



UBS Limited

Professional Client Agreement

FOA Modules

Collateral Netting Annex

Agency Module

Trustee Annex to the Netting Module



UBS LIMITED
PROFESSIONAL CLIENT AGREEMENT
FOA MODULES

*These FOA Modules are as published by the FOA and adapted by UBS and are incorporated by reference into the UBS Limited FOA Professional Client Agreement (the “**Agreement**”) between UBS Limited (“**us**”) and each client (“**you**”) which is documented separately. It is, therefore, very much in your interests to read it carefully. Please let us know as soon as possible if there is anything which you do not understand.*

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MODULE A - INTRODUCTION

1 GENERAL INFORMATION

- 1.1 **Information about us:** We, **UBS LIMITED**, are authorised by the Prudential Regulation Authority (“PRA”) and regulated by the Financial Conduct Authority (“FCA”). Our registered office is 1 Finsbury Avenue, London, EC2M 2PP. The PRA’s registered office is 8 Lothbury, London EC2R 7HH. The FCA’s registered office is 25 The North Colonnade, London, E14 5HS.
- 1.2 **Communication with us:** You may communicate with us in writing (including fax), by email or other electronic means, or orally (including by telephone). The language of communication shall be English, and you will receive documents and other information from us in English.
- 1.3 **Capacity:** We act as principal and not as agent on your behalf. We shall treat you as a professional client for the purposes of the FCA Rules. You have the right to request a different client categorisation. If you request categorisation as an eligible counterparty and we agree to such categorisation, we would no longer be required by regulatory rules to provide certain protections granted to professional clients. However, notwithstanding the absence of applicable regulatory rules, we would endeavour to provide a service which is overall effective and commercially reasonable. The regulatory protections concerned include formal requirements in the following areas: (a) to act in accordance with your best interests; (b) to provide certain information to you before providing services; (c) not to give or receive inducements; (d) to achieve best execution in respect of your orders; (e) to execute orders subject to other constraints as regards timing and handling relative to other clients’ orders; (f) to ensure that information we provide is fair, clear and not misleading; and (g) to provide certain reports, confirmations and statements. If you request to be categorised as a retail client thereby requiring a higher level of regulatory protection we may not be able to provide our services to you. You agree and acknowledge that you are responsible for keeping us informed about any change that could affect your categorisation as a professional client. You act as principal and not as agent (or trustee) on behalf of someone else.
- 1.4 **Commencement:** This Agreement supersedes any previous agreement between you and us on the same subject matter, and takes effect when you signify acceptance of this Agreement. This Agreement shall apply to all Transactions contemplated under this Agreement.
- 1.5 **Subject to Applicable Regulations:** This Agreement and all Transactions are subject to Applicable Regulations so that: (i) if there is any conflict between this Agreement and any Applicable Regulations, the latter will prevail; (ii) nothing in this Agreement shall exclude or restrict any obligation which we have to you under Applicable Regulations; (iii) we may take or omit to take any action we consider necessary to ensure compliance with any Applicable Regulations; (iv) all Applicable Regulations and whatever we do or fail to do in order to comply with them will be binding on you; and (v) such actions that we take or fail to take for the purpose of compliance with any Applicable Regulations shall not render us or any of our directors, officers, employees or agents liable.
- 1.6 **Market action:** If a Market (or intermediate broker or agent, acting at the direction of, or as a result of action taken by, a Market) or regulatory body takes any action which affects a Transaction, or becomes insolvent or is suspended from operating, then we may take any action which we, in our reasonable discretion, consider desirable to correspond with

- such action or event or to mitigate any loss incurred as a result of such action or event. Any such action shall be binding on you. If a Market or regulatory body makes an enquiry in respect of any of your Transactions, you agree to co-operate with us and to promptly supply information requested in connection with the enquiry and you agree to share any such information with our group companies and/or with regulatory bodies.
- 1.7 **Scope of this Agreement:** This Agreement sets out the basis on which we will provide services to you. This Agreement governs each Transaction entered into or outstanding between us on or after the execution of this Agreement. Subject to Applicable Regulations and this Agreement there shall be no restrictions on the Transactions in respect of which we may deal with you.
- 1.8 **Charges:** You shall pay our charges as agreed with you from time to time; any taxes imposed by any competent authority on any account opened or Transaction effected by or cleared for you; any fees or other charges imposed by a Market or any clearing organisation; interest on any amount due to us at the rates then charged by us (and which are available on request); any fines imposed by any competent authority where attributable to your conduct; and any other value added or other applicable taxes of any of the foregoing, including any withholding tax.
- 1.9 **Costs resulting from use of distance means:** In addition to the costs set out above, additional costs as agreed with you from time to time will be payable by you by virtue of the fact that this contract is entered into via email, telephone or fax or other distance means.
- 1.10 **Additional costs:** You should be aware of the possibility that other taxes or costs may exist that are not paid through or imposed by us.
- 1.11 **Payments:** All payments to us under this Agreement shall be made in same day funds in such currency as we may from time to time specify to the bank account designated by us for such purposes. All such payments shall be made by you without any deduction or withholding.
- 1.12 **Base Currency:** For the purposes of any calculation hereunder, we may convert amounts denominated in any currency into such other currency as we may from time to time specify, at such rate prevailing at the time of the calculation as we shall reasonably select.
- 1.13 **Remuneration and sharing of charges:** We may receive remuneration from, or share charges with, an Associate or other third party in connection with Transactions carried out on your behalf. Details of such remuneration or sharing arrangements are enclosed.
- 1.14 **Description of Service:** A description of the main characteristics of the service we will provide is enclosed.
- 1.15 **Language:** This Agreement is supplied to you in English and we will continue to communicate with you in English for the duration of this Agreement.
- 1.16 **Conflicts:** In the event of any conflict between the terms of this Agreement and the terms of other documentation that has been signed between you and us, the terms of this Agreement shall prevail.

2 **RIGHT TO CANCEL**

- 2.1 ***Right to Cancel:*** You should note that you are not entitled to cancel this Agreement (but you can terminate it as set out in the Termination clause).

MODULE B - ADVICE**3 NO ADVICE**

- 3.1 ***Execution only:*** We deal on an execution-only basis and do not advise on the merits of particular Transactions, or their taxation consequences.
- 3.2 ***Own judgement and suitability:*** In asking us to enter into any Transaction, you represent that you have been solely responsible for making your own independent appraisal and investigations into the risks of the Transaction. You represent that you have sufficient knowledge, market sophistication, professional advice and experience to make your own evaluation of the merits and risks of any Transaction. We give you no warranty as to the suitability of the products traded under this Agreement and assume no fiduciary duty in our relations with you.
- 3.3 ***Incidental information and investment research:*** Where we do provide trading recommendations, market commentary or other information:
- (a) this is incidental to your dealing relationship with us. It is provided solely to enable you to make your own investment decisions and does not amount to advice;
 - (b) if the document contains a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on to any such person or category of persons;
 - (c) we give no representation, warranty or guarantee as to the accuracy or completeness of such information or as to the tax consequences of any Transaction;
 - (d) where information is in the form of a document containing a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on contrary to that restriction;
 - (e) you accept that prior to despatch, we may have acted upon it ourselves or made use of the information on which it is based. We do not make representations as to the time of receipt by you and cannot guarantee that you will receive such information at the same time as other clients. Any published research reports or recommendations may appear in one or more screen information service.

Please refer to our Conflicts of Interest Policy for further information on how we manage conflicts which would affect the impartiality of investment research we provide to you.

MODULE C - OUR RELATIONSHIP WITH YOU

4 YOUR INFORMATION

- 4.1 **Confidentiality:** We will treat all information we hold about you or your account or Transactions as confidential, even when you are no longer a client. You agree, however, that we may disclose this information to other companies in our group and that we and they may disclose it to those who provide services to us or act as our agents; to anyone to whom we transfer or propose to transfer any of our rights or duties under this Agreement; to credit reference agencies or other organisations that help us and others make credit decisions and reduce the incidence of fraud or in the course of carrying out identity, fraud prevention or credit control checks; to regulators and governmental agencies, in any jurisdiction, where we are required to do so by Applicable Regulations, where there is a public duty to disclose or where our interests require disclosure; at your request; or with your consent. In the case of a joint account, we may also disclose to any of you information obtained by us from any of you in relation to the account or your Transactions.
- 4.2 **Data protection:** Before providing us with any information relating to identifiable living individuals in connection with this Agreement you should ensure that those individuals are aware of: our identity; that we may use their information to administer and operate your account; that this may involve disclosure of their information as discussed in clause 4.1 above and transfer of their information to any country, including countries outside the European Economic Area which may not have strong data protection laws; and that they have rights of access to, and correction of, their information which they may exercise by contacting us.
- 4.3 **Your rights:** You may have rights of access to some or all of the information we hold about you, to have inaccurate information corrected and to tell us that you do not wish to receive marketing information, under data protection law. If you wish to exercise any of these rights, please contact us in writing.

