

The Client must inform the Firm about any change that could affect the Client's categorisation as a professional client.

1.4 **Commencement and Scope:** This Agreement sets out the basis on which the Firm may provide Services (as defined below) to the Client. This Agreement supersedes and replaces any previous agreement between the Client and the Firm for the provision of Services. This Agreement governs each order made by the Firm on the Client's behalf and each Transaction entered into between the Firm and the Client on or after the execution of this Agreement.

1.5 **Subject to Applicable Regulations:** This Agreement, the provision of Services by the Firm and/or any Associate and all Transactions are subject to Applicable Regulations, which means that:

- (a) the Firm and any Associate may take or not take any action as they consider appropriate to ensure compliance with Applicable Regulations and any such action or inaction is binding on the Client; and
- (b) any provision of this Agreement and/or obligation of the Firm to provide Services which is inconsistent with Applicable Regulations shall not apply to the extent of the inconsistency.

The Firm and any Associate, and any of their directors, officers, employees or agents, will not be liable for any action that the Firm or any Associate takes or does not take for the purpose of compliance with Applicable Regulations.

1.6 **Infrastructure action:** If:

- (a) an Infrastructure gives a direction (including to an Intermediate Clearing Broker or other intermediary) which affects the Client's orders or Transactions or the Services; or
- (b) an Infrastructure, Intermediate Clearing Broker or other intermediary relevant to the Client's orders or Transactions or the Services becomes insolvent or is suspended from operating,

then the Firm may take any action which it, in its reasonable discretion, considers appropriate to correspond with the direction or event or to mitigate any Loss or other impact to the Firm and/or the Client incurred or potential Loss or other impact which may be incurred as a result of the action or event. Any such action taken by the Firm is binding on the Client (including, in relation to any default or insolvency of the Intermediate Clearing Broker, electing to close out, transfer or take advantage of any available arrangements to continue any Additional CCP Transactions making use of alternative clearing arrangements).

2. THE SERVICES

2.1 **General:** The Firm and any of its Associates may, on the Client's instruction:

- (a) execute orders on the Client's behalf on trading venues or off-venue;
- (b) transmit orders on the Client's behalf to an executing broker;

- (c) clear Transactions at Agreed CCPs in its capacity as a general clearing member;
- (d) clear Transactions at Additional CCPs through a relationship with an Intermediate Clearing Broker; and/or
- (e) provide any other service agreed between the Firm and the Client,

in each case, subject to the terms of this Agreement. The services described above are referred to collectively as the "**Services**".

- 2.2 **Acting as a general clearing member:** Where the Services include the clearing of Transactions, the Firm is required to conduct a periodic assessment of whether the Client meets the Firm's requirements in respect of the Performance Criteria. Where the Client does not meet the Firm's requirements, the Firm has a right to suspend one or more Services, or immediately terminate the Services or this Agreement in accordance with clause 23 (*Voluntary Termination*).
- 2.3 **Electronic means:** The Firm may provide the Services and information ancillary to the Services by electronic means, either directly or through a third party technology or market data provider. The Client agrees to be bound by any separate electronic trading or services terms, rules, conventions, user guides or instructions which relate to the provision of the Services by electronic means and of any trading venue, including any disclosures, disclaimers and other policies displayed on any electronic Service, which the Client may click-through or which the Client may have separately agreed. Where the Firm provides the Client with direct electronic access to a trading venue, the applicable terms will be set out in a separate written agreement between the Firm and the Client.
- 2.4 **No advice:** Unless the Firm and the Client agree otherwise in writing, the Firm does not advise on the merits of particular orders or Transactions in respect of which it provides Services, or their taxation consequences. From time to time, the Firm may provide information which is ancillary to the Client's relationship with the Firm (including trading recommendations or market commentary); the information is provided solely to enable the Client to make the Client's own investment decisions and does not amount to advice. The Firm makes no representation as to the accuracy or completeness of the information and shall not be liable in any way for that information. The information may be inconsistent with the proprietary investments or recommendations of the Firm or its Associates. The Client should refer to the Firm's Conflicts of Interest Policy for further information on how the Firm manages conflicts which would affect the impartiality of information the Firm provides to the Client.
- 2.5 **Own judgement and suitability:** Upon entering into this Agreement and each time the Client instructs the Firm to execute or transmit any order or enter into any Transaction, the Client represents that: (i) it has been solely responsible for making its own independent appraisal and investigations into the risks of the order or Transaction; (ii) it has sufficient knowledge, market sophistication, professional advice and experience to make its own evaluation of the merits and risks of the order or Transaction; and (iii) it has not relied upon or been induced to enter into this Agreement by any statements, representations or undertakings from the Firm that are not set out in this Agreement. The Firm gives the Client no warranty as to the suitability of the products executed, transmitted or cleared under this Agreement and the Firm assumes no fiduciary duty to the Client with respect to the suitability of those products.

2.6 **Trading limits, position limits and position management controls:** Position limits and position management controls may be imposed by Applicable Regulations. In relation to the Services, the Firm may also set out and communicate to the Client appropriate trading and position limits which are binding on the Client. In order to ensure compliance with: (i) Applicable Regulations; and/or (ii) trading or position limits set by the Firm, the Firm may require the Client to limit, terminate or reduce the positions which the Client may have at any time and the Firm may decline to execute an order or take any other action the Firm deems appropriate. The Firm, its Associates and their respective directors, officers, employees or agents will not be liable to the Client for any breach of limits applicable to the Client.

2.7 **Confirmations:**

- (a) Unless: (i) the Firm enters into a separate agreement with the Client regarding the content and timing of confirmations; or (ii) a confirmation has been provided to the Client by another person, the Firm will send the Client confirmations (which may be communicated together in a report or statement of trades) by the end of the next trading day for any orders that the Firm or its agent has executed on the Client's behalf on that trading day. The confirmation may be sent by way of e-mail to the email address on record for the Client or in the manner separately agreed between the Firm and the Client. The Firm may or may not include data on existing positions.
- (b) It is the Client's responsibility to inform the Firm if it does not receive a confirmation or if any confirmations are incorrect. Confirmations shall, in the absence of manifest error, be conclusive and binding on the Client, unless the Firm receives an objection in writing from the Client within one Business Day of despatch to the Client or the Client notifies the Firm of an error in the confirmation within the same period. This is a confirmation-only service and is not an agreement by the Firm to provide transaction reporting for the purposes of Applicable Regulations.

2.8 **Authority:** The Firm and its Associates are entitled to rely upon communications and other actions (including instructions and the exercise of discretions) from any authorised officer, employee or agent of the Client and any communication or action which the Firm or its Associates believe in good faith to have originated from the Client or its authorised agent. The communication or action will be binding on the Client.

2.9 **Responsibility for instructions:** If there is an ambiguity in an instruction given by the Client or where an instruction is in conflict with another instruction, the Firm and/or its Associates will be entitled to act in good faith on what it reasonably believes the instruction to be and the action or inaction of the Firm and/or its Associates will be binding on the Client.

3. **EXECUTION OF ORDERS**

3.1 **Right not to accept orders for execution:** The Firm may accept instructions to execute or transmit an order. If the Firm declines to execute or transmit an order, the Firm will notify the Client as soon as reasonably practicable but the Firm is not obliged to give a reason.

- 3.2 ***Control of orders prior to execution:*** The Firm may set limits and/or conditions to control the Client's ability to instruct the execution of and/or transmission of orders. Those limits and/or parameters may be amended, removed or added to by the Firm at any time.
- 3.3 ***Cancellation/withdrawal of instructions for execution:*** The Client may only cancel its instructions for execution if the Firm has not acted upon those instructions. Instructions may only be withdrawn or amended by the Client with the Firm's consent.
- 3.4 ***Execution of orders on a trading venue:*** If the Firm accepts an instruction in respect of an order for execution, the Firm will use commercially reasonable endeavours to execute or arrange for the execution of any order promptly, but in accepting the Client's orders the Firm does not represent or warrant that it will be possible for it or an intermediate broker to execute such an order or that execution will be possible according to the Client's instructions. The Firm or an intermediate broker may execute an order on the Client's behalf outside a trading venue (including executing orders outside a UK Regulated Venue). When executing orders on a trading venue, the Firm or an intermediate broker will execute an order only when the relevant trading venue is open for dealings and instructions received outside trading hours will be processed when possible (in accordance with the Rules of the relevant trading venue).
- 3.5 ***Order execution:*** The Client confirms that it has read and agrees to the Firm's best execution policy. That policy will apply unless the Client gives specific instructions that are inconsistent with the best execution policy. The Firm will consider the continued placement of orders by the Client to constitute the Client's continued consent to the Firm's best execution policy that is in effect from time to time.
- 3.6 ***Crossing of orders for execution:*** The Firm may arrange for an order to be executed, either in whole or in part, by selling an investment to the Client from another client, or a client of an Associate of the Firm, or vice versa. The Firm will not give the Client prior notice if the Firm arranges for an order to be executed in this manner.
- 3.7 ***Aggregation of orders for execution:*** The Firm may combine the Client's order for execution with the Firm's own orders and orders of other clients for execution. By combining the Client's orders for execution with those of other clients, the Firm must reasonably believe that this is in the overall best interests of the Firm's clients. However, aggregation may result in the Client obtaining a less favourable price in relation to a particular order. The Client should refer to the Firm's best execution policy for more information.
- 3.8 ***Intermediate brokers and other agents:*** If the Firm is not a member of a particular trading venue, the Firm may choose to transmit orders for execution on the Client's behalf with or through an intermediate broker, and the Firm may use other parties or agents in the course of providing related Services. Any such intermediate broker, party or agent may or may not be an Affiliate of the Firm, and may not be in the UK. The Firm, its Associates and their respective directors, officers, employees or agents will not be liable to the Client for any act or omission of an intermediate broker, party or agent.
- 3.9 ***Pre-execution communications:*** The Client acknowledges that the Firm, its Associates or any intermediate broker may enter into pre-execution communications on the Client's behalf while executing an order for the Client.

4. CLEARING OF TRANSACTIONS

4.1 *Directly cleared Transactions:*

- (a) Where the Firm acts as general clearing member in respect of a transaction, a Transaction will arise between the Firm and the Client immediately upon registration of a Firm/CCP Transaction relating to the Client to the Firm's client account by an Agreed CCP Service.
- (b) The terms of, and obligations relating to, each such Transaction referred to in paragraph (a) above will be identical to those of the related Firm/CCP Transaction, except that:
 - (i) each such Transaction will be governed by, and be subject to, the terms of this Agreement (including, in particular, in relation to margin and collateral) and any other relevant agreement between the Firm and the Client, and those terms may differ from the terms applicable to the Firm/CCP Transaction; and
 - (ii) under each such Transaction, the Firm will take the opposite position to the position it has under the related Firm/CCP Transaction.
- (c) The Transaction referred to in paragraph (a) above will replace any related, pre-existing transaction between the Firm and the Client.

4.2 *Additional CCP Transactions:*

- (a) Where the Firm does not act as a general clearing member in respect of a transaction, but accesses an Additional CCP indirectly through an Intermediate Clearing Broker, a Transaction will arise between the Firm and the Client (any such Transaction being an "**Additional CCP Transaction**") immediately when an equivalent transaction (a "**Firm/ICB Transaction**") arises between the Firm and the Intermediate Clearing Broker (which may include a case where, under Applicable Regulations, the Firm has rights directly exercisable against the Additional CCP).
- (b) The terms of an Additional CCP Transaction referred to in paragraph (a) above will be identical to those of the related Firm/ICB Transaction, except that:
 - (i) each Additional CCP Transaction will be governed by, and be subject to, the terms of this Agreement; and
 - (ii) under each Additional CCP Transaction, the Firm will take the opposite position to the position it has under the related Firm/ICB Transaction.
- (c) The Transaction referred to in paragraph (a) above will replace any related, pre-existing transaction between the Firm and the Client.

- 4.3 ***Rejected transactions:*** If an Agreed CCP or Intermediate Clearing Broker does not accept a transaction for clearing, the Firm will notify the Client promptly and the Firm will have no obligation under this Agreement or otherwise (and, in particular, no obligation in respect of any Loss which may arise as a result of any interval before

notification of non-acceptance is made) to the Client in respect of the transaction. The Firm may take any step to terminate such a transaction which is still subsisting after the moment of non-acceptance.

- 4.4 ***Relationship with Infrastructures:*** The Firm may notify any Infrastructure of the position limits or position management controls applicable to the Client's trading, regardless of whether the Firm acts as general clearing member of the relevant Infrastructure.
- 4.5 ***Right not to accept transactions:*** The Firm may choose not to accept any transaction for clearing. If the Firm declines to accept any transaction for clearing, the Firm will promptly notify the Client but the Firm is not obliged to give a reason.
- 4.6 ***Capacity:*** Unless otherwise agreed in writing:
- (a) in entering into any Transaction, the Firm acts as principal and not as agent on the Client's behalf; and
 - (b) the Client acts as principal and not as agent (or trustee) on behalf of someone else.

