

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

Version: 1.0

*The FIA Client Clearing Agreement 2025 (Version 1.0) EATM (English Law Agreement and Terms) is a template agreement provided for the benefit of FIA subscribing firms (the “**Template**”). Although care has been taken to assure that the content is accurate as of the date of publication, the Template is not intended to constitute legal or regulatory advice. FIA and Linklaters LLP specifically disclaim any legal responsibility for any errors or omissions and disclaim any liability for losses or damages incurred through the use of the Template or any of its contents. FIA and Linklaters LLP undertake no obligation to update the Template following the date of its publication. By publishing the Template, FIA and Linklaters LLP do not opine on whether FIA subscribing firms need the Template to meet a particular legal or regulatory requirement. The Template is merely a means of documenting a firm-client relationship, and firms are free to make changes to the Template should they so choose. The Template has been prepared by Linklaters LLP on the basis of instructions from FIA. Linklaters LLP has not taken instructions from any FIA subscribing firm, and the Template does not take account of the specific circumstances of any FIA subscribing firm. The Template has not been prepared in connection with any specific transaction nor with regard to the specific use of the Template by any FIA subscribing firm. Linklaters LLP does not have or assume any client relationship in connection with the Template or assume any wider duty to any FIA subscribing firm or their affiliates. This disclaimer is governed by English law.*

The Template is protected by copyright. Subject to the inclusion of the copyright notice below, FIA hereby grants to a FIA-subscribing firm only a non-exclusive and worldwide licence, for the term of the copyright, to use, adapt and modify the Template in connection with the FIA subscribing firm’s business needs. All other uses are specifically prohibited, including, but not limited to, the sale of the Template. This licence is strictly subject to the FIA subscribing firm retaining the following copyright notice on each page of any document containing any part of the Template language:

“The template on which this agreement is based is the FIA Client Clearing Agreement 2025 – Version 1.0 EATM (English Law Agreement and Terms). Copyright © 2025 FIA, Inc. FIA has not reviewed or endorsed any modifications that may have been made to the FIA Client Clearing Agreement 2025 – Version 1.0 EATM (English Law Agreement and Terms).”

FIA CLIENT CLEARING AGREEMENT 2025 – VERSION 1.0
EATM (ENGLISH LAW AGREEMENT AND TERMS)¹

Dated:

Between:

..... **and**
(the “**Firm**”) (the “**Client**”)

This client clearing agreement entered into between the Firm and the Client, together with the Annexes hereto, and the Segregated Assets Arrangement² (the “**Agreement**”), sets out the terms of the contract between the Firm and the Client pursuant to which the Firm provides the services covered by this Client Clearing Agreement to the Client in respect of the Agreed CCP Services and

¹ The Agreement is for use only by clearing members incorporated in England and Wales.

² *Drafting Note: This will cover amendments to the Segregated Asset Arrangement and the Annexes to the Client Clearing Agreement that are made from time to time as well as additional Annexes that are added to the Agreement by virtue of the interpretation provisions at clause 32.2 (General interpretation).*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

in accordance with which the Firm holds the Segregated Assets for the benefit of the Client and all other EATM Beneficiaries. The scope of this Client Clearing Agreement is limited to the services provided by the Firm in respect of Transactions cleared at the Agreed CCP Services.

1 RELATIONSHIP BETWEEN THE FIRM AND THE CLIENT

1.1 Information about the Firm: The Firm is [authorised and regulated by the Financial Conduct Authority] [authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority] [authorised and regulated by [insert name of overseas regulator] [authorised by the Prudential Regulation Authority] [subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. Details about the extent of our regulation by the Prudential Regulation Authority are available from us on request]. The Firm's [registered office/principal place of business] is [insert as appropriate]. [The Financial Conduct Authority's registered office is 12 Endeavour Square, London E20 1JN.] [The Prudential Regulation Authority's address is 20 Moorgate, London EC2R 6DA.]

1.2 Communication with the Firm: The language of communication between the Firm and the Client shall be English, and the Client will receive documents and other information from the Firm in English. [The Firm's website at [insert website address] contains further details about the Firm and its services and other information relevant to the Agreement.]

1.3 Categorisation: Unless otherwise agreed, the Firm will treat the Client as a professional client for the purposes of the FCA Rules. The Client may request a different client categorisation. If the Client requests categorisation as an eligible counterparty and the Firm agrees to that categorisation, the Firm would no longer be required by regulation to provide certain protections granted to professional clients. The relevant regulatory protections for professional clients [which would not apply to eligible counterparties] include obligations:

- 1.3.1 to act in accordance with the Client's best interests;
- 1.3.2 that restrict the payment or receipt by the Firm of inducements; and
- 1.3.3 to ensure that information the Firm provides is fair, clear and not misleading.

If the Client requests to be categorised as a retail client, thereby requiring a higher level of regulatory protection, the Firm may not be able to provide its Services to the Client. The Client must inform the Firm about any change that could affect the Client's categorisation as a professional client.

