



# **ICE Clear Singapore<sup>sm</sup>**

## **Default Auction Procedures**

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1. **INTRODUCTION**

- 1.1 These Default Auction Procedures (the "**Auction Terms**") govern the auctioning of a lot representing a Contract or number of Contracts ("**Contracts**") to which a Defaulter is or was a party, where such auction (an "**Auction**") is administered by the Clearing House pursuant to Part 9 of the ICE Clear Singapore Rules (the "**Rules**"). These Auction Terms are 'Procedures' as defined in the Rules and are subject to the Rules, including, without limitation, Rule 102.
- 1.2 These Auction Terms shall apply to every Auction conducted by the Clearing House pursuant to Part 9 of the Rules. However, they may be modified or supplemented for any particular Auction pursuant to the relevant Auction Specifications as set out in Paragraph 2.6.
- 1.3 The Clearing House will conduct Auctions in accordance with its default policies. In the event of a conflict between the terms of such default policies and these Auction Terms (as modified or supplemented by any applicable Auction Specification as set out in Paragraph 2.6), these Auction Terms shall prevail.
- 1.4 These Auction Terms, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with the laws of the Republic of Singapore and any Dispute under these Auction Terms will be subject to arbitration under Rule 117.
- 1.5 These Auction Terms are intended to constitute 'default rules' for purposes of Part III of the SFA and the CFR and any action taken by the Clearing House pursuant to these Auction Terms is intended to constitute "default proceedings" for purposes of Part III of the SFA and the CFR. In addition to these Auction Terms and the Rules, the Clearing House relies on its legal rights under Applicable Laws in handling Events of Default.
- 1.6 Subject to paragraph 1.7 to 1.12 below, these Auction Terms, and all non-contractual obligations arising out of or in connection with them, are governed by and shall be construed in accordance with the laws of Singapore and any Dispute under these Auction Terms will be subject to arbitration under Rule 117.
- 1.7 Solely as between an FCM Clearing Member and the Clearing House, those provisions of these Auction Terms inasmuch as they relate solely to an issue or matter concerning:
- (a) the pledging, transfer, holding, use and segregation of Pledged Collateral provided by an FCM Clearing Member (or other property, excluding for the avoidance of doubt the Contracts themselves recorded in such an Account, recorded in a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided by an FCM Clearing Member); and/or
  - (b) the application of any net sum owed in favour of the FCM Clearing Member in respect of a Customer Account or Proprietary Account that is designated as an account in respect of which Pledged Collateral may be provided,

and, solely to the extent relevant to interpreting the foregoing provisions in such circumstances, relevant definitions and interpretative provisions in paragraph 1 of these Auction Terms (such provisions, together or separately "**Pledged Collateral Matters**") shall be governed by and construed in accordance with the laws of the State of New York and, as applicable, the federal law of the United States of America.

- 1.8 For the avoidance of doubt, paragraph 1.7 is an exception to paragraph 1.6 and Rule 102(s) which provide that the Auction Terms and Rules respectively shall be governed by and construed in accordance with the laws of Singapore. For the avoidance of doubt, without limitation and notwithstanding paragraph 1.7, the

following are governed by and shall be construed in accordance with the laws of Singapore in their entirety without any exception and shall in no circumstances constitute a Pledged Collateral Matter:

- (a) all of the provisions of these Auction Terms relating to the Assured Payment System;
- (b) any Dispute or issue arising as between a Non-FCM Clearing Member on the one hand and the Clearing House on the other hand;
- (c) any Dispute or issue arising in respect of a Customer Account or Proprietary Account that is not designated as an account in respect of which Pledged Collateral may be provided; and
- (d) the Contract Terms of all Contracts.

1.9 Where a dispute between an FCM Clearing Member and the Clearing House relates to one or more Pledged Collateral Matters, notwithstanding the provisions of Rule 117, solely the allegations or claims relating to the Pledged Collateral Matters in such dispute shall be heard and determined exclusively in any New York federal court sitting in the Borough of Manhattan of the City of New York, provided, however, that if such federal court does not have jurisdiction over such allegations or claims, such allegations or claims shall be heard and determined exclusively in any New York state court sitting in the Borough of Manhattan of the City of New York (such Courts, together, "**New York Courts**"). Consistent with the preceding sentence, the Clearing House and each FCM Clearing Member hereby:

- (a) submits to the exclusive jurisdiction of the New York Courts solely in respect of allegations or claims relating to Pledged Collateral Matters; and
- (b) agrees that service of process will be validly effected by sending notice in accordance with Rule 113.

1.10 All allegations or claims other than those over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.9 shall be finally and exclusively determined by way of arbitration pursuant to Rule 117. It is expressly recognised that for Disputes between an FCM Clearing Member and the Clearing House containing both allegations or claims over which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.9 and other allegations or claims, it may be necessary to have both New York Court proceedings and arbitral proceedings. The submission of a party to the jurisdiction of a New York Court and/or the taking of a step by a party in proceedings before a New York Court, where in any such instance the New York Court has exclusive jurisdiction pursuant to paragraph 1.9 does not amount to a waiver by that party of its right to commence or participate in arbitral proceedings in accordance with Rule 117. The submission of a party to arbitration under Rule 117 or in respect of any Dispute does not amount to a waiver by that party of its right to have allegations or claims in relation to which the New York Courts have exclusive jurisdiction pursuant to paragraph 1.9 heard in the New York Courts.

