the issuance of a Default Notice of the GCM concerned (pursuant to clause 19.4), provided this solution can be implemented in a timely manner and the following requirements are met:
 - (i) The following documents must be in place and the corresponding measures taken:
 - Order from the Back-up GCM as the agent of the NCM pursuant to clauses 20.1.3 lit. a and 20.1.4 as well as the technical activation of the Member based on the instructions on the CSSI form; or
 - Request by the NCM for admission as an ICM pursuant to clause 20.1.3 lit. b and activation as a Member based on the instructions on the CSSI form;
 - Order by the Defaulting GCM as the agent of the NCM pursuant to clause 20.1.3 lit. c., which was given based on consent of the recovery agent or by the (provisional) bankruptcy liquidator;
 - (ii) Existence of a Legal Opinion as to the soundness and enforceability of the selected solution pursuant to clauses 20.1.3 and 20.1.4, in particular based on the applicable insolvency law;
 - (iii) Additionally in the case of porting (pursuant to clauses 20.1.3 lit. a and 20.1.4), the coverage of the same settlement markets by the Back-up GCM as the Defaulting GCM;
- e. Additionally in the case of porting (pursuant to clauses 20.1.3 and 20.1.4), the existence of a confirmation from the Back-up GCM of its unconditional agreement with the porting. This confirmation must be issued within eight Business Hours of the Back-up GCM being informed by X-CLEAR of the occurrence of the Default of the GCM and the amount of the outstanding claims and liabilities as well as the Margin that must be transferred in the form of Permissible Collateral.

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20.1.2 Further conditions

The following must be noted:

- a. X-CLEAR does not offer any safeguards with respect to contributions from NCMs to the assets pledged by the GCMs for Default Funds. This applies irrespective of whether these were made in the form of cash and/or Securities.
- b. In jurisdictions in which Applicable Laws do not explicitly grant exceptions from regular insolvency rules and proceedings with respect to the options and procedures as defined hereafter (clauses 20.1.3 and 20.1.4), a consent or an executorial order (as the case may be) from the responsible restructuring agent, or if bankruptcy proceedings have been initiated, from the (provisional) bankruptcy liquidator is required. The GCM shall expressly inform the NCM accordingly.
- c. However, in jurisdictions in which Applicable Laws so require, X-CLEAR shall in accordance with such laws port the positions and Margins of NCMs to a Back-up GCM without the consent or instruction of the Defaulting GCM, its restructuring agent (where employed) or (provisional) bankruptcy liquidator.
- d. The pre-arranged solutions are based on the account segregation selection made by the linked NCMs (pursuant to chapter 13.0). The following options are therefore available:

20.1.3 Options in the case of individual client account segregation (individual segregation)

In the case of individual account segregation, the GCM shall notify the NCMs linked to it of their right to select between the options listed below in order to protect their claims and liabilities as well as the Margins they have provided with respect to the possible Default of the GCM.

Each NCM shall decide on one of the three following options.

a. Individual porting to a Back-up GCM:

The NCM independently selects a Back-up GCM and concludes a Back-up GCM/NCM Agreement with it pursuant to the requirements in Annex 2. The Back-up GCM must already have a membership as a Member. The Back-up GCM shall inform X-CLEAR that it has accepted its back-up function and shall issue an order to X-CLEAR (as per the template on the website of SIX / Clearing / "Forms") to set up the necessary account structures and take any other measures required for a possible porting. X-CLEAR shall confirm this order and inform the Back-up GCM and the NCM once it has taken these measures.

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- b. **Independent membership** and transfer into own Clearing Services Accounts and Collateral Accounts:
 The NCM shall make a direct application to X-CLEAR to be admitted as an ICM (Individual Clearing Member). X-CLEAR shall review this application and then accept or reject it. If this application is accepted, X-CLEAR shall initiate the regular acceptance procedure. The NCM may hold this membership on a subsidiary basis prior to the occurrence of the Default of the GCM, i.e. not using it, or only using it on a selective basis.
- c. Settlement by means of the **Close-Out Procedure** (pursuant to clause 19.5 lit. c):
 The GCM and the NCM shall agree that upon occurrence of the Default of the GCM, a Close-out Procedure pursuant to clause 19.5 lit. c. be carried out with respect to the claims, liabilities and Margins of the NCM. In the case of its Default, the GCM as the agent of the NCM shall, in consultation with its restructuring agent (where employed) or, once bankruptcy proceedings have been initiated, the responsible (provisional) bankruptcy liquidator at the request of the NCM, issue an order to X-CLEAR to carry out a Close-out Procedure pursuant to clause 19.5 lit. c. In this case, the payment of a positive Close-Out Settlement Amount shall be made directly to the NCM, while a negative Close-out Settlement Amount shall be netted against the proceeds from the Permissible Collateral of the GCM.

The GCM shall inform X-CLEAR of the selection of the NCM with respect to the options set out above.

20.1.4 **Option in case of omnibus client account segregation (omnibus segregation)**

In the case of omnibus account segregation, the GCM, as the agent of its NCMs, shall enter into an agreement with a Back-up GCM ("**GCM/Back-up GCM Agreement**"), whereby in the case of its Default, the GCM or the bankruptcy liquidator shall issue an order to X-CLEAR to collectively transfer all claims and liabilities as well as the Margins of all NCMs linked to it to the respective Back-up GCM ("**collective porting**"). It is only possible to split the claims and liabilities amongst multiple Back-up GCM where the Defaulting GCM has multiple omnibus accounts for different groups of NCMs. The Back-up GCM must already have a membership as a Member.