1.4 Commencement and Scope: This Client Clearing Agreement sets out the basis on which the Firm may provide Services (as defined below) to the Client in respect of an Agreed CCP Service. [This Client Clearing Agreement supersedes and replaces any previous agreement between the Client and the Firm for the provision of Services in relation to the Agreed CCP Services specified herein only, including any agreement entered between the Firm and the Client in respect of the Agreed CCP Services in the form of the FIA Terms of Business 2018 or the FIA Professional Client Agreement 2011.³ The Firm and the Client may, for the avoidance of doubt, have entered into agreements in relation to central counterparty clearing

³ Drafting Note: This operates to supersede any existing ToBs the Client has entered into with the Firm for those Agreed CCP Services that will be governed by the EATM (thereby replacing the Principal Model).

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

services that do not constitute Agreed CCP Services for the purposes of this Client Clearing Agreement and such agreements shall remain in force between the Client and the Firm in accordance with their terms, provided that if there is any conflict between the terms of those agreements and clause 3.6 (*Conversion*) of this Client Clearing Agreement, then clause 3.6 (*Conversion*) shall prevail in priority to the terms of those agreements⁴.]⁵

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

1.5.1 the Firm and any Associate may take or not take any action as they consider appropriate to ensure compliance with Applicable Regulations and any such action or inaction is binding on the Client; and

1.5.2 any provision of this Client Clearing Agreement and/or obligation of the Firm to provide Services which is inconsistent with Applicable Regulations shall not apply to the extent of the inconsistency.

1.6 Infrastructure action: If:

1.6.1 an Infrastructure gives a direction or takes any action which affects the Client's orders or Transactions or the Services; or

1.6.2 an Infrastructure or other intermediary relevant to the Client's Transactions or the Services becomes insolvent or is suspended from operating,

then the Firm may take any action which it, in its reasonable discretion, considers appropriate to correspond with the direction, action or event or to mitigate any Loss or other impact to the Firm and/or the Client incurred or potential Loss or other impact which may be incurred as a result of the action or event.

1.7 Action by the Firm: Any action taken by the Firm, in accordance with clause 1.5 (*Subject to Applicable Regulations*) or clause 1.6 (*Infrastructure action*) is binding on the Client. The Firm and any Associate, and any of their directors, officers, employees or agents, will not be liable for any action that the Firm or any Associate takes, or does not take, in accordance with clause 1.5 (*Subject to Applicable Regulations*) or clause 1.6 (*Infrastructure action*).

⁴ *Drafting Note: This provision operates to ensure that the conversion mechanics in this Client Clearing Agreement are not superseded by any contrary provision of any Principal Model Agreement previously agreed by the Client and the Firm. The conversion mechanics can be fully documented in this Client Clearing Agreement without requiring an amendment to any existing Principal Model Agreement agreed by the Client and the Firm and without the need for a side letter between clearing members and their clients. However, if the Firm and the Client enter into a Principal Model Agreement with respect to a CCP service other than an Agreed CCP Service after they have entered into this Client Clearing Agreement, it may be appropriate to include the following language in that Principal Model Agreement (specifically, at paragraph 9 of the Annex to the FIA ToBs 2018) to ensure that the new Principal Model Agreement is capable of being converted at a future point in time: "Clause 3.6 (Conversion) of the FIA Client Clearing Agreement 2025 - Version 1 (EATM) agreed by the Firm and the Client on [insert date of agreement] shall be incorporated into this Agreement and shall prevail in the event of any conflict between clause 3.6 (Conversion) and the terms of this Agreement."*

⁵ *Drafting Note: This is not relevant for new Clients and can be deleted from agreements with new Clients.*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

2 THE SERVICES

- 2.1 General:** The Firm may⁶ (and is authorised by the Client to) on the Client's instruction clear Clearing Eligible Trades on behalf of the Client at Agreed CCPs in the Firm's capacity as a general clearing member and the Firm and/or its Associates may provide any other service agreed between the Firm and the Client, in each case, solely in respect of the Agreed CCP Services and subject to the terms of the Agreement. The services described in this clause 2.1 are referred to collectively as the "**Services**".
- 2.2 Acting as general clearing member:** The Firm is required to conduct a periodic assessment of whether the Client meets the Firm's requirements in respect of the Performance Criteria. [The Firm is required to conduct such assessments on the following periodic basis: *[describe frequency of ongoing assessment, which must be at least annually and may be more frequently]*.] Where the Client does not meet the Firm's requirements, the Firm has a right to suspend one or more Services, or immediately terminate the Services or this Client Clearing Agreement in accordance with clause 24 (*Voluntary Termination*).
- 2.3 No advice:** Unless the Firm and the Client agree otherwise in writing, the Firm does not advise on the merits of particular Transactions in respect of which it provides Services, or their taxation consequences. From time to time, the Firm may provide information which is ancillary to the Client's relationship with the Firm (including trading recommendations or market commentary); the information is provided solely to enable the Client to make the Client's own investment decisions and does not amount to advice. The Firm makes no representation as to the accuracy or completeness of the information and shall not be liable in any way for that information. The information may be inconsistent with the proprietary investments or recommendations of the Firm or its Associates. The Client should refer to the Firm's Conflicts of Interest Policy for further information on how the Firm manages conflicts which would affect the impartiality of information the Firm provides to the Client.
- 2.4 Own judgement and suitability:** Upon entering into this Client Clearing Agreement and each time the Client instructs the Firm to enter into any Transaction on its behalf, the Client represents that: (i) it has been solely responsible for making its own independent appraisal and investigations into the risks of the Transaction; (ii) it has sufficient knowledge, market sophistication, professional advice and experience to make its own evaluation of the merits and risks of the Transaction; and (iii) it has not relied upon or been induced to enter into this Client Clearing Agreement by any statements, representations or undertakings from the Firm that are not set out in this Client Clearing Agreement. The Firm gives the Client no warranty as to the suitability of the products executed, transmitted or cleared under this Client Clearing Agreement and the Firm assumes no fiduciary duty to the Client with respect to the suitability of those products.
- 2.5 Position limits and position management controls:** Position limits and position management controls may be imposed by Applicable Regulations. In relation to the Services, the Firm may also set out and communicate to the Client appropriate position limits which are binding on the Client. In order to ensure compliance with: (i) Applicable Regulations; and/or (ii) position limits set by the Firm, the Firm may require the Client to limit, terminate or reduce the positions which the Client may have at any time and the Firm may