1.11 Nothing in paragraphs 1.6 to 1.12 precludes the Clearing House from bringing an action to enforce a judgment from any New York Court or award of any arbitral tribunal in any court of competent jurisdiction.

1.12 EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARISING OUT OF, UNDER OR IN CONNECTION WITH THESE AUCTION TERMS OR ANY MATTER CONTEMPLATED BY THEM. EACH CLEARING MEMBER AND THE CLEARING HOUSE HEREBY:

- (a) CERTIFIES THAT NO REPRESENTATIVE OF ANY OTHER PERSON BOUND BY THESE RULES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF ANY SUCH DISPUTE, SEEK TO ENFORCE THE FOREGOING WAIVER; AND
- (b) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THESE RULES, ALL CONTRACTS AND ALL OTHER TRANSACTIONS CONTEMPLATED BY THESE RULES, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN PARAGRAPHS 1.6 to 1.12.

## 2. THE AUCTION PROCESS

- 2.1 Any Auctions of Contracts to which a Defaulter is or was party will take place after the Clearing House has issued a Circular in relation to the Event of Default in accordance with Rules 901 and 902 specifying that an auction or auctions are to take place (such Circular, the "**Auction Announcement Circular**").
- 2.2 Each Clearing Member is required to bid in every Auction regardless of whether such Clearing Member is at the time of the Auction a party to any Contract, has served a notice of termination for which the Termination Date has not yet passed or is in a Cooling-off Period. For these Auction Terms the term 'Clearing Member' shall be construed to exclude any Clearing Member that is a Defaulter. Subject to Paragraph 2.4 below, with respect to a lot, all Clearing Members are required to bid for a minimum of Contracts in each lot as determined by the Clearing House (the "**Minimum Bid Requirement**"). Each Clearing Member will be allocated a Minimum Bid Requirement, subject to Paragraphs 2.4 and 5.6 below. The sum total of the Minimum Bid Requirements may be set to an amount greater than 100% (but no greater than 150%) of the Contracts in the relevant lot as may be determined by the Clearing House from time to time, in consultation with the default management committee established by the Clearing House. No Auction Participants other than Clearing Members are subject to any minimum bid requirement.
- 2.3 Clearing Members shall be deemed to have confirmed to the Clearing House their intention to bid in a particular Auction prior to the time window for bidding. A Clearing Member may bid for the account of a Customer, subject to Paragraph 3.2 below. A bid for its Proprietary Account or Customer Account will count towards its Minimum Bid Requirement.
- 2.4 Each Clearing Member's Minimum Bid Requirement shall be communicated to it individually by the Clearing House prior to the relevant Auction in the format of the template notification set out in Annex B to these Auction Terms. A Minimum Bid Requirement shall not apply to a Clearing Member: (a) to the extent such a Minimum Bid Requirement would be in breach of Applicable Law or the Rules; or (b) where the Clearing House, after being notified in writing by the relevant Clearing Member that a Minimum Bid Requirement is inappropriate in the current circumstances, reasonably determines that the Minimum Bid Requirement does not apply. A Clearing Member will notify the Clearing House promptly and in any event at least 12 hours prior to the opening of the relevant Auction, in writing, if it reasonably considers that this Paragraph 2.4 applies or should apply. Affiliated Clearing Members may transfer, outsource or aggregate their Minimum Bid Requirements to apply to a single one of them subject to notifying the Clearing House prior to an Auction. A Clearing Member that so transfers or outsources its Minimum Bid Requirement to an Affiliate remains liable for any breach by its Affiliate of these Auction Terms or the Auction Specifications in respect of such Clearing Member's Minimum Bid Requirement (in addition to the liability on the part of its Affiliate for such breach).
- 2.5 The Clearing House may divide the portfolio of a Defaulter into discrete Auctions or different lots as it considers appropriate. The Clearing House may at its discretion determine which particular Contracts or packages of Contracts are to be the subjects of a particular Auction lot and may establish Auction lots by selecting by way of Contract Set or generic type (*e.g.* by commodities, indices). The Clearing House may

combine contracts with different currencies in the same lot. In these circumstances, Auction Participants must still provide bids in a single currency, being that specified in the relevant Auction Specifications. Payment obligations resulting from the Auction will be in the specified currency. In creating any such lots, the Clearing House will consider if Contracts that provide margin offsets for one another in the normal margining methodology of the Clearing House should be retained in the same lot. The Clearing House may auction lots in such order as it considers appropriate. Prior to the publication of an Auction Announcement Circular or the circulation of the Auction Specifications, the Clearing House may have engaged in close-out or hedging trades or other transactions in respect of the portfolio of a Defaulter. In exercising its discretion under this Paragraph 2.5, the Clearing House, in consultation with the default management committee established by the Clearing House, shall consider, wherever possible, taking into account the Clearing House's margining methodology, including within each lot of Contracts, any Contracts which have been offset for the purposes of calculating the Defaulter's margin requirements.