In this case, the GCM shall consult the NCMs linked to it prior to selecting the Back-up GCM and concluding the GCM/Back-up Agreement.

The Back-up GCM shall notify all NCMs concerned that it has accepted its back-up function and signed the GCM/Back-up GCM Agreement. The Back-up GCM shall also inform X-CLEAR that it has accepted the GCM/Back-up Agreement and shall issue an order to X-CLEAR to set up the necessary account structures and take any other

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measures required for a possible porting. X-CLEAR shall confirm this order and inform the Back-up GCM once it has taken these measures.

The Back-up GCM shall conclude a Back-up GCM/NCM Agreement with each NCM concerned in accordance with the requirements in Annex 2.

20.2 Procedure if no pre-arranged solutions are in place

If, prior to the occurrence of the Default of the GCM, the NCMs do not make a selection pursuant to clause 20.1.3 or the GCM as the agent of the NCMs has not concluded a Back-up GCM Agreement (pursuant to clause 20.1.4) or the requirements pursuant to 20.1.1 have not been fulfilled or it transpires that the solution selected (pursuant to clauses 20.1.3 or 20.1.4) cannot be implemented in good time, X-CLEAR shall, in the event of the Default of the GCM and having obtained consent from the responsible restructuring agent, or if bankruptcy proceedings have been initiated following a corresponding order from the (provisional) bankruptcy liquidator as well as in accordance with the account segregation selection made by the NCM (pursuant to chapter 13.0) as well as taking into consideration the requirements pursuant to clause 20.1.1, either

- a. carry out an **Individual Close-out Procedure** for each NCM concerned pursuant to clause 19.5 lit. c with respect to its claims and liabilities as well as Permissible Collateral for Margins referable to the NCM. In this case, the payment of a positive amount (calculated in accordance with clause 19.5 lit. c. shall be made directly to the NCM, while a negative amount (calculated in accordance with clause 19.5 lit. c.) shall be netted against the proceeds from the Permissible Collateral of the Defaulting GCM; or
- b. carry out a **Collective Close-out Procedure** for all claims and liabilities as well as all Permissible Collateral for Margins of the NCMs linked to the Defaulting GCM pursuant to clause 19.5 lit. c. and credit a resulting positive amount (calculated in accordance with clause 19.5 lit. c.) to the Defaulting GCM for the account of the NCMs (in accordance with the Defaulting GCM's account segregation structure) or net a resulting negative amount against the proceeds from the Permissible Collateral of the Defaulting GCM.

21.0 Default of X-CLEAR

21.1 Events of Default

X-CLEAR (and the clearing system operated by X-CLEAR) will automatically be in Default in the following circumstances:

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- a. FINMA opens insolvency proceedings with respect to X-CLEAR pursuant to Art. 88 FMIA in connection with Art. 33 of the Swiss Federal Banking Act; and
- b. FINMA revokes the authorisation of X-CLEAR as a Financial Market Infrastructure pursuant to Art. 37 of the Swiss Financial Markets Supervision Act or Art. 88 FMIA in connection with Art. 26 para.1 lit. g. of the Swiss Federal Banking Act or takes or will take any other measure as described in Art. 26 of the Swiss Federal Banking Act.

FINMA can also implement simple protection measures and recovery procedures in accordance with the Swiss Banking Law which do not cause an Event of Default.

21.2 Defense Lines

In case of a Default of X-CLEAR, the following resources are available to cover potential losses:

- a. for the Members and other creditors:
own resources and reserves of X-CLEAR in the amount available;
- b. for the Co-CCPs:
the Inter-CCP Collateral pledged to them, which was financed by the Members by means of a Link Margin Element in accordance with the provisions of the Financial Collateral Agreement, as well as capital and reserves of X-CLEAR in the available amount at the time.

21.3 Effectiveness of Default – General rule

Following a Default by X-CLEAR under clause 21.1, all obligations of X-CLEAR and the Member to make payments and deliveries pursuant to the Outstanding Single Contracts shall not be fulfilled in the usual way but instead the following procedure shall apply:

- a. The Open Offer/Novation process at X-CLEAR with the Members is terminated with immediate effect.
- b. Subject to any contrary legal provisions or any contrary decrees issued by Swiss supervisory authorities or decisions by the recovery agent or bankruptcy liquidator, either:
 - the Outstanding Single Contracts of the Member are fulfilled and settled in the regular process according to the single contractual agreements; or

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- the Trading Platform Products to be delivered to or by X-CLEAR are purchased / sold by means of a buy-in or sell-out by X-CLEAR or its bankruptcy liquidator and then the Close-out Settlement Amounts are calculated, which are offset against the Permissible Collateral or paid out to the Members.

The details of this procedure are regulated in the Operational Manual. In any case, the above procedure is subject to the contractual provisions relating to the avoidance of Single Contracts (clause 10.0) and the legal provisions relating to the cancellation of debits or credits.

22.0 Confidentiality, data protection and notifications

22.1 Confidentiality - General rule

All confidential information received by X-CLEAR relating to the Member in connection with the provision of Clearing Services, in particular information concerning past or current positions, all components of Permissible Collateral, Settlement and any financial statements filed by a Member ("Confidential Information"), shall be held in confidence by X-CLEAR and shall not be disclosed to any other Person.