⁶ *Drafting Note: It must only be possible for the Firm, and not its Associates, to clear transactions through the CCP as the Firm (and not its Associate) acts as trustee in respect of the Segregated Assets Arrangement.*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

take any other action the Firm deems appropriate. The Firm, its Associates and their respective directors, officers, employees or agents will not be liable to the Client for any breach of limits applicable to the Client.

- 2.6 Authority:** The Firm and its Associates are entitled to rely upon communications and other actions (including instructions and the exercise of discretions) from any authorised officer, employee or agent of the Client and any communication or action which the Firm or its Associates believe in good faith to have originated from the Client or its authorised agent. The communication or action will be binding on the Client.
- 2.7 Responsibility for instructions:** If there is an ambiguity in an instruction given by the Client or where an instruction is in conflict with another instruction, the Firm and/or its Associates will be entitled to act in good faith on what it reasonably believes the instruction to be and the action or inaction of the Firm and/or its Associates will be binding on the Client.
- 2.8 Records:** The Firm will maintain in its books and records one or more accounts in the name of the Client (individually or collectively, the "**Account**") in which the Firm will record: (i) Transactions cleared by the Firm on behalf of the Client pursuant to this Client Clearing Agreement; and (ii) any assets transferred, or any assets deemed transferred by operation of settlement or close-out netting in accordance with applicable CCP Rules whereby an asset was deemed transferred by the Firm to the CCP on the discharge of an equal and offsetting delivery obligation of the CCP to the Firm (or vice versa), as margin between the Firm and an Agreed CCP in respect of each Segregated Account.

3 CLEARING OF TRANSACTIONS

- 3.1 General:** Upon an Agreed CCP's acceptance of a Clearing Eligible Trade for clearing through an Agreed CCP Service, the corresponding Transaction entered into with such Agreed CCP by the Firm shall, in accordance with the segregation election made in Table A in respect of that Agreed CCP Service, be recorded to the relevant Segregated Account and that Transaction will be held by the Firm pursuant to, and in accordance with, the Segregated Asset Terms.
- 3.2 Rejected transactions:** If, for any reason, an Agreed CCP does not accept a transaction for clearing, the Firm will notify the Client promptly and the Firm will have no obligation or liability under this Client Clearing Agreement or otherwise (and, in particular, no obligation in respect of any Loss which may arise as a result of any interval before notification of non-acceptance is made) to the Client in respect of the transaction.
- 3.3 Relationship with Infrastructures:** The Firm may notify any Infrastructure of the position limits or position management controls applicable to the Client's trading.
- 3.4 Conditions for accepting Clearing Eligible Trades for clearing:** Notwithstanding any other provision in this Client Clearing Agreement, the Firm agrees that it will accept for clearing any Clearing Eligible Trade which is submitted for clearing if the relevant Agreed CCP accepts the corresponding Transaction for clearing, provided that the Firm determines that:
- 3.4.1** accepting such Clearing Eligible Trade for clearing will not violate any Applicable Regulations;

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

- 3.4.2 accepting such Clearing Eligible Trade for clearing by the Firm would not exceed, or further exceed, any relevant trading limit or position limit;
- 3.4.3 the Agreed CCP Service at which the Clearing Eligible Trade will be cleared is not specified in any Principal Model Agreement entered into, and in force, between the Client and the Firm as a CCP service at which the Firm may clear transactions on behalf of the Client;
- 3.4.4 no Event of Default in respect of the Client has occurred and is continuing or would occur as a result of clearing the Clearing Eligible Trade;
- 3.4.5 the Client has paid all amounts due and payable under this Client Clearing Agreement and any amount which the Firm requires to be pre-funded; and
- 3.4.6 the Firm is not prevented from accepting the Clearing Eligible Trade for clearing by any reason outside its control,

(together, the “**Conditions to Clearing**”).

If the Firm determines that any of the Conditions to Clearing are not met, the Firm will promptly notify the Client of such determination.