MODULE D - ORDER PLACEMENT

5 INSTRUCTIONS AND BASIS OF DEALING

- 5.1 ***Authority and Authorised Persons:*** You shall provide us with a list of the officers, employees or agents who are authorised, either alone or with others, to act on your behalf in the giving of instructions and performance of any other acts, discretions or duties under this Agreement (“**Authorised Person(s)**”) together with specimens of their signatures if written instructions are to be given. We shall be entitled to rely upon the continued authority of an Authorised Person for those purposes until we receive notice from you to the contrary. Any communications purporting to limit your or such Authorised Person’s authority (such as, for example, authorised signatories lists) will not be accepted and will not be binding on us.
- 5.2 ***Cancellation/withdrawal of instructions:*** We can only cancel your instructions if we have not acted upon those instructions. Instructions may only be withdrawn or amended by you with our consent.
- 5.3 ***Right not to accept orders:*** We may, but shall not be obliged to, accept instructions to enter into a Transaction. If we decline to enter into a proposed Transaction, we shall not be obliged to give a reason but we shall promptly notify you accordingly.
- 5.4 ***Control of orders prior to execution:*** We have the right (but no obligation) to set limits and/or parameters to control your ability to place orders at our absolute discretion. Such limits and/or parameters may be amended, increased, decreased, removed or added to by us at our absolute discretion and may include (without limitation): (i) controls over maximum order amounts and maximum order sizes; (ii) controls over our total exposure to you; (iii) controls over prices at which orders may be submitted (to include (without limitation) controls over orders which are at a price which differs greatly from the market price at the time the order is submitted to the order book); (iv) controls over the Electronic Services (to include (without limitation) any verification procedures to ensure that any particular order or orders has come from you); or (v) any other limits, parameters or controls which we may be required to implement in accordance with Applicable Regulations.
- 5.5 ***Execution of orders:*** We shall use our reasonable endeavours to execute any order promptly, but in accepting your orders we do not represent or warrant that it will be possible to execute such order or that execution will be possible according to your instructions. We shall carry out an order on your behalf only when the relevant Market is open for dealings, and we shall deal with any instructions received outside Market hours as soon as possible when that relevant Market is next open for business (in accordance with the rules of that Market). You agree that we may execute an order on your behalf outside a Market. When you give us a specific instruction, our order execution policy will not apply. You confirm that you have read and agree to our order execution policy. We will notify you of any material changes to our order execution policy, but it is your responsibility to check for any other changes to our order execution policy as published from time to time at <http://www.ubs.com/ibtermsandinformation>. We will consider the continued placement of orders by you to constitute your continued consent to our order execution policy as in effect from time to time.
- 5.6 ***Crossing of orders:*** We may arrange for a Transaction to be executed, either in whole or in part, by selling an investment to you from another client, or a client of an Associate of

- ours, or vice-versa. We shall not give you prior notice if we arrange for a Transaction to be executed in this manner.
- 5.7 **Aggregation of orders:** We may combine your order with our own orders and orders of other clients. By combining your orders with those of other clients we must reasonably believe that this is in the overall best interests of our clients. However, aggregation may result in you obtaining a less favourable price in relation to a particular order. Please refer to our order allocation policy (as described in the Individually Agreed Terms Schedule) for more information.
- 5.8 **Confirmations:** We shall send you confirmations at the end of the trading day for any Transactions that we have executed on your behalf on that trading day, by electronic mail to the e-mail address on record for you. It is your responsibility to inform us of any change to your e-mail address, the non-receipt of a confirmation, or whether any confirmations are incorrect before settlement. Confirmations shall, in the absence of manifest error, be conclusive and binding on you, unless we receive from you objection in writing within two Business Days of despatch to you or we notify you of an error in the confirmation within the same period.
- 5.9 **Performance and settlement:** You may promptly deliver any instructions, money, documents or property deliverable by you under a Transaction in accordance with that Transaction as modified by any instructions given by us for the purpose of enabling us to perform our obligations under the relevant matching Transaction on a Market or with an intermediate broker. We may also, at our discretion, take actions to facilitate the performance of a Transaction where you have been unable to do so (for example, to enable 'buy in' before an applicable deadline).
- 5.10 **Intermediate brokers and other agents:** We may, at our entire discretion, arrange for any Transaction to be effected with or through the agency of an intermediate broker, who may be an Associate of ours, and may not be in the United Kingdom. Neither we nor our respective directors, officers, employees or agents will be liable to you for any act or omission of an intermediate broker or agent. No responsibility will be accepted for intermediate brokers or agents selected by you.
- 5.11 **Position limits:** Position limits may be imposed by a Market and we may require you to limit the number of open positions which you may have with us at any time and we may in our sole discretion close out any one or more Transactions in order to ensure that such position limits are maintained.
- 5.12 **Regulatory Reporting:** Under Applicable Regulations, we may be obliged to make information about certain Transactions public. You agree and acknowledge that any and all proprietary rights in such Transaction information are owned by us and you waive any duty of confidentiality attaching to the information which we reasonably disclose.

MODULE E - ELECTRONIC TRADING TERMS

6 ELECTRONIC TRADING TERMS

- 6.1 **Scope:** These clauses apply to your use of any Electronic Services.
- 6.2 **Access:** Once you have gone through the security procedures associated with an Electronic Service provided by us, you will get access to such service, unless agreed otherwise or stated on our website. Our Electronic Services will normally be available between the hours that we advise you. Please consult our website or service manual associated with the relevant Electronic Service for more details on operating times. We may change our security procedures at any time and we will tell you of any new procedures that apply to you as soon as possible.
- 6.3 **Restrictions on services provided:** There may be restrictions on the number of Transactions that you can enter into on any one day and also in terms of the total value of those Transactions when using an Electronic Service. You acknowledge that some Markets place restrictions on the types of orders that can be directly transmitted to their electronic trading systems and the transmission of such orders to the Market is dependent upon the accurate and timely receipt of prices or quotes from the relevant Market or market data provider. You acknowledge that a Market may cancel such an order when upgrading its systems, trading screens may drop the record of such an order, and you enter such orders at your own risk.
- 6.4 **Right Of Access:** In respect of any Market to which we allow you to receive information or data using the Electronic Services, we may at any time or times, on reasonable notice (which, in certain circumstances, may be immediate) enter (or to instruct our or the Market's subcontractors to enter) your (or, in a co-hosting situation, third parties') premises and/or servers and inspect your (or, in a co-hosting situation, third parties') System to ensure that it complies with the requirements notified by us to you from time to time and that you are using the Electronic Services in accordance with this Agreement and any requirements of any relevant Market or Applicable Regulations.
- 6.5 **Access requirements:** You will be responsible for providing the System to enable you to use an Electronic Service.
- 6.6 **Virus detection:** You will be responsible for the installation and proper use of any virus detection/scanning program we require from time to time.
- 6.7 **Maintaining standards:** When using an Electronic Service you must:
- (a) ensure that your System is maintained in good order and is suitable for use with such Electronic Service;
 - (b) run such tests and provide such information to us as we shall reasonably consider necessary to establish that your System satisfies the requirements notified by us to you from time to time;
 - (c) carry out virus checks on a regular basis;
 - (d) inform us immediately of any unauthorised access to such Electronic Service or any unauthorised Transaction or instruction which you know of or suspect and, if within your control, cause such unauthorised use to cease; and

- (e) not at any time leave the terminal from which you have accessed such Electronic Service or let anyone else use the terminal until you have logged off such Electronic Service.
- 6.8 **System defects:** In the event you become aware of a material defect, malfunction or virus in the System or in an Electronic Service, you will immediately notify us of such defect, malfunction or virus and cease all use of such Electronic Service until you have received permission from us to resume use.
- 6.9 **Intellectual Property:** All rights in patents, copyrights, design rights, trade marks and any other intellectual property rights (whether registered or unregistered) relating to the Electronic Services remain vested in us or our licensors. You will not copy, interfere with, tamper with, alter, amend or modify the Electronic Services or any part or parts thereof unless expressly permitted by us in writing; reverse compile or disassemble the Electronic Services; nor purport to do any of the same or permit any of the same to be done, except in so far as such acts are expressly permitted by law. Any copies of the Electronic Services made in accordance with law are subject to the terms and conditions of this Agreement. You shall ensure that all the licensors' trademarks and copyright and restricted rights notices are reproduced on these copies. You shall maintain an up-to-date written record of the number of copies of the Electronic Services made by you. If we so request, you shall as soon as reasonably practical, provide to us a statement of the number and whereabouts of copies of the Electronic Services. In the event that you receive any data, information or software via an Electronic Service other than that which you are entitled to receive pursuant to this Agreement, you will immediately notify us and will not use, in any way whatsoever, such data, information or software.
- 6.10 **Liability And Indemnity:** Without prejudice to any other terms of this Agreement, relating to the limitation of liability and provision of indemnities, the following clauses shall apply to our Electronic Services.
- (a) **System errors:** We shall have no liability to you for damage which you may suffer as a result of transmission errors, technical faults, malfunctions, illegal intervention in network equipment, network overloads, malicious blocking of access by third parties, internet malfunctions, interruptions or other deficiencies on the part of internet service providers. You will be responsible for all orders entered on your behalf via the Electronic Services and you will be fully liable to us for the settlement of any Transaction arising from them. You acknowledge that access to Electronic Services may be limited or unavailable due to such system errors, and that we reserve the right upon notice to suspend access to Electronic Services for this reason.
- (b) **Delays:** Neither we nor any third party software provider accept any liability in respect of any delays, inaccuracies, errors or omissions in any data provided to you in connection with an Electronic Service. For the avoidance of doubt, Electronic Services may not be provided on a continuous basis and neither we nor any third party provider accept any liability in this respect.
- (c) **Viruses from an Electronic Service:** We shall have no liability to you (whether in contract or in tort, including negligence) in the event that any viruses, worms, software bombs or similar items are introduced into your System via an Electronic Service or any software provided by us to you in order to enable you to use such Electronic Service, provided that we have taken reasonable steps to prevent any such introduction.

- (d) ***Viruses from your System:*** You will ensure that no computer viruses, worms, software bombs or similar items are introduced into our computer system or network and you will indemnify us on demand for any loss that we suffer arising as a result of any such introduction.
 - (e) ***Unauthorised use:*** We shall not be liable for any loss, liability or cost whatsoever arising from any unauthorised use of the Electronic Service. You shall on demand indemnify, protect and hold us harmless from and against all losses, liabilities, judgements, suits, actions, proceedings, claims, damages and costs resulting from or arising out of any act or omission by any person using an Electronic Service by using your designated passwords, whether or not you authorised such use.
 - (f) ***Markets:*** We shall not be liable for any act taken by or on the instruction of a Market, clearing house or regulatory body.
- 6.11 ***Suspension or permanent withdrawal with notice:*** We may suspend or permanently withdraw an Electronic Service, by giving you 10 days' written notice.
- 6.12 ***Immediate suspension or permanent withdrawal:*** We have the right, unilaterally and with immediate effect, to suspend or withdraw permanently your ability to use any Electronic Service, or any part thereof, without notice, where we consider it necessary or advisable to do so, in our discretion and in good faith, for example due to your non-compliance with the Applicable Regulations, breach of any provisions of this Agreement, on the occurrence of an Event of Default, network problems, failure of power supply, for maintenance, or to protect you when there has been a breach of security or for other reasons (including reasons not related to electronic trading and/or use of the Electronic Services). In addition, the use of an Electronic Service may be terminated automatically, upon the termination (for whatever reason) of (i) any licence granted to us which relates to the Electronic Service; or (ii) this Agreement. The use of an Electronic Service may be terminated immediately if an Electronic Service is withdrawn by any Market or we are required to withdraw the facility to comply with Applicable Regulations.
- 6.13 ***Effects of termination:*** In the event of a termination of the use of an Electronic Service for any reason, upon request by us, you shall, at our option, return to us or destroy all hardware, software and documentation we may have provided you in connection with such Electronic Service and any copies thereof.