- 2.6 In respect of each lot, the Clearing House will provide each Clearing Member (and any other Person invited by the Clearing House to participate in the auction whose Clearing Member has confirmed its willingness to clear resulting transactions) (such Clearing Member or Customer, an "**Auction Participant**") in advance with information about Contracts to be auctioned, timing for the bidding process, participation criteria, in the case of Clearing Members, any applicable Minimum Bid Requirements and other matters in writing in the format of the template Auction Specifications set out in Annex A to these Auction Terms (such document, the "**Auction Specifications**"). The Auction Specifications may include amendments or additions to any provision of these Auction Terms or may disapply any provision of these Auction Terms. In the event of any conflict between the Auction Specifications and these Auction Terms in respect of any particular lot, the Auction Specifications shall prevail. If any Person which has been provided a copy of any Auction Specifications believes that he does not satisfy any of the specified participation criteria, he should contact the Clearing House immediately, and, if the Clearing House agrees that such Person does not satisfy the criteria, he shall refrain from bidding for the relevant lot. The Clearing House may restrict any such Person's access to Auctions if it determines that a Person does not satisfy the specified participation criteria. The Clearing House may update or correct any details in the Auction Specifications at any time prior to the commencement of bidding in the relevant Auction.
- 2.7 Auction Participants shall be treated equally as regards the provision of information relating to Auctions by the Clearing House. Any Person who receives any information in connection with an Auction or possible Auction shall hold such information in confidence and in accordance with the Rules, and shall not disclose it to any other Person except where such disclosure is made: (i) with the prior written consent of the Clearing House; (ii) to a Regulatory Authority or Governmental Authority where a request is formally made to the Person by or on behalf of the same or pursuant to Applicable Laws in writing, provided that the Person making such disclosure notifies the Clearing House of its disclosure where it is lawful to do so; (iii) pursuant to an order of a competent court or other Governmental Authority or otherwise to such other Persons, at such times and in such manner as may be required by Applicable Laws, provided that the Person making such disclosure notifies the Clearing House of its disclosure where it is lawful to do so; or (iv) to a Customer where such Customer has expressed his interest in participating in the Auction and is subject to a duty of confidentiality similar to that set out in this Paragraph 2.7.
- 2.8 All bids must be made by submitting a bid form ("**Bid Form**") via ICE's file transfer server or otherwise in the format and manner specified by the Clearing House in the Auction Specifications. Bids must be received during the time window and prior to the Closing Time (as defined below) specified by the Clearing House in the relevant Auction Specifications. Auction Participants (or their Clearing Members) may be required by the Clearing House to post additional Margin as a condition of the Auction Participant being entitled to submit a valid bid.
- 2.9 The Auction will proceed pursuant to a 'sealed bid' process whereby the relevant Auction Participants will be asked to submit bids for the lot or a particular percentage of the lot in the appropriate Bid Form. The

Auction Specifications may specify a minimum bid size. Any bid below any specified minimum bid size will be null and void unless the Clearing House, in its absolute discretion, determines otherwise. Successful bids will be determined in accordance with Paragraph 5.3.

- 2.10 A Bid Form will be treated as invalid and void if it is illegible, spoiled or is incomplete, as applicable.
- 2.11 During such period after the Closing Time as is specified in the Auction Specifications, the Clearing House will notify Auction Participants to inform them either: (i) that there were successful bidders and that such bidders have been notified; or (ii) that no bids were successful as determined in accordance with Paragraphs 5.1 and/or 5.3.
- 2.12 A successful bidder (or its Clearing Member, if applicable) may be required to post additional Margin after the Closing Time.

### 3. **THE BIDDING PROCESS**

- 3.1 Clearing Members will make bids which, as a minimum, comply with any Minimum Bid Requirement notified to it. Any failure to comply with an applicable Minimum Bid Requirement shall be a breach of the Rules. The Clearing House is not obliged to solicit bids from Clearing Members other than notifying Clearing Members of any applicable Minimum Bid Requirement.
- 3.2 An Auction Participant may submit multiple bids for each lot, or a percentage of each lot, in a particular lot on its own account or for the account of a Customer, as the case may be, provided that such Auction Participant ensures that all of its bids, whether for its account or for the account of its Customers, as the case may be, are submitted in the same Bid Form or otherwise as specified in the Auction Specifications. A bid made by an Auction Participant by, for, or on behalf of a Customer shall be identified as such and such bid shall be treated as a bid for the relevant Customer Account. A Clearing Member can satisfy its Minimum Bid Requirement by submitting multiple bids with differing bid prices and bid sizes provided that, in aggregate, its submitted bids equals or exceeds the Minimum Bid Requirement and any individual bid is larger than any applicable minimum bid size. Successful bidders will be determined in accordance with Paragraph 5.3.
- 3.3 All the requirements of the Rules concerning the provision of information to the Clearing House apply in respect of the submission of bids by an Auction Participant.
- 3.4 Bids can only be submitted during the time window specified by the Clearing House in the Auction Specifications. The time period for submission will end at the closing time specified by the Clearing House for the relevant Auction in the Auction Specifications ("**Closing Time**"). The Closing Time may be postponed for up to one hour by the Clearing House giving notice of such postponement to all Auction Participants, following consultation to the extent practicable with the default management committee established by the Clearing House and the term Closing Time shall be construed accordingly.
- 3.5 A bid must be in respect of all Contracts or a percentage of all Contracts in the relevant lot. Any partial bids, such as bids which specify a particular Contract, will be invalid and void. With respect to a particular lot, no Auction Participant is permitted to bid, in aggregate, in excess of the number of Contracts being auctioned in such lot.
- 3.6 No Auction Participant may make a referential bid (for example a bid which purports to be a bid which is \$1 higher or lower than the highest or lowest bidder) or make a bid that is subject to conditions. Any such bid will be treated as invalid and void.