- 3.5 [**Capacity:** Unless otherwise agreed in writing, the Client acts as principal and not as agent (or trustee) on behalf of someone else.]⁷

3.6 Conversion

3.6.1 Conversion from Principal Model Agreement

- (i) The Client and the Firm may agree that each Principal Model Firm/CCP Transaction that forms part of a Principal Model Conversion Set (each such Principal Model Firm/CCP Transaction, a “**Principal Model Conversion Transaction**”) should be cleared by the Firm pursuant to this Client Clearing Agreement.
- (ii) On the agreement of the Parties, at the Principal Model Conversion Time:
 - (a) the Principal Model Conversion Transactions forming part of the relevant Principal Model Conversion Set (or such transactions that are cleared by the Firm in respect of the same CCP service and as agreed between the Parties which, for the purposes of the remainder of this clause 3.6.1, shall be deemed to be Principal Model Conversion Transactions) will cease to be subject to the Principal Model Agreement;
 - (b) the CCP service at which the Principal Model Conversion Transactions are cleared shall become an Agreed CCP Service for the purposes of this Client Clearing Agreement and the Parties shall procure that no transactions are cleared by the Firm at that Agreed CCP Service pursuant to the Principal Model Agreement;

⁷ Drafting Note: Delete as applicable.

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

- (c) the corresponding transaction between the Firm and the Client under the Principal Model Agreement shall terminate without any amount falling due from one Party to the other in connection with such termination;
- (d) the Principal Model Conversion Transactions shall be Transactions for the purposes of the Agreement and the Firm shall procure that: (I) such Principal Model Conversion Transactions are recorded to the relevant Segregated Account; and (II) such Transactions shall be held pursuant to, and in accordance with, the Segregated Asset Terms in accordance with clause 3.1 (*General*); and
- (e) all Principal Model Margin held by either Party (or transferred to that Party and not returned) in respect of Principal Model Conversion Transactions shall be deemed to have been returned to the other Party under the terms of the Principal Model Agreement and contemporaneously redelivered by the receiving Party to the returning Party as Title Transfer Assets in respect of the same Transactions under, and in accordance with, the Title Transfer Provisions,

(a “**Principal Model Conversion**”). The Firm shall promptly following a Principal Model Conversion update its books and records to reflect such Principal Model Conversion.

3.6.2 Conversion to Principal Model Agreement

- (i) The Firm may, by notice in writing to the Client (or otherwise by way of agreement with the Client or at the request of the Client subject to the prior written consent of the Firm) provide, that each Transaction cleared by the Firm on behalf of the Client pursuant to this Client Clearing Agreement that forms part of an EATM Conversion Set (each such Transaction, an “**EATM Conversion Transaction**”) shall be cleared by the Firm pursuant to a Principal Model Agreement between the Firm and the Client.
- (ii) At the EATM Conversion Time:
 - (a) the EATM Conversion Transactions forming part of the relevant EATM Conversion Set will: (I) cease to be Transactions for the purposes of the Agreement; and (II) cease to be held by the Firm pursuant to, and in accordance with, the Segregated Asset Terms and the Client, accordingly, irrevocably and unconditionally relinquishes, releases, waives and discharges all of its rights, title and interests with respect to the Segregated Assets, and that otherwise arise pursuant to the Segregated Asset Terms, insofar as they relate to the EATM Conversion Transactions;
 - (b) the CCP service at which the EATM Conversion Transactions are cleared shall cease to be an Agreed CCP Service for the purposes of this Client Clearing Agreement;

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

- (c) the Firm shall procure the transfer of the EATM Conversion Transactions from the Segregated Account to which they are recorded to the account(s) identified in the Principal Model Agreement;
- (d) the EATM Conversion Transactions shall be governed by the Principal Model Agreement such that on the transfer of the EATM Conversion Transactions as described in paragraph (c) above: (I) such EATM Conversion Transactions shall be Principal Model Firm/CCP Transactions for the purposes of the Principal Model Agreement; and (II) transactions shall arise between the Firm and the Client with terms and obligations that are identical to those of the related Principal Model Firm/CCP Transactions, subject to, and in accordance with, the provisions of the Principal Model Agreement; and
- (e) the Title Transfer Balance in respect of the EATM Conversion Transactions shall be deemed to have been delivered to the Client and contemporaneously redelivered by the Client to the Firm in accordance with the Principal Model Agreement,

(an “**EATM Conversion**”). The Firm shall promptly following an EATM Conversion update its books and records to reflect such EATM Conversion.

3.7 Transferred transactions: If a transaction for the account of the Client at an Agreed CCP which has previously been cleared by another clearing member of an Agreed CCP is transferred to a Segregated Account of the Firm, then, provided that transaction is a Clearing Eligible Trade, on the recording of the Transaction to such Segregated Account, that Transaction will be held by the Firm pursuant to, and in accordance with, the Segregated Asset Terms in accordance with clause 3.1 (*General*).

4 PORTING⁸

4.1 Transfer of positions in the absence of default: Subject to Applicable Regulations, the Client may request by notice in writing to the Firm that the Firm transfers ('ports') one or more Transactions to a replacement firm which is a clearing member of the relevant Agreed CCP in relation to the relevant Agreed CCP Service. Following such request, if and for so long as the Transfer Conditions are satisfied, then the Firm will promptly take such actions that the relevant Rules of the relevant Agreed CCP contemplate that it should take and/or that it determines are necessary or desirable to take in order to facilitate and effect the transfer of the relevant Transactions and, without prejudice to clause 7.2 (*Return obligations of the Firm*), any Title Transfer Balance attributable to such Transactions.