MODULE F - CLIENT MONEY

The following options will apply as is specified in the Individually Agreed Terms Schedule:

OPTION 1 - MiFID AND DESIGNATED NON-MiFID INVESTMENT BUSINESS, NON-BANK, CLIENT MONEY RULES APPLICABLE

7 CLIENT MONEY

- 7.1 ***Client money***: We treat money received from you or held by us on your behalf in accordance with the Client Money Rules.
- 7.2 ***Deposit with approved bank and passing money to other third parties***: Subject to the following provisions, we will deposit money received from you with an approved bank. We may also pass money received from you to a third party (for example a market, intermediate broker, OTC counterparty or clearing house) to hold or control in order to effect a Transaction through or with that person or to satisfy your obligation to provide collateral in respect of a Transaction. We have no responsibility for any acts or omissions of any third party to whom we pass money received from you. The third party to whom we pass money may hold it in an omnibus account and it may not be possible to separate such money from our money, or the third party's money. In the event of the insolvency or any other analogous proceedings in relation to that third party, we will only have an unsecured claim against the third party on behalf of you and our other clients, and you will be exposed to the risk that the money received by us from the third party is insufficient to satisfy the claims of you and all other clients with claims in respect of the relevant account.
- 7.3 ***Placing money in a qualifying money market fund***: We may place money received from you in a qualifying money market fund, as defined in the Client Money Rules. As a result, any money will not be held in accordance with the Client Money Rules and the units in the relevant fund will be held in accordance with the Custody Rules. Please let us know if you do not wish your money to be placed in a qualifying money market fund.
- 7.4 ***Interest***: We shall pay interest on money standing to your credit in your account at our published rate from time to time.
- 7.5 ***Group banks***: We may hold your money with UBS AG which is a bank in the same group as ourselves.
- 7.6 ***Overseas banks, intermediate broker, settlement agent or OTC counterparty***: We may hold client money on your behalf outside the EEA. The legal and regulatory regime applying to any such bank or person will be different from that of the United Kingdom and in the event of the insolvency or any other analogous proceedings in relation to that bank or person, your money may be treated differently from the treatment which would apply if the money was held with a bank in an account in the United Kingdom. We will not be liable for the insolvency, acts or omissions of any third party referred to in this sub-clause.
- 7.7 ***Depository's lien***: We may deposit your money with a depository who may have a security interest, lien or right of set-off in relation to that money in certain circumstances.
- 7.8 ***Right of application of client money***: Where any obligations owing to us from you are due and payable to us, we may cease to treat as client money so much of the money held

on your behalf as equals the amount of those obligations in accordance with the Client Money Rules. You agree that we may apply that money in or towards satisfaction of all or part of those obligations due and payable to us. For the purposes of these client money terms, any such obligations become immediately due and payable, without notice or demand by us, when incurred by you or on your behalf.

- 7.9 ***Additional security:*** As a continuing security for the payment and discharge of the Secured Obligations you grant to us, with full title guarantee, a first fixed security interest in all your money that we may cease to treat as client money in accordance with the Client Money Rules. You agree that we shall be entitled to apply that money in or towards satisfaction of all or any part of the Secured Obligations which are due and payable to us but unpaid.
- 7.10 ***Unclaimed client money:*** You agree that we may cease to treat your money as client money if there has been no movement on your balance for six years. We shall write to you at your last known address informing you of our intention of no longer treating your balance as client money and giving you 28 days to make a claim.

OPTION 4 – CREDIT INSTITUTIONS AND APPROVED BANKS

7 CLIENT MONEY

- 7.1 ***Credit Institution:*** We act as banker rather than as trustee in respect of any money we hold on your behalf in an account with ourselves. As a result, we will not hold your money in accordance with the Client Money Rules. In particular, we shall not segregate your money from ours and we shall not be liable to account to you for any profits made by our use as banker of such funds.

MODULE G - MARGIN AND COLLATERAL

8 MARGINING ARRANGEMENTS

- 8.1 **Margin call:** You agree to pay us on demand such sums by way of margin as are required from time to time under the Rules of any relevant Market (if applicable) or as we may in our discretion reasonably require for the purpose of protecting ourselves against loss or risk of loss on present, future or contemplated Transactions under this Agreement.
- 8.2 **Form of margin:** Unless otherwise agreed, margin must be paid in cash. The currency of the cash margin you pay to us shall be the currency of the relevant underlying Transaction (if applicable), although we may in our discretion decide to accept payments of cash margin in other currencies from time to time.
- 8.3 **Right of Retention:** If there is an Event of Default or this Agreement terminates, we will not be obliged to repay any cash margin for so long as it is required under the Rules of any relevant Market or to the extent that you owe, or may owe, Obligations to us. In determining the amounts of cash margin, your Obligations, and our obligations to you, we may apply such methodology (including judgements as to the future movement of markets and values) as we consider appropriate, consistent with Applicable Regulations.
- 8.4 **Set-off upon default or termination:** If there is an Event of Default or this Agreement terminates, we may set off the balance of cash margin owed by us to you against your Obligations (as reasonably valued by us) as they become due and payable to us and we shall be obliged to pay to you (or entitled to claim from you, as appropriate) only the net balance after all Obligations have been taken into account. The net balance, if any, shall take into account the Liquidation Amount payable under the Netting Module of this Agreement.
- 8.5 **Negative pledge:** You undertake neither to create nor to have outstanding any security interest whatsoever over, nor to agree to assign or transfer, any of the cash or non-cash margin transferred to us, except a lien routinely imposed on all securities in a clearing system in which such securities may be held.
- 8.6 **Non-cash margin:** Where we agree to accept non-cash collateral, it must be in a form acceptable to us. The value of the non-cash collateral and the proportion of that value to be taken into account for margin purposes shall be determined by us in our absolute discretion.
- 8.7 **Security interest:** As a continuing security for the performance of the Secured Obligations under or pursuant to this Agreement, you grant to us, with full title guarantee, a first fixed security interest in all non-cash margin now or in the future provided by you to us or to our order or under our direction or control or that of a Market or otherwise standing to the credit of your account under this Agreement or otherwise held by us or our Associates or our nominees on your behalf.
- 8.8 **Further assurance:** You agree to execute such further documents and to take such further steps as we may reasonably require to perfect our security interest over, be registered as owner of or obtain legal title to the margin, secure further the Secured Obligations, enable us to exercise our rights or to satisfy any market requirement.
- 8.9 **Substitution:** You may not withdraw or substitute any property subject to our security interest without our consent.

- 8.10 **Power to charge:** You agree that we may, to the extent that any of the margin constitutes “financial collateral” and this Agreement and your obligations hereunder constitute a “security financial collateral arrangement” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (the “**Regulations**”)), free of any adverse interest of yours or any other person, grant a first-ranking security interest over margin provided by you to cover any of our obligations to an intermediate broker or Market, including obligations owed by virtue of the positions held by us or other of our clients.
- 8.11 **Power of sale:** If an Event of Default occurs, we may exercise the power to sell all or any part of the margin. The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Agreement or to any exercise by us of our rights to consolidate mortgages or our power of sale. We shall be entitled to apply the proceeds of sale or other disposal in paying the costs of such sale or other disposal and in or towards satisfaction of the Secured Obligations.
- 8.12 **Power of appropriation:** To the extent that any of the margin constitutes “financial collateral” and this Agreement and your obligations hereunder constitute a “security financial collateral arrangement” under the Regulations, we shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations. For this purpose, you agree that the value of such financial collateral so appropriated shall be the amount of the margin, together with any accrued but unposted interest, at the time the right of appropriation is exercised. The parties further agree that the method of valuation provided for in this Agreement shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.
- 8.13 **Rehypothecation:** You agree and authorise us to borrow, lend, appropriate, dispose of or otherwise use for our own purposes, from time to time, all non-cash margin accepted by us from you and, to the extent that we do, we both acknowledge that the relevant non-cash margin will be transferred to a proprietary account belonging to us (or to any other account selected by us from time to time) by way of absolute transfer and such margin will become the absolute property of ours (or that of our transferee) free from any security interest under this Agreement and from any equity, right, title or interest of yours. Upon any such rehypothecation by us you will have a right against us for the delivery of property, cash, or securities of an identical type, nominal value, description and amount to the rehypothecated non-cash margin, which, upon being delivered back to you, will become subject to the provisions of this Agreement. We agree to credit to you, as soon as reasonably practicable following receipt by us, and as applicable, a sum of money or property equivalent to (and in the same currency as) the type and amount of income (including interest, dividends or other distributions whatsoever with respect to the non-cash margin) that would be received by you in respect of such non-cash margin assuming that such non-cash margin was not rehypothecated by us and was retained by you on the date on which such income was paid.
- 8.14 **Lien:** In addition and without prejudice to any rights to which we may be entitled under this Agreement or any Applicable Regulations, we shall have a general lien on all property held by us or our Associates or our nominees on your behalf until the satisfaction of the Secured Obligations.