22.2 Confidentiality - Exceptions

This general rule (clause 22.1) does not apply to information disclosed by X-CLEAR:

- a. with the written consent of the Member involved, with such consent not to be unreasonably withheld or delayed;
- b. to a Governmental Authority where a request is made to X-CLEAR by or on behalf of the same in order to fulfil the Governmental Authority's legal requirements. In particular, this refers to forwarding the Member's data to authorities in Switzerland abroad during estate or bankruptcy proceedings or to persons engaged as part of said proceedings. X-CLEAR is further authorised, in relation to judicial or administrative proceedings that are impending or have already been initiated in Switzerland or abroad in which X-CLEAR is named instead of the Member or the beneficial owner or in addition to these, to disclose the identity of and additional data (including transaction data) pertaining to the Member to third parties if X-CLEAR may be placed at a severe disadvantage in the event that it does not provide this data (e.g. imposition of sanctions, initiation or continuation of judicial or administrative proceedings, serious financial or reputational damage). X-CLEAR shall notify the Participant in advance of its intention to disclose the data;

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- c. pursuant to and in accordance with Applicable Laws (after the Member has been given notice, if such notice is permissible under the Applicable Laws or regulatory standards);
- d. which becomes published or otherwise generally available to the public, except in consequence of a wilful Default or negligent act or omission by X-CLEAR in contravention of its obligations under the Contractual Relationship;
- e. to the extent such information was made available to X-CLEAR by a third party who is entitled to divulge such information and who is not under any obligation of confidentiality in respect of such information to X-CLEAR or the Member or which has been disclosed to X-CLEAR by a third party under an express statement that it is not confidential;
- f. in the event of such disclosure being necessary for the performance by X-CLEAR of its obligations under the Contractual Relationship, in particular to any X-CLEAR Affiliate, any Trading Platform, Clearing Organisation (including a Co-CCP), provider of Transaction Routing, Approved Settlement System, settlement agent, settlement bank, paying agent, payment systems, Account Operator, a non-defaulting Member, the European Association of Clearing Houses or any of their or X-CLEAR's Representatives, auditors, lawyers or other advisers including, without limitation, for audit, compliance, market surveillance or disciplinary purposes or in relation to any possible or actual Default or the suspension (pursuant to chapter 0) or termination of Membership (pursuant to chapter 4.0); and
- g. irrespective of the clause 22.2 lit. f. and clause 22.4.5, to companies which belong to SIX Group (Group Companies) under the condition that such Group Company and its directors and employees are subject to materially equivalent confidentiality rules as set forth in this Rulebook; and
- h. that relates to the fact of being an X-CLEAR Member.

22.3 Notifications

The Member shall recognise and consent to X-CLEAR notifying a Governmental Authority, the Trading Platform, a Co-CCP (if applicable), the provider of Transaction Routing, the Approved Settlement System and the Account Operator where the Member:

- a. is no longer in a position to fulfil its contractual obligations in respect of outstanding Single Contracts;
- b. commits a material breach of its contractual obligations towards X-CLEAR; or

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- c. relinquishes its X-CLEAR Membership or it is suspended or terminated by X-CLEAR.

If not prohibited by any Applicable Laws, X-CLEAR will give such notification after having advised the Member accordingly.

22.4 Processing of personal data

22.4.1 Preconditions

X-CLEAR processes personal data in accordance with the Applicable Laws on protecting personal data – in particular for persons acting on behalf and in the name of the Member or other natural persons acting on behalf of the Member in relation to the Clearing Services vis-à-vis X-CLEAR ("Data Subjects").

Members shall ensure that the required legal conditions are met in their areas of responsibility with regard to the disclosure and processing of personal data and that these requirements are met for the entire duration of the processing.

The following provisions correspond to the regulations of the European General Data Protection Regulation 2016/679 ("GDPR"), which defines a level of protection that is to apply to all Members of X-CLEAR. They describe and regulate the processing of personal data of natural persons ("data subjects") by X-CLEAR within the scope of the Contractual Relationship. X-CLEAR is considered a "controller" in the sense of GDPR and a "data collection owner" in the sense of the Swiss Data Protection Act.

The provisions serve in particular to provide guidance on:

- a. which of the personal data provided by the Member is processed by X-CLEAR;
- b. the purpose and basis X-CLEAR has for doing so;
- c. what happens to the personal data and how long it is processed by X-CLEAR;
- d. the rights of the contractual party or the relevant data subjects with respect to data protection vis-à-vis X-CLEAR;
- e. who is responsible for data processing at X-CLEAR; and
- f. who the contractual partner and/or data subjects should contact with any questions.

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22.4.2 **Personal data processed**

X-CLEAR processes the personal data provided / transmitted to X-CLEAR by the contractual partner within the framework of the Contractual Relationship. Specifically, this relates to information on authorised signatories, contact persons, i.e. names, e-mail addresses or business telephone numbers.

By providing this personal data to X-CLEAR, the contractual partner confirms that it has informed the individual (employee, agent, client etc.) whose data is being sent to X-CLEAR in advance that this data is being forwarded to X-CLEAR.

X-CLEAR is subject to Swiss anti-money laundering legislation and in this regard is legally obliged to perform further clarifications within the scope of their business activities before entering into or maintaining client relationships and to process additional personal data that it obtains as part of this process. X-CLEAR collects data of the contractual partner, personal data of the person opening the business relationship, personal data of controllers or beneficial owners (where necessary) as well as personal data of authorised signatories. This primarily takes the form of copies of passports or completing standard forms.