4.2 Discharge: Any Transactions transferred by an Agreed CCP to another clearing member will no longer be subject to the Segregated Asset Terms as provided in clause 18 (*Effect of termination and transfers of Transactions*).

⁸ *Drafting Note: The effects of such porting are outlined in clause 18 (Effect of termination and transfers of Transactions).*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

4.3 **Transfer Conditions:** In this clause 4, “**Transfer Conditions**” means, with respect to a transfer of Transactions requested by the Client pursuant to clause 4.1 (*Transfer of positions in the absence of default*):

- 4.3.1 no CCP Default, Firm Trigger Event or Event of Default has occurred and is continuing;
- 4.3.2 if required by the Firm, the Client has or will have transferred additional margin in the amount specified by the Firm to satisfy any additional margin requirements in respect of Transactions that are not the subject of the requested transfer which: (i) are imposed by the Rules for the relevant Agreed CCP Service as a condition to the relevant transfer; or (ii) will result from the relevant transfer in accordance with the terms of this Client Clearing Agreement; and
- 4.3.3 any additional Transfer Conditions agreed in writing between the Parties.

5 OFFSETTING TRANSACTIONS

5.1 **Offsetting trades:** The Client may at any time request by notice in writing to the Firm in respect of one or more Transactions (each, a “**Specified Transaction**”), that the Firm accept for clearing an offsetting transaction the terms of which would be identical to those of the Specified Transaction, except that:

- 5.1.1 the Firm would take the opposite position to that which the Firm has taken under the Specified Transaction; and
- 5.1.2 the notional amount of such offsetting transaction would be equal to or less than the notional amount of the Specified Transaction,

each such transaction an “**Offsetting Transaction**”.

5.2 **Acceptance of an Offsetting Transaction:** If the Offsetting Conditions are satisfied, then, notwithstanding anything in this Client Clearing Agreement, the Firm will be obliged to: (i) accept for clearing such Offsetting Transaction; and (ii) to take such action that it is required to take in accordance with the Rules of the relevant Agreed CCP for such Offsetting Transaction to be cleared through the same Agreed CCP Service as such Specified Transaction and for each resulting Transaction to be Compressed with the Specified Transaction in accordance with the Rules of the relevant Agreed CCP, in each case where it is permissible to do so under Applicable Regulations. For these purposes, the “**Offsetting Conditions**” are as follows:

- 5.2.1 the related Specified Transaction remains outstanding and there has been no early termination date designated, howsoever described;
- 5.2.2 the Client has satisfied or will have satisfied any condition agreed for this purpose in any margining arrangement between the Firm and the Client, including any obligation in respect of any additional margin which will result from clearing such Offsetting Transaction;
- 5.2.3 the clearing of such Offsetting Transaction will not increase the aggregate exposure of the Firm to the Client in respect of all Transactions beyond any risk limits agreed between the Firm and the Client;

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

5.2.4 [the Conditions to Clearing are satisfied]⁹; and

5.2.5 [any other conditions determined by the Firm at the time are satisfied.]¹⁰

6 SETTLEMENT AND MARGIN

6.1 Performance and settlement¹¹:

6.1.1 The Firm shall determine, from time to time, the aggregate amount of Acceptable Margin required, or that may be required to satisfy any obligation due under, or in respect of, a Transaction or the Agreement (the "**Margin Requirement**"). The Client agrees to transfer or make available to the Firm on demand (and no later than any deadline specified by the Firm) all Acceptable Margin as determined by the Firm to be required in order to ensure that the Title Transfer Balance Value is at least equal to the Margin Requirement (including any payment obligation or obligation to deliver margin pursuant to the Rules applicable to any Clearing Service (or any relevant Infrastructure) or as the Firm may require). All such Acceptable Margin transferred to the Firm shall be transferred to the Firm in accordance with the Title Transfer Provisions.

6.1.2 The Client further agrees that if the Client has not transferred or made available to the Firm any margin required in accordance with clause 6.1.1 by the deadline specified: (i) the Firm may proceed to settlement or close-out notwithstanding and to that end the Firm may purchase any securities or commodities required for delivery at a price the Firm believes to be reasonable, charge the Account for the cost and deliver the securities or commodities to satisfy the delivery obligation; and (ii) the Client shall also transfer to the Firm on demand (and no later than any deadline specified by the Firm) such amounts as are required to compensate and make whole the Firm for any and all Losses incurred by the Firm in satisfying that obligation (including any costs of funding which the Firm incurs in satisfying that obligation and including, without duplication, any costs incurred by the Firm in taking any action described in paragraph (i) of this clause 6.1.2)).