- 3.7 An Auction Participant may amend or modify a submitted bid by resubmitting its entire Bid Form. In the event a Bid Form is resubmitted with any amendments or modifications the Clearing House will disregard any previous Bid Form submitted by such Auction Participant and any such previous Bid Form will be null and void. After the Closing Time, all submitted Bid Forms are irrevocable provided that if the Clearing House is satisfied, upon the request of an Auction Participant, that a genuine mistake has been made in the submission of a bid, the Clearing House may, at its own discretion, withdraw the bid and permit the Auction Participant to submit a corrected bid before the Auction Clearing Price is determined. If such erroneous bid is so withdrawn but not corrected by such time, it will be deemed not to have been submitted for purposes of these Auction Terms.
- 3.8 Each bid will be deemed to have been submitted at the time it is recorded as being received by the Clearing House. Any bid received after the Closing Time will be treated as invalid and void.
- 3.9 Any bid that does not comply with the requirements of these Auction Terms or the Auction Specifications will be treated as invalid and void.

#### **4. PARTICIPATION BY CUSTOMERS IN THE AUCTION**

- 4.1 A Clearing Member may make an unlimited number of separate bids in respect of its Customers (in addition to any bids for its Proprietary Account), in accordance with Paragraph 3.2 above. A Clearing Member must have all due approval, consent or authorisation from its Customer to make the relevant bid.
- 4.2 A Clearing Member shall become liable for the bids made on behalf of a Customer and for the entry into of Contracts in the same way as it is liable for and becomes party to other Contracts entered into for its Proprietary Account or a Customer Account (as applicable) or otherwise for Customers pursuant to the Rules.
- 4.3 Except as otherwise set out in these Auction Terms and as provided for in the Rules, each Auction Participant that is not a Clearing Member is hereby deemed to have agreed to become bound by these Auction Terms and by the Rules as if it were a Clearing Member in respect of its conduct in relation to an Auction.
- 4.4 The Clearing House reserves the right to verify any bid to ensure such bid will be cleared by a Clearing Member and reserves the right to invalidate a bid where the Clearing House reasonably believes that such bid, if accepted, would not be cleared by a Clearing Member (notwithstanding Paragraph 4.2) or that such bid would be in breach of any Exposure Limits or other risk policies implemented by the Clearing House pursuant to the Rules. Any such invalidation will be made prior to the Closing Time. Bids so invalidated will not be counted toward a Clearing Member's Minimum Bid Requirement.

#### **5. SELECTION OF THE WINNING BID**

- 5.1 The Clearing House may at its discretion set any reserve price and/or any maximum price (which in either case will not be disclosed to any bidders). If no bids exceed the reserve price (if any) and are less than the maximum price, (if any) then, subject to Paragraph 5.10, there will be no successful bidder for the lot subject to the Auction in question and the Auction for that lot shall be treated as a failed Auction.
- 5.2 The Clearing House may at its discretion withdraw a lot prior to the Closing Time.
- 5.3 Promptly after the Closing Time, the Clearing House will sort bids submitted to it in the order of the price bid. The bids will be ordered sequentially, starting with the highest bid price, and ending with the lowest price. The price of the bid at which the sum of the number of Contracts of bids equal to or greater than the price in question matches or exceeds the number of Contracts being auctioned shall be the auction clearing



price (the "**Auction Clearing Price**") such price being either payable by the Clearing House to the Auction Participant or its Clearing Member or to the Clearing House by the Auction Participant or its Clearing Member, as applicable. In the event that a bid is invalid or void or no Contract can be or is established with the Auction Participant (or its Clearing Member, as applicable) for any reason, such bid will not be accepted for the purpose of calculating the Auction Clearing Price.

Examples of how the Auction Clearing Price is calculated is set out below, for illustrative purposes only:

**Example 1**

Note in these examples a negative bid indicates a payment by the Clearing House

| <b>Ranking</b> | <b>Cash Bid</b> | <b>% of Portfolio</b> | <b>Cash/1%</b> | <b>Allocation % of Portfolio</b> |
|----------------|-----------------|-----------------------|----------------|----------------------------------|
| 1              | \$20,000        | 20%                   | \$1,000        | 20%                              |
| 2              | \$0             | 30%                   | \$0            | 30%                              |
| 3              | -\$2,500,000    | 25%                   | -\$100,000     | 25%                              |
| 4              | -\$3,000,000    | 25%                   | -\$120,000     | 25%                              |
| 5              | -\$3,900,000    | 30%                   | -\$130,000     | 0%                               |
| 6              | -\$6,000,000    | 40%                   | -\$150,000     | 0%                               |
| 7              | -\$7,750,000    | 50%                   | -\$155,000     | 0%                               |
| 8              | -\$6,400,000    | 40%                   | -\$160,000     | 0%                               |
| 9              | -\$3,300,000    | 20%                   | -\$165,000     | 0%                               |
| 10             | -\$43,000,000   | 20%                   | -\$2,150,000   | 0%                               |

Unless Paragraph 5.5 applies, the Auction Clearing Price will be - \$120,000/1%. Portfolio will be allocated in full to bids above the Auction Clearing Price.

