

# Terms of use

## Mackay Sugar - Low Volume Financial Market

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### Terms of use for the Share Trading Facility

This document sets out the term of use for the Share Trading Facility. By participating in the Share Trading Facility, you agree to be bound by the terms set out in this document. Please read this document in full before making a decision whether to participate in the Share Trading Facility.

#### 1 Introduction

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On 22 October 2019, Mackay Sugar Limited (**Mackay Sugar** or the **Company**) was included on the register of entities maintained by the Australian Securities and Investments Commission (**ASIC**) under the Corporations (Low Volume Financial Markets) Instrument 2016/888 (**Instrument**).

As a result, Mackay Sugar is permitted to operate a market in ordinary shares in Mackay Sugar (**Shares**) by means of an electronic register of potential buyers and sellers, where contact details of potential counterparties are provided for registered participants (**Share Trading Facility**).

The purpose of establishing the Share Trading Facility is to provide Mackay Sugar's shareholders with a convenient, online market through which to locate potential buyers. The Share Trading Facility is anticipated to provide a greater level of liquidity for Shares than would exist if Mackay Sugar did not operate the Share Trading Facility.

#### 2 Important notice

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The Share Trading Facility is a market covered by an exemption under section 791C of the *Corporations Act 2001* (Cth) (**Act**). Mackay Sugar, as the operator of the Share Trading Facility, is not licensed under Part 7.2 of the Act and is not subject to the legal obligations that apply to the operator of a licensed market, including the requirement, to the extent that it is reasonably practicable to do so, to do all things necessary to ensure that the market is a fair, orderly and transparent market.

The Share Trading Facility is a 'low volume financial market' as defined in the Instrument and, as such:

- (a) no more than 100 completed transactions may be entered into; and
- (b) the value of the transactions entered into may not exceed \$1.5 million,

in the 12 month period commencing on the date the Share Trading Facility was included on the register maintained under the Instrument or any subsequent 12 month period (collectively, the **Transaction Conditions**).

#### 3 Overview of the operation of the Share Trading Facility

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The following is an overview of the manner in which the Share Trading Facility will be operated.

Mackay Sugar has established an electronic register of potential buyers and sellers of Shares for the purpose of providing a market to connect potential buyers with potential sellers (**Register**). The

Register is publicly available on Mackay Sugar's website:

<https://www.mkysugar.com.au/shares/documents/register.pdf>. The Register includes details of potential buyers and sellers who have registered their interest to participate in the Share Trading Facility (**Participant**). In particular, the Register includes details of the number of Shares which a Participant may be willing to buy/sell (**Number of Shares**), as well as the price at which they may be willing to transact in Shares (**Indicative Price**).

## 4 Registering as a Participant

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In order to register as a Participant, parties must complete a registration form (**Registration Form**). The Registration Forms are available at the following link

<https://www.mkysugar.com.au/shares/documents/registration.pdf>

Duly completed Registration Forms should be returned to the Company Secretary by email at: [companysecretary@mkysugar.com.au](mailto:companysecretary@mkysugar.com.au) or by post to the following address:

Mackay Sugar Limited  
Share Trading Facility  
PO Box 5720  
Mackay Mail Centre  
Mackay Queensland 4741

Shareholders who wish to participate in the Share Trading Facility as a potential seller will need to complete the Registration Form using the same details for their holding as they appear on Mackay Sugar's share register. Shareholders may obtain a copy of Mackay Sugar's share register without charge by emailing the Company at [info@mkysugar.com.au](mailto:info@mkysugar.com.au). Shareholders who wish to participate in the Share Trading Facility as a potential buyer should also include their details as they appear on Mackay Sugar's share register.

If a person is registered as a Participant, the Number of Shares and the Indicative Price for that Participant will be included in the Register. In addition, the contact details of a Participant (as included in the Registration Form) will be made available to any other Participant upon request.

Mackay Sugar may, in its sole discretion, refuse, delay, or seek further information in regards to, a Registration Form, or may accept a Registration Form subject to any conditions as it sees fit.

## 5 Transactions between Participants

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Participants may request contact details of other Participants by emailing the Company at [info@mkysugar.com.au](mailto:info@mkysugar.com.au). In addition, Mackay Sugar may, of its own volition, contact a Participant for the purposes of providing the contact details of another Participant, if Mackay Sugar believes that those parties may be able to enter into a transaction involving the purchase and sale of Shares (**Transaction**). Mackay Sugar is not obligated to contact Participants in any particular order.

Information included on the Share Trading Facility, including (but not limited to) the Number of Shares and the Indicative Price, are invitations to treat and do not constitute an offer by any person to purchase or sell, or otherwise deal in, Shares.

Participants are responsible for agreeing the terms of a Transaction between themselves. Mackay Sugar will not be a party to, nor have any involvement in, a Transaction, other than as operator of the Share Trading Facility (including the provision of details of other Participants) or as required under its constitution (for example, in regards to the registration of transfers of Shares). Mackay Sugar is unable to provide a mechanism for the automatic execution of order or the automatic formation of contracts between Participants.

Participants should ensure that any Transaction is in accordance with applicable law and should seek appropriate legal and financial advice before entering undertaking a Transaction.

If Participants enter into a Transaction, they may register the transfer of Shares by lodging a duly completed transfer form with Mackay Sugar, in accordance with the instructions on the transfer form. Pro forma transfer forms may be obtained by emailing the Company at [info@mkysugar.com.au](mailto:info@mkysugar.com.au). Participants must note on the transfer form that the transfer of Shares relates to a Transaction facilitated through the Share Trading Facility, in order for Mackay Sugar to ensure that the Transaction Conditions are not exceeded.