6.2 Margin calls: [The Firm may make a separate margin call in relation to each Clearing Service, and the Firm may make aggregated margin calls in relation to two or more Clearing Services. The Firm may make multiple margin calls on the Client on a particular day. In determining the amounts of margin, the Client's obligations to the Firm and the Firm's obligations to the Client, the Firm may apply whichever methodology (including judgements as to the future movement of markets and values) the Firm considers appropriate.]¹² Notwithstanding clauses 27.2 (*Notices*) and 27.3 (*Effectiveness of notices*), any margin call will be effective on the day on which notice of the margin call is given by the Firm.

6.3 Form of margin: Margin must be provided by the Client in the form of a type of Acceptable Margin. If the Firm has not notified the Client of types of Acceptable Margin, margin must be paid by the Client in cash. The currency of the cash margin will be the currency or currencies

⁹ *Drafting Note: Delete as applicable.*

¹⁰ *Drafting Note: Delete as applicable.*

¹¹ *Drafting Note: This wording has been slightly revised from clause 6.1 of the FIA ToBs 2018 to reflect that there is no transaction between the Firm and the Client pursuant to which such payments and obligations would otherwise fall due.*

¹² *Drafting Note: Delete as applicable.*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

notified by the Firm from time to time or, if no such currencies have been notified, the [Base Currency] [the currency of the Transaction]¹³. If the Firm notifies the Client of Acceptable Margin, the Client may only satisfy the requirement to provide margin by transferring assets of the classes, and subject to the haircuts and any other provisions, specified by the Firm. The Firm may amend the eligibility criteria, the applicable haircuts and other requirements for Acceptable Margin at any time.

- 6.4 *Margin:*** All references to “margin” in this Client Clearing Agreement shall include collateral, variation margin, initial margin and payments of principal, coupon and other payments under Transactions.
- 6.5 *Negative Title Transfer Balance:*** The Client shall be liable to account to the Firm for any negative balance recorded in a Title Transfer Balance by transferring or making available to the Firm on demand Acceptable Margin that is represented in that negative Title Transfer Balance in an amount equal to the absolute amount recorded in such negative Title Transfer Balance, provided that the aggregate liability of the Client at any point in time shall be limited to the absolute value of any negative Title Transfer Balance Value, plus the Value of any demands for Acceptable Margin that have been made by the Firm but not yet satisfied by the Client.

7 TITLE TRANSFER PROVISIONS

- 7.1 *Title transfer:*** Each Party agrees that any Acceptable Margin, Title Transfer Assets, Equivalent Title Transfer Assets, Equivalent Distributions or interest in respect of Title Transfer Assets which it transfers to the other Party will be: (i) provided by way of absolute transfer and will become the property of the recipient; and (ii) transferred with full title guarantee and all right, title and interest in and to all such property will vest in the recipient free and clear of any interest of or granted by any person other than the recipient, including any security interest, lien, claim, charge, encumbrance or other restriction (other than any lien routinely imposed on all securities in a relevant clearance system). Notwithstanding the use of terms such as “margin” which are used to reflect terminology used in the market for such arrangements, nothing in the Title Transfer Provisions is intended to create a security interest in any Acceptable Margin, Title Transfer Assets, Equivalent Title Transfer Assets, Equivalent Distributions or interest in respect of Title Transfer Assets transferred pursuant to this Client Clearing Agreement.

7.2 *Return obligations of the Firm:*

- 7.2.1** Subject to clauses 7.2.2 and 7.2.3, the Firm is obliged to transfer Equivalent Title Transfer Assets (to ‘return’ margin) to the Client:
- (i) following a demand from the Client for the return of margin; and
 - (ii) on any date following the termination of all Transactions in a Cleared Transaction Set pursuant to:
 - (a) clause 12 (*Termination Following a Firm Trigger Event*); or
 - (b) clause 13 (*Termination Following a CCP Default*),

¹³ *Drafting Note: Delete as applicable.*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

in each case on which the Firm receives Settled Assets from an Agreed CCP, which shall be discharged to the extent that the Title Transfer Balance is applied to satisfy any obligation of the Client to pay a Shortfall Amount to the Firm in accordance with clause 15.2 (*Settlement of Shortfall Amount*).

7.2.2 The Firm shall only be obliged to transfer Equivalent Title Transfer Assets to the Client pursuant to clause 7.2.1 if and to the extent that the Firm determines that, immediately following such transfer, the Title Transfer Balance Value shall be at least equal to the Margin Requirement.¹⁴

7.2.3 The Firm shall, notwithstanding any other provision of this Client Clearing Agreement, not be required to transfer Equivalent Title Transfer Assets under this Client Clearing Agreement of a Value that exceeds the Title Transfer Balance Value and the Firm's outstanding liability to the Client in respect of the Title Transfer Balance shall at all times be limited to the Title Transfer Balance Value.

7.3 Treatment of Distributions and interest:

7.3.1 Distributions: If a holder of securities comprised in the Title Transfer Balance would receive payments or distributions of cash or other property on any day (each such payment or distribution, a "**Distribution**"):

- (i) the Firm will treat any cash, securities or other property of the same type, nominal value, description and amount as any Distributions (less any deductions on account of tax) ("**Equivalent Distributions**") as an addition to the Title Transfer Assets received by the Firm once the Firm has credited the Equivalent Distributions to the relevant account; and
- (ii) the Firm will transfer to the Client any Equivalent Distributions (other than distributions of principal) within the time period as may be specified by the Firm from time to time (or, if no such period has been specified, on the first Business Day after they have been credited to the relevant account).