22.4.3 **Purpose of data processing**

The personal data is processed by X-CLEAR exclusively for the purpose of executing the main contract. Specifically, X-CLEAR requires the personal data for the following purposes:

- a. The general maintenance of the relationship with the contractual partner;
- b. The provision of products and information required under the contract;
- c. Invoicing;
- d. The processing of complaints or objections by the contractual partner; and
- e. Information on changes and developments relating to products and services.

22.4.4 **Legal basis for data processing**

X-CLEAR processes personal data specifically for the purpose of correctly providing the contractually agreed services to the contractual partner and complying with its own statutory obligations.

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22.4.5 Forwarding of data to third parties / outsourcing

X-CLEAR is an indirect subsidiary of SIX Group Ltd (“SIX Group”). It may outsource the processing of data within the framework of the main contract as well as some or all services to SIX Group or other Affiliates of SIX Group (in particular to SIX Group Services Ltd, SIX Securities Services Ltd, SIX SIS Ltd and SIX Interbank Clearing Ltd) as well as to third parties which do not belong to SIX Group both in Switzerland and abroad.

If, as part of this outsourcing arrangement, personal data within the meaning of this Annex is sent to SIX Group, other subsidiaries of SIX Group or third parties as service providers, X-CLEAR shall oblige the service providers in advance to ensure full compliance with the relevant confidentiality and data protection provisions and respective obligations of X-CLEAR, which are at least equivalent to Applicable Laws in Switzerland. X-CLEAR also reserves the right to disclose personal data to authorities and/or third parties in Switzerland or abroad, provided X-CLEAR is obliged to disclose this data under Applicable Laws.

X-CLEAR or the third parties mentioned in this clause 22.4.5 may transfer and/or process personal data from or outside Switzerland, but only if the level of data protection guaranteed by Applicable Laws is at least equivalent to that in Switzerland. X-CLEAR shall inform the Member within a reasonable period of time in advance if it outsources its data processing to service providers outside Switzerland, the European Union or the EEA.

22.4.6 Duration and location of data processing

Personal and other data are processed by X-CLEAR in accordance with the statutory data protection provisions as well as the applicable statutory retention obligations. In Switzerland, the retention period is 10 (ten) years after the end of the Contractual Relationship.

The location where the personal data is processed is in Switzerland, unless X-CLEAR notifies the Member in advance otherwise in exceptional cases.

22.4.7 Rights of data subjects

With regard to the personal data relating to the data subjects, data subjects have the following rights vis-à-vis X-CLEAR in accordance with the applicable data protection provisions:

- a. To receive information about whether and which personal data X-CLEAR saves (categories of personal data, recipient or categories of recipients, retention period for personal data or criteria to determine the retention period);

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- b. To receive a copy of the personal data;
- c. To request the personal data be corrected if there are any errors identified;
- d. To request that personal data be deleted;
- e. To request that restrictions be placed on the processing of personal data;
- f. To receive the personal data in a structured, common and machine-readable format; and
- g. To submit an objection to their personal data being processed.

The above-mentioned rights may be refused or restricted by X-CLEAR if the interests, rights and freedoms of third parties outweigh these rights or the processing of personal data is necessary for X-CLEAR to assert, exercise or defend its legal rights.

22.5 Responsibility for data processing and the Data Protection Officer

Within X-CLEAR, the following unit is responsible for the processing of personal data:

SIX x-clear Ltd

Head Risk Management Operations
Hardturmstrasse 201, 8005 Zurich, Switzerland

X-CLEAR has a Data Protection Officer (DPO), who can be contacted as follows:

SIX Group AG
Compliance
Hardturmstrasse 201, 8005 Zürich, Schweiz
dataprotection@six-group.com

23.0 Intellectual property rights

If and to the extent that either X-CLEAR or the Member makes available to the other party based on the Contractual Relationship, any material in which Intellectual Property subsists, X-CLEAR or the Member, as the case may be, warrants that the use by the other party of such material for the purposes for which such material was made available shall not infringe the rights of any third party.

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24.0 Fees and costs

24.1 Fees and external costs

In accordance with the rules of the Contractual Relationship, the Member shall pay an annual Membership fee, payable *pro rata temporis* in Swiss francs (CHF) as part of the regular monthly fees payable by the Member as well as ongoing fees charged on the basis of the Clearing Services actually received.

In addition, X-CLEAR charges the Member for all expenses "external costs" which X-CLEAR incurs in connection with the provision of Clearing Services to the Member by a third party – in particular, the Approved Settlement System, the provider of Transaction Routing or a Co-CCP (if applicable).

24.2 Price List and monthly statement

X-CLEAR will set out its Clearing Services charges and Membership fees in the Price List as published on the SIX website and issued to the Member from time to time in the event of it being amended.

Suspension of Membership in accordance with the Contractual Relationship does not release the Member from the requirement to pay the Membership fee. If Membership of the Member begins or is terminated during a calendar year the Membership fee paid for that year is payable, but will be refunded on a pro rata basis.

X-CLEAR shall be entitled to vary the amount of the charges or fees in accordance with the change rules of the Contract for Clearing Services.

X-CLEAR shall provide the Member (by post, e-mail or other agreed electronic means) with a monthly statement of the fees and charges accrued.