MODULE H - REPRESENTATIONS

9 REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 **Representations and warranties:** You represent and warrant to us on the date this Agreement comes into effect and as of the date of each Transaction that:

- (a) If you are an individual, you have reached the age of 18 years or over and have full capacity to enter into this Agreement;
- (b) you have all necessary authority, powers, consents, licences and authorisations and have taken all necessary action to enable you lawfully to enter into and perform this Agreement and each Transaction and to grant the security interests and powers referred to in this Agreement;
- (c) the persons entering into this Agreement and each Transaction on your behalf have been duly authorised to do so;
- (d) this Agreement, each Transaction and the obligations created under them both are binding upon you and enforceable against you in accordance with their terms (subject to applicable principles of equity) and do not and will not violate the terms of any regulation, order, charge or agreement by which you are bound;
- (e) you enter into this Agreement for commercial purposes;
- (f) you act as principal and sole beneficial owner (but not as trustee) in entering into this Agreement and each Transaction;
- (g) any information which you provide or have provided to us in respect of your financial position, domicile or other matters is accurate and not misleading in any material respect;
- (h) you are willing and financially able to sustain a total loss of funds resulting from Transactions and trading in such Transactions is a suitable investment vehicle for you; and
- (i) except as otherwise agreed by us, you are the sole beneficial owner of all margin you transfer 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 such securities may be held or imposed by a third party custodian, or other similar institution.

9.2 **Covenants:** You covenant to us that:

- (a) you will at all times obtain and comply, 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;
- (b) you are willing and able, upon request, to provide us with information in respect of your financial position, domicile or other matters;
- (c) you will promptly notify us of the occurrence of any Event of Default or of any event that may become an Event of Default with respect to yourself or any Credit Support Provider;

- (d) you will (i) comply with all Applicable Regulations in relation to this Agreement and any Transaction, so far as they are applicable to you; and (ii) use all reasonable steps to comply with all Applicable Regulations in relation to this Agreement and each Transaction, where such Applicable Regulations do not apply to you but your cooperation is needed to help us comply with our obligations;
- (e) you will not send orders or otherwise take any action that could create a false impression of the demand or value for a security or financial instrument, or send orders which you have reason to believe are in breach of Applicable Regulations. You shall observe the standard of behaviour reasonably expected of persons in your position and not take any step which would cause us to fail to observe the standard of behaviour reasonably expected of persons in our position; and
- (f) upon demand, you will provide us with such information as we may reasonably require to evidence the matters referred to in this clause or to comply with any Applicable Regulations.

MODULE I - DEFAULT, NETTING AND TERMINATION

10 EVENTS OF DEFAULT

10.1 *Events of Default*: The following shall constitute Events of Default:

- (a) you fail to make any payment when due under this Agreement or to make or take delivery of any property when due under, or to observe or perform any other provision of this Agreement, after notice of non-performance has been given by the Non-Defaulting Party to the Defaulting Party;
- (b) you commence a voluntary case or other procedure seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent), or seeking the appointment of a trustee, receiver, liquidator, conservator, administrator, custodian or other similar official (each a “**Custodian**”) of you or any substantial part of your assets, or if you take any corporate action to authorise any of the foregoing, and in the case of a reorganisation, arrangement or composition, we do not consent to the proposals;
- (c) an involuntary case or other procedure is commenced against you seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent) or seeking the appointment of a Custodian of you or any substantial part of your assets and such involuntary case or other procedure either (a) has not been dismissed within five days of its institution or presentation or (b) has been dismissed within such period but solely on the grounds of an insufficiency of assets to cover the costs of such case or other procedure;
- (d) you are unable to pay your debts as they fall due or are bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to you; or any indebtedness of yours is not paid on the due date therefore, 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 encumbrance takes possession of the whole or any part of your property, undertaking or assets (tangible and intangible);
- (e) you or any Credit Support Provider (or any Custodian acting on behalf of either of you or a Credit Support Provider) disaffirms, disclaims or repudiates any obligation under this Agreement or any guarantee, hypothecation agreement, margin or security agreement or document, or any other document containing an obligation of a third party (“**Credit Support Provider**”), or of you, in favour of us supporting any of your obligations under this Agreement (each a “**Credit Support Document**”);
- (f) any representation or warranty made or given or deemed made or given by you 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;

- (g) (i) any Credit Support Provider fails, or you yourself fail to comply with or perform any agreement or obligation to be complied with or performed by you or it 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 your obligations under this Agreement, unless we have agreed in writing that this shall 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) any event referred to in paragraphs (b) to (d) or (h) of this sub-clause occurs in respect of any Credit Support Provider;
- (h) you are dissolved, or, if your 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 your dissolution, removal from such a register, or the ending of such a registration;
- (i) where you or your Credit Support Provider is a partnership, any of the events referred to in paragraphs (b) to (d) or (h) of sub-clause 1 of this clause occurs in respect of one or more of your or its partners;
- (j) we consider it necessary or desirable to prevent what we consider is or might be a violation of any Applicable Regulation or good standard of market practice;
- (k) we consider it necessary or desirable for our own protection or any action is taken or event occurs which we consider might have a material adverse effect upon your ability to perform any of your obligations under this Agreement;
- (l) any event of default (however described) occurs in relation to you under any other agreement between us or any other event specified for these purposes in the Individually Agreed Terms Schedule or otherwise occurs.

11 NETTING

- 11.1 **Rights on Default:** On the occurrence of an Event of Default, we may exercise our rights under this clause, except that in the case of the occurrence of any Event of Default specified in paragraphs (b) or (c) of the definition of Events of Default (each a “**Bankruptcy Default**”), the automatic termination provision of this clause shall apply.
- 11.2 **Liquidation Date:** Subject to the following sub-clause, at any time following the occurrence of an Event of Default, we may, by notice to you, specify a date (the “**Liquidation Date**”) for the termination and liquidation of Transactions in accordance with this clause.
- 11.3 **Automatic termination:** Where so specified in the Individually Agreed Terms Schedule, the date of the occurrence of any Bankruptcy Default shall automatically constitute a Liquidation Date, without the need for any notice by us and the provisions of the following sub-clauses shall then apply.
- 11.4 **Calculation of Liquidation Amount:** Upon the occurrence of a Liquidation Date:

- (a) neither of us shall be obliged to make any further payments or deliveries under any Netting Transactions which would, but for this clause, have fallen due for performance on or after the Liquidation Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Liquidation Amount;
 - (b) we shall (on, or as soon as reasonably practicable after, the Liquidation Date) determine (discounting if appropriate), in respect of each Netting Transaction referred to in paragraph (a), the total cost, loss or, as the case may be, gain, in each case expressed in the Base Currency specified by us as such in the Individually Agreed Terms Schedule or otherwise in writing or, failing any such specification, the lawful Currency of the United Kingdom (and, if appropriate, including 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) as a result of the termination, pursuant to this Agreement, of each payment or delivery which would otherwise have been required to be made under such Netting Transaction (assuming satisfaction of each applicable condition precedent and having due regard, if appropriate, to such market quotations published on, or official settlement prices set by the relevant Market as may be available on, or immediately preceding, the date of calculation); and
 - (c) we shall treat each cost or loss to us, determined as above, as a positive amount and each gain by us, so determined, as a negative amount and aggregate all of such amounts to produce a single, net positive or negative amount, denominated in the Base Currency (the “**Liquidation Amount**”).
- 11.5 **Payer:** If the Liquidation Amount determined pursuant to this clause is a positive amount, you shall pay it to us and if it is a negative amount, we shall pay it to you. We shall notify you of the Liquidation Amount, and by whom it is payable, immediately after the calculation of such amount.
- 11.6 Intentionally Deleted
- 11.7 **Payment:** Unless a Liquidation Date has occurred or has been effectively set, we shall not be obliged to make any payment or delivery scheduled to be made by us under a Netting Transaction 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 hereunder, or any combination thereof) an Event of Default with respect to you has occurred and is continuing.
- 11.8 **Additional rights:** Our rights under this clause shall be in addition to, and not in limitation or exclusion of, any other rights which we may have (whether by agreement, operation of law or otherwise).
- 11.9 **Application of netting to Netting Transactions:** Subject to the Individually Agreed Terms Schedule, this clause applies to each Netting Transaction entered into or outstanding between us on or after the date this Agreement takes effect.
- 11.10 **Single agreement:** This Agreement, the particular terms applicable to each Netting Transaction, and all amendments to any of them shall together constitute a single agreement between us. We both acknowledge that all Netting Transactions entered into

on or after the date this Agreement takes effect are entered into in reliance upon the fact that the Agreement and all such terms constitute a single agreement between us.

- 11.11 **Other agreements:** The provisions of this clause shall not apply to any Transaction which is subject to liquidation and termination under another agreement. However, any sum resulting from a liquidation and termination under another agreement, may be set-off against the Liquidation Amount.

12 RIGHTS ON DEFAULT

- 12.1 **Default:** On an Event of Default or at any time after we have determined, in our absolute discretion, that you have not performed (or we reasonably believe that you will not be able or willing in the future to perform) any of your obligations to us, in addition to any rights under the Netting Clause, we shall be entitled without prior notice to you:

- (a) instead of returning to you investments equivalent to those credited to your account, to pay to you the fair market value of such investments at the time we exercise such right, and/or
- (b) to sell such of your investments as are in our possession or in the possession of any nominee or third party appointed under or pursuant to this Agreement, in each case as we may in our absolute discretion select or and upon such terms as we may in our absolute discretion think fit (without being responsible for any loss or diminution in price) in order to realise funds sufficient to cover any amount due by you hereunder, and/or
- (c) to close out, replace or reverse any Transaction, buy, sell, borrow or lend or enter into any other Transaction or take, or refrain from taking, such other action at such time or times and in such manner as, at our sole discretion, we consider necessary or appropriate to cover, reduce or eliminate our loss or liability under or in respect of any of your contracts, positions or commitments, and/or
- (d) to terminate this Agreement immediately.