7.3.2 Interest: The Firm will treat an amount equal to any interest payable in respect of cash comprised in the Title Transfer Balance as an addition to the Title Transfer Assets received by the Firm upon it being credited to the relevant account. The Firm may charge the Client for interest on any negative cash balance in the Title Transfer Balance and such funding costs as it may determine in respect of any negative balance in respect of a non-cash asset in the Title Transfer Balance [and any negative interest it incurs as a result of taking cash margin from the Client.]¹⁵ The Firm will transfer to the Client after the date any interest is treated as comprised in the Title Transfer Balance an amount equal to that interest within the time period which may be specified by the Firm from time to time (or, if no such period has been

¹⁴ *Drafting Note: If margin posted by the Client to the Firm is then posted by the Firm to the CCP and, in accordance with the Rules of that CCP, the CCP returns margin to the Firm that is not equivalent to the margin posted by the Client to the Firm, the Firm is only obliged to provide Equivalent Title Transfer Assets in respect of the margin returned by the CCP (as opposed to margin equivalent to the margin originally posted by the Client to the Firm). If a Firm and its Client wish to provide that the margin returned by the CCP which is then returned by the Firm to the Client is equivalent to that originally transferred by the Client, then the Firm and the Client will need to specify "Alternative Margin" as "Not Applicable" in the Annex (see clause 7.5 (Return of alternative margin)).*

¹⁵ *Drafting Note: Delete as applicable.*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

specified, on the first Business Day after the interest is credited to the relevant account).

7.4 Substitution: The Client may, with the Firm's prior [written]¹⁶ consent, transfer to the Firm replacement Acceptable Margin in substitution for the Title Transfer Balance with the same or greater Value provided by the Client, whereupon the Firm will transfer Equivalent Title Transfer Assets of the requested Value to the Client, provided that the requested Value of Equivalent Title Transfer Assets is the same as or lesser than the Value of the Acceptable Margin.

7.5 Return of alternative margin:

7.5.1 Unless: (i) "Alternative Margin" is selected as "Not Applicable" in the Annex; and/or (ii) applicable Rules do not allow a Clearing Service to deliver margin of a different type and description to the margin posted to the Agreed CCP Service, then (notwithstanding any provision of this Client Clearing Agreement requiring the Firm to deliver Equivalent Title Transfer Assets to the Client) the Firm may deliver to the Client margin of other types and descriptions, provided that the aggregate value of delivered margin is no less than the Value of the Equivalent Title Transfer Assets otherwise deliverable. If the Client delivers more than one type of Title Transfer Asset to the Firm in respect of a Clearing Service and the Firm is obliged to return Equivalent Title Transfer Assets in part to the Client, the Firm will be entitled to choose which Equivalent Title Transfer Assets it uses to satisfy the relevant return obligation. In each case, and regardless of the assets the Firm transfers to the Client, the Title Transfer Balance shall be reduced by the Equivalent Title Transfer Assets.

7.5.2 If "Alternative Margin" is selected as "Not Applicable" in the Annex, then if the Agreed CCP Service delivers to the Firm margin of a different type and description (the "**Non-equivalent Title Transfer Assets**") to the margin posted to the Agreed CCP Service (the "**Posted Margin**") the Firm will on the day of receipt of such Non-equivalent Title Transfer Assets:

- (i) record the Non-equivalent Title Transfer Assets to the Title Transfer Balance;
- (ii) calculate the Value of the Non-equivalent Title Transfer Assets; and
- (iii) substitute the Non-equivalent Title Transfer Assets (by removing them from the Title Transfer Balance) for Equivalent Title Transfer Assets (that are equivalent to the Posted Margin that was not returned) of the same aggregate Value as at the date of substitution as the Non-equivalent Title Transfer Assets (by crediting the Equivalent Title Transfer Assets to the Title Transfer Balance).

7.6 Inapplicability of Client Money Rules:

7.6.1 Title transfer of cash: Without limiting the applicability of clause 8 (*Settled Assets*), when the Client transfers money to the Firm, or money is paid to the Firm on the Client's behalf, the Client agrees that the Firm will not hold that money in accordance with the Client Money Rules.

¹⁶ *Drafting Note: Delete as applicable.*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

7.6.2 *Insolvency treatment:* In the event of the Firm's insolvency, the Client will only have an unsecured claim against the Firm for payment of that money[, and that claim will be subject to the exercise by the Firm of any set-off rights the Firm may have under this Client Clearing Agreement or under general law]¹⁷.

7.7 *[Financial collateral arrangements:* The Parties intend that the arrangements constituted by this Client Clearing Agreement pursuant to which the Client transfers to the Firm cash and Acceptable Margin in satisfaction of its obligations under clause 6 (*Settlement and Margin*) and in order to secure or otherwise cover obligations owed by the Client to the Firm will constitute a title transfer financial collateral arrangement, as such term is used in the Financial Collateral Arrangements (No. 2) Regulations 2003/3226.]¹⁸

8 SETTLED ASSETS

The Firm shall be liable to the Client in respect of any Settled Assets that are received by the Firm in accordance with paragraph 1.6 (*Nature of beneficial interest and entitlement*) of the Segregated Asset Terms, and any Deemed Settled Assets that are deemed received by the Firm that are attributed to the Client in the books and records of the Firm, as if Equivalent Settled Assets in respect of those Settled Assets or Deemed Settled Assets had been transferred by the Client to the Firm in accordance with the Title Transfer Provisions.