24.3 Collection

X-CLEAR shall be authorised to collect all monies owed by the Member to X-CLEAR pursuant to the Contractual Relationship from the Member's ordinary account held at SIX SIS, an account at a bank or via the Swiss payments system Swiss Interbank Clearing ("SIC") by direct debit. Collection will be effected by SIX SIS as an agent of X-CLEAR or by SIX x-clear Norwegian Branch.

The Member undertakes to instruct SIX SIS to honour all direct debit mandates received from X-CLEAR (where the Member's account is held at SIX SIS) to collect all sums owed by the Member from the Member's accounts held at SIX SIS and transfer the appropriate amount to X-CLEAR's account with SIX SIS. The Member may revoke the

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direct debit instruction with 14 days' notice, provided that a replacement arrangement at SIX SIS is established prior to such revocation.

25.0 Extensions and waivers

25.1 Extension or waiver of acts

The time fixed by the Contractual Relationship for the performance of any act or acts may be extended, or the performance of any act or acts required by Contractual Relationship may be waived by X-CLEAR whenever at its discretion it considers that such extension or waiver is necessary or in the best interests of X-CLEAR.

25.2 Extension of submission of information or making payments

Without prejudice to the generality of clause 25.1, the time fixed by the Contractual Relationship for filing any report or other document, for submitting any information or for making deposits or payments may be extended by X-CLEAR whenever at its discretion it considers that such extension is necessary or in the best interests of X-CLEAR. Any such extension may continue in effect after the event(s) giving rise thereto.

26.0 Dispute resolution

26.1 Addressees of complaints

A Member that wishes to make a complaint to X-CLEAR in relation to the performance by X-CLEAR of its obligations arising under the Contractual Relationship shall refer the complaint to its Relationship Manager at SIX.

26.2 Bilateral procedure of complaints

SIX Relationship Management shall make a record of the complaint and at its discretion conduct an investigation into the matters raised by the complaint.

On completion of the investigation of the complaint by SIX Relationship Management, it shall communicate the results of the investigations to the Member and include details of any measures that X-CLEAR has taken or proposes to take.

Where a Member is not satisfied with the outcome of the investigation, it may refer the complaint to the Executive Committee of X-CLEAR. The Executive Committee of X-CLEAR shall adopt such procedures as it sees fit in order to review the outcome of the investigation by X-CLEAR, but shall not be obliged to conduct a new investigation or hear further representations from the Member.

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If the Member is not satisfied with the outcome of the complaint following its review by the Executive Committee of X-CLEAR, the Member may refer the complaint to the Executive Board of SIX Securities & Exchange. The Executive Board of SIX Securities & Exchange shall adopt such procedures as it sees fit in order to review the outcome of the Executive Committees of X-CLEAR, but shall not be obliged to conduct a new investigation or hear further representations from the Member.

This complaint procedure, the decision by the Executive Board of SIX Securities & Exchange, shall have no evidential value in any subsequent internal (within SIX) proceedings.

26.3 Bilateral procedure versus referral to external units

Any investigations, reviews or measures carried out pursuant to the provisions outlined in clauses 26.1 and 26.2 shall be undertaken within a reasonable period of time.

The Member agrees that it shall not refer any Dispute to a court, tribunal or other Governmental Authority without first exhausting the procedures laid down in this chapter 26.0.

27.0 Communication

27.1 Binding information

Information relating to Trading Platform Transactions received by X-CLEAR from the Trading Platform or a Co-CCP (if any) shall be binding on the Member unless and until revoked by the Trading Platform or a Co-CCP.

Unless otherwise expressly provided under the Contractual Relationship, X-CLEAR will not undertake any additional or particular verification of such information.

27.2 Monitoring and review by the Member

Each Member shall regularly monitor its electronic communication facilities – i.e. the e-mail boxes indicated in the contact data and the website of SIX > Exchange & Services > Go to Securities Services > Clearing during the course of each Business Day for receipt of communications from X-CLEAR.

Each Member shall immediately:

- a. review every communication delivered to it by X-CLEAR, and
- b. report to X-CLEAR any error in any such communication.

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27.3 Submission of documentation

Except as otherwise specifically prescribed in the Contractual Relationship, all reports, documents, papers, statements, notices, checks, and other communications and other materials (hereinafter referred to as "Documents") required or permitted by the Contractual Relationship to be submitted to X-CLEAR shall be delivered to X-CLEAR (or its designated agent, where applicable) at such times, in such form and in such manner as X-CLEAR shall require. Without prejudice to the foregoing, each Document delivered to X-CLEAR shall clearly state the identity of the Member making such delivery.

27.4 Recordings

X-CLEAR shall be entitled to record telephone communications with the Member, the NCM or agents of any of them.

27.5 Effectiveness of communication

With the exception of notices from X-CLEAR regarding amendments to the Contractual Relationship, notices issued by X-CLEAR will be deemed to have been served if they have arrived at the Member's last known address (by post, fax, telephone, telex or e-mail) or are made by way of a Clearing Notice and posted on the website of SIX. X-CLEAR will rely on the contact addresses supplied or notified by the Member. The Member is obliged to notify X-CLEAR of any changes to its contact address or details.

27.6 Responsibility for means of transmission

Any loss incurred or suffered by a Member arising from the use of post, fax, telephone, telex, e-mail and other means of transmission or transport (including, without limitation, as a result of loss, delay, misunderstandings, distortion or duplications) shall be borne by that Member, save to the extent that X-CLEAR has not exercised reasonable care.