13 TERMINATION WITHOUT DEFAULT

- 13.1 **Termination:** Unless required by Applicable Regulations, either party may terminate this Agreement (and the relationship between us) by giving ten days written notice of termination to the other.

Upon terminating this Agreement, all amounts payable by you to us will become immediately due and payable including (but without limitation):

- (a) all outstanding fees, charges and commissions; and
- (b) any dealing expenses incurred by terminating this Agreement; and
- (c) any losses and expenses realised in closing out any transactions or settling or concluding outstanding obligations incurred by us on your behalf.

MODULE J - INDEMNITIES AND LIMITATION OF LIABILITY

14 EXCLUSIONS, LIMITATIONS AND INDEMNITY

- 14.1 **General Exclusion:** Neither we nor our directors, officers, employees, or agents shall be liable for any losses, damages, costs or expenses, whether arising out of negligence, breach of contract, misrepresentation or otherwise, incurred or suffered by you under this Agreement (including any Transaction or where we have declined to enter into a proposed Transaction) unless such loss is a reasonably foreseeable consequence and arises directly from our or their respective gross negligence, wilful default or fraud. In no circumstance, shall we have liability for losses suffered by you 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 our liability for death or personal injury resulting from our negligence.
- 14.2 **Adverse implications of Transactions:** Without limitation, we do not accept liability for any adverse tax, accounting or other implications of any Transaction whatsoever.
- 14.3 **Changes in the market:** Without limitation, we do not accept any liability by reason of any delay or change in market conditions before any particular Transaction is effected.
- 14.4 **Limitation of Liability:** We shall not be liable to you for any partial or non-performance of our obligations hereunder by reason of any cause beyond our reasonable control, including without limitation any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, act of terrorism, act of God, acts and regulations of any governmental or supra national bodies or authorities or the failure by the relevant intermediate broker or agent, agent or principal of our custodian, sub-custodian, dealer, Market, clearing house or regulatory or self-regulatory organisation, for any reason, to perform its obligations. Nothing in this Agreement will exclude or restrict any duty or liability we may have to you under the regulatory system (as defined in the FCA Rules), which may not be excluded or restricted thereunder.
- 14.5 **Entire Agreement:** You acknowledge that you have not relied on or been induced to enter into this Agreement by a representation other than those expressly set out in this Agreement. We will not be liable to you (in equity, contract or tort under the Misrepresentation Act 1967) for a representation that is not set out in this Agreement and that is not fraudulent.
- 14.6 **Indemnity:** You shall pay to us such sums as we may from time to time require in or towards satisfaction of any debit balance on any of your accounts with us and, on a full indemnity basis, any losses, liabilities, costs or expenses (including legal fees), taxes, imposts and levies which we may incur or be subjected to with respect to any of your accounts or any Transaction or any matching Transaction on a Market or with an intermediate broker or as a result of any misrepresentation by you or any violation by you of your obligations under this Agreement (including any Transaction) or by the enforcement of our rights.

MODULE K - MISCELLANEOUS AND GOVERNING LAW**15 MISCELLANEOUS**

- 15.1 **Amendments:** We have the right to amend the terms of this Agreement. If we make any change to this Agreement, we will give at least ten Business Days written notice to you. Such amendment will become effective on the date specified in the notice. Unless otherwise agreed, an amendment will not affect any outstanding order or Transaction or any legal rights or obligations which may already have arisen.
- 15.2 **Surviving Terms:** Outstanding rights and obligations (in particular relating to the Netting Module, the Indemnities and Limitation of Liability Module and the Miscellaneous and Governing Law Module) and Transactions shall survive the termination of this Agreement, and shall continue to be governed by its provisions and the particular clauses agreed between us in relation to such Transactions until all obligations have been fully performed.
- 15.3 **Notices:** Unless otherwise agreed, all notices, instructions and other communications to be given by us under this Agreement shall be given to the address or fax number provided by you to us. Likewise, all notices, instructions and other communications to be given by you under this Agreement shall be given to the address or fax number (in the Individually Agreed Terms Schedule) and/or by notice in writing by either party. You will notify us of any change of your address in accordance with this clause.
- 15.4 **Electronic Communications:** Subject to Applicable Regulations, any communication between us using electronic signatures shall be binding as if it were in writing. Orders or instructions given to you via e-mail or other electronic means will constitute evidence of the orders or instructions given.
- 15.5 **Recording of calls:** If you give instructions by telephone, your conversation will be recorded. We may record telephone conversations without use of a warning tone to ensure that the material terms of the Transaction, and any other material information relating to the Transaction is promptly and accurately recorded. Such records will be our sole property and accepted by you as evidence of the orders or instructions given.
- 15.6 **Our records:** Our records, unless shown to be wrong, will be evidence of your dealings with us in connection with our services. You will not object to the admission of our records as evidence in any legal proceedings because such records are not originals, are not in writing or are documents produced by a computer. You will not rely on us to comply with your record keeping obligations, although records may be made available to you on request at our absolute discretion.
- 15.7 **Your records:** You agree to keep adequate records in accordance with Applicable Regulations to demonstrate the nature of orders submitted and the time at which such orders are submitted.
- 15.8 **Investor Protection Schemes:** We are a member of the Financial Services Compensation Scheme (the “**Scheme**”) in the United Kingdom. The Scheme is only available to certain types of claimants and claims. Payments to eligible claimants under the Scheme will vary depending on the type of protected claim (for example deposits or investments) the claimants hold with respect to the relevant institution. Payments under the Scheme in respect of investments are subject to a maximum payment to any eligible investor of GBP 50,000. Payments under the Scheme in respect of deposits are subject to a maximum

payment to any eligible depositor of GBP 85,000. Further details of the Scheme are available on request or at the Scheme's official website at www.fscs.org.uk.

- 15.9 **Third Party Rights:** This Agreement shall be for the benefit of and binding upon us both and our respective successors and assigns. You shall not assign, charge or otherwise transfer or purport to assign, charge or otherwise transfer your rights or obligations under this Agreement or any interest in this Agreement, without our prior written consent, and any purported assignment, charge or transfer in violation of this clause shall be void. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999.
- 15.10 **Time of essence:** Time shall be of the essence in respect of all obligations of yours under this Agreement (including any Transaction).
- 15.11 **Rights and remedies:** The rights and remedies provided under this Agreement are cumulative and not exclusive of those provided by law. We shall be under no obligation to exercise any right or remedy either at all or in a manner or at a time beneficial to you. No failure by us to exercise or delay by us in exercising any of our rights under this Agreement (including any Transaction) or otherwise shall operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy shall prevent further exercise of that right or remedy or the exercise of another right or remedy.
- 15.12 Intentionally Deleted
- 15.13 **Set-off:** Without prejudice to any other rights to which we may be entitled, we may at any time and without notice to you set off any amount (whether actual or contingent, present or future) owed by you to us against any amount (whether actual or contingent, present or future) owed by us to you. For these purposes, we may ascribe a commercially reasonable value to any amount which is contingent or which for any other reason is unascertained.
- 15.14 **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 such provision under the law of any other jurisdiction shall in any way be affected or impaired.

16 GOVERNING LAW AND JURISDICTION

- 16.1 **Governing law:** A Transaction which is subject to the Rules of a Market shall be governed by the law applicable to it under those Rules. Subject thereto, this Agreement and all non-contractual obligations and other matters arising from it or in connection with it shall be governed by and construed in accordance with English law.
- 16.2 **Law applicable to relationship prior to the conclusion of the Agreement:** The law applicable to the relationship between us prior to the conclusion of this Agreement is English law.
- 16.3 **Arbitration:** Any dispute arising between us from or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or the consequences of its nullity or any non-contractual obligation arising out or in connection with this Agreement) shall be referred to and finally resolved by arbitration under the Arbitration Rules of the London Court of International Arbitration ("LCIA").

Any provisions of the Arbitration Rules of the LCIA relating to the nationality of an arbitrator shall, to that extent, not apply. The arbitral tribunal shall consist of three arbitrators. The seat of arbitration shall be London, England and the language of arbitration shall be English. For the purposes of arbitration each of the parties waives any right of application to determine a preliminary point of law or appeal on a point of law under Sections 45 and 69 of the Arbitration Act 1996.

16.4 **Jurisdiction:** Subject to Applicable Regulations, each of the parties irrevocably:

- (a) agrees for our benefit that the courts of England shall have jurisdiction to settle any suit, action or other proceedings relating to this Agreement (“**Proceedings**”) and irrevocably submits to the jurisdiction of such courts (provided that this shall not prevent us from bringing an action in the courts of any other jurisdiction); and
- (b) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court and agrees not to claim that such Proceedings have been brought in an inconvenient forum or that such court does not have jurisdiction over it.

16.5 **Waiver of immunity and consent to enforcement:** You irrevocably waive to the fullest extent permitted by applicable law, with respect to yourself and your 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 you or your revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agree that you will not claim any immunity in any Proceedings. You consent generally in respect of any Proceedings to the giving of any relief or the issue of any process in connection with such Proceedings, including, without limitation, 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.

16.6 **Service of process:** If you are situated outside England and Wales, process by which any Proceedings in England are begun may be served on you by being delivered to the address in England or Wales nominated by you for this purpose in the Individually Agreed Terms Schedule. This does not affect our right to serve process in another manner permitted by law.