**Example 2**

| <b>Ranking</b> | <b>Cash Bid</b> | <b>% of Portfolio</b> | <b>Cash/1%</b> | <b>Allocation % of Portfolio</b> |
|----------------|-----------------|-----------------------|----------------|----------------------------------|
| 1              | \$20,000        | 20%                   | \$1,000        | 20%                              |
| 2              | \$0             | 30%                   | \$0            | 30%                              |
| 3              | -\$2,500,000    | 25%                   | -\$100,000     | 25%                              |
| 4              | -\$3,000,000    | 30%                   | -\$120,000     | 25%                              |
| 5              | -\$3,900,000    | 30%                   | -\$130,000     | 0%                               |

Unless Paragraph 5.5 applies, the Auction Clearing Price will be - \$120,000/1%. Portfolio will be allocated in full to bids 1,2 and 3 and allocated in part to bid 4.

|    |               |     |              |    |
|----|---------------|-----|--------------|----|
| 6  | -\$5,250,000  | 35% | -\$150,000   | 0% |
| 7  | -\$7,750,000  | 50% | -\$155,000   | 0% |
| 8  | -\$6,400,000  | 40% | -\$160,000   | 0% |
| 9  | -\$3,300,000  | 20% | -\$165,000   | 0% |
| 10 | -\$43,000,000 | 20% | -\$2,150,000 | 0% |

**Example 3**

| Ranking | Cash Bid     | % of Portfolio | Cash/1%    | Allocation % of Portfolio |
|---------|--------------|----------------|------------|---------------------------|
| 1       | \$20,000     | 20%            | \$1,000    | 20%                       |
| 2       | \$0          | 30%            | \$0        | 30%                       |
| 3       | -\$2,500,000 | 25%            | -\$100,000 | 25%                       |
| 4 (1)   | -\$3,000,000 | 30%            | -\$120,000 | 12.5%                     |
| 4 (2)   | -\$3,000,000 | 30%            | -\$120,000 | 12.5%                     |
| 6       | -\$3,900,000 | 30%            | -\$130,000 | 0%                        |
| 7       | -\$5,250,000 | 35%            | -\$150,000 | 0%                        |
| 8       | -\$7,750,000 | 50%            | -\$155,000 | 0%                        |
| 9       | -\$6,400,000 | 40%            | -\$160,000 | 0%                        |
| 10      | -\$3,300,000 | 20%            | -\$165,000 | 0%                        |

Unless Paragraph 5.5 applies, the Auction Clearing Price will be - \$120,000/1%. Portfolio will be allocated in full to bids 1,2 and 3. Bids 4(1) and 4(2) will receive a *pro rata* share of the remaining portfolio.

5.4 All Contracts shall be allocated to winning Auction Participants at the Auction Clearing Price in a fair and consistent manner and in accordance with the bid size used in the calculation of the Auction Clearing Price. In the event that there are multiple bids at the Auction Clearing Price, to the extent there is a shortfall of Contracts being available, Contracts shall be allocated *pro rata* according to the number of Contracts the relevant Auction Participants bid for at the relevant price. Bids below any applicable reserve price, above any applicable maximum price, or invalidated pursuant to Paragraph 4.4, may, at the discretion of the Clearing House be excluded for the purposes of calculating the Auction Clearing Price or allocating sizes at the Auction Clearing Price.

5.5 The Clearing House may, in any given Auction (the "**First Auction**") at its discretion, determine the Auction Clearing Price for less than 100% of the Contracts if in the reasonable determination of the Clearing House, a material impact on the amounts payable or receivable by the Clearing House would result if 100% of the Contracts were awarded in the Auction. In such circumstances the Clearing House would call a second Auction (a "**Second Auction**") to auction off any remaining lots. The Clearing House may also hold a Second Auction in the event that there is a failed Auction or not all Contracts are allocated,

whether due to Clearing Members failing to meet any applicable Minimum Bid Requirements, any minimum bid size, any reserve price or maximum price or otherwise.

An example of how this Paragraph 5.5 would apply is set out below, for illustrative purposes only:

| Ranking | Cash Bid      | % of Portfolio | Cash/1%      |
|---------|---------------|----------------|--------------|
| 1       | \$20,000      | 20%            | \$1,000      |
| 2       | \$0           | 30%            | \$0          |
| 3       | -\$3,000,000  | 30%            | -\$100,000   |
| 4       | -\$2,400,000  | 20%            | -\$120,000   |
| 5       | -\$3,900,000  | 30%            | -\$130,000   |
| 6       | -\$6,000,000  | 40%            | -\$150,000   |
| 7       | -\$7,750,000  | 50%            | -\$155,000   |
| 8       | -\$6,400,000  | 40%            | -\$160,000   |
| 9       | -\$3,300,000  | 20%            | -\$165,000   |
| 10      | -\$43,000,000 | 20%            | -\$2,150,000 |