28.0 Provisions applicable to a Co-CCP

A CCP that wishes to obtain Membership status in X-CLEAR as a Co-CCP shall apply to X-CLEAR for such status in a manner and form which X-CLEAR at its discretion considers appropriate.

X-CLEAR's relationship with a Co-CCP shall be governed by the applicable Link Agreement and this chapter 28.0. Furthermore, the provisions of this Rulebook, and in particular the Default rules of chapter 19.0, shall apply to the Co-CCP mutatis mutandis but only in respect of its obligations in respect of Inter-CCP Contracts. In particular, references to "Single Contracts" shall be replaced by references to "Inter-CCP

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Contracts" and references to the Membership of a Member shall be read as a reference to the relationship of the Co-CCP to X-CLEAR as a co-operating Central Counterparty.

X-CLEAR's right to terminate the relationship to the Co-CCP shall only be exercised in circumstances where X-CLEAR has the right to terminate the applicable Link Agreement.

29.0 Operational Manual

The operational, technical and process-based arrangements related to the provisions of the Principal Agreements, the Financial Collateral Agreement and this Rulebook are set out in the **Operational Manual** (previously Clearing Terms), which is unilaterally (without consultation) published by X-CLEAR as a separate document on the website of SIX and thus entered into force.

30.0 Applicable law and place of jurisdiction

30.1 Applicable law

For all Disputes arising in connection with the legal relationship between X-CLEAR and its Members on the basis of this Contractual Relationship, the law specified in the Contract for Clearing Services shall apply.

30.2 Place of jurisdiction

Any Dispute shall be subject to the jurisdiction as specified in the Contract for Clearing Services.

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31.0 **Annex 1: Markets, Trading Platforms and Formation of Single Contracts**

For the Trading Platforms listed hereafter Single Contracts shall arise between X-CLEAR and a Member and/or the Co-CCP elected by the counterparty by way of the following procedure:

- **Aquis UK**
means Aquis Trading Platform, which is operated by Aquis Exchange Limited, which is a company incorporated in England, registered under company number 07909192, whose registered office is Palladium House, 1-4 Argyll Street, London, W1F 7LD, UK:
by Novation
- **Aquis Europe**
means Aquis Trading Platform, which is operated by Aquis Europe SAS, a company incorporated under the laws of France, whose registered office is at 231 rue Saint Honoré, 75001 Paris, France: **by Novation**
- **BlockMatch**
means BlockMatch Trading Platform, which is operated by Instinet Europe Ltd, a company incorporated under the laws of England and Wales, whose registered office is at 1 Angel Lane, London EC4R 3AB, UK, and is registered under company number 01915961:
by Novation
- **Cboe Equities UK**
means Cboe Europe Equities Trading Platform, which is operated by Cboe Europe B.V., which is a company incorporated under the laws of England and Wales, whose registered office is at The Monument Building, 11 Monument Street, London EC3R 8AF, UK, and is registered under company number 6547680: **by Novation**
- **Cboe Equities Europe**
means Cboe Europe Equities Trading Platform, which is operated by Cboe Europe Limited, which is a company incorporated under the laws of The Netherlands, whose registered office is at Gustav Mahlerlaan 1212, 1081 LA Amsterdam, The Netherlands:
by Novation
- **Equiduct**
means the ETS Trading Platform, which is operated by Börse Berlin AG, which is a company incorporated under the laws of Germany, whose registered office is at Fasanenstrasse 3, 10623 Berlin, Germany: **by Novation**

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- **London Stock Exchange**
means the Trading Platform which is operated by London Stock Exchange plc, which is a company incorporated under the laws of England and Wales, whose registered office is at 10 Paternoster Square, London EC4M 7LS, UK, and is registered under company number 2075721: **by Open Offer**
- **Nasdaq Copenhagen**
means the Trading Platform which is operated by Nasdaq Copenhagen A/S, which is a company incorporated under the laws of Denmark (code 19042677), whose registered office is at Nikolaj Plads 6, 1047 København K, Denmark: **by Novation**
- **Nasdaq Stockholm**
means the Trading Platform which is operated by Nasdaq Stockholm AB, which is a company incorporated under the laws of Sweden (code 556383-9058), whose registered office is at Tullvaktsvägen 15, SE 105 78 Stockholm, Sweden: **by Novation**
- **Nasdaq Helsinki**
means the Trading Platform which is operated by Nasdaq Helsinki Oy, which is a company incorporated under the laws of Finland (code 0815051-3), whose registered office is at Fabianinkatu 14, PL 361, 00131 Helsinki, Finland: **by Novation**
- **Oslo Børs**
means the collective of segments, Oslo Børs and Oslo Axess Trading Platforms and Oslo Connect (derivative products), which is operated by Oslo Børs ASA, which is a company incorporated under the laws of Norway, whose registered office is at Tollbugata 2, 0152 Oslo, Norway, and is registered under company number 983268633: **by Open Offer**
- **Sigma X MTF**
means the Trading Platform which is operated by Goldman Sachs International, which is a partnership under the laws of England and Wales, whose registered office is at Plumtree Court, 25 Shoe Lane, London, EC4A 4AU, UK, and is registered under company number 2263951: **by Novation**
- **SIX Swiss Exchange ("SSX")**
means the Trading Platform which is operated by SIX Swiss Exchange, a company incorporated under the laws of Switzerland, whose registered office is Hardturmstrasse 201, CH-8005 Zurich, Switzerland, and is registered under the company number CH-020.6.000.206-7: **by Open Offer**
- **Traiana**
means the Trading Platform "Harmony", an electronic post-trade, pre-settlement messaging platform, which is operated by Traiana Inc, which is a company