MODULE L - INTERPRETATION

17 INTERPRETATION

17.1 *Interpretation*: In this Agreement:

“**Applicable Regulations**” means:

- (a) FCA Rules or any other rules of a relevant regulatory authority;
- (b) the Rules of the relevant Market; and
- (c) all other applicable laws, rules, procedures, guidance and regulations (including, without limitation, accounting rules and anti-money laundering/sanctions legislation);

“**Associate**” means an undertaking in the same group as us, a representative whom we, or an undertaking in the same group as us, appoint, or any other person with whom we have a relationship that might reasonably be expected to give rise to a community of interest between us and them;

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

“**Client Money Rules**” means the provisions of the FCA’s Client Assets Sourcebook relating to client money;

“**Credit Support Provider**” means any person who has entered into any guarantee, hypothecation, agreement, margin or security agreement in our favour in respect of your obligations under this Agreement;

“**Electronic Services**” means a service provided by us, for example an internet trading service offering clients access to information and trading facilities, via an internet service, a WAP service and/or an electronic order routing system;

“**Event of Default**” means any of the events of default as listed in paragraphs (a) to (l) of sub-clause 1 of the clause headed “Default, Netting and Termination”;

“**Market**” means except in the LIFFE Schedule, any market listed in the Individually Agreed Terms Schedule;

“**Netting Transaction**” means a Transaction which is intended to be subject to the clause entitled “Netting” and for such purposes is identified as a “Netting Transaction” in the Individually Agreed Terms Schedule or by its own terms;

“**Obligations**” means obligations present or future, actual or contingent or prospective, owing or which may become owing by you to us under any Transaction or designated by us for these purposes in writing (including in the Individually Agreed Terms Schedule);

“**Rules**” means articles, rules, regulations, procedures, guidance and customs, as in force from time to time;

“**Secured Obligations**” mean all Obligations owing by you to us after the application of any rights of set-off arising under this Agreement or by operation of law;

“**System**” means all computer hardware and software, equipment, network facilities and other resources and facilities needed to enable you to use an Electronic Service;

“**Transaction**” means any transaction subject to this Agreement, and includes:

- (i) a contract made on a Market or pursuant to the Rules of a Market;
- (ii) contract which is subject to the Rules of a Market;
- (iii) a contract which would (but for its term to maturity only) be a contract made on, or subject to the Rules of a Market and which, at the appropriate time, is to be submitted for clearing as a contract made on, or subject to the Rules of a Market;

in any of cases (i), (ii) and (iii) 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;

- (iv) a transaction which is matched with any transaction within paragraph (i), (ii) or (iii) of this definition; or
- (v) any other transaction which we both agree, in any specific Module, the Individually Agreed Terms Schedule or otherwise, shall be a Transaction.

17.2 **General interpretation:** A reference in this Agreement to a “clause” or “Schedule” shall be construed as a reference to, respectively, a clause or Schedule of this Agreement, unless the context requires otherwise. References in this Agreement to any statute or statutory instrument or Applicable Regulations include any modification, amendment, extension or re-enactment thereof, as in force from time to time. A reference in this Agreement to “document” shall be construed to include any electronic document. The masculine includes the feminine and the neuter and the singular includes the plural and vice versa as the context admits or requires. Words and phrases defined in the FCA’s Rules have the same meaning in this Agreement unless expressly defined in this Agreement.

17.3 **Schedules:** The clauses contained in the attached Schedule(s) (as amended from time to time) shall apply. We may from time to time send to you further Schedules in respect of Markets or Transactions. In the event of any conflict between the clauses of any Schedule and this Agreement, the clauses of the Schedule shall prevail. The fact that a clause is specifically included in a Schedule in respect of one Market or Transaction shall not preclude a similar clause being expressed or implied in relation to any other Market or Transaction.

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

COLLATERAL NETTING ANNEX

TITLE TRANSFER SECURITIES AND PHYSICAL COLLATERAL ANNEX TO THE NETTING MODULE

1 SCOPE

1.1 **Application:** This Module supplements the clause entitled “Netting”.

2 TRANSFER AND RETURN OBLIGATIONS

2.1 **Transfer:** Upon a demand made by us on or promptly following a Valuation Date, if the amount of the Margining Requirement exceeds the Value of the Transferred Margin, then you will Transfer to us such Acceptable Margin having a Value as of the date of Transfer at least equal to the applicable Margin Delivery Amount (rounded up to the nearest integral multiple of the Minimum Transfer Quota).

2.2 **Return:** Upon a demand made by you on or promptly following a Valuation Date, if the Value of the Transferred Margin exceeds the amount of the Margining Requirement, then we will Transfer to you such Equivalent Margin having a Value as of the date of Transfer as close as practicable to the applicable Margin Return Amount (rounded down to the nearest integral multiple of the Minimum Transfer Quota).

2.3 **Redelivery Obligation:** On the earlier of the date of termination of this Agreement, or when no obligations are outstanding from you to us, we will also Transfer to you Equivalent Margin having a Value as of the date of Transfer equal to the Margin Return Amount calculated as if the Margining Requirement were then zero.

2.4 **Cash Collateral:** All cash placed by you with us being treated by us as collateral, shall be deemed to constitute Transferred Margin.

2.5 **Net Obligations:** We shall not be obliged to Transfer Acceptable Margin to you if you have a net exposure to us.

3 DIVIDENDS AND INTEREST AMOUNT

3.1 **Dividends:** We will treat any cash, securities or other property of the same type, nominal value, description and amount as the relevant Dividends (less any deductions on account of any tax) (“**Equivalent Dividends**”) as an addition to the Transferred Margin. “**Dividend**” means all payments and distributions of cash or other property of the same type, nominal value, description and amount as securities comprised in the Transferred Margin which a holder of securities receives on any Business Day.

3.2 **Interest:** We will also treat an amount equal to any interest payable on the principal amount of any cash comprised in the Transferred Margin (“**Interest**”) as an addition to the Transferred Margin.

3.3 **Payment of Dividends and Interest:** We will Transfer to you, on the first Business Day after receipt of any Dividend or the Business Day on which any applicable Interest becomes payable, any Equivalent Dividends or Interest, provided that we reasonably consider that to do so would not require a Margin Delivery Amount to be transferred if that Business Day were a Valuation Date.

4 SUBSTITUTIONS

- 4.1 **Substitution:** You may, with our prior written consent, Transfer new Acceptable Margin to us in substitution for Transferred Margin having the same nominal value and of the same amount, as determined by us, as such new Acceptable Margin, whereupon we will Transfer to you Equivalent Margin in respect of the Transferred Margin being substituted.

5 DEFAULT

- 5.1 **Default:** If a Liquidation Date is specified or deemed to occur as a result of an Event of Default, the Default Margin Amount as at that date will be deemed to be a gain by us for the purposes of calculating the Liquidation Amount. For this purpose, “**Default Margin Amount**” means the amount, calculated in the Base Currency of the aggregate value as at the relevant Liquidation Date (as determined by us) of the Transferred Margin.

6 GROSS UP

- 6.1 **Gross-up:** All payments under this Annex will be made free of and without withholding or deduction for any taxes, duties, assessments or governmental charges of whatsoever nature imposed, withheld or assessed by any relevant tax authority, unless required by law, in which case the payer shall pay such additional amounts as will result in the receipt by the payee of an amount which it would have received had no deduction or withholding been made.

7 REPRESENTATIONS AND TRANSFER OF TITLE

- 7.1 **Encumbrances:** Each party represents to the other party (which representation will be deemed repeated as of each date on which a Transfer of Acceptable Margin, Equivalent Margin, Equivalent Dividends or Interest is made) that it is the sole owner or otherwise has the right to Transfer all the aforementioned property, free and clear of any security interest, lien, encumbrance or other restriction.
- 7.2 **Clean title:** Each party agrees that all right, title and interest in and to any Acceptable Margin, Equivalent Margin, Equivalent Dividends or Interest which it Transfers to the other party shall vest in the recipient free and clear of any security interest, lien, claims, charges, encumbrance or other restriction. Notwithstanding the use of terms such as “Margin” which are used to reflect terminology used in the market for such transactions, nothing in these provisions is intended to create or does create in favour of either party a mortgage, charge, lien, pledge, encumbrance or other security interest in any Acceptable Margin, Equivalent Margin, Equivalent Dividends or Interest Transferred hereunder.
- 7.3 **Client Money Rules:** You agree that any cash which we hold on trust for you and which is subject to the Client Money Rules shall not form part of the Transferred Margin.

8 CALCULATIONS AND CONVERSION

- 8.1 **Calculations and conversion:** All calculations shall be done by us in a commercially reasonable manner. We shall convert any amount not denominated in the Base Currency to the Base Currency at the spot rate quoted in the London interbank market for the sale of the Base Currency against a purchase of that other currency.

8.2 **Notification:** We will notify you of our calculations not later than 1.00 p.m. London time on the Business Day following the applicable Valuation Date.

9 DISPUTE RESOLUTION

9.1 **Disputed valuation:** If you reasonably dispute the calculation of a Margin Delivery Amount or a Margin Return Amount or any Value calculated under this module, then:

- (a) you will notify us not later than the close of business on the Business Day following the date on which the disputed calculation was received by you;
- (b) in the case of a Margin Delivery Amount or a Margin Return Amount, the appropriate party will Transfer the undisputed amount to the other party promptly, notwithstanding the dispute;
- (c) the parties will consult with each other in an attempt to resolve the dispute expeditiously; and
- (d) if they fail to resolve the dispute by the end of the Business Day following the Business Day mentioned in (a) then:
 - (i) in the case of a dispute concerning the amount of the Margining Requirement, we shall within one Business Day thereafter obtain a quotation from two leading dealers in the relevant market as to the reasonable amount of the Margining Requirement in respect of the affected Netting Transactions or other matters in dispute, and the arithmetic mean of the quotations so provided shall apply instead of our calculation;
 - (ii) in the case of a dispute involving the Value of any Transfer of Acceptable Margin or Equivalent Margin we will recalculate the Value as of the date of Transfer.

9.2 **Re-notification:** The appropriate Party will upon demand following notification by us of any recalculations under this Clause make the appropriate Transfer.

9.3 **Recalculation fee:** We may charge you a fee for recalculations carried out under this Clause.

9.4 **No Event of Default:** The failure by a Party to make a Transfer of any amount which is the subject of a dispute to which this Clause applies will not constitute an Event of Default so long as the procedures set out in this Clause are being carried out.

10 DEFINITIONS

10.1 **Definitions:** In this Module:

“**Acceptable Margin**” means those items specified in the Individually Agreed Terms Schedule, the valuation of which shall be subject to such haircut as is specified therein.

“**Equivalent Margin**” means cash and/or securities of the same type, nominal value, currency and amount as Acceptable Margin Transferred hereunder.