The Auction Clearing Price for 80% of the portfolio shall be - \$100,000/1%

Price of remaining 20% will be determined in a Second Auction

- 5.6 Any Second Auction shall be announced pursuant to a further Auction Announcement Circular and shall be held in accordance with these Auction Terms. The Clearing House shall circulate an Auction Specification for a Second Auction. An Auction Participant for the First Auction shall be deemed to be an Auction Participant for the Second Auction. The Clearing House may at its discretion withdraw a lot in the Second Auction prior to the relevant Closing Time. The Minimum Bid Requirement applicable to each Clearing Member shall be reduced by any Contracts actually won by such Clearing Member (including any bids won by, for, or on behalf of, such Clearing Member's Customers at the Auction Clearing Price pursuant to the First Auction. Any such reductions in Clearing Members' Minimum Bid Requirements will be shared *pro rata* as an increased Minimum Bid Requirement for all Clearing Members who did not have any Contracts allocated to them at the Auction Clearing Price pursuant to the First Auction.
- 5.7 In the case of a bid which results in the entry into a Contract or Contracts at the Auction Clearing Price, the "**Winning Bidder**" will be the relevant Clearing Member.
- 5.8 Each bid constitutes an offer to the Clearing House to enter into Contracts, such offer being made by the relevant Clearing Member. The Clearing House shall use reasonable endeavours to notify Winning Bidders within 15 minutes after the Closing Time of either the First Auction or the Second Auction, as the case may be. Immediately upon notification by the Clearing House to a bidder that it has a winning bid by e-mail, telephone, in writing or otherwise and without the need for any further step, this shall constitute acceptance of the offer by the Clearing House and resulting Contracts shall be entered into between the Clearing House

and the Winning Bidder in accordance with the Rules, on economically identical terms to the Contracts that are the subject of the lot in the relevant Auction.

- 5.9 The Clearing House may abandon or alter the procedure for any Auction, including conducting subsequent Auctions, at any time prior to the entry into of Contracts with Winning Bidders, taking into account such considerations as it deems necessary or desirable to protect the financial integrity of the Clearing House, the Clearing Members generally or the marketplace for any instruments cleared by the Clearing House, and such other matters as it may deem appropriate.
- 5.10 In the event of a failed Auction for whatever reason, the Clearing House may either run a new Auction and shall do so in accordance with Paragraph 5.6 or withdraw the lot. There shall be no limit to the number of repeated Auctions under this provision. If the Auction Clearing Price falls below any reserve price or above any maximum price, the Clearing House may at its discretion nonetheless accept bids at such Auction Clearing Price.

## 6. **POST-BID PROCEDURE**

- 6.1 A Winning Bidder will become a party to new Contracts with the Clearing House on economically identical terms to the Contracts that are the subject of the lot in the Auction. Contracts will be established with each Winning Bidder pursuant to a termination of Contracts between the Defaulter and the Clearing House and the establishment of new, economically identical Contracts between the Clearing House and each Winning Bidder pursuant to Rule 904. Each Winning Bidder will be treated as if it were a "Transferee Clearing Member" for purposes of Part 9 of the Rules provided that the provisions of Part 9 to the extent relating to Customers shall not apply.
- 6.2 Any Customer-CM Transactions relating to Customers of the Winning Bidder arising as a result of the Auction will be established in accordance with the Rules and the Procedures in the same way as for Contracts at the same time as Contracts are entered into pursuant to paragraph 6.1, where the relevant Customer is recorded on a Customer Account of a Non-FCM Clearing Member.

## 7. **APPLICATION OF ASSETS AFTER AN AUCTION**

- 7.1 Pursuant to Rule 908(i), if any Clearing Member does not comply with any of its obligations under these Auction Terms or any Auction Specifications or chooses not to participate in any Auction (except as provided for in these Auction Terms), then the Guaranty Fund Contributions and Assessment Contributions of that Clearing Member shall be applied *pro rata* to meet any shortfall, loss or liability in full, prior to the Guaranty Fund Contributions or Assessment Contributions (as applicable) of any other Clearing Member or Clearing House GF Contributions which, but for this Paragraph 7.1, would have ranked equally with such Guaranty Fund Contributions being so applied.
- 7.2 Further pursuant to Rule 908(i), after applying any Guaranty Fund Contributions or Assessment Contributions of Clearing Members in accordance with the previous paragraph, in the event of an Auction having taken place, the Guaranty Fund Contributions and Assessment Contributions of Clearing Members other than Winning Bidders in the relevant Auction or Clearing Members who (in accordance with, and as provided for, in these Auction Terms) did not submit any bids in the relevant Auction (required to be applied in respect of the Event of Default which resulted in the Auction) shall not be applied *pro rata*, but instead shall be applied in sequence, with such Clearing Members with less competitive bids in the Auction having their Guaranty Fund Contributions and Assessment Contributions applied prior to Clearing Members with more competitive bids. The competitiveness of bids shall be determined based on the weighted average price per unit of each Clearing Member's bids, according to the following formula:

$$\text{Weighted average price per unit} = \sum (\text{Price Sign} \times \text{Unsigned Price}) / \sum \text{Size}.$$

- 7.3 Any Clearing Member with the same weighted average price per unit as another Clearing Member will have their Guaranty Fund Contributions and Assessment Contributions applied on a *pro rata* basis as between such Clearing Members within such sequence. After applying any such Guaranty Fund Contributions or Assessment Contributions of losing bidders, in the event of an Auction having taken place, the Guaranty Fund Contributions and Assessment Contributions of the Clearing Members that are Winning Bidders in the relevant Auction and Clearing Members who, in accordance with (and as provided for) in these Auction Terms, did not submit any bids and the Clearing House GF Contribution (if required to be applied in respect of the Event of Default which resulted in the Auction) shall be applied *pro rata*.
- 7.4 Nothing in this Paragraph 7 is intended to result in any Assessment Contribution being applied prior to any Guaranty Fund Contribution of any Clearing Member or Clearing House Contribution, nor shall affect the order of application of any Clearing House Initial Contribution.