5. GIVEN-UP AND TRANSFERRED TRANSACTIONS

- 5.1 ***Transaction given up to the Firm for clearing:*** This clause applies where there is a give-up agreement between the Client, the Firm and an executing broker, and the reference number or mnemonic applicable to the Client is quoted by the executing broker when a transaction is submitted for clearing. In acting as the Client's clearing broker, a transaction given up to the Firm will be eligible for clearing by the Firm only if the Firm has agreed with the Client to clear transactions of such a description and the acceptance thereof would not breach any position limits or any other limits applicable to the Client or the Firm. Notwithstanding any provision contained in the relevant give-up agreement, if the Firm accepts a transaction for clearing, the transaction will be binding and conclusive on the Client whether or not the details of the transaction have previously been confirmed to the Firm by the Client. The Firm will not be liable to the Client for any Losses arising from any discrepancy between details in the Client's instructions to any executing broker and details of transactions submitted to the Firm for clearing.
- 5.2 ***Fees paid to executing broker:*** If a give-up agreement between the Client, the Firm and an executing broker provides that the executing broker will invoice the Firm directly for its commissions in relation to the execution of an order, then the Firm will be entitled to rely on the details specified in any invoice presented to the Firm by the executing broker. The Firm will have no liability to the Client for any Losses incurred or suffered by the Client as a result of an incorrect amount being specified in an invoice.
- 5.3 ***Transferred transactions:*** If a transaction for the account of the Client at an Agreed CCP which has previously been cleared by another clearing member of an Agreed CCP is transferred to the relevant client account of the Firm, then a Transaction will arise between the Firm and the Client when the related Firm/CCP Transaction arises in accordance with the relevant Rules of the Agreed CCP. If a transaction for the account of the Client is entered into with an Intermediate Clearing Broker which has previously been cleared by another Intermediate Clearing Broker, then a Transaction will arise between the Firm and the Client when the related Firm/ICB Transaction arises.

- 5.4 ***Rejected give-up transactions:*** If, for any reason, an Agreed CCP does not accept a transaction entered into on a trading venue and given up to the Firm for clearing or any transaction entered into bilaterally and submitted to the Agreed CCP for clearing, then the Firm will promptly notify the Client and the executing broker, and the Firm will have no obligation or liability to the Client and, in particular, no obligation to give reasons to the Client in relation to the non-acceptance of the transaction.

6. SETTLEMENT OF CLEARED TRANSACTIONS

- 6.1 ***Performance and settlement:*** Where due in accordance with the terms of any Transaction, and the Client has not agreed with the Firm to roll the Transaction, the Client will make available to the Firm all requisite securities, commodities, money, documents or other property deliverable by the Client under a Transaction so as to enable the Firm to perform its obligations under the relevant Firm/CCP Transaction or Firm/ICB Transaction in a timely manner and, in any event, by any deadline notified by the Firm.
- 6.2 ***Physical settlement terms not agreed:*** If the Firm and the Client have not agreed to specific physical settlement terms by the second Business Day prior to the earlier of: (i) the date on which the property is deliverable in accordance with the applicable settlement cycle; or (ii) the relevant time at which the relevant CCP is entitled to take action under the Rules, then the Firm may close out the Transaction, roll the Transaction or take such other action as it considers appropriate (including, where the Client is due to deliver to the Firm, to proceed to settlement in accordance with clause 6.3 (*Buy-in*)). The Client acknowledges that the Firm may require a Transaction to be rolled and agrees that the Firm may do so by giving notice to the Client on or prior to the relevant settlement date.
- 6.3 ***Buy-in:*** Unless the Transaction will be rolled or closed out, if insufficient securities or commodities have been provided by the deadline specified by the Firm, the Firm may proceed to settlement or close-out notwithstanding; and to that end the Firm may buy the securities or commodities required for delivery at a price the Firm believes to be reasonable, charge the Client's account for the cost, deliver the securities or commodities to satisfy the delivery obligation, and credit the Client's account with any net proceeds (after deduction of commission and other costs).
- 6.4 ***Delivery-related terms:*** In respect of any physically settled Transaction or property relating thereto:
- (a) unless otherwise agreed, the Firm may satisfy any delivery obligation in respect of a Transaction in the manner and to a place that the Firm may determine (including delivery through a system that provides for transfer of entitlements in the relevant property via a nominee or agent). The Client will make all necessary arrangements to receive such delivery;
 - (b) the Client will provide any settlement or other instructions, documents of title or other documentation requested by the Firm in the timeframes that the Firm may notify to the Client from time to time;
 - (c) the Client agrees to comply with the requirements of any relevant storage, warehouse or delivery service or facility or settlement agent;

- (d) the Firm may arrange for delivery, shipping, storage, selection of delivery or storage facility, insurance or similar arrangements in respect of the property in order to facilitate, or in furtherance of, the performance of such Transaction;
- (e) title in any property delivered under this Agreement shall pass at the time of delivery, except where the Firm delivers property to the Client where any relevant payment is outstanding, in which case the ownership of the property shall remain with the Firm until the Firm has received full payment for the property;
- (f) where property is in the Client's possession prior to title passing to the Client, the Client agrees to preserve, or procure the full preservation of, such property and remedy or otherwise compensate the Firm in full for any damage or deterioration that may occur to the property in the Client's possession;
- (g) the Client acknowledges and agrees that it shall bear the risks and Losses associated with any delivery to or by the Client of property (including, without limitation, costs and expenses associated with any warehousing of property prior to delivery), except to the extent that any Loss which arises is a reasonably foreseeable consequence and arises directly from the Firm's or the Firm's Affiliates' gross negligence, wilful default or fraud;
- (h) the Client agrees that it shall pay when due all rent, storage or other charges relating to such property to be delivered;
- (i) in the event of any dispute relating to a delivery and where requested by the Firm, the Client will permit the Firm to conduct the resolution of such dispute and/or to consent to the withdrawal, without any liability, of the Firm from any arbitration proceedings where the result of such withdrawal would be that such proceedings would then proceed between the Client as buyer/seller/counterparty and the other party as buyer/seller/counterparty, as the case may be;
- (j) the Client agrees to deliver all property required to be delivered by it to the Firm for its own account (other than margin) with full title guarantee and represents that it is the sole beneficial owner of all property which it delivers, free and clear of any interest of any person other than the recipient, including any security interest, lien, claim, charge, encumbrance or other restriction (including a warehouse's lien) (a "**Third Party Interest**"); and
- (k) the Client agrees that property delivered shall vest in the recipient free and clear of any interest of any person, other than an interest of or granted by the recipient, including any Third Party Interest (other than any lien routinely imposed on all securities in a relevant clearance system).

If the Client does not comply with the requirements set out in this clause 6.4, the Firm will have no liability in relation to the failure of a delivery. In the absence of instructions from the Client, the Firm may send notices relating to any Transaction or any other service where it deems it appropriate to do so.

6.5 Settlement Agent: The Client will notify the Firm of all relevant details which the Client's settlement agent requires to be provided by the Firm in respect of Transactions which may be subject to delivery obligations. The Client will procure that its settlement

agent enters into any documentation as may be necessary to ensure that the settlement of Transactions takes effect without liability to the Firm.

7. FUTURES AND OPTIONS

- 7.1 ***Allocation on delivery or exercise:*** Where the relevant Infrastructure or Intermediate Clearing Broker does not specify a particular Firm/CCP Transaction or Firm/ICB Transaction (as applicable) when making a delivery or exercising an option, the Firm may allocate the delivery or exercise to any Transaction.
- 7.2 ***Exercise of options:*** If the Client does not deliver instructions to exercise option Transactions (which the Firm may require to be in a form as specified by notice to the Client from time to time) prior to the earlier of the exercise cut-off time established by the relevant Infrastructure or the Firm, options Transactions may expire and become worthless. If the Client does not instruct the Firm by the applicable cut-off time, the Firm will have no liability for the option Transaction not being exercised. In the absence of instructions from the Client, the Firm may exercise an option Transaction where it is in-the-money.
- 7.3 ***Deemed exercise of options:*** Where a Firm/CCP Transaction or Firm/ICB Transaction is an option which has been exercised automatically under Applicable Regulations or other applicable terms, the corresponding Transaction between the Firm and the Client will be deemed to have been exercised automatically at the same time.
- 7.4 ***Correction of order:*** If a Firm executes an order but has traded the wrong delivery/expiry month or wrong exercise price, the Firm may offset any Loss arising from the erroneous order against any improvement achieved for the Client in the course of correctly satisfying the order, thus offering the Client only the net improvement, if any.
- 7.5 ***Offsetting Transactions:*** Unless otherwise agreed in writing between the Firm and the Client or where the Rules of an Infrastructure provide otherwise, whenever any Transaction between the Firm and the Client is entered into to close out any existing Transaction, then the obligations of each of the Firm and the Client under both sets of Transactions will be terminated automatically and immediately upon the Parties entering into the second Transaction, except for any settlement payment due in respect of such closed out Transactions, and any fines, amounts due which relate to the existing Transaction under clause 25.4 (*Charges*) and other payments/rights claimed under general indemnities.

8. CLIENT MONEY

TITLE TRANSFER OF CASH

8.1 ***Client Money:***

- (a) When the Client transfers money to the Firm, or money is paid to the Firm on the Client's behalf, the Client agrees that:
- (i) the full ownership of the money is transferred to the Firm for the purpose of securing or otherwise covering the Client's obligations under this Agreement; and

- (ii) except to the extent that the Firm has agreed in writing to the contrary, the Firm will not hold that money in accordance with the Client Money Rules.
- (b) Money received by the Firm from the Client or a third party in this way for the Client's account will be an unsecured amount owed by the Firm to the Client, even where the Firm is acting as the Client's agent.

Accordingly, the Client Money Rules will not apply and the Client will not have a proprietary claim over that money, that money will not be held for the Client by the Firm (whether in a segregated account or otherwise), and the Firm can deal with it as the Firm's own.

- (c) In the event of the Firm's insolvency, the Client will only have an unsecured claim against the Firm for repayment of that money, and that claim will be subject to the exercise by the Firm of any set-off rights the Firm may have under this Agreement or under general law.
- (d) Money transferred to the Firm will be recorded by the Firm as a cash repayment obligation owed by the Firm to the Client.
- (e) The Firm will transfer an equivalent amount of money back to the Client where, in its discretion, the Firm considers that the amount of money the Client has transferred to the Firm is more than is necessary to cover the Client's obligations to the Firm, subject to the exercise by the Firm of any set-off rights the Firm may have under this Agreement or under general law.
- (f) Any notification that the Client would like to terminate these arrangements should be made in writing to the Firm.

9. **MARGIN**

9.1 **Margin calls:** The Client agrees to transfer to the Firm on demand (and no later than any deadline specified by the Firm) such amounts by way of margin as are required from time to time under the Rules applicable to any Clearing Service (or any relevant Infrastructure) or as the Firm may require. The Firm may make a separate margin call in relation to each Clearing Service, and the Firm may make aggregated margin calls in relation to two or more Clearing Services. The Firm may make multiple margin calls on the Client on a particular day. In determining the amounts of margin, the Client's obligations to the Firm and the Firm's obligations to the Client, the Firm may apply whichever methodology (including judgements as to the future movement of markets and values) the Firm considers appropriate. Notwithstanding clauses 26.2 (*Notices*) and 26.3 (*Effectiveness of notices*), any margin call will be effective on the day on which notice of the margin call is given by the Firm.

9.2 **Form of margin:** Margin must be provided by the Client in the form of a type of Acceptable Margin. If the Firm has not notified the Client of types of Acceptable Margin, margin must be paid by the Client in cash. The currency of the cash margin will be the currency or currencies notified by the Firm from time to time or, if no such currencies have been notified, the currency of the Transaction. If the Firm notifies the Client of Acceptable Margin, the Client may only satisfy the requirement to provide margin by transferring assets of the classes, and subject to the haircuts and any other provisions,

specified by the Firm. The Firm may amend the eligibility criteria, the applicable haircuts and other requirements for Acceptable Margin at any time.

- 9.3 **Margin for each Clearing Service:** For each Clearing Service, margin transferred as collateral will be transferred to and held by the Firm subject to the Title Transfer Provisions. Payments settled to market in relation to a Clearing Service will not constitute margin transferred as collateral for the purposes of this clause 9.3 (*Margin for each Clearing Service*).

10. TITLE TRANSFER PROVISIONS

- 10.1 **Transfer of margin:** Cash and Acceptable Margin which are subject to the Title Transfer Provisions will be provided by way of absolute transfer and will become the property of the Firm.

- 10.2 **Return of margin:** The Firm is obliged to transfer Equivalent Margin (to "return" margin) to the Client following a demand for its return only to the extent that the Client's obligations which any Applicable Regulations or the Firm require to be margined have been discharged.

- 10.3 **Discharge of return obligation upon termination of Transactions:** On any Liquidation Date or date on which Transactions are terminated pursuant to clause 14 (*Termination Following a Firm Trigger Event*) or 15 (*Termination Following a CCP Default*), the Firm will have an obligation to return Equivalent Margin in respect of the affected Transactions which shall be discharged to the extent that it is taken into account in a Liquidation Amount or Cleared Set Termination Amount in accordance with clause 16.2 (*Title Transfer Collateral*).