“**Interest Rate**” means the rate specified in the Individually Agreed Terms Schedule.

“**Margin Delivery Amount**” means with respect to any Valuation Date, the amount by which the Margining Requirement exceeds the Value, as of that date, of the Transferred Margin, adjusted to include any prior Margin Delivery Amount and to exclude any prior Margin Return Amount, the Transfer of which, in either case, has not yet been completed.

“**Margin Return Amount**” means with respect to any Valuation Date, the amount by which the Value as of that date of the Transferred Margin (adjusted to include any prior Margin Delivery Amount and to exclude any prior Margin Return Amount, the Transfer of which, in either case, has not yet been completed) exceeds the Margining Requirement.

“**Margining Requirement**” means, on any day, our requirement in relation to the amount or value of Acceptable Margin to be Transferred by you in relation to your outstanding obligations to us on that day, which requirement shall be determined by us in accordance with the mechanism in respect of Netting Transactions, specified in the Individually Agreed Terms Schedule, and if not so specified, in accordance with our standard practice from time to time.

“**Minimum Transfer Quota**” means an amount specified as such in the Individually Agreed Terms Schedule.

“**Transfer**” means, with respect to any Acceptable Margin, Equivalent Margin, Equivalent Dividends or Interest:

- (a) in the case of cash, payment into the recipient’s bank account or to another account designated by the recipient;
- (b) in the case of securities that can be delivered by book-entry, the giving of irrevocable transfer instructions to the relevant depository, clearing system or other institution responsible for the books, and/or compliance with any other procedures necessary to enable the recipient to obtain legal and beneficial ownership in the securities; and
- (c) in the case of certificated securities that cannot be delivered by book-entry, delivery in suitable physical form to the recipient accompanied by all certificates and other documents of title, duly executed and stamped stock transfer forms and any other documents necessary to enable the recipient to obtain legal and beneficial ownership in the securities.

“**Transferred Margin**” means the aggregate of all Acceptable Margin that has been Transferred to us hereunder, as reduced from time to time by any Transfer of Equivalent Margin to you under these terms.

“**Valuation Date**” means any Business Day selected by us unless otherwise specified in the Individually Agreed Terms Schedule.

“**Value**” means, for any Valuation Date or other date for which Value is calculated, with respect to:

- (a) cash, the amount expressed in the Base Currency;

- (b) securities for which prices are publicly quoted, an amount expressed in the Base Currency and reasonably determined by us by reference to the closing price of such securities on such trading venue as may be reasonably selected by us;
- (c) other Acceptable Margin or Equivalent Margin, an amount expressed in the Base Currency and reasonably determined by us by reference where reasonably practicable to independent price sources, as reflecting the value of such Acceptable Margin or Equivalent Margin; and
- (d) items that are not Acceptable Margin or Equivalent Margin, zero.

AGENCY MODULE

1 APPLICATION AND SCOPE

- 1.1 **Scope of these terms:** These terms set out the basis on which we will provide the services referred to in the Agreement to you where you are acting as agent for each Counterparty. Where you are acting for your own account the supplemental terms set out in this Module shall not apply.
- 1.2 **Notification:** You will notify us before placing any order on behalf a Counterparty that you are acting as agent for that Counterparty and inform us of the identity, address and any other details which we require in respect of each Counterparty to enable us to perform a credit and counterparty risk assessment in respect of any Transaction.
- 1.3 **Authority and Authorised Persons:** You shall provide us with a list of the officers, employees or agents who are authorised, either alone or with others, to act on your behalf in the giving of instructions and performance of any other acts, discretions or duties under this Agreement (“**Authorised Person(s)**”) together with specimens of their signatures if written instructions are to be given. We shall be entitled to rely upon the continued authority of an Authorised Person for those purposes until we receive notice from you to the contrary. Any communications purporting to limit your or such Authorised Person’s authority (such as, for example, authorised signatories lists) will not be accepted and will not be binding on us. If we refuse to act on any instruction or order, we shall notify you as soon as practicable of our refusal.
- 1.4 **Capacity:** Each Transaction will be entered into by you as agent for and on behalf of the Counterparty specified by you (whether by code name or otherwise) in accordance with clause 1.5 below. Unless we agree otherwise in writing, we shall treat you alone as our client and we shall not treat any Counterparty as our client for the purposes of the FSA Rules.
- 1.5 **Nature of Counterparties:** You represent and warrant on your own behalf and as agent for the Counterparties that no Counterparty will be a state or a separate entity within the meaning of the State Immunity Act 1978 and that a Counterparty shall, at the time an instruction is given in respect of it, have the characteristics and conform to any criteria agreed between us from time to time.
- 1.6 **Counterparty accounts:** We shall, in respect of each Counterparty, establish and maintain one or more separate sub-accounts (each a “**Counterparty Account**”). You agree, as agent for the relevant Counterparty and on your own behalf, in respect of each instruction given, to specify within two hours of giving an instruction (or such other time as we may reasonably specify) the Counterparty Account to which the relevant instruction relates. Until you specify a specific Counterparty Account you shall be personally liable, as principal, in respect of the relevant Transaction. You further agree, as agent for each Counterparty and on your own behalf, to notify us immediately if any two or more Counterparty Accounts relate to the same Counterparty.
- 1.7 **Separate administration:** We shall, subject to these terms, administer Counterparty Accounts which we reasonably believe relate to different Counterparties separately, including for the purposes of calculating any margin requirement. We shall not exercise any power to consolidate accounts or set off amounts owing between Counterparty Accounts relating to different Counterparties.

1.8 **Documentation:** You agree to forward to a Counterparty any documentation in relation to such Counterparty that we are required to provide under the FSA Rules and which we make available to you for that purpose.

2 **ADVICE**

2.1 **Limitations:** You, as agent for the Counterparties and on your own behalf, retain full responsibility for making all investment decisions with respect to any Counterparty. We will not be responsible for judging the merits or suitability of any Transaction to be entered into on behalf of a Counterparty. Unless otherwise required under Applicable Regulations, we shall have no responsibility for your or any Counterparty's compliance with any laws or rules governing or affecting your conduct or that of any Counterparty, or for your or any Counterparty's compliance with any laws or rules governing or affecting Transactions.

3 **REPRESENTATIONS, WARRANTIES AND COVENANTS**

3.1 **The Agreement:** The Representations Module shall not apply to you.

3.2 **Representations and warranties:** As agent for each Counterparty and on your own behalf, you represent and warrant to us as of the date these terms come into effect and as of the date of each Transaction that:-

- (a) you and the Counterparty each have all necessary authority, powers, consents, licences and authorisations and have taken all necessary action to enable you lawfully to enter into and perform these terms, the Agreement and each Transaction and to grant the security interests and powers referred to in the Margin Module and elsewhere in these terms and the Agreement;
- (b) the person(s) entering into these terms, the Agreement and each Transaction have been duly authorised to do so;
- (c) these terms, the Agreement, each Transaction and the obligations created under each of them are binding upon, and are enforceable against, you and/or the Counterparty (as applicable) in accordance with their terms (subject to applicable principles of equity) and do not and will not violate the terms of any regulation, order, charge or agreement by which you or the Counterparty is bound;
- (d) the person(s) entering into this Agreement and these terms do so for commercial purposes;
- (e) each of you and the Counterparty are permitted under your constitution and any applicable law or regulation and are financially able to sustain any loss which may result from Transactions, and entering into Transactions is a suitable investment vehicle for the Counterparty;
- (f) the relevant Counterparty owns, with full title guarantee, all investments, margin (or collateral) deposited with, transferred to us or charged in our favour, by you acting as agent for the Counterparty and such investments, margin (or collateral) are free from any prior mortgage, charge, lien or other encumbrance whatsoever and neither you acting as agent for the relevant Counterparty, nor the Counterparty itself, will further pledge or charge such investments, margin (or

collateral) or grant any lien over them while it is pledged or charged to us except with our prior written consent; and

- (g) any information which you provide or have provided to us in respect of your or the Counterparty's financial position, domicile, or other matters is accurate and not misleading in any material respect.

3.3 **Covenants:** You, as agent for each Counterparty and on your own behalf, covenant to us that you will:

- (a) ensure at all times that you and the Counterparty obtain and comply with the terms of, and do all that is necessary to maintain in full force and effect, all authority, powers, consents, licences and authorisations referred to above;
- (b) upon request provide us with information in respect of your and the Counterparty's financial position, domicile or other matters;
- (c) promptly notify us of the occurrence of any Event of Default or any event which may become an Event of Default with respect to yourself or the Counterparty;
- (d) provide to us on request such information regarding your and the Counterparty's financial or business affairs as we may reasonably require to evidence the authority, powers, consents, licenses and authorisations referred to above or to comply with any Applicable Regulations;
- (e) provide to us on request copies of the relevant sections of the Counterparty's constitutive documents relating to its capacity to enter into Transactions and appoint an agent to act on its behalf and that any such extract will, to the best of your knowledge, be true and accurate in all material respects and you will not omit or withhold any information which would render the information so supplied to be false or inaccurate in any material respect;
- (f) either: (i) execute as agent for the Counterparty where you are duly authorised to do so, or, in each other case: (ii) procure that the Counterparty executes, as applicable, on our request all such transfers, powers of attorney and other documents as we may require to vest any assets or otherwise grant any security interest or other interest referred to in the Margin Module of the Agreement in us, our nominee, a purchaser or transferee;
- (g) immediately notify us if you cease to act for any Counterparty or if the basis upon which you act on behalf of the Counterparty alters to an extent which would affect this Agreement or any Transaction made thereunder; and
- (h) immediately notify us in writing if at any time any of the warranties or representations in this Module are or become or are found to be incorrect or misleading in any material respect.

4 ANTI-MONEY LAUNDERING

4.1 **Anti-money laundering:** You represent and warrant that you are now and will be at all material times in the future in compliance with all Applicable Regulations concerning anti-money-laundering. We are required to follow the Applicable Regulations concerning anti-money-laundering relating to the identification of the Counterparty

unless clause 4.2 applies, and if satisfactory evidence of identity has not been obtained by us within a reasonable time period, we reserve the right to cease to deal with you.