## 8. **OTHER TERMS**

- 8.1 Neither the Clearing House nor any of its Affiliates makes any representation or warranty as to the accuracy of any records of the Defaulter or any of its Affiliates. In particular, the Clearing House makes no representation or warranty as to whether any Contract recorded in the Proprietary Account or the Customer Account of the Defaulter is correctly recorded in such account or as to whether any consent of any Customer or Affiliate of the Defaulter is required to any Auction or the termination of Contracts to which a Defaulter is party. The Clearing House makes no warranty, whether express or implied, as to quality, appropriateness or in respect of the merits of any investment decision relating to any lot. The Clearing House does not provide, and is not responsible or liable for, any investment advice in relation to any Auction.
- 8.2 Although the information provided by the Clearing House is believed to be accurate subject to the qualifications in Paragraph 8.1 above, neither the Clearing House nor any of its Affiliates, nor any of their respective agents, officers, Directors or directors (as the case may be), committee members, employees, or advisers makes any representation or warranty, express or implied, as to the accuracy or completeness of such information, including but not limited to the value or marketability of any Contracts or Open Contract Positions. Each Auction Participant is responsible for making its own determination as to whether to proceed with or without further investigation or as to its bidding on any lot.
- 8.3 The Clearing House is under no obligation to enforce these Auction Terms against a bidder at the request of any other bidder.
- 8.4 All Auction Participants are hereby on notice that the Clearing House is not a member of any professional or other association, society, institution or organisation of auctioneers or agents and is not therefore bound by the rules or practices of any such association, society, institution or organisation. The conduct of Auctions may be carried out only to manage an Event of Default in accordance with the Rules and does not constitute the ordinary day-to-day business of the Clearing House. Any standard rules, customs, good practice guidelines or guidance or other industry practices relating to auctions or agency sales are hereby disappplied and disclaimed. All and any rights of any Person bound by these Auction Terms which may arise as a result of a liability of the Clearing House pursuant to common law duties applicable to auctioneers or selling agents are hereby expressly waived by all Auction Participants to the fullest extent permitted by Applicable Laws. Any implied term of care and skill of an auctioneer is hereby expressly excluded in respect of the conduct of any Auction by the Clearing House. The Clearing House expressly disclaims any duty of care or skill in respect of the conduct of any Auction by the Clearing House arising other than expressly pursuant to these Auction Terms. The Clearing House will not provide and has not provided any valuation services in connection with any Auction.

- 8.5 The time and date at which bids are due, the time and date for the establishment of Contracts or calling of Permitted Cover or the Closing Time (subject to Paragraph 3.4) may be delayed beyond the times and dates set forth in these Auction Terms or specified in the Auction Specifications if the Clearing House, in its discretion, considers this to be necessary or appropriate. Notwithstanding anything to the contrary in these Auction Terms, to the fullest extent lawfully permissible, the Clearing House may postpone, cancel, adjourn or terminate an Auction at any time, and may withdraw all or any portion of the Contracts from any Auction lot.
- 8.6 In respect of any Auction, each Auction Participant: (i) agrees and acknowledges that copies of any information that is required by Applicable Laws to have been made available to it for the duration of the Auction has been provided and that it has received any other notices required to be provided to it under Applicable Laws; (ii) agrees and acknowledges that it has received sufficient information concerning the identity of the persons conducting the auction on behalf of the Clearing House; and (iii) waives any right to make any claim that it has not received any information or documentation of a nature referred to in this Paragraph 8.6 and agrees in favour of the Clearing House not to make any statement to the contrary to any third party.
- 8.7 Without limiting the obligations of Clearing Members and Customers under the Rules, all Auction Participants shall comply with Rule 203 and Applicable Laws (including, without limitation, complying with their obligation not to commit any act of fraud or to engage in any behaviour which amounts to market abuse, insider dealing, market manipulation, money laundering or which is in breach of any similar Applicable Laws).
- 8.8 It is the responsibility of each Winning Bidder to make any transaction or other reports or notifications to any Regulatory Authority or Governmental Authority (including, without limitation, any transaction reports) that it is required to make pursuant to Applicable Laws.

## Annex A

### ICE Clear Singapore Pte. Ltd.

#### Auction Specifications

##### Lot [1]: *[general description of lot]* – *[Name of Defaulter]*

ICE Clear Singapore Pte. Ltd. (the "**Clearing House**") is conducting an auction of certain open positions in contracts, presently held in respect of *[Name of Defaulter]*, and in that connection ICE Clear Singapore Pte. Ltd. is requesting bids from Auction Participants for certain lots. This document constitutes Auction Specifications for purposes of the Clearing House's Auction Terms for Default Actions (the "**Auction Terms**"). The Auction Terms apply in full to this auction lot, save to the extent expressly modified in Paragraph 5.