9 REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 *Representations and warranties:* The Client represents and warrants to the Firm: (i) on the date this Client Clearing Agreement comes into effect; and (ii) as of the date of each Transaction, that:

9.1.1 the Client is duly organised and validly existing under the law of its jurisdiction of organisation or incorporation and, if relevant under that law, is in good standing;

9.1.2 the Client has the capacity and all necessary authority, powers, consents, licences, authorisations and approvals under Applicable Regulations and has taken all necessary action to lawfully enter into and perform its obligations under this Client Clearing Agreement, to validly execute and deliver this Client Clearing Agreement and to grant the powers referred to in this Client Clearing Agreement;

9.1.3 the Client's entry into and performance of its obligations under this Client Clearing Agreement are and will be in compliance with its constitutional documents, its financial rules and any other laws or regulations applicable to the Client from time to time;

9.1.4 the persons entering into this Client Clearing Agreement on the Client's behalf have been duly authorised to do so;

9.1.5 the Agreement is valid and binding upon the Client and enforceable against the Client in accordance with their terms (subject to applicable principles of equity) and

¹⁷ *Drafting Note: Delete as applicable.*

¹⁸ *Drafting Note: Delete as applicable. This provision will only be applicable if the assets transferred to the Firm by the Client fall within the definition of "financial collateral".*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

do not and will not violate the terms of any Applicable Regulations, order, charge or agreement by which the Client is bound;

- 9.1.6 the Client is entering into this Client Clearing Agreement for commercial purposes;
- 9.1.7 any information that the Client provides or that has been provided to the Firm in respect of the Client's financial position is accurate and a true and fair presentation of the Client's financial position, and information which the Client provides or has provided in relation to the Client's domicile or other matters is accurate and not misleading in any material respect;
- 9.1.8 except as otherwise agreed by the Firm, the Client is the sole beneficial owner of all margin the Client transfers under this Client Clearing Agreement, free and clear of any security interest whatsoever other than a lien routinely imposed on all securities in a clearing system in which those securities may be held or imposed by a third party custodian or other similar institution;
- 9.1.9 the Client is not required to make a deduction or withholding for or on account of tax from a payment under this Client Clearing Agreement [other than a FATCA Deduction];
- 9.1.10 under the law of the jurisdiction of incorporation or organisation of the Client, it is not necessary that the Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax or fee be paid on or in relation to the Agreement or the Services or Transactions contemplated by the Agreement;
- 9.1.11 no Event of Default or event which would, upon expiry of any applicable grace period, become an Event of Default has occurred and is continuing and the Client is not subject to recovery and/or resolution measures;
- 9.1.12 [the Client is not a "US person" (as defined in the Commodity Futures Trading Commission ("**CFTC**") [and US Securities Exchange Commission ("**SEC**")] regulations and interpreted in rules, guidance and orders issued by the CFTC [and SEC] from time to time);] [and]
- 9.1.13 [the Client is not: (i) an employee benefit plan (as defined in Section 3(3) of the US Employee Retirement Income Security Act of 1974, as amended ("**ERISA**")) that is subject to Title I of ERISA, or a plan or arrangement (including an individual retirement account or a Keogh plan) within the meaning of Section 4975 of the US Internal Revenue Code of 1986, as amended (the "**Code**") that is subject to Section 4975 of the Code (each, a "**Plan**"); (ii) any entity whose underlying assets are deemed to include "plan assets" under the US Department of Labor Regulations 29 CFR section 2510.3-101, as modified by Section 3(42) of ERISA, by reason of a Plan's investment in the Client (a "**Benefit Plan Investor**"); (iii) a person acting on behalf of a Benefit Plan Investor; or (iv) a governmental plan, church plan, or other plan subject to restrictions similar or analogous to those contained in the foregoing provisions of ERISA or the Code[.]; and]
- 9.1.14 [the contractual relationship between the Client and the Firm established pursuant to this Client Clearing Agreement is not intended to be used as a basis for providing

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

clearing services to any of the Client's own clients as part of an indirect clearing arrangement in relation to any CCP established in the EU or the UK.]

9.2 Covenants: The Client covenants to the Firm that:

- 9.2.1 the Client will at all times obtain and comply with, and do all that is necessary to maintain in full force and effect, all authority, powers, consents, licences and authorisations referred to in this clause 9;
- 9.2.2 the Client will and is able to, upon request, promptly provide the Firm with information in respect of the Client's financial position, domicile or other matters and/or with the information as the Firm may reasonably require to evidence the matters referred to in this clause 9;
- 9.2.3 the Client will promptly notify the Firm of the occurrence of any Event of Default or of any event that may become an Event of Default with respect to the Client [or any Credit Support Provider];
- 9.2.4 the Client will: (i) comply with all Applicable Regulations in relation to the Agreement and each order