10.4 **Distributions and interest:**

- (a) **Distributions:** If a holder of securities comprised in the Title Transfer Collateral would receive payments or distributions of cash or other property on any day ("**Distributions**"):
- (i) the Firm will treat any cash, securities or other property of the same type, nominal value, description and amount as any Distributions (less any deductions on account of tax) ("**Equivalent Distributions**") as an addition to the Title Transfer Collateral held by the Firm once the Firm has credited the Equivalent Distributions to the relevant account; and
 - (ii) the Firm will transfer to the Client any Equivalent Distributions (other than distributions of principal) within the time period as may be specified by the Firm from time to time (or, if no such period has been specified, on the first Business Day after they have been credited to the relevant account).
- (b) **Interest:** The Firm will treat an amount equal to any interest payable in respect of cash comprised in the Title Transfer Collateral as an addition to the Title Transfer Collateral held by such Party upon it being credited to the relevant account. The Firm may charge the Client for any negative interest it incurs as a result of taking cash margin from the Client. The Firm will transfer to the Client after the date any interest is treated as comprised in the Title Transfer Collateral an amount equal to

that interest within the time period which may be specified by the Firm from time to time (or, if no such period has been specified, on the first Business Day after the interest is credited to the relevant account).

- 10.5 **Title transfer:** Each Party agrees that all right, title and interest in and to any Acceptable Margin, Equivalent Margin, Equivalent Distributions or interest in respect of Title Transfer Collateral which it transfers to the other Party under the Title Transfer Provisions will vest in the recipient free and clear of any interest of or granted by any person other than the recipient, including any security interest, lien, claim, charge, encumbrance or other restriction (other than any a lien routinely imposed on all securities in a relevant clearance system). Notwithstanding the use of terms such as "margin" which are used to reflect terminology used in the market for such arrangements, nothing in the Title Transfer Provisions is intended to create a security interest in any Acceptable Margin, Equivalent Margin, Equivalent Distributions or interest in respect of Title Transfer Collateral transferred pursuant to this Agreement.
- 10.6 **Full title guarantee:** All transfers of margin, Equivalent Margin, Equivalent Distributions and interest effected pursuant to this clause are made with full title guarantee.
- 10.7 **Substitution:** The Client may, with the Firm's prior written consent, transfer to the Firm replacement Acceptable Margin in substitution for Title Transfer Collateral with the same or greater Value provided by the Client, whereupon the Firm will transfer Equivalent Margin of the requested Value to the Client, provided that the requested Value of Equivalent Margin is the same as or lesser than the Value of the Acceptable Margin.
- 10.8 **Return of alternative margin:** If applicable Rules allow a Clearing Service to deliver margin of a different type and description to the margin posted to the Agreed CCP Service or the Intermediate Clearing Broker returns margin other than Equivalent Margin, then (notwithstanding any provision of this Agreement requiring the Firm to deliver Equivalent Margin to the Client) the Firm may deliver to the Client margin of other types and descriptions, provided that the aggregate value of delivered margin is no less than the Value of the Equivalent Margin otherwise deliverable. If the Client delivers more than one type of Title Transfer Collateral to the Firm in respect of a Clearing Service and the Firm is obliged to return part of the Title Transfer Collateral to the Client, the Firm will be entitled to choose which Equivalent Margin it uses to satisfy the relevant return obligation.

11. REPRESENTATIONS, WARRANTIES AND COVENANTS

- 11.1 **Representations and warranties:** The Client represents and warrants to the Firm on the date this Agreement comes into effect and as of the date of each Transaction that:
- (a) the Client is duly organised and validly existing under the law of its jurisdiction of organisation or incorporation and, if relevant under that law, is in good standing;
 - (b) the Client has the capacity and all necessary authority, powers, consents, licences, authorisations and approvals under Applicable Regulations and has taken all necessary action to lawfully enter into and perform its obligations under this Agreement and each Transaction, to validly execute and deliver the Agreement and to grant the security interests and powers referred to in this Agreement;

- (c) the persons entering into this Agreement and each Transaction on the Client's behalf have been duly authorised to do so;
- (d) this Agreement and each Transaction are valid and binding upon the Client and enforceable against the Client in accordance with their terms (subject to applicable principles of equity) and do not and will not violate the terms of any Applicable Regulations, order, charge or agreement by which the Client is bound;
- (e) the Client is entering into this Agreement for commercial purposes;
- (f) unless otherwise agreed in writing, the Client acts as principal (but not as trustee) and sole beneficial owner in relation to each Transaction;
- (g) any information that the Client provides or that has been provided to the Firm in respect of the Client's financial position is accurate and a true and fair presentation of the Client's financial position, and information which the Client provides or has provided in relation to the Client's domicile or other matters is accurate and not misleading in any material respect;
- (h) the Client is willing and financially able to sustain a total loss of funds resulting from orders which are executed or transmitted by the Firm and from entering into Transactions, and that placing those orders and entering into and trading in Transactions is a suitable investment strategy for the Client;
- (i) except as otherwise agreed by the Firm, the Client is the sole beneficial owner of all margin the Client transfers under this Agreement, free and clear of any security interest whatsoever other than a lien routinely imposed on all securities in a clearing system in which those securities may be held or imposed by a third party custodian or other similar institution;
- (j) the Client is not required to make a deduction or withholding for or on account of tax from a payment under this Agreement other than, if applicable, a FATCA Deduction;
- (k) under the law of the jurisdiction of incorporation or organisation of the Client, it is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax or fee be paid on or in relation to this Agreement or the Services or Transactions contemplated by this Agreement;
- (l) no Event of Default or event which would, upon expiry of any applicable grace period, become an Event of Default has occurred and is continuing and the Client is not subject to recovery and/or resolution measures;
- (m) the Client is not a "US person" (as defined in the Commodity Futures Trading Commission ("CFTC") and US Securities Exchange Commission ("SEC") regulations and interpreted in rules, guidance and orders issued by the CFTC and SEC from time to time);
- (n) the Client is not: (i) an employee benefit plan (as defined in Section 3(3) of the US Employee Retirement Income Security Act of 1974, as amended ("ERISA")) that is subject to Title I of ERISA, or a plan or arrangement (including an

individual retirement account or a Keogh plan) within the meaning of Section 4975 of the US Internal Revenue Code of 1986, as amended (the "**Code**") that is subject to Section 4975 of the Code (each, a "**Plan**"); (ii) any entity whose underlying assets are deemed to include "plan assets" under the US Department of Labor Regulations 29 CFR section 2510.3-101, as modified by Section 3(42) of ERISA, by reason of a Plan's investment in the Client (a "**Benefit Plan Investor**"); (iii) a person acting on behalf of a Benefit Plan Investor; or (iv) a governmental plan, church plan, or other plan subject to restrictions similar or analogous to those contained in the foregoing provisions of ERISA or the Code; and

- (o) the contractual relationship between the Client and the Firm established pursuant to this Agreement is not intended to be used as a basis for providing clearing services to any of the Client's own clients as part of an indirect clearing arrangement in relation to any CCP established in the EU or the UK.

11.2 **Covenants:** The Client covenants to the Firm that:

- (a) the Client will at all times obtain and comply with, and do all that is necessary to maintain in full force and effect, all authority, powers, consents, licences and authorisations referred to in this clause 11;
- (b) the Client will and is able to, upon request, promptly provide the Firm with information in respect of the Client's financial position, domicile or other matters and/or with the information as the Firm may reasonably require to evidence the matters referred to in this clause 11;
- (c) the Client will promptly notify the Firm of the occurrence of any Event of Default or of any event that may become an Event of Default with respect to the Client or any Credit Support Provider;
- (d) the Client will: (i) comply with all Applicable Regulations in relation to this Agreement and each order and Transaction, so far as they are applicable to it; and (ii) use all reasonable steps to comply with all Applicable Regulations in relation to this Agreement and each order or Transaction, where the Applicable Regulations do not apply to the Client but the Client's cooperation is needed to help the Firm comply with its obligations;
- (e) the Client will not send orders or otherwise take any action that could create a false impression of the demand or value for a financial instrument and/or commodity, or send orders which the Client has reason to believe are in breach of Applicable Regulations. The Client will observe the standard of behaviour reasonably expected of persons in the Client's position and not take any step which would cause the Firm to fail to observe the standard of behaviour reasonably expected of persons in the Firm's position;
- (f) where applicable, the Client will provide to the Firm evidence of the conclusion timeframe of a Transaction as and when the Firm may reasonably require for the purposes of Article 4 of RTS 26; and

- (g) where applicable, the Client will provide to the relevant CCP the information referred to in Article 1(2) of RTS 26 within thirty minutes of the conclusion of the Transaction.

12. EVENTS OF DEFAULT

12.1 *Events of Default:* Each of the following will constitute an "**Event of Default**":

- (a) the Client fails to make any payment or to make or take delivery of any property, in each case, when due under this Agreement, or to observe or perform any other provision of this Agreement;
- (b) the occurrence of an Insolvency Event in relation to the Client;
- (c) the Client or any Credit Support Provider (or any custodian acting on behalf of either of the Client or a Credit Support Provider) disaffirms, disclaims or repudiates any obligation under this Agreement or any guarantee, hypothecation agreement, margin or security agreement or any other document containing an obligation of the Client or a third party in favour of the Firm supporting any of the Client's obligations under this Agreement (each a "**Credit Support Document**");
- (d) any representation or warranty made or given or deemed made or given by the Client under this Agreement or any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given;
- (e) the Client or any Credit Support Provider transfers all or substantially all its assets to another entity, or otherwise is consolidated, amalgamated or merged with or into another entity or undergoes a similar process, with the effect that the resultant, surviving or transferee entity does not assume all obligations of the Client or the Credit Support Provider (as applicable) under this Agreement or any Credit Support Document, or the Credit Support Document does not apply to the obligations of the resultant, surviving or transferee entity to the same extent as it applied to the obligations of the Client;
- (f) (i) any Credit Support Provider, or the Client, fails to comply with or perform any agreement or obligation to be complied with or performed by it, or the Client, in accordance with the applicable Credit Support Document; (ii) any Credit Support Document expires or ceases to be in full force and effect prior to the satisfaction of all the Client's obligations under this Agreement, unless the Firm has agreed in writing that this will not be an Event of Default; (iii) any representation or warranty made or given or deemed made or given by any Credit Support Provider pursuant to any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given; or (iv) an event equivalent to an Insolvency Event occurs in respect of any Credit Support Provider;
- (g) the Client or Credit Support Provider is dissolved, or, if its capacity or existence is dependent upon a record in a formal register, the registration is removed or ends, or any procedure is commenced seeking or proposing the Client's dissolution, removal from such a register or the ending of such a registration;

- (h) where the Client or a Credit Support Provider is a partnership, an event equivalent to an Insolvency Event occurs or any of the events referred to in paragraph (g) above occurs in respect of one or more of the Client's or the Credit Support Provider's partners;
- (i) the Firm considers it necessary or desirable to prevent what the Firm considers is or might be a violation of any Applicable Regulations or a good standard of market practice;
- (j) the Firm considers it necessary or desirable for the Firm's own protection or for the protection of the Client (including to prevent a violation or continued violation of Applicable Regulations) or any action is taken or event occurs which the Firm considers might have a material adverse effect upon the Client's or a Credit Support Provider's ability to perform any of its obligations under this Agreement or a Credit Support Document including loss of a necessary licence;
- (k) any event of default (however described) occurs in relation to the Client or a Credit Support Provider under any other agreement between the Firm and/or its Associates with the Client or Credit Support Provider (as applicable); or
- (l) any other event specified to be an Event of Default for these purposes in the Annex or elsewhere in this Agreement occurs.

13. TERMINATION FOLLOWING AN EVENT OF DEFAULT

- 13.1 **Liquidation Date:** At any time following an Event of Default, the Firm may, by notice to the Client, specify a date (the "**Liquidation Date**") for the termination and liquidation of Transactions. However, if "Automatic Termination" is selected in the Annex, in the case of the occurrence of any Insolvency Event in respect of the Client, the date of any such event will automatically constitute a Liquidation Date, without the need for any notice.
- 13.2 **Liquidation Amount:** Upon the occurrence of a Liquidation Date, all Transactions will terminate and, following the termination, no further payments or deliveries in respect of the Transactions or the Title Transfer Collateral or any interest, howsoever described, on those payment obligations will be required to be made, and an amount equal to the Liquidation Amount will instead be payable (whether by payment, set-off or otherwise) following the termination. The "**Liquidation Amount**" means the aggregate net sum of:
- (a) in respect of each Cleared Transaction Set, the Cleared Set Termination Amounts; and
 - (b) in respect of any Transactions not included in any Cleared Transaction Set, an amount determined by the Firm as if those other Transactions constituted a Cleared Transaction Set and the provisions of clause 16 (*Cleared Set Termination Amounts*) applied in the same way.
- 13.3 **Alternative determination:** For the purposes of determining any Liquidation Amount, the Firm may perform the relevant calculation as if all Transactions were to constitute a single Cleared Transaction Set.

14. TERMINATION FOLLOWING A FIRM TRIGGER EVENT

14.1 **Firm Trigger Event:** The occurrence of the following events will constitute a "**Firm Trigger Event**" with respect to an Agreed CCP Service: (i) the relevant Agreed CCP formally declares a default in respect of the Firm; or (ii) an event that results in the termination of all relevant Firm/CCP Transactions (or would result in the termination of all relevant Firm/CCP Transactions if there were Firm/CCP Transactions outstanding at that time), in each case in accordance with the Rules of the relevant Infrastructure.

14.2 **Consequence of Firm Trigger Event:** Upon the occurrence of a Firm Trigger Event, the Transactions in the relevant Cleared Transaction Set will, except to the extent otherwise stated in the relevant Rules, automatically terminate and, following the termination, no further payments or deliveries in respect of those Transactions or the related Title Transfer Collateral or any interest, howsoever described, on those payment obligations will be required to be made, and an amount equal to the Cleared Set Termination Amount will instead be payable following the termination.