#### 1. Participation Criteria

*[State any conditions and criteria if there are to be any restrictions on the categories of Persons who may be Auction Participants]*

If any Person which has been provided with these Auction Specifications is for any reason unable to meet a Minimum Bid Requirement applicable to him, he should contact the Clearing House immediately and refrain from bidding in the Auction unless otherwise directed by the Clearing House. The Clearing House may restrict any such Person's access to Auctions if it determines that a Person does not satisfy the specified participation criteria.

#### 2. Subject matter of the lot

The lot comprises *[details of Contracts]*.

All Contracts will be transferred to the relevant Clearing Member at the Auction Clearing Price, for close of business on *[date]*.

#### 3. Bid Form

All bids for this lot must be submitted on the Bid Form in the schedule to this document by e-mail to *[email address]*. Any Bid Form which is illegible, spoiled or incomplete will be rejected and treated as void and invalid: see the Auction Terms for further information. Each Bid Form must specify the amount of consideration (in *[currency]*) that the bidder will pay the Clearing House or will be prepared to be paid by the Clearing House (as applicable) in consideration for the entry into of all the Contracts which are the subject matter of the lot.

All Bid Forms and any other communication relating to this Auction lot should be sent to: *[email address]*.

#### 4. Timing

*[Further details of the Contracts included in this lot will be disclosed to all Auction Participants at *[time]* on *[date]* (the "**Starting Time**").]*

The Closing Time (deadline for receipt of bids) is *[time]* on *[date]*.

The winner of the lot will be notified of his winning bid by the Clearing House between *[times]*.

A conference call will be open from *[times]* on *[date]*, during which time Auction Participants will be notified by the Clearing House: (i) that the Winning Bidder has been notified of the fact that it has won; or (ii) that no bid falling between the reserve price and any maximum price has been submitted. Dial-in details are as follows:

**[Call details]**

The Clearing House will confirm whether each bid has been accepted by e-mail.

The winner of the Auction will become party to new Contracts immediately upon notification that it is the winner, pursuant to the Auction Terms.

5. [Minimum bid size]

[Bids may only be for lot sizes which are at least [25%] of [*the Contract size of a particular lot*]

6. [Currency]

[All bids to be made in the specified currency]

7. Modifications to Auction Terms

[Specify any] / [None.]



**BID FORM**  
**for Auction Lots related to [Name of Defaulter]**  
**made pursuant to the Auction Terms of ICE Clear Singapore**  
**and the relevant Auction Specifications**

[Specify by inserting the amount and checking the appropriate box]

| Clearing Member name     | Auction Lot Number | Percentage of lot          | Cash Amount (always a positive number) (SGD) | Member Pay or Receive | Clearing Participant Number | Desk (Hub) Account       | Contact                  | Prop. Account or Customer Account of Clearing Member | Customer name (if applicable) |
|--------------------------|--------------------|----------------------------|--|-----------------------|-----------------------------|--------------------------|--------------------------|--|-------------------------------|
| <input type="checkbox"/> | 1                  | <input type="checkbox"/> % | <input type="checkbox"/>                     | [Pay]                 | <input type="checkbox"/>    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>                             |                               |
| <input type="checkbox"/> | 1                  | <input type="checkbox"/> % | <input type="checkbox"/>                     | [Receive]             | <input type="checkbox"/>    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>                             |                               |
| <input type="checkbox"/> | 2                  | <input type="checkbox"/> % | <input type="checkbox"/>                     | [Pay]                 | <input type="checkbox"/>    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>                             |                               |
| <input type="checkbox"/> | 2                  | <input type="checkbox"/> % | <input type="checkbox"/>                     | [Receive]             | <input type="checkbox"/>    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>                             |                               |
| <input type="checkbox"/> | 3                  | <input type="checkbox"/> % | <input type="checkbox"/>                     | [Pay]                 | <input type="checkbox"/>    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>                             |                               |
| <i>etc.</i>              | <i>etc.</i>        | <i>etc.</i>                | <i>etc.</i>                                  | <i>etc.</i>           | <i>etc.</i>                 | <i>etc.</i>              | <i>etc.</i>              | <i>etc.</i>  |                               |

Signed by: \_\_\_\_\_

Authorised Signatory of Auction Participant

State full legal name of Auction Participant: \_\_\_\_\_

**Annex B**

**Form of Notice of Minimum Bid Requirement**

*[ICE Clear Singapore Pte. Ltd. Letterhead]*

*[Name of Clearing Member]*

*[Email Address]*

*[Date]*

**Default Auction - Notification of Minimum Bid Requirement**

Further to *[reference to Auction Announcement Circular]* (the "**Circular**"), the Clearing House hereby notifies you of the Minimum Bid Requirement (as defined in the Clearing House's Auction Terms for Default Auctions (the "**Auction Terms**")) applicable to you in respect of the default auctions to be held in accordance with the Auction Terms, the Circular and the applicable auction specifications.

***[Set out Minimum Bid Requirement]***

Clearing Members are referred to the Auction Terms for further information on the Minimum Bid Requirement (and in particular Paragraphs 2.4, 3.1, 3.2 and 7 of the Auction Terms).

Signed

*[Name]*

*[Title]*