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incorporated in the State of Delaware, whose principal office is at 11 West 42nd Street, New York, NY 10036, USA: by Novation

- **Turquoise UK**
means the Trading Platform which is operated by Turquoise Global Holdings Ltd, a company incorporated under the laws of England and Wales, whose registered office is at 10 Paternoster Square, London EC4M 7LS, UK, and is registered under company number 07102717: **by Novation**
- **Turquoise EU**
means the Trading Platform which is operated by Turquoise Global Holdings B.V., a company incorporated under the laws of the Netherlands, whose registered office is at Keizersgracht 679-689, 4th floor, 1017 DV Amsterdam, Netherlands, and is registered under company number 000040128512: **by Novation**
- **UBS MTF**
means the Trading Platform which is operated by UBS Limited, a company incorporated under the laws of England and Wales, whose registered office is at 1 Finsbury Avenue, London EC2M 2PP, UK, and which is registered under company number 02035362: **by Novation**

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32.0 **Annex 2: Regulations of the GCM/NCM Agreement.**

32.1 **Mandatory elements**

The Member agrees that the GCM/NCM Agreement (pursuant to clause 5.2) between it and the NCM must contain the following contractual elements and regulations:

- a. Regulation concerning the **authorisation of the GCM** as the agent of the NCM pursuant to clause 5.2 regarding the selection of account segregation (pursuant to chapter 13.0) and the option to be carried out pursuant to clause 20.1.3 as well as the collective porting pursuant to clause 20.1.4 in the event of the Default of the GCM;
- b. Regulation concerning the **authorisation of the NCM** as the agent of the GCM to issue instructions with respect to its Trading Platform Transactions directly to X-CLEAR within the ongoing Clearing process and to have them settled on behalf and for the account of the GCM;
- c. Specification that if an order entered in the Trading Platform by an NCM is matched by the Trading Platform against another order entered in the Trading Platform, a Single Contract shall arise between the GCM and X-CLEAR (in accordance with the Contractual Relationship) as well as an identical contract between the NCM and the GCM;
- d. Exclusion of any contractual relationship between X-CLEAR and the NCM within the ongoing Clearing process;
- e. Assumption of responsibility by the NCM to comply with the Trading Platform Rules;
- f. Explanation that the NCM may neither be suspended nor terminated as a Trading Platform Member;
- g. Margin and Link Margin Element requirements of the GCM for its NCM(s), whereby in the case of individual client account segregation, these Margins must be requested in the same amount (equivalent value) as calculated separately by X-CLEAR for the respective NCM (pursuant to clause 5.2);
- h. Agreements with respect to:
 - (i) account segregation pursuant to chapter 13.0.

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- (ii) Options relating to the Default of the GCM pursuant to clause 20.1.3 (only in the case of individual client account segregation).
- (iii) Impact and costs.
- (iv) Based on the account segregation selection, the “NCM instruction” (template available under “Forms” on the website of SIX) must be completed, signed and, in the case of individual client account segregation, co-signed by the NCM and submitted to X-CLEAR;
 - i. Agreements with regard to data protection;
 - j. Regulations in the event of fundamental obligations (in particular, the provision of Collateral) failing to be met or the Default of the NCM;
 - k. Period of validity of the GCM/NCM Agreement.

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33.0 **Annex 3: Rules for Auction Participation**

In markets where X-CLEAR is providing Clearing Services for Derivative Products it assures the liquidation of a defaulting Member's portfolio of Derivative Products and/or Securities with a pre-arranged Auction Process.

To this end the following **Rules for Auction Participation** shall apply:

33.1 **Objectives**

- a. As a consequence of the close-out process necessitated by the Default of a Member unsettled Single Contracts might result for X-CLEAR in positions in Derivative Products and/or Securities which must be liquidated by "sell off".
- b. In order to liquidate these positions in an orderly manner a procedure is defined at X-CLEAR (the "Auction Process") which includes arrangements with financial institutions qualifying as Auction Participants and being part of that process.
- c. The objectives of the Auction Process are i) to re-establish X-CLEAR's balance of its order book ("matched book"), ii) to endorse the market participants' interests of preserving stable market conditions and iii) reduce risks (esp. of contagion) in a time of elevated stress.
- d. X-CLEAR intends to offer respective positions in Derivative Products and/or Securities which might include hedge transactions specifically related to the respective positions (the "Offered Portfolio") for sale to the Auction Participants and act as provided for in this Auction Participant Agreement on trading venue(s) where derivatives and securities are offered for clearing by X-CLEAR.

33.2 **Qualifications of Auction Participant**

An Auction Participant must qualify in advance of an Auction Process as follows (cumulative requirements):

- a. It is
 - a Member of X-CLEAR or
 - a Non-clearing Member which has concluded the present Auction Participation Agreement with X-CLEAR and which is linked to a Member of X-CLEAR (the "GCM");

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- b. It is a market participant in a market in Derivatives Products where X-CLEAR provides clearing services and, in X-CLEAR's reasonable opinion, is able to purchase and manage an Offered Portfolio;
- c. It is capable to fulfill the technical, operational and capital requirements to support the Auction Process. Details of requirements will be published in the Operational Manual.