15. TERMINATION FOLLOWING A CCP DEFAULT

15.1 **CCP Default:** The occurrence of a default, termination event or other similar event in respect of an Agreed CCP that entitles the Firm to terminate, or results in automatic termination of, Firm/CCP Transactions (a "**CCP Default**").

15.2 **Consequence of CCP Default:** Upon the occurrence of a CCP Default, the Transactions in the relevant Cleared Transaction Set will, except to the extent otherwise stated in the relevant Rules, automatically terminate at the same time as the related Firm/CCP Transactions and, following the termination, no further payments or deliveries in respect of those Transactions or any interest, howsoever described, on those payment obligations will be required to be made, and an amount equal to the Cleared Set Termination Amount will instead be payable following the termination.

16. CLEARED SET TERMINATION AMOUNTS

16.1 **Calculation:** A "**Cleared Set Termination Amount**" means, in respect of a Cleared Transaction Set, an amount equal to the sum, without duplication, of:

- (a) an amount (which may be positive or negative or zero) equal to the aggregate values upon termination of all Transactions in the relevant Cleared Transaction Set, determined in a commercially reasonable manner and which may take into account the value of the Firm/CCP Transaction(s) corresponding to the Transactions and ascribed under the relevant Rules. In addition, the Firm may, if appropriate for any Transaction in the Cleared Transaction Set, take into account any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain, as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position. If the amount relating to the Transaction(s) is owed to the Firm, the value determined in respect of the related Transaction(s) under this paragraph (a) will be assigned a positive sign, and if the amount relating to the Transaction(s) is owed to the Client, the value determined in respect of the related Transaction(s) under this paragraph (a) will be assigned a negative sign;
- (b) any amount which became payable in respect of any Transaction in the relevant Cleared Transaction Set, or which would have become payable but for a condition

precedent not being satisfied in respect of any such Transaction, prior to the termination of the relevant transaction but which remains unpaid at the time of the termination, together with accrued, unpaid interest;

- (c) the Relevant Collateral Value relating to the Cleared Transaction Set;
- (d) any Shortfall Amount relating to Firm/CCP Transactions transferred (ported) from the Firm to another clearing member of the Agreed CCP Service, where "**Shortfall Amount**" means the amount (expressed as a positive value) of any collateral which is: (i) in excess of the collateral transferred in respect of the Transactions in the Cleared Transaction Set to the other clearing member; and (ii) has been transferred by the Firm to the other clearing member; and (iii) is not included in the Relevant Collateral Value, determined as if the excess constituted Title Transfer Collateral, without applying any haircut and disregarding clause 16.4 (*Porting*); and
- (e) any other amount attributable under this Agreement to the Transactions in the relevant Cleared Transaction Set (other than an unperformed margin delivery obligation) which was payable but unpaid at the time of termination and is not otherwise included in paragraphs (a), (b), (c) and (d) above, together with accrued, unpaid interest.

The Cleared Set Termination Amount is subject to adjustment as set out in clauses 16.4 (*Porting*), 16.5 (*Direct settlement*) and 16.6 (*Payments to the Firm for the account of clients*). When determining any Cleared Set Termination Amount, any amounts referred to in paragraphs (b) and (e) above and any adjustment amounts made pursuant to clauses 16.5 (*Direct settlement*) and/or 16.6 (*Payments to the Firm for the account of clients*) shall be assigned a positive sign if they are owed from the Client to the Firm and a negative sign if they are owed from the Firm to the Client.

- 16.2 **Title Transfer Collateral:** Any outstanding obligation of the Firm to return or transfer Title Transfer Collateral is extinguished to the extent that it has been accounted for in the Relevant Collateral Value used to determine a Cleared Set Termination Amount.
- 16.3 **Unpaid amounts:** Any outstanding obligation of the Firm or the Client referred to in clause 16.1(e) is extinguished to the extent that its value has been taken into account in determining a Cleared Set Termination Amount.
- 16.4 **Porting:** If, following a Firm Trigger Event, any Firm/CCP Transaction(s) are transferred (ported) from the Firm to another clearing member of the Agreed CCP Service together with the entirety of the associated Title Transfer Collateral (if any), the value of the corresponding Transaction(s) and the associated margin or collateral taken into account in determining a Relevant Collateral Value will both be zero for the purpose of determining a Cleared Set Termination Amount. If any Firm/CCP Transaction(s) are transferred (ported) but with only a proportion of the associated collateral or margin, then for the purpose of determining a Cleared Set Termination Amount, the Relevant Collateral Value will be adjusted to take account of the Value, as of the date of transfer, of the collateral or margin so transferred.
- 16.5 **Direct settlement:** The Client will notify the Firm promptly after becoming aware that it has been paid an amount or received credit or any asset (or will be paid or receive credit

or any asset) directly from an Agreed CCP in connection with one or more Transactions. If any such amount, credit or asset has not otherwise been taken into account in the determination of what is due between the Parties under this Agreement, then the Firm will make any adjustment as the Firm determines appropriate in order to reflect that payment or receipt. For these purposes:

- (a) the relevant adjustment may include an obligation on the Client to pay to the Firm any amount: (i) received by the Client from an Agreed CCP; and/or (ii) corresponding to the value of an asset received by the Client from an Agreed CCP, that exceeds the amount due to the Client from the Firm in respect of the relevant Agreed CCP Service under this Agreement; and
- (b) when making any adjustment, the Firm may take into account the value of an asset received by the Client at the time that the Agreed CCP determines that the asset is to be transferred to the Client (irrespective of when the asset is actually received by the Client).

16.6 ***Payments to the Firm for the account of clients:*** If the Firm receives a termination amount in respect of terminated Firm/CCP Transactions for the account of clients, the Firm will allocate that amount between the Client and other clients of the Firm in relation to the relevant Agreed CCP Service in its discretion. For this purpose the Firm will only be obliged to calculate the Client's allocation to the extent that it has information on the termination amounts for all clients in relation to the relevant Agreed CCP Service; the Firm will use reasonable efforts to obtain the information or otherwise determine the allocation in accordance with the terms of the clearing agreement with each such client.

16.7 ***Hierarchy of events:*** If Transactions are capable of being terminated pursuant to more than one clause of this Agreement, the clause under which termination first occurs will prevail.

16.8 ***Alternative value:*** If on or about the Liquidation Date or the date of the Firm Trigger Event or CCP Default, as applicable, the Firm, the CCP or any Intermediate Clearing Broker has appropriated and/or sold collateral of the same type, nominal value, description and amount as all or part of the Title Transfer Collateral that relates to the Transferred Margin Balance, then the Firm may elect to determine such Relevant Collateral Value (or such part of the Relevant Collateral Value) by reference to the net proceeds of the sale of and/or the value ascribed by the CCP to such collateral (assigned a negative sign) instead of using the methodology prescribed in the definition of Relevant Collateral Value.

17. **CALCULATION AND SETTLEMENT OF TERMINATION AMOUNTS**

17.1 ***Responsibility for determination of amounts:*** The Firm will determine any Liquidation Amount or Cleared Set Termination Amount. Where the Firm determines a Liquidation Amount or Cleared Set Termination Amount, it will do so as soon as reasonably practicable after a Liquidation Date, the occurrence of a CCP Default or a Firm Trigger Event.

17.2 ***Settlement:*** Once it has made its determination, the Party which determines a Liquidation Amount or Cleared Set Termination Amount will promptly notify the other Party in writing of that amount and whether it is payable by the Firm or the Client. If the

Liquidation Amount or Cleared Set Termination Amount is positive, it will be due from the Client to the Firm, and if it is negative, the absolute value of the Liquidation Amount or Cleared Set Termination Amount will be due from the Firm to the Client. The Liquidation Amount or Cleared Set Termination Amount (as applicable) will be payable:

- (a) (if payable by the Client, or in relation to a Firm Trigger Event in circumstances where there were no outstanding Transactions immediately before that event) in the Base Currency and on the first Business Day after delivery of the notification of the amount payable; and
- (b) (in other cases) in the Base Currency or, if applicable, in the currency of the relevant close-out, termination or other settlement amount payable by the Clearing Service in relation to the Firm/CCP Transaction(s) or Firm/ICB Transaction(s), as the case may be, in accordance with the relevant Rules and on the first Business Day after the Firm has received payment in full in respect of all relevant Firm/CCP Transactions and/or Firm/ICB Transactions, as the case may be.

18. LIMITED RECOURSE

18.1 **Limitation of recourse:** The Client agrees that performance and payment of obligations owed by the Firm to the Client under or in respect of Transactions and this Agreement are limited by, and contingent on, the actual performance or payment by:

- (a) the relevant Agreed CCP or Intermediate Clearing Broker to the Firm in relation to the related Firm/CCP Transactions, Firm/ICB Transactions or any related collateral arrangements; and
- (b) any account bank, custodian or other third party holding cash, margin or other property for the Firm which relates to the Client,

and the Firm will only be obliged to perform its obligations to the Client under or in respect of Transactions, margin or other obligations under this Agreement to the extent that: (i) the Agreed CCP or Intermediate Clearing Broker actually performs its obligations to the Firm in relation to the related Firm/CCP Transactions, Firm/ICB Transactions or any related collateral arrangements; or (ii) the relevant account bank, custodian or other third party holding cash or collateral performs its obligations.

18.2 **Good discharge:** Any amounts that would have been paid by the Agreed CCP or Intermediate Clearing Broker to the Firm but for the application of:

- (a) netting or set-off in accordance with Applicable Regulations; or
- (b) any provision of Applicable Regulations for porting or direct settlement following a Firm Trigger Event,

will be considered to have been paid to the Client and to have discharged the Firm's obligations to the Client to the same extent.

18.3 **Notification:** The Firm will give notice in writing to the Client of any deduction or withholding from any payment or performance effected under this clause as soon as reasonably practicable following the relevant event.

19. ADDITIONAL RIGHTS

- 19.1 **Lien:** In addition and without prejudice to any rights to which the Firm may be entitled under this Agreement or any Applicable Regulations, the Firm will have a general lien on all property held by the Firm or an Associate or nominee of the Firm on behalf of the Client until the discharge of all obligations under this Agreement and any Transactions.
- 19.2 **Set-off:** Without prejudice to any other rights to which the Firm may be entitled, the Firm may at any time and without notice set off any amount (whether actual or contingent, present or future) owed by the Client to the Firm against any amount (whether actual or contingent, present or future) owed by the Firm to the Client. For these purposes, the Firm may ascribe a commercially reasonable value to any amount which is contingent or which is unascertained for any other reason and the Firm may convert any amounts denominated in different currencies into the Base Currency in accordance with clause 28.2 (*Base Currency*).

20. EXCLUSIONS, LIMITATIONS AND INDEMNITY

- 20.1 **General exclusion:** The Firm and its Associates, and their directors, officers, employees or agents, will not be liable for any Losses incurred or suffered by the Client under or in connection with this Agreement (including by reason of entering into or performing any Transaction or the Services or where the Firm has declined to enter into a proposed Transaction or perform the Services), unless the Loss is a reasonably foreseeable consequence of, and arises directly from, the Firm's or its Associates' gross negligence, wilful default or fraud, or, in the case of the Firm, any gross negligence in the appointment of Associates by the Firm. In no circumstance will the Firm, its Associates or their directors, officers, employees or agents have liability for Losses suffered by the Client or any third party for any special or consequential damage, loss of profits, loss of goodwill or loss of business opportunity arising under or in connection with this Agreement, whether arising out of negligence, breach of contract, misrepresentation or otherwise. Nothing in this Agreement will limit liability for fraud, or negligence which causes death or personal injury.
- 20.2 **Adverse implications of Transactions:** Neither the Firm nor its Associates accept liability for any adverse tax, accounting or other implications of the Firm's or the Associates' performance of the Services or any Transaction whatsoever.
- 20.3 **Changes in the market:** Neither the Firm nor its Associates accept any liability by reason of any delay or change in market conditions before any particular order or Transaction is effected.
- 20.4 **Force Majeure:** The Firm and its Associates will not be liable to the Client for any partial performance or non-performance of the Firm's or its Associates' obligations under this Agreement by reason of any cause beyond the Firm's or its Associates' reasonable control, including any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, act of terrorism, war, act of God, acts and regulations of any governmental, quasi-governmental or supranational bodies or authorities or failure by the relevant intermediate broker or other intermediary, account bank, custodian, sub-custodian, Infrastructure or any agent of the above, for any reason, to perform its obligations.