- 4.2 If you are a UK or EEA regulated credit or financial institution, or a regulated financial sector firm from a FATF country (i.e. a member of the Financial Action Task Force), we shall deal with you on the understanding that you are supervised under and complying with EEA regulations (or the local equivalent) concerning anti-money-laundering and that evidence of the identification of any Counterparty will have been obtained and recorded under procedures maintained by you.

5 MARGINING ARRANGEMENTS AND DISCHARGE

- 5.1 **Margin:** References to “you” in the Margin Module of the Agreement shall all be deemed to be references to you acting as agent on behalf of each Counterparty in respect of which you provide margin to us from time to time.

- 5.2 **Discharge:** Where under any term any payment or other performance (including the delivery of securities or any other property) is due from us, it shall be a discharge of our obligation to make such payment or performance to you notwithstanding that any Counterparty shall be interested (whether beneficially or otherwise) in such payment or performance.

6 NETTING

- 6.1 **Events of Default:** References to “Party” in the Netting Module of the Agreement shall be deemed to be references to you acting on your own behalf and to each Counterparty. If any Event of Default occurs in respect of you or a Counterparty we shall be entitled to exercise our rights under the Netting Module of the Agreement in accordance with the following sentences of this term and the expression “Defaulting Party” shall be construed accordingly. In respect of an Event of Default which occurs in respect of you (as opposed to any Counterparty), our rights under the Netting Module of the Agreement shall apply separately in respect of each Counterparty Account. If an Event of Default occurs in respect of a Counterparty, our rights under the Netting Module of the Agreement shall be limited to the relevant Counterparty Account(s).

7 INDEMNITY

- 7.1 **Indemnification:** Notwithstanding that you may act as agent you undertake as principal to indemnify us in respect of any liabilities, costs, damages and losses incurred in relation to any Transaction effected by you as agent on behalf of any Counterparty.

8 INTERPRETATION

- 8.1 **Interpretation of these terms:** In this Module:

“**Counterparty**” means any counterparty agreed to in writing by us from time to time on behalf of which you are to enter as agent into Transactions with us; and where a counterparty does not constitute a single legal person, means the trustees, individuals or other persons who are the primary representatives of the organisation, trust or fund on whose behalf they are dealing.

TRUSTEE ANNEX TO THE NETTING MODULE

1 SCOPE

1.1 *Application:* This Trustee Annex supplements the Module entitled "Netting".

2 REPRESENTATIONS AND COVENANTS

2.1 *Additional representations and warranties:* The provisions of the sub-clause entitled "Representations and Warranties" shall be amended by the deletion of the representation and warranty numbered (f), and the following provisions shall additionally apply:

- (a) each of you and each Trustee Party represents and warrants to us as of the date of execution by it of these terms (and, if applicable, as of the date of its accession to and adoption of these terms in accordance with the Trustee Annex) that: (i) each such person has authority (including full power and authority under the terms of the instrument (the "**Trust Deed**") under which the trust of which you act as trustee for the purposes of this Agreement (the "**Trust**") is constituted) to enter into this Agreement; and (ii) no Event of Default or an event which may become an Event of Default has occurred and is continuing with respect to any such person.
- (b) each of you and each Trustee Party represents to us, as of the date of execution of this Agreement (or, if applicable, as of the date of its accession to and adoption of these terms in accordance with the Trustee Annex) and as of the date of each Transaction, and warrants that: (i) all of the Trustee Parties appointed in respect of the Trust are bound by this Agreement, and (ii) each Trustee Party has a right to be indemnified out of the assets of the Trust in respect of any obligations undertaken or to be undertaken by it to us under this Agreement or any Transaction, subject as specified in the provisions of the Individually Agreed Terms Schedule.

2.2 *Additional covenants:*

- (a) Without prejudice to the generality of the sub-clause entitled "Covenants", each of you and each Trustee Party covenants to us that it will promptly notify us of:
 - (i) each appointment, death, incapacity, insolvency and retirement of a Trustee Party; and
 - (ii) the winding-up of the Trust under the provisions of the Trust Deed or otherwise.
- (b) Where this Agreement has been executed by one or more Trustee Parties acting or purportedly acting both on your behalf and on behalf of each other Trustee Party holding office as trustee of the Trust at the time of execution, each of such executing Trustee Parties represents and covenants (independently of the effectiveness of the remainder of this Agreement) that such Trustee Parties have full power and authority under the terms of the Trust Deed and the general law applicable to trustees to do so, and have the power and authority on behalf of each other Trustee Party to confer the rights constituted under paragraph 4 of the Trustee Annex.

- (c) Each Trustee Party covenants to us, that: (i) it will at all times obtain and comply with the terms of and do all that is necessary to maintain in full force and effect all authorisations, approvals, licences and consents (including all requirements of the Trust Deed and the general law applicable to trustees) required to enable it lawfully to perform its obligations under this agreement; and (ii) it will promptly notify us of the occurrence of any Event of Default or an event which may become an Event of Default with respect to itself.

3 EVENTS OF DEFAULT

3.1 **Events of Default:** The occurrence of any of the following additional events shall constitute an Event of Default to which automatic termination under the Netting clause of this Agreement shall not apply:

- (a) any Trustee Party loses the right to be indemnified out of the assets of the Trust in respect of any obligation undertaken by it under the Agreement or any Transaction or any fact comes to our attention on the basis of which we reasonably believe that such Trustee Party would lose or has lost such right;
- (b) any Trustee Party not bound to this Agreement at the date of its execution who is at any time thereafter appointed as trustee in respect of the Trust fails to accede to and adopt this Agreement, all Transactions then outstanding and all rights and obligations thereunder within the number of business days of such appointment specified in the Individually Agreed Terms Schedule by duly completing, executing and delivering to us the Adoption Form in the form prescribed in this Trustee Annex or in any other manner acceptable to us;
- (c) any Trustee Party revokes any consent given pursuant to this Trustee Annex; or
- (d) action is taken which under the terms of the Trust Deed or by operation of law constitutes initiation of winding-up of the Trust.

4 NEW TRUSTEES

4.1 **Appointment of new trustees:** Each party to this Agreement and each Trustee Party acknowledges that from time to time new persons may be duly appointed as trustees of the Trust (each person so appointed, a "**New Trustee Party**") and accordingly, notwithstanding any restriction on assignment or transfer under this Agreement:

- (a) we and each Trustee Party hereby each consent to the accession to and adoption of the terms and obligations hereunder by each and every New Trustee Party from time to time, which accession and adoption shall take effect as a novation of the Agreement and all Transactions then outstanding such that each New Trustee Party may thereafter (as trustee of the Trust and subject to the terms of the Trust Deed) exercise your rights, and shall thereafter be bound by your obligations (including obligations under such Transactions);
- (b) in any case where any Trustee Party so bound immediately before such a novation remains so bound after such novation, that Trustee Party shall be bound thereafter jointly with each New Trustee Party;
- (c) the consent given by virtue of this provision may only be revoked by a Trustee Party by notice in writing to us; and

- (d) the terms of this provision shall take effect as an open offer by us, you and each Trustee Party bound by this agreement at the time of appointment of any New Trustee Party to each and every New Trustee Party to accede to and adopt the terms and obligations under the agreement and all Transactions then outstanding hereunder, which shall be accepted by completion, execution and delivery to us of a letter substantially in the form of the Adoption Form set out in this Trustee Annex or in any other manner acceptable to us.

5 DEFINITIONS AND INTERPRETATION

5.1 *Definitions and Interpretation:* In this Trustee Annex:

- (a) where any such Transaction is entered into with us by or on behalf of one or more Trustee Parties purportedly acting on your behalf, "**Transaction**" includes each such Transaction;
- (b) "**Trustee Party**" means, at any time, a person holding office as trustee of the Trust at such time (whether or not a party to this Agreement); and
- (c) a reference to any person as '**it**' or otherwise in the neuter gender shall not be construed so as to limit the application of the provision in which the reference appears in relation to any natural or legal person.

5.2 *Application to trustees:* Any reference in this Agreement:

- (a) to the obligations of a Party shall, insofar as it may apply to you, include a reference to the obligations owed by any Trustee Party; and any reference in the Netting Module of this Agreement to "you" shall be read as a reference to you or a Trustee Party; and
- (b) to "**you**", at any time, includes all persons who have acceded to this Agreement in accordance with this Trustee Annex, but does not include any person who has been, but is no longer, a Trustee Party and who has been discharged of its obligations hereunder by us in writing.

Adoption Form

Note: To be completed by any Trustee Party appointed to act as trustee of the Trust after the date on which the Agreement was first executed.

To: [Firm]

[Date].....

Dear Sirs

Re: The [Client] Agreement between [Firm] and the Trustee(s) of [Name of Trust] dated [] (the "Agreement")

[We/I] refer to the Agreement. Terms defined in the Agreement shall bear the same meaning in this letter.

[We/I] hereby give you notice that [we were/I was] appointed as trustee of the Trust on [date] and that accordingly [we/I] intend to accede as a Trustee Party to the Agreement.

[We/I] hereby consent and agree to the terms of the Agreement and [we/I] adopt and undertake to discharge all obligations thereunder, including all obligations (contingent or actual) outstanding in respect of Transactions entered into on or before the date of this letter.

[We/I] have read and considered the terms of the Agreement and expressly confirm and affirm all representations and covenants to be made by [us/me] under the Agreement.

This letter is intended to be immediately binding upon [us/me] and is accordingly executed and delivered as a deed on the date stated at the head of this letter.

[Where signatory is an individual]

Signed as a Deed by:.....

Print name:.....

Witnessed (signature):.....

Name and Address of witness:.....

[Where signatory is a company]

Executed as a Deed by [Name of Trustee Party])

Signature (Director).....)

Print name.....)

Signature (Director/Secretary).....)

Print name.....)