33.3 Obligations of Auction Participant

When requested by X-CLEAR the Auction Participant shall take part in an Auction Process as further defined hereafter. In particular, the Auction Participant agrees to:

- a. Analyse the Offered Portfolio, and in case of interest, provide an answer to X-CLEAR in form of a firm bid for the Offered Portfolio.
- b. As a Market Maker (as defined in article 4 of the European Directive 2014/65/EU on markets in financial instruments ["MiFID"]) fulfilling the requirements as set forth in clause 33.2, always take part as an Auction Participant in an Auction Process offering Trading Platform Products for which it is a Market Maker.
- c. Provide such bid within the deadline set forth by X-CLEAR in the Offered Portfolio's description and specific terms. For the avoidance of doubt X-CLEAR takes non-submission of a bid as a decline of participation in the Auction Process.
- d. Participate in its role in a yearly default management testing procedure as is imposed on X-CLEAR by its regulatory authorities.
- e. As an Auction Participant which is an NCM, have received in advance the consent from its GCM to bid for the Offered Portfolios. The GCM shall confirm such consent towards X-CLEAR in written form.

33.4 Obligations of X-CLEAR and Auction Process

- a. X-CLEAR invites the Auction Participants to a specific Auction Process.
- b. The Offered Portfolio consists in the aggregate of the Single Contracts which have not been settled between X-CLEAR and the Defaulting Member at the time of the launch of the Auction Process. X-CLEAR may, at its sole discretion, include its related hedging transactions (if any) and split the Offered Portfolio into several tranches (sub-portfolios).

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- c. X-CLEAR informs the Auction Participants of the single positions of Offered Portfolio and the specific terms of the Auction Process, in particular of the applicable bidding period during which price offers for the Offered Portfolio can be placed.
- d. The Auction Process will be conducted in a hidden form (i.e. a “sealed-bid auction”). The Auction Participant submits its bid in writing by email to X-CLEAR without having been disclosed by X-CLEAR of any prices or other relevant details about the bids of other Auction Participants.
- e. X-CLEAR reserves the right to cancel an Auction Process if results prove unsatisfactory in X-CLEAR’s reasonable discretion. X-CLEAR will explain such cancellation and either repeat the Auction Process amending (or refraining from amending) the specific terms or resort to an alternative solution for the sale of the Offered Portfolio.
- f. The best bid wins the Auction Process. X-CLEAR advises the winning Auction Participant and informs the other Auction Participants by e-mail.

33.5 Incentivation

Auction Participants are pursuing the objectives as set out in clause 33.1. For this they shall be given a benefit in accordance with their usage of the derivative clearing services of X-CLEAR and their efforts as defined in clause 11.7 of the Rulebook.

For the avoidance of doubt, if an NCM wins the Auction Process, its GCM is not considered the best bidder of the Auction Process within the meaning of clause 11.7 of the Rulebook and, thus, shall not be entitled to the benefits provided in this clause.

The GCM shall agree with its NCM(s) a rule regarding the NCM’s compensation when the latter should win an Auction Process.

33.6 Administration and taxes

Ownership and responsibility for the administration of all positions of the Offered Portfolio shall rest with X-CLEAR until they are transferred from the account of X-CLEAR to the account of the winning Auction Participant. Relevant rules are set forth in the Contractual Relationship with X-CLEAR.

Furthermore, with regard to taxation of the position transfers the respective rules set forth in the Contractual Relationship shall apply.

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33.7 Data Protection and Confidentiality Commitment

The Auction Participant is aware that any information on the Offered Portfolio and its specific terms are privy to the Auction Participants only. It shall keep confidential all information relating to this Agreement whether contained in this contract or derived from the respective contractual arrangements and transactions unless the information has become public by way of disclosure through other persons, or disclosure is required by law, judicial order or a party's regulatory authority.

The Auction Participant therefore commits to use such information in all Auction Processes subject to these rules for the purposes stated in this Annex 3 only and not to exploit it on a self-standing or joint basis for its own benefit (the "Confidentiality Commitment").

This clause shall remain in force beyond termination of this Agreement.

33.8 Fees and Penalties

The Auction Participant or X-Clear shall pay the price as set by the Auction Process within two Business Days following the Auction Process.

The Auction Participant shall disclose any requirements regarding brokerage fees and commissions, thus ensuring that X-CLEAR is able to distinguish the price of the instrument from the fee or commission charged in the final billing.

In case of violation of the Confidentiality Commitment the Auction Participant shall pay a conventional penalty of 20% of the Offered Portfolio's value as set by the Auction Process.

For unsuccessful auctions the absolute value of the Offered Portfolio at the time of the Default as calculated by the applicable clearing system shall be relevant.

33.9 Governing law and jurisdiction

33.9.1 Governing law

Any disputes arising out of or in connection with the legal relationships between X-CLEAR and the Auction Participant will be governed by the laws of the domicile of the Auction Participant.

33.9.2 Jurisdiction

The place of jurisdiction for any form of proceedings and for any disputes arising in connection with the legal relationships between X-CLEAR and the Auction Participant is

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the competent court of the domicile of the Auction Participant. This court shall also be the place of enforcement. However, X-CLEAR also has the right to take legal proceedings against the Auction Participant before any court which is competent according to Applicable Laws.

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A decorative graphic at the bottom of the page consisting of several overlapping, semi-transparent red shapes. These shapes include horizontal bands and curved, wave-like forms that create a layered, abstract composition. The colors range from a deep, dark red to a lighter, more vibrant red, with some areas appearing as darker shades due to the overlap.