- 20.5 ***Effect of Applicable Regulations:*** Nothing in this Agreement will exclude or restrict any duty or liability the Firm may have to the Client under Applicable Regulations which may not be excluded or restricted.
- 20.6 ***Indemnity:*** The Client will indemnify the Firm and its Associates on demand against any Losses which the Firm or its Associates may incur or be subjected to from time to time:
- (a) in performing the Services or with respect to any of the Client's accounts or assets (including where the Firm provides the Client or its directors, employees or agents with access to any Infrastructure);
 - (b) in relation to any order or Transaction or any Firm/CCP Transaction or Firm/ICB Transaction or any transaction which: (i) an Agreed CCP or Intermediate Clearing Broker does not accept for clearing for any reason; or (ii) is automatically accepted by the Firm and is subsequently unwound for any reason;
 - (c) which are allocated by an Intermediate Clearing Broker, Agreed CCP or Additional CCP;
 - (d) for any cost of funding which the Firm incurs in providing margin in relation to any Firm/CCP Transaction or Firm/ICB Transaction as a result of the Firm holding insufficient cash margin from the Client;
 - (e) as a result of any misrepresentation by the Client or any breach of this Agreement (including any Transaction) or Applicable Regulations by the Client or caused by the Client;
 - (f) which arise from the Firm enforcing its rights under the Agreement, acting (or omitting to act) in reliance on communications or actions of the Client or taking other action contemplated by the Agreement; or
 - (g) as a result of any investigation, action, litigation or proceeding by or involving any government agency, Infrastructure, regulatory or self-regulatory authority, counterparty, dealer, or other third party with respect to Transactions (including any dispute relating to delivery).
- 20.7 ***Errors in transaction reporting or other reports:*** The Firm is not bound by the prices or other details of orders or Transactions which are included in any transaction or other report and, upon the Firm becoming aware of the relevant error, it may make any necessary corrections to affected reports.
- 20.8 ***Relationship to this Agreement:*** The provisions of this clause apply notwithstanding any other term of this Agreement.
- 21. INFORMATION ABOUT THE CLIENT AND THE FIRM**
- 21.1 ***Confidentiality of Client information:*** The Firm will treat all non-public information it holds about the Client or the Client's account or Transactions as confidential. The Client agrees, however, that the Firm may disclose that information to its Associates without the Client's consent, and that the Firm and its Associates may disclose that information without the Client's consent to:

- (a) those who provide advice or other services to the Firm or act as the Firm's agents;
- (b) anyone to whom the Firm transfers or proposes to transfer any of the Firm's rights or duties under this Agreement;
- (c) credit reference agencies or other organisations that help the Firm and others: (i) make credit decisions and reduce the incidence of fraud; or (ii) in the course of carrying out identity, fraud prevention or credit control checks;
- (d) any other party where the Firm is required to do so by Applicable Regulations or where the Firm's interests require disclosure; and/or
- (e) to any Infrastructure, regulator or government agency upon request from such entity.

. In the case of a joint account, the Firm and its Associates may also disclose to any of the joint account holders information obtained by the Firm from any of the joint account holders in relation to the account or Transactions.

21.2 ***Confidentiality of Firm information:*** The Client will treat all non-public information it holds about the Firm and its Associates as confidential, including the terms of this Agreement. The Firm agrees, however, that the Client may disclose that information to its Affiliates and, where reasonably necessary, to its agents and others who provide legal or professional advice to the Client without the Firm's consent, and that the Client and its Affiliates may disclose that information without the Firm's consent to any party where the Client is required to do so by Applicable Regulations or to any regulator or government agency upon request from such entity.

21.3 ***Data protection:*** Before providing the Firm with any information relating to identifiable living individuals in connection with this Agreement, the Client shall provide the following information to those individuals (except where those individuals already have the information):

- (a) the categories of personal data that the Client is providing to the Firm;
- (b) the Firm's identity, and the fact that those individuals can contact the Firm at Compliance@ttmetals.com;
- (c) that the Firm may process those individuals' personal data for the purposes of setting up, maintaining, administering and operating the Client's account, as well as complying with Applicable Regulations;
- (d) that this processing is permitted by applicable data protection law because it is: (i) necessary for the purposes of the Firm's legitimate interests in pursuing the purposes set out in paragraph (c) above (which are not overridden by prejudice to the relevant individuals' privacy); and/or, in some cases, (ii), necessary so that the Firm can comply with Applicable Regulations;
- (e) that the Firm may disclose the personal data of those individuals to persons in the categories identified in clause 21.1 (*Confidentiality of Client information*);

- (f) that this may involve transfer of the personal data of those individuals to any country, including countries outside the UK but that in those cases, except where the relevant country has been determined to ensure an adequate level of data protection by the UK or the Firm needs to make the transfer in order to perform a contract concluded in the interests of the relevant individual or the Firm needs to transfer the data for the purposes of setting-up, maintaining, administering or operating the Client's account, the Firm will ensure that the transferred personal data are protected by a data transfer agreement in the appropriate standard form approved for this purpose by the European Commission;
- (g) that the Firm will retain the personal data of those individuals for the maximum period permitted by law; and
- (h) that those individuals: (i) have rights of access to and rectification or erasure of their personal data and to restrict or object to its processing, which they can exercise by contacting the Firm (see paragraph (b) above); and (ii) can lodge complaints about the Firm's processing of their personal data with the office of the Information Commissioner (www.ico.org.uk).

22. INFORMATION COLLECTION, FATCA AND REPORTING

- 22.1 **Collection of information:** The Client will promptly provide the Firm with any information the Firm determines is required, permitted or desirable to enable the Firm or any Associate of the Firm to comply with any Applicable Regulations, to respond to requests from any Infrastructure, Intermediate Clearing Broker, other intermediate broker or regulatory body in relation to the Client's orders or Transactions or other matters relating to the Services (including the identity of Clients given direct access to a trading venue by electronic means). The Client agrees to cooperate with the Firm and that any information relevant to the enquiry may be passed to any Associate of the Firm or any Infrastructure, Intermediate Clearing Broker, other intermediate broker or regulatory body as may be appropriate and the Client will update that information or data as required by the Firm from time to time. The Client will notify the Firm in writing within 30 days of any material change in the validity of, or information contained in, any information that the Client has previously provided to the Firm further to this clause. If the relevant information relates to a third party (including a client of the Client for whom the Client is providing related services), the Client will procure the third party's consent to such disclosure.
- 22.2 **FATCA reporting:** The Firm (which for the purposes of this clause includes its Associates and the agents and service providers of any of them) may collect, store and process information obtained from the Client or otherwise in connection with this Agreement and the Transactions for the purpose of complying with FATCA, including disclosures between themselves and to governmental authorities. The Client acknowledges that this may include transfers of information to jurisdictions which do not have strict data protection laws, data privacy laws or banking secrecy laws. The Client will ensure that, before it or anyone on its behalf discloses information relating to any third party to the Firm in connection with this Agreement or the Transactions, that third party has been provided with such information and has given such consents or waivers as are necessary to allow the Firm to collect, store, process and disclose his, her or its information for the purpose of complying with FATCA as described in this clause.

- 22.3 **Other reporting:** Without prejudice to any provision of this Agreement relating to information or data or its disclosure, the Client consents to the disclosure by the Firm or its Associates of any information or data in connection with or relating to the Client, this Agreement and/or any Transaction (including pricing data) to the extent that the Firm determines is required, permitted or desirable to comply with Applicable Regulations, to respond to requests from any Infrastructure or regulatory body in relation to the Client's orders or Transactions or to perform the Services. If the relevant information relates to a third party (including a client of the Client for whom the Client is providing related services), the Client will procure the third party's consent to that disclosure.

23. VOLUNTARY TERMINATION

- 23.1 **Termination of a Clearing Service and/or this Agreement:** Either Party may terminate any Agreed CCP Service, Additional CCP Service and/or this Agreement (and, in the case of termination of this Agreement, the relationship between the Parties) for no reason by giving 10 days' written notice, or as otherwise required by the rules of the CCP, of termination to the other or the Firm may terminate immediately on notice following an Event of Default or in accordance with clause 2.2 (*Acting as a general clearing member*). Without prejudice to the Firm's powers in clause 24 (*Consequences of Voluntary Termination*), termination of any Clearing Service or the Agreement in accordance with this clause shall not automatically cause the Transactions to terminate.

24. CONSEQUENCES OF VOLUNTARY TERMINATION

- 24.1 **Surviving terms:** If the Agreement is terminated in accordance with clause 23.1 (*Termination of a Clearing Service and/or this Agreement*), outstanding rights and obligations (including those relating to netting and indemnities, those relating to margin and those created by the miscellaneous and governing law clauses) and Transactions will survive the termination of this Agreement. Subject to the exercise of the Firm's powers under clause 24.2 (*Additional powers on termination of the Agreement*), clause 24.3 (*Additional powers on termination of a Clearing Service*) and clause 24.4 (*Active management*), the outstanding rights and Transactions will continue to be governed by its provisions and the supplementary terms particular to those Transactions until all obligations have been fully performed.
- 24.2 **Additional powers on termination of the Agreement:** If this Agreement terminates in accordance with clause 23.1 (*Termination of a Clearing Service and/or this Agreement*), the Firm and, at the Firm's discretion, its Associates, will be entitled without prior notice to the Client:
- (a) instead of returning to the Client, or accounting for, investments equivalent to those credited to the Client's account, to pay to the Client the fair market value of those investments at the time the Firm exercises this right;
 - (b) to sell any of the Client's investments that are in the Firm's possession (or in the possession of any nominee or third party) as the Firm may select and upon the terms as the Firm may think fit (without being responsible for any Loss or diminution in price) in order to realise funds sufficient to cover any amount due from the Client;

- (c) to close out, replace or reverse any Transaction, buy, sell, borrow or lend or enter into any other transaction (or combination of transactions) or contract, open any new positions, or take, or refrain from taking, any other action in the Firm's discretion to cover, reduce, hedge, manage or eliminate its risk or Loss under or in respect of any of the Client's contracts, positions or commitments;
- (d) to treat any (or all) instructions received from the Client which have not been effected by the Firm as having been repudiated; and/or
- (e) to transfer any outstanding Transactions to another clearing member or an Intermediate Clearing Broker.

24.3 *Additional powers on termination of a Clearing Service:* If a Clearing Service terminates in accordance with clause 23.1 (*Termination of a Clearing Service and/or this Agreement*), the Firm and, at the Firm's discretion, its Associates, will be entitled in respect of any Transactions related to such terminated Clearing Service without prior notice to the Client to exercise the rights set out in paragraphs (c), (d) or (e) of clause 24.2 (*Additional powers on termination of the Agreement*) in connection with the Transactions associated to the terminated Clearing Service.

24.4 *Active management:* If the Firm exercises any of its powers under clause 24.2 (*Additional powers on termination of the Agreement*) or clause 24.3 (*Additional powers on termination of a Clearing Service*) to terminate or close out any Transactions, the Firm shall be entitled to determine the resultant amount (if any) owed by the Firm or the Client in relation to those Transactions. The Client agrees that, for these purposes, the Firm is entitled to take into account any Losses realised in closing out any Firm/CCP or Firm/ICB Transactions or settling or concluding outstanding obligations incurred by the Firm on the Client's behalf.

The Firm's rights under this clause apply separately to each Transaction and the Firm does not need to account for a single amount payable by the Firm or the Client in respect of all Transactions. Any account for payment in relation to closed-out or terminated Transactions will not prejudice the Firm's surviving rights in relation to Transactions which have not been closed out or terminated (including the Firm's right to charge amounts under clause 25.4 (*Charges*), to demand amounts under applicable indemnities and to make margin calls in respect of those Transactions).

24.5 *Right of Retention:* If this Agreement terminates in accordance with clause 23.1 (*Termination of a Clearing Service and/or this Agreement*), the Firm will not be obliged to make any payment or delivery scheduled to be made by it under a Transaction or to repay cash or return any Title Transfer Collateral or perform any other obligation under this Agreement to the extent that the Firm determines that margin may be required to be posted under any relevant Rules or to the extent that the Client owes, or may owe, obligations to the Firm.

25. PAYMENTS, DELIVERIES AND PAYMENT NETTING

25.1 *Payments, deliveries and other obligations:* Unless a Liquidation Date has occurred, the Firm will not be obliged to make any payment or delivery scheduled to be made by it under a Transaction or to repay cash or return any Title Transfer Collateral or perform any other obligation under this Agreement for as long as an Event of Default or any event

which may become (with the passage of time, the giving of notice, the making of any determination under this Agreement, or any combination thereof) an Event of Default has occurred and is continuing.

- 25.2 **Withholding:** The Firm may make any deduction, including a FATCA Deduction, that it is required to make by any Applicable Regulations and any payment required in connection with that deduction, including any payment in connection with FATCA. The Firm will not be required to increase any payment or otherwise compensate the Client for any payment in respect of which it makes a deduction, including a FATCA Deduction.
- 25.3 **Gross-up:** All payments under this Agreement by the Client to the Firm will be made free of and without withholding or deduction, including on account of any taxes, duties, assessments or governmental charges of whatsoever nature imposed, withheld or assessed by any relevant tax authority, unless required by Applicable Regulations, in which case the Client will pay such additional amounts as will result in the receipt by the Firm of an amount which it would have received had no deduction or withholding been made.
- 25.4 **Charges:** The Client will pay the Firm's charges as notified by the Firm, including:
- (a) any fees, commissions or other charges charged by the Firm for the provision of the Services (including any minimum account fee);
 - (b) any taxes or duties imposed by any competent authority on any account opened or Transaction effected by or cleared for the Client;
 - (c) any fees or other charges imposed by any Infrastructure or Intermediate Clearing Broker, or any Associate or service provider involved in the provision of the Services or which the Firm agrees to be responsible for under a give-up agreement;
 - (d) bank charges, insofar as this represents the position that the Client will bear the charges imposed by its bank and the Firm will bear the charges imposed by its bank so that bank charges are effectively shared or at least each party bears the responsibility of paying bank charges to its respective bank, whether receiving or paying an amount;
 - (e) any fines imposed by any competent authority where attributable to the Client's conduct; and
 - (f) any other value added or other applicable taxes in respect of any of the foregoing, including any withholding tax.

These amounts will be payable on the due date specified by the Firm or otherwise on demand.