Mackay Sugar may refuse to register, or delay the registration of, such Transaction if it would (or may, in the opinion of Mackay Sugar, acting reasonably) result in a Transaction Condition being exceeded or otherwise cause Mackay Sugar to be in breach of the conditions imposed on the Share Trading Facility or any applicable law.

## **6 Pricing and settlement services**

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Mackay Sugar is unable to assist Participants in determining an Indicative Price or provide any advice in respect of the value of the Shares. A list of previous trades of Shares appears on the website to give parties an indication of previous trades which have been registered with the Company.

Mackay Sugar is unable to provide any advice in relation to the potential tax consequences of entering into a Transaction. Parties are encouraged to seek financial, taxation and investment advice prior to making a decision to participate in the Share Trading Facility or enter into a Transaction.

As Mackay Sugar does not hold an Australian financial services licence, Mackay Sugar is prohibited from handling the purchase money for the settlement of a Transaction entered into through the Share Trading Facility. As such, Participants must not send any cheque, money order, cash or other form of payment to Mackay Sugar for the purposes of settling a Transaction. Any such money which is sent to Mackay Sugar shall be returned to the sender at the sender's own risk.

## **7 Removal from the Share Trading Facility**

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A Participant may remove their details from the Share Trading Facility at any time by written notice to the Company. Such written notice must be sent by post or email to the addresses set out above in section 2 and must include the details of the Participant as they appear on the Participant's duly completed Registration Form.

Participants who enter into a Transaction outside of the Share Trading Facility must notify the Company within 14 days of completing the Transaction.

Mackay Sugar may, in its sole discretion, remove a Participant from the Share Trading Facility at any time without notice.

## **8 Transactions entered into outside of the Share Trading Facility**

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Participants may enter into Transactions with parties who are not included on the Register. If, as a consequence of entering into a Transaction with a party not included on the Register, a Participant is no longer able (for example, because they have sold their Shares) or is unwilling to enter into a Transaction through the Share Trading Facility, they must notify the Company within 14 days so that they may be removed from the Register.

If a Participant enters into a Transaction with a party who is not included on the Register, the Participant is not required to indicate on the instrument of transfer that the Transaction has taken place through the Share Trading Facility. However, if a Participant enters into a Transaction with another Participant, regardless of whether the Transaction took place through, or was otherwise facilitated by, the Share Trading Facility, Mackay Sugar may, in its sole discretion, determine that the Transaction between two Participants took place through the Share Trading Facility, and the Transaction will be subject to the terms set out in this document (including the restrictions on registration of a transfer of Shares outlined above in section 5).

## 9 Privacy

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As part of the operation of the Share Trading Facility, Mackay Sugar may collect, store, disclose and publish information about Participants for the purposes of operating the Share Trading Facility. This information may include personal information included in the Registration Form submitted by an Participants, as well as other information including (where a Registration Form is submitted in digital form) clickstream data and information relating to the device used to submit the Registration Form (including the operating system and browser type and the IP address). Mackay Sugar will collect and store personal information in accordance with these terms of use and its privacy policy.

By submitting a Registration Form, each party consents to the capture, storage, disclosure and publication of information (including personal information) in accordance with the terms set out in these terms of use.

Mackay Sugar will publish certain information on its website, including the Number of Shares and Indicative Price for a Participant. In addition, Mackay Sugar may provide personal information concerning a Participant (including their contact details and other information included in that party's Registration Form) to other Participants upon request or of its own volition. Mackay Sugar in no way takes responsibility for the use or misuse by any person of any information disclosed to a Participant.

Information concerning Participants, including personal information, may be disclosed to Mackay Sugar's employees, consultants, agents, share registry provider and professional advisers, as well as Government agencies and other third parties, in connection with the operation of the Share Trading Facility (including reporting requirements required by law and for the purpose of improving the operation of the Share Trading Facility).

Any information disclosed to a person in connection with the Share Trading Facility (including, for example, information concerning another Participant or the terms in which they may be willing to transact in Shares) (**confidential information**) is provided to that person (**recipient**) on a strictly confidential basis (to the extent that the information is not included in the Register or otherwise publicly known (unless it is publicly known due to a breach of this term by the recipient)) and the recipient will not (i) disclose such information to any other party other than to its employees, agents or professional advisers, and only to the extent necessary for the purposes of considering, negotiating or entering into, a Transaction and on the condition that any person to whom confidential information is disclosed agrees to be bound by the same conditions of confidentiality as set out in this clause; or (ii) use confidential information for any purpose other than for the sole purpose of contacting a Participant to negotiate a Transaction.

## 10 Other conditions of use

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To the maximum extent permitted by law, Mackay Sugar disclaims any responsibility and liability for any loss or damage suffered by any person in connection with (i) the operation of, or participation in, the Share Trading Facility; (ii) the provision, submission, storage, transmission, disclosure or publication of any document, information or thing to or by the Company, its employees or its agents (including, without limitation, its share registry and professional advisers) in connection with the Share Trading Facility; and

(iii) the accuracy of or reliance on the information included on the Register or otherwise provided, transmitted, disclosed or published in connection with the Share Trading Facility.

Mackay Sugar may amend these terms of use from time to time by publishing amended terms on its website. Participants agree to be bound by any amended terms once they are published on Mackay Sugar's website. Mackay Sugar may suspend or terminate the Share Trading Facility, or change the way it is operated, as it sees fit. Mackay Sugar will give notice of any suspension, termination or change to the Share Trading Facility on its website. Mackay Sugar is not responsible for any loss or damage suffered by any person in connection with the suspension, termination or change to the Share Trading Facility.