- 25.5 **Payments:** All payments to the Firm under this Agreement (other than margin) will be made, unless otherwise agreed, in same day funds in any currency which the Firm may specify from time to time to the bank account designated by the Firm for such purposes.
- 25.6 **Currency conversion:** If the Client provides cash to the Firm in a currency other than that in which the Client's obligation is denominated, the Firm may (at the Client's cost) convert the currency provided so as to satisfy the obligation to the extent possible.

- 25.7 **Payment Netting:** If "**Payment Netting**" is selected in the Annex in relation to a group of Transactions (a "**Payment Netting Group**"), then, if on any date amounts would otherwise be payable in the same currency in respect of one or more Transactions in a Payment Netting Group, each Party's obligation to make payment of those amounts will be settled by the payment by the Party with the larger aggregate obligation of an amount equal to the excess of the larger aggregate amount over the smaller aggregate amount.
- 25.8 **Default and Negative Interest:** The Firm may charge interest on any amount due to the Firm at the rates then charged by the Firm which are available on request. In relation to any monies held by the Firm for the Client, the Firm may charge negative interest where appropriate.
- 25.9 **Remuneration and inducements:** The Firm may, with the Client's agreement, receive remuneration from or share charges with an Associate or with a third party in connection with the provision of Services for the Client's account where this is designed to enhance the quality of the service provided to the Client. The Firm will upon request disclose such remuneration or sharing arrangements to the Client, together with the calculation methodology used to calculate such payments.

26. **RECORDS, NOTICES AND CONTRACTUAL ARRANGEMENTS**

- 26.1 **Modification of terms:** The Firm may change the terms of this Agreement immediately upon giving written notice where required by Applicable Regulations or by giving at least 10 Business Days' written notice to the Client and any change will take effect on the date specified in the notice. Unless otherwise agreed or required by Applicable Regulations, an amendment will not affect any outstanding order or Transaction or any legal rights or obligations which may already have arisen.
- 26.2 **Notices:** Unless otherwise agreed:
- (a) all notices, instructions and other communications to be given by the Firm or the Client under this Agreement other than communications relating to the matters referred to in paragraph (b) below will be given to the address (whether electronic or otherwise) provided by the other Party for this purpose in the Annex or otherwise notified by the addressee from time to time; and
 - (b) all notices and other communications to be given by the Firm or the Client relating to close-out or termination (whether voluntary or involuntary) or determinations of any Liquidation Amount or Cleared Set Termination Amount will be delivered to the other party at the physical address or email address provided by the other Party for this purpose in the Annex or otherwise notified by the addressee from time to time.

The Client will notify the Firm of any change of the Client's address in accordance with this clause.

- 26.3 **Effectiveness of notices:** Notices, instructions and other communications given in accordance with clause 26.2 (*Notices*) will only be effective on the date indicated below (or, if that day is not a Business Day or the notice is given after 5:00 p.m. in the place of receipt, the immediately following Business Day):
- (a) if in writing and delivered in person or by courier, on the date it is delivered;

- (b) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date it is delivered or its delivery is attempted;
- (c) if sent by email, on the date it is delivered; and
- (d) if sent by any other electronic messaging system, on the date it is received.

26.4 **Electronic communications:** Instructions given to the Client via email or other electronic means will constitute evidence of the instructions given. Communications between the Client and the Firm will be recorded. A copy of the record will be available on request for a period of five years and, where requested by the FCA or other relevant regulatory authority, for a period of up to seven years.

26.5 **Recording of calls:** If the Client gives the Firm instructions by telephone, the Client's conversation may be recorded. The Firm may record telephone conversations without use of a warning tone. The records will be the Firm's sole property and accepted by the Client as evidence of the orders or instructions given.

26.6 **The Firm's records:** The Firm's records, unless shown to be wrong, will be evidence of the Client's dealings with the Firm in connection with the Services. The Client will not object to the admission of the Firm's records as evidence in any legal proceedings on the grounds that those records are not originals, are not in writing or are documents produced by a computer. The Client will not rely on the Firm to comply with the Client's record keeping obligations, although records may be made available to the Client on request.

27. DISCLOSURES

27.1 **Complaints procedure:** The Firm is obliged to put in place internal procedures for handling complaints fairly and promptly. The Client may submit a complaint to the Firm, for example by letter, telephone, email or in person. The Firm will send the Client a written acknowledgement of the Client's complaint promptly following receipt, enclosing details of the Firm's complaints procedures, including when and how the Client may be able to refer the Client's complaint to the Financial Ombudsman Service. The Client should contact the Firm if the Client would like further details regarding the Firm's complaints procedures.

28. MISCELLANEOUS

28.1 **Single agreement:** This Agreement, the particular terms applicable to each Transaction, and all amendments to any of them shall together constitute a single agreement between the Parties. Each Party acknowledges that all Transactions entered into on or after the date this Agreement takes effect are entered into in reliance upon the fact that this Agreement and all such terms constitute a single agreement.

28.2 **Base Currency:** For the purposes of any calculation under this Agreement, the Firm may convert amounts denominated in any currency into the Base Currency at such rate prevailing at the time of the calculation as the Firm reasonably selects.

28.3 **Third Party Rights:** This Agreement will be for the benefit of and binding upon the Firm and the Client and their respective successors and assigns. A person who is not a party to

this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999, except that each Associate may enforce terms which purport to confer a benefit on it in accordance with the terms of this Agreement and the Contracts (Rights of Third Parties) Act 1999.

- 28.4 **Transfer:** The Client will not assign, charge or otherwise transfer or purport to assign, charge or otherwise transfer the Client's rights or obligations under this Agreement, or any interest in this Agreement, without the Firm's prior written consent, and any purported assignment, charge or transfer in violation of this clause will be void. The Firm may transfer its rights and obligations under this Agreement without the Client's consent pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity.
- 28.5 **Time of essence:** Time is of the essence in respect of all obligations of the Client under this Agreement (including any Transaction).
- 28.6 **Rights and remedies:** The rights and remedies provided under this Agreement are cumulative and not exclusive of those provided by law. The Firm will be under no obligation to exercise any right or remedy available to it either at all or in a manner or at a time beneficial to the Client. No failure by the Firm to exercise, or delay by the Firm in exercising, any of the Firm's rights under this Agreement (including any Transaction) or otherwise will operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy will prevent further exercise of that right or remedy or the exercise of another right or remedy.
- 28.7 **Partial invalidity:** If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement, nor the legality, validity or enforceability of those provision under the law of any other jurisdiction will in any way be affected or impaired.
- 28.8 **Mandatory CCP Provisions:** In entering into any Transaction, the Client represents that it is aware of the Rules of the related Clearing Service and agrees to be bound by and comply with the Mandatory CCP Provisions of the related Clearing Service.
- 28.9 **Counterparts:** This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

29. GOVERNING LAW AND JURISDICTION

- 29.1 **Governing law:** This Agreement, all Transactions and all non-contractual obligations and other matters arising from or in connection with this Agreement and any Transaction will be governed by and construed in accordance with English law.
- 29.2 **Jurisdiction:** Each of the Parties irrevocably:
- (a) agrees, subject to paragraph (c) below, that the courts of England and Wales have exclusive jurisdiction to settle any dispute arising from or in connection with this Agreement and, for that purpose, submits to the jurisdiction of the courts of England and Wales;

- (b) waives any grounds for objection that it may otherwise have to the courts of England and Wales settling any disputes arising from or in connection with this Agreement and, accordingly, agrees not to contend that the courts of England and Wales are an inappropriate or inconvenient forum or otherwise should not exercise their jurisdiction to settle any such dispute; and
- (c) agrees that nothing in this clause 29.2 prevents the Firm from taking proceedings in any other court with jurisdiction or, to the extent allowed by law, from taking concurrent proceedings in more than one court.

29.3 **Service of process:** If the Client is situated outside England and Wales, process by which any Proceedings in England are begun may be served on the Client by being delivered to the address in England or Wales nominated by the Client for this purpose in the Annex. This does not affect the Firm's right to serve process in another manner permitted by law.

29.4 **Waiver of immunity and consent to enforcement:** The Client irrevocably waives to the fullest extent permitted by applicable law, with respect to the Client and its revenue and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from: (i) suit; (ii) jurisdiction of any courts; (iii) relief by way of injunction, order for specific performance or for recovery of property; (iv) attachment of assets (whether before or after judgment); and (v) execution or enforcement of any judgment to which the Client or the Client's revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees that the Client will not claim any immunity in any Proceedings. The Client consents generally in respect of any Proceedings to the giving of any relief or the issue of any process in connection with such Proceedings, including the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such Proceedings.

30. INTERPRETATION

30.1 **Definitions:** In this Agreement. For the avoidance of doubt, references to EU and EU law remain applicable in this Agreement as the UK transposed all applicable regulations into UK law through, inter alia, the European Union (Withdrawal) Act 2018.

"**Acceptable Margin**" means cash and non-cash assets designated as such by the Firm from time to time;

"**Additional CCP**" means any central counterparty clearing organisation agreed by the Parties to be an Additional CCP from time to time;

"**Additional CCP Service**" means any central counterparty clearing service which: (i) is accessed by the Firm through an Intermediate Clearing Broker; and (ii) relates to an account at an Additional CCP or, where there are sub-accounts at the Additional CCP, a sub-account at the Additional CCP;

"**Additional CCP Transaction**" has the meaning given to it in paragraph (a) of clause 4.2 (*Additional CCP Transactions*);

"**Affiliate**" means, in relation to the Firm or the Client (as applicable), an undertaking in the same group;

"Agreed CCP" means any central counterparty clearing organisation specified as such in Table A of the Annex or otherwise agreed by the Parties to be an Agreed CCP from time to time;

"Agreed CCP Service" means any central counterparty clearing service specified as such in Table A of the Annex or otherwise agreed by the Parties to be an Agreed CCP Service from time to time;

"Applicable Regulations" means:

- (a) the FCA Rules or any other rules of a relevant regulatory authority or a relevant self-regulatory organisation;
- (b) the Rules of any relevant Infrastructure;
- (c) all other applicable laws, rules, procedures, guidance, codes, standards and regulations (including accounting rules and anti-money laundering/sanctions legislation); and
- (d) any directions given by a governmental body, regulator or self-regulatory organisation;

"Associate" means:

- (a) an Affiliate of the Firm;
- (b) a representative or delegate whom the Firm, or an Affiliate of the Firm, appoints;
- (c) any sub-contractor or other service provider engaged in connection with the Services; and/or
- (d) any other person with whom the Firm has a relationship that might reasonably be expected to give rise to a community of interest between the Firm and such person;

"Base Currency" means the currency specified as such in the Annex (or, if no such currency is specified, GBP);

"Business Day" means a day which is not a Saturday or a Sunday and upon which banks are open for business in London;

"CCP" means a central counterparty clearing organisation;

"CCP Default" has the meaning given to it in clause 15 (*Termination Following a CCP Default*);

"Cleared Set Termination Amount" has the meaning given to it in clause 16 (*Cleared Set Termination Amounts*);

"Cleared Transaction Set" means all Transactions in respect of which: (i) the related Firm/CCP Transactions are cleared through the same Agreed CCP; and (ii) the related Firm/CCP Transactions are recorded to the same account at the Agreed CCP or, where there are sub-accounts at the Agreed CCP, the same sub-account;

"Clearing Service" means any clearing service, including an Agreed CCP Service and an Additional CCP Service;

"Client Money" means all cash held by the Firm pursuant to the Client Money Rules;

"Client Money Rules" means CASS 7 of the FCA's Client Assets Sourcebook setting out the client money rules;

"Confirmation" shall be given its ordinary meaning in the course of business between the parties but includes, for the purposes of clause 2.7 of this Agreement, confirmations of trades and daily statements of open positions sent to the Client by the Firm.

"Credit Support Document" has the meaning given to it in paragraph (c) of clause 12.1 (*Events of Default*);

"Credit Support Provider" means any person who has entered into any guarantee, hypothecation, agreement, margin or security agreement in favour of the Firm in respect of the Client's obligations under Transactions and/or this Agreement;

"CRS" means the Common Reporting Standard, a cross-jurisdictional effort to report information on financial institutions in order to help tackle money laundering and tax evasion;

"Custody Rules" means CASS 6 of the FCA's Client Assets Sourcebook setting out the custody rules;

"Distributions" has the meaning given to it in clause 10 (*Title Transfer Provisions*);

"EEA" means European Economic Area;

"Equivalent Distributions" has the meaning given to it in clause 10 (*Title Transfer Provisions*);

"Equivalent Margin" means cash and/or securities of the same type, nominal value, description and amount as Acceptable Margin transferred by the Client to the Firm or the Firm to the Client, as applicable, or otherwise comprised in the Title Transfer Collateral (or, if any transferred margin has been redenominated, converted, redeemed or otherwise modified, cash and/or securities collateral of the same type, nominal value, description and amount of the cash and/or securities into which margin has been redenominated, converted, redeemed or otherwise modified);

"EU" means the European Union;

"UK Regulated Venue" means a regulated market, multilateral trading facility or organised trading facility in the UK;

"Event of Default" has the meaning given to it in clause 12 (*Events of Default*);

"FATCA" means:

- (a) sections 1471 to 1474 of the US Internal Revenue Code or any associated regulations;

- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction;

"FATCA Deduction" means a deduction or withholding from a payment under this Agreement required by FATCA;

"FCA Rules" means the FCA's handbook of rules and guidance;

"Firm/CCP Transaction" means a transaction between the Firm and an Agreed CCP that arises when a Transaction is cleared through the relevant Agreed CCP Service;

"Firm/ICB Transaction" has the meaning given to it in paragraph (a) of clause 4.2 (*Additional CCP Transactions*);

"Firm Trigger Event" has the meaning given to it in clause 14 (*Termination Following a Firm Trigger Event*);

"Infrastructure" means any CCP, settlement system, trading venue or trade repository;

"Insolvency Event" means, in relation to any person:

- (a) the person commences a voluntary case or other procedure seeking or proposing liquidation, administration, reorganisation, moratorium, or other similar relief or the equivalent in another jurisdiction with respect to the person or the person's debts under any insolvency, regulatory, corporate or similar law, or seeking the appointment of a receiver, liquidator, administrator or other similar official, or the equivalent in another jurisdiction (each an **"Insolvency Official"**) of the person or any substantial part of the person's assets, or the person proposes a compromise or composition with its creditors, or the person takes any corporate action to authorise any of the foregoing;
- (b) an involuntary case or other procedure is commenced against the person, seeking or proposing liquidation, administration, reorganisation or moratorium, or other similar relief or the equivalent in another jurisdiction with respect to the person or the person's debts under any insolvency, regulatory, corporate or similar law or seeking the appointment of an Insolvency Official of the person or any substantial part of the person's assets; and/or
- (c) the person is unable to pay its debts as they fall due or is bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to the person; or any indebtedness of the person is not paid on the due date, or becomes capable at any time of being declared due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or any suit, action or other proceedings relating to this Agreement are commenced for any execution, any attachment or garnishment, or distress against,

or an encumbrancer takes possession of, the whole or any part of the person's property, undertaking or assets (tangible and intangible);

"Intermediate Clearing Broker" or **"ICB"** means an entity used by the Firm to provide clearing services in relation to an Additional CCP;

"Liquidation Amount" has the meaning given to it in clause 13 (*Termination Following an Event of Default*);

"Liquidation Date" has the meaning given to it in clause 13 (*Termination Following an Event of Default*);

"Loss" or **"Losses"** means any losses, claims, injuries, damages, judgments, interest on judgments, assessments, taxes, imposts, levies, costs, fees, charges, expenses, amounts paid in settlement or other liabilities (including, without limitation, legal costs, costs of collection and any cost incurred in successfully defending against any claim), howsoever arising;

"Mandatory CCP Provisions" means, with respect to a Clearing Service: (i) the provisions, if any, specified as such in respect of such in the Annex (which may be by reference to a website of the relevant CCP); or (ii) if no such provisions are specified, each provision, if any, specified by the relevant CCP in respect of any Clearing Service as mandatory for inclusion in the terms of transactions between clearing members of that CCP and their respective clients (to the extent that such clients are of the same classification for the purposes of the relevant Rules);

"Parties" means the Firm and the Client (and **"Party"** means either of them);

"Payment Netting Group" has the meaning given to it in clause 25.7 (*Payment Netting*);

"Performance Criteria" means:

- (a) the Client's credit strength, including any guarantees given;
- (b) the Client's internal risk control systems;
- (c) the Client's intended trading strategy;
- (d) the Client's payment systems and arrangements that enable the Client to ensure a timely transfer of assets or cash as margin, as required by the Firm in relation to the Clearing Services the Firm provides;
- (e) the Client's systems settings and access to information that helps the Client to respect any maximum trading limit agreed with the Firm;
- (f) any collateral provided to the Firm by the Client;
- (g) the Client's operational resources, including technological interfaces and connectivity; and

- (h) any involvement of the Client in a breach of the rules ensuring the integrity of the financial markets, including involvement in market abuse, financial crime or money laundering activities,

as such list may be modified by the Firm by notice from time to time;

"Relevant Collateral Value" means, in respect of Transactions in a Cleared Transaction Set and any date on which a Cleared Set Termination Amount is determined, an amount equal to the Value (without applying any haircut) on that date of the Transferred Margin Balance (assigned with a negative sign, but which may be zero);

"RTS 26" means Commission Delegated Regulation (EU) 2017/582 of 29 June 2016 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council with regard to regulatory technical standards specifying the obligation to clear derivatives traded on regulated markets and timing of acceptance for clearing;

"Rules" means, with respect to an Infrastructure, the articles, rules, regulations, procedures, standard terms, membership agreements, collateral addenda, notices, guidance, policies or other such documents promulgated by the relevant Infrastructure in respect of such Infrastructure as amended and supplemented from time to time;

"Secured Obligations" means all obligations, present or future, actual or contingent or prospective, owing or which may become owing by the Client to the Firm under this Agreement and all Transactions, such obligations to be calculated after the application of any rights of netting and set-off arising under this Agreement or by operation of law;

"Services" has the meaning given to it in clause 2 (*The Services*);

"Shortfall Amount" has the meaning given to it in clause 16 (*Cleared Set Termination Amounts*);

"Title Transfer Collateral" means collateral which, at any time, has been transferred by the Client to the Firm in relation to one or more Transactions in accordance with the Title Transfer Provisions and has not been returned;

"Title Transfer Provisions" means the terms set out in clause 10 (*Title Transfer Provisions*);

"Transaction" means any transaction between the Firm and the Client for which the Firm is providing clearing Services under this Agreement;

"transaction" means any of the following:

- (a) a contract made on a trading venue or pursuant to the Rules of a trading venue;
- (b) a contract which is subject to the Rules of an Infrastructure;
- (c) a contract which would (but for its term to maturity only) be a contract made on, or subject to the Rules of, a trading venue and which, at the appropriate time, is to be submitted for clearing as a contract made on, or subject to the Rules of, an Infrastructure,

in any of cases (a), (b) and (c) being a future, option, contract for differences, spot or forward contract of any kind in relation to any commodity, metal, financial instrument (including any security), currency, interest rate, index or any combination thereof;

- (d) a transaction which is back-to-back with any transaction within paragraph (a), (b) or (c) of this definition; or
- (e) any other transaction which the Firm and the Client both agree will be a transaction;

"Transferred Margin Balance" means, in respect of Transactions in a Cleared Transaction Set, the aggregate Value of Title Transfer Collateral that has been transferred to the Firm under the Title Transfer Provisions, as reduced from time to time by any return of Equivalent Margin or Reused Margin to the Client;

"UK" means the United Kingdom of Great Britain and Northern Ireland;

"US" means the United States of America; and

"Value" means, with respect to margin, in the case of:

- (a) cash, the amount of the cash expressed in the Base Currency (as converted, where relevant, in accordance with clause 28.2 (*Base Currency*));
- (b) securities for which prices are publicly quoted, an amount expressed in the Base Currency and reasonably determined by the Firm as reflecting the value of the securities, by reference where reasonably practicable to independent price sources;
- (c) other Acceptable Margin or Equivalent Margin, an amount expressed in the Base Currency and reasonably determined by the Firm as reflecting the value of the Acceptable Margin or Equivalent Margin, by reference where reasonably practicable to independent price sources; and
- (d) items that are not Acceptable Margin or otherwise permissible under clause 9.2 (*Form of margin*), zero for the purposes of determining the Client's compliance with any margin obligation, and otherwise in accordance with paragraph (a), (b) or (c) above,

except that, for the purposes of the Firm's determination of any margin balances and whether margin calls have been satisfied, further deductions will be made to the values referred to in paragraphs (a), (b) and (c) above to reflect haircuts (if any).

30.2 **General interpretation:** In this Agreement:

- (a) a reference to:
 - (i) a "clause", "Annex" or "Schedule" will be construed as a reference to, respectively, a clause of or an annex or schedule to this Agreement, unless the context requires otherwise;

- (ii) any statute or statutory instrument or Applicable Regulations includes any modification, amendment, extension or re-enactment thereof, as in force from time to time;
 - (iii) a "document" or "agreement" (including this Agreement) is a reference to that document or agreement as modified or replaced from time to time and will be construed to include any electronic document or agreement;
 - (iv) "include" will be construed to be without limitation; and
 - (v) a person may refer to either a natural or legal person and includes a reference to that person's legal personal representatives, successors and permitted assigns and transferees;
- (b) the masculine includes the feminine and the neuter and the singular includes the plural and vice versa as the context admits or requires;
 - (c) words and phrases defined in the FCA's Rules have the same meaning in this Agreement unless expressly defined in this Agreement; and
 - (d) any power or right conferred upon the Firm may be exercised by the Firm in its sole and absolute discretion, subject only to Applicable Regulations.

30.3 ***Annex and Schedules:***

- (a) The clauses contained in the Annex and any attached Schedule(s) (as amended from time to time) will apply.
- (b) The Firm may from time to time send to the Client further Schedules in respect of trading venues or Transactions or other matters. In the event of any conflict between the clauses of any Schedule and this Agreement or any Schedule and the Annex, the clauses of the Schedule will prevail. The fact that a clause is or is not specifically included in a Schedule in respect of one trading venue or Transaction will not preclude a similar clause being expressed or implied in relation to any other trading venue or Transaction. The Firm may amend existing Schedules by giving notice to the Client in advance.

30.4 ***Headings:*** Headings are for ease of reference only and do not form part of this Agreement.

UNCLEARED OTC SCHEDULE

1. SCOPE

- 1.1 **Scope of these terms:** These terms set out the basis on which the Firm and the Client may enter into uncleared over-the-counter derivative transactions under the Agreement (and other transactions to which the Firm and the Client agree that this Uncleared OTC Schedule shall apply) ("**Uncleared OTC Transactions**"). This Schedule is incorporated into, and forms part of, the Agreement. Any Uncleared OTC Transaction between the Firm and the Client that is not expressed to be subject to another netting agreement shall be subject to the Agreement.
- 1.2 **No advice:** Unless the Firm and the Client otherwise agree in writing, the Firm does not advise on the merits of Uncleared OTC Transactions or their taxation consequences.
- 1.3 **Own judgment and suitability:** Each time the Client and the Firm enter into an Uncleared OTC Transaction, the Client represents that:
- 1.3.1 it has been solely responsible for making its own independent appraisal and investigations into the risks of the Transaction;
 - 1.3.2 it has sufficient knowledge, market sophistication, professional advice and experience to make its own evaluation of the merits and risks of the Transaction; and
 - 1.3.3 it has not relied upon or been induced to enter into the Transaction by any statements, representations or undertakings from the Firm that are not set out in the Agreement.
- 1.4 The Firm gives the Client no warranty as to the suitability of any Uncleared OTC Transaction for the Client and the Firm assumes no fiduciary duty to the Client with respect to the suitability of such Transactions.

2. TRANSACTIONS

- 2.1 **Transaction and timing:** Notwithstanding anything to the contrary, each Uncleared OTC Transaction shall constitute a "Transaction" for all purposes under the Agreement (including, without limitation, clause 4.6 (*Capacity*) of the Agreement) and such Transaction shall arise when the relevant Uncleared OTC Transaction is entered into between the Firm and the Client.
- 2.2 **Netting:** The Uncleared OTC Transactions shall constitute "Transactions not included in any Cleared Transaction Set" for the purposes of clause 13.2(b) of the Agreement and accordingly, upon the occurrence of a Liquidation Date, they would be deemed to constitute a Cleared Transaction Set with such other Transactions that are not included in any Cleared Transaction Set and the provisions of clause 16 (*Cleared Set Termination Amounts*) shall apply in the same way to such Uncleared OTC Transactions, save that:

- 2.2.1 when determining the value in respect of Uncleared OTC Transactions to be allocated to the relevant Cleared Set Termination Amount pursuant to clause 17.1(a) of this Agreement, the Firm shall solely take into consideration any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain, as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position;
- 2.2.2 clauses 16.1(d) (*Calculations*), 16.4 (*Porting*), 16.5 (*Direct settlement*) and 16.6 (*Payments to the Firm for the account of clients*) shall not apply to any element of the determination that is related solely to the Uncleared OTC Transactions.
- 2.3 **Orders:** Uncleared OTC Transactions, and any requests for the Firm to enter into such Transactions, do not constitute "orders" for the purposes of the Agreement, although the Firm and the Client agree that the term "orders" shall be deemed to include Uncleared OTC Transactions where applicable in the following clauses of the Agreement:
 - 2.3.1 clause 2.7 (*Confirmations*);
 - 2.3.2 all provisions in clause 3 (*Execution of orders*) except for clauses 3.4 (*Execution of orders on a trading venue*) and 3.8 (*Intermediate brokers and other agents*); and
 - 2.3.3 clause 26.5 (*Recording of calls*).
- 2.4 **Services:** The entry into, and performance of, Uncleared OTC Transactions by the Firm with the Client shall constitute a "Service" for the purposes of the Agreement.
- 2.5 **Clearing:** If any Uncleared OTC Transaction is capable of being cleared by the Firm and, as a result of its submission for clearing, a Transaction arises in accordance with clause 4 (*Clearing of Transactions*) of the Agreement, the Uncleared OTC Transaction shall terminate and be replaced by the cleared Transaction, and the Uncleared OTC Transaction will cease to be a "Transaction" under the Agreement from the time that the cleared Transaction arises.
- 2.6 **Settlement:** Where a Liquidation Amount relates solely to Uncleared OTC Transactions, such Liquidation Amount will be payable in the Base Currency on the first Business Day after notification of the amount payable.
- 2.7 **Representations and warranties:** The Client represents and warrants to the Firm on the date this Agreement comes into effect and as of the date of each Transaction that the Client is willing and financially able to sustain a total loss of funds resulting from Uncleared OTC Transaction(s) which are entered into with the Firm and that entering into and trading in Uncleared OTC Transaction(s) is a suitable investment strategy for the Client.
- 2.8 **Covenants:** The Client covenants to the Firm that the Client will not enter into any Uncleared OTC Transactions or otherwise take any action that could create a false impression of the demand or value for a security, financial instrument, commodity, or enter any transaction which the Client has reason to believe are in breach of Applicable Regulations. The Client will observe the standard of behaviour reasonably expected of persons in the Client's position and not take any step which would cause the Firm to fail

to observe the standard of behaviour reasonably expected of persons in the Firm's position.

3. **FC OR NFC+ CLIENTS ONLY - REGULATORY VARIATION MARGIN**

3.1 **For the avoidance of doubt, this paragraph 3 of the Uncleared OTC Schedule will only apply to FC and NFC+ clients. If you are classified as an NFC- please refer to paragraph 4 below.**

3.2 ***Two-way margining:*** In relation to Regulatory VM Transactions, the Client and the Firm will transfer to each other amounts by way of variation margin in the form of Acceptable Margin in accordance with this paragraph 3 and Two-Way Margining shall apply. This will apply without prejudice to the Firm's existing rights to call for margin under the Agreement (including, without limitation, for initial margin or an independent amount). The Firm may make one or more separate margin calls in relation to Uncleared OTC Transactions, and the Firm may make aggregated margin calls in relation to the Uncleared OTC Transactions and other Transactions. The Title Transfer Provisions in clause 10 (*Title Transfer Provisions*) of the Agreement shall also apply to Two-Way Margining under this paragraph.

3.3 ***Daily margining notification:*** On each Business Day, the Firm will notify the Client by the Notification Time of:

- 3.3.1 the Transaction Exposure of each party in relation to all Regulatory VM Transactions;
- 3.3.2 the Value of Acceptable Margin transferred by either party prior to such day and not yet returned; and
- 3.3.3 the amount of Acceptable Margin that must be delivered or Equivalent Margin that must be returned (in each case, if any) by the Firm or the Client, as applicable.

All calculations of Transaction Exposure and Value for the purposes of this paragraph may be made by the Firm on the day of the relevant notification at a valuation time determined by it and, for these purposes, the Firm may use, in the case of a calculation of Value, Values most recently available for the close of business in the relevant market and, in the case of a calculation of Transaction Exposure, relevant information or data most recently available for the close of business in the relevant market, in each case, as of the valuation time. Any determination of Transaction Exposure shall be made using mid-market values.

3.4 ***Settlement:*** Where any margin is to be posted by the Client under paragraph 3.3.3 and the Daily Margining Notification is received by the Client by the Notification Time on the relevant Business Day, the Client shall post such margin on the same day as the Daily Margining Notification. If the Daily Margining Notification is received after the Notification Time on the relevant Business Day, the Client shall post such margin on the next following Business Day. Where any margin is to be posted by the Firm under paragraph 3.3.3, the Firm shall post such margin on the same day as the relevant Daily

Margining Notification or, if such Daily Margining Notification is given after the Notification Time, on the next following Business Day.

3.5 **Definitions:**

- 3.5.1 **"Acceptable Margin"** means cash in the Base Currency;
- 3.5.2 **"Daily Margining Notification"** means the notification given pursuant to paragraph 3.3;
- 3.5.3 **"EMIR"** means Regulation (EU) No 648/2012, which was transposed into UK law by the EU Union (Withdrawal) Act 2018 sometimes referred to as UKMIR in the UK but for the purposes of this Agreement will continue to be referred to as EMIR;
- 3.5.4 **"Notification Time"** means midnight or such time as the Firm notifies the Client of the applicable Daily Margining Notification;
- 3.5.5 **"Regulatory VM Transactions"** means Uncleared OTC Transactions that are subject to the obligation to exchange regulatory variation margin under EMIR or the Applicable Regulations; and
- 3.5.6 **"Transaction Exposure"** means, in respect of a party and a Business Day, the greater of:
 - (a) zero; and
 - (b) the amount which would constitute the Liquidation Amount if a Liquidation Date occurred on such Business Day in respect of which the other party was the Defaulting Party, the Relevant Collateral Value was zero and as if the Liquidation Amount were being determined in relation to the Regulatory VM Transactions only.

4. **NFC- STATUS**

- 4.1 **For the avoidance of doubt, this paragraph 4 of the Uncleared OTC Schedule will only apply to NFC- clients. If you are classified as an FC or NFC+ please refer to paragraph 3 above.**
- 4.2 ***Application of Protocol:*** The provisions of the attachment to the ISDA 2013 EMIR NFC Representation Protocol published on 8 March 2013 (the "**NFC Protocol**") (and available on www.isda.org) shall apply to the Uncleared OTC Transactions under the Agreement, with the following amendments and elections:
 - 4.2.1 References to "Transaction" are deemed to be references to an Uncleared OTC Transaction under the Agreement.
 - 4.2.2 The definition of "Adherence Letter" is deemed to be deleted.
 - 4.2.3 The definition of "effectively delivered" is amended by replacing the words "the address details set out for this purpose in the Adherence Letter" with "the contact details set out in the notices provision of the Agreement".
 - 4.2.4 The definition of "Protocol" is deemed to be deleted.

4.2.5 Confirmation of status:

The Firm confirms that it is a party that does not make the NFC Representation.

The Client confirms that it is a party making the NFC Representation.

4.3 ***Margin:***

4.3.1 Margin will be exchanged in accordance with the terms of the Agreement and, for the purposes of this clause, references to "Clearing Service" under clause 9 (*Margin*) of the Agreement shall be construed as though they were replaced with the term "Service" as defined in paragraph 2.4 of this Uncleared OTC Schedule.

4.3.2 In the event that the Client is subsequently classified as an NFC+ Party (as such term is defined in the NFC Protocol), the Firm shall issue revised margin terms to the Client to ensure compliance with the associated regulatory obligations applicable to variation margin.

5. **PORTFOLIO RECONCILIATION, DISPUTE RESOLUTION AND DISCLOSURE**

5.1 The provisions of the attachment to the ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol published on 19 July 2013 (and available on www.isda.org) (the "**PR/DR Protocol**") shall apply to the Uncleared OTC Transactions under the Agreement, with the following amendments and elections:

5.1.1 References to "Transaction" are deemed to be references to an Uncleared OTC Transaction under the Agreement.

5.1.2 The definition of "Adherence Letter" is deemed to be deleted and references to "Adherence Letter", "such party's Adherence Letter" and "Adherence Letter of such party" are deemed to be references to the Agreement.

5.1.3 References to "Implementation Date" are deemed to be references to the date of the Agreement.

5.1.4 The definition of "Protocol" is deemed to be deleted.

5.1.5 The words "(as defined in the Protocol)" appearing in Part I(3)(b) of the attachment to the PR/DR Protocol are deemed to be deleted.

5.1.6 The definition of "Local Business Day" is deemed to be deleted and references to "Local Business Day" are deemed to be references to "Business Day" as defined in the Agreement.

5.1.7 The definitions of "Portfolio Data Sending Entity" and "Portfolio Data Receiving Entity" are replaced with the following:

"Portfolio Data Sending Entity" means the Firm; and

"Portfolio Data Receiving Entity" means the Client.

5.1.8 Appointment of Affiliate as agent

For the purposes of Part I(3)(a) of the attachment to the PR/DR Protocol:

The Firm appoints the following Affiliate as its agent: None.

The Client appoints the following Affiliate as its agent: None.

5.1.9 Use of a third party service provider

For the purposes of Part I(3) of the attachment to the PR/DR Protocol, the Parties may agree to appoint a third party service provider.

5.1.10 Contact details for Portfolio Data, discrepancy notices and Dispute Notices.

The Firm agrees to deliver the following items to the Client using the contact details shown below:

Portfolio Data, Notice of a Discrepancy, and Dispute Notices can be sent to:

Address	E-mail	Telephone

The Client agrees to deliver the following items to the Firm using the contact details shown below:

Portfolio Data, Notice of a Discrepancy, and Dispute Notices can be sent to:

Address	E-mail	Telephone
The Compliance Officer Toyota Tsusho Metals Limited 88 Wood Street London EC2V 7DA	backoffice@ttmetals.com Compliance@ttmetals.com	+44 (0)207 776 3113

ANNEX

1. **Additional Services** Not applicable
2. **Termination and Netting**

Automatic Termination: Applicable

Payment Netting:

Applicable in respect of all payments (which will form a single "**Payment Netting Group**")
3. **Base Currency**

Base Currency: Unless otherwise specified, United States Dollar
4. **Margin**

Margin Election:
(as per clause 9.3) As specified in Table A in respect of each Agreed CCP Service

Excess Margin Posting: As specified in Table A in respect of each Agreed CCP Service or as may be agreed between the Firm and the Client from time to time
5. **Capacity**

Unless otherwise agreed, the Firm and the Client act on a principal-to-principal basis.
6. **Address for Notices**

The respective details for notices to the Firm and the Client are as follows:

The Firm's Details

For the purposes of clause 26.2(a) (notices other than those relating to close-out, termination or determinations of any Liquidation Amount or Cleared Set Termination Amount):

Address: 88 Wood Street, London, EC2V 7DA, United Kingdom

Email address: Compliance@ttmetals.com; BackOffice@ttmetals.com

Attention: Compliance / Back Office

For the purposes of clause 26.2(b) (notices relating to close-out, termination or determinations of any Liquidation Amount or Cleared Set Termination Amount):

Department: Finance

Address: 88 Wood Street, London, EC2V 7DA, United Kingdom

Email address: Finance@ttmetals.com; Compliance@ttmetals.com

Other contact details:

Telephone no: +44 (0)20 7776 3100

The Client's Details

For the purposes of clause 26.2(a) (notices other than those relating to close-out, termination or determinations of any Liquidation Amount or Cleared Set Termination Amount):

Address:

Email address:

Attention:

For the purposes of clause 26.2(b) (notices relating to close-out, termination or determinations of any Liquidation Amount or Cleared Set Termination Amount):

Department:

Address:

Email address:

Other contact details:

Telephone no:

7. Additional Representations

Further to clause 25.4 (*Charges*), it is agreed between the parties that the Client will bear the charges imposed by its bank and the Firm will bear the charges imposed by its bank so that bank charges are effectively shared or at least the payment of bank charges is sole responsibility of each party to its respective bank, whether receiving or paying an amount;

8. Other Provisions

This Agreement is supplemented by an Account Opening Letter sent to you when you first set-up an account with us. This letter will set out the terms for any credit line and commission rates agreed between the parties and will form part of the legally binding agreement between the parties.

Any changes to the terms contained in the Account Opening Letter will be set out in a Facility Letter.

9. Weblinks to Applicable Policy Documents

The Firm's regulatory disclosure documents can be found at <https://www.ttmetals.com/>

TABLE A – AGREED CCPS

"Agreed CCP"	"Agreed CCP Service"	Margin Election (where posted as collateral)	Type of Client Account and Custodian Details (if applicable)	Excess Margin Posting
LME Clear	<i>As a Cleared Transaction Set will comprise all Transactions relating to a particular Agreed CCP Service, "Agreed CCP Service" as specified here should reflect the netting set resulting from the Rules of the Agreed CCP</i>	All margin is subject to the Title Transfer Provisions	<i>Individual Client Account or Omnibus Client Account, as confirmed in the '4 EMIR Client Notification Account Type' Document sent to, and Completed by, the Client.</i>	N/A

EXECUTION SCHEDULE

The Client should address any further queries to the Firm as soon as possible.

Please sign this Schedule and return it to the Firm who will countersign and send one copy back to you for your records, unless it is executed in counterparts.

All joint account holders must sign. All trustees must sign. A company should arrange for this Agreement to be executed in accordance with applicable law.

A Agreement (Firm)

Executed for and on behalf of Toyota Tsusho Metals Limited

By:

Signed:.....

Signed:.....

Name

Name

Title

Title

B Agreement (Client)

The Client has read, understood and agrees to the clauses set out in this Agreement. As a representative of the Client, I confirm that I have full power and authority to enter into this Agreement.

Executed for and on behalf of

By:

Signed:.....

Signed:.....

Name

Name

Title

Title

C By signing above, the Client hereby agrees and acknowledges that:

- (i) the Firm may execute an order on the Client's behalf outside a trading venue (including a UK Regulated Venue);
- (ii) the Firm may place the Client's monies in a qualifying money market fund;
- (iii) in the case of a limit order in shares admitted to trading on a regulated market or traded on a regulated market, multilateral trading facility or organised trading facility which is not immediately executed, the Firm is not bound to facilitate the earliest possible execution of that order by making it public in an easily accessible manner;

- (iv) the Firm may enter into arrangements for securities financing transactions in respect of financial instruments held by the Firm on the Client's behalf or otherwise use such financial instruments for the Firm's own account or the account of another client; and
- (v) the Firm may enter into arrangements for securities financing transactions in respect of financial instruments held by the Firm on the Client's behalf in an omnibus account held by a third party, or otherwise use financial instruments held in such an account for the Firm's own account or for the account of another client.
- (vi) the Firm may deposit financial instruments held on the Client's behalf with a third party in a third country that does not regulate the holding and safekeeping of financial instruments for the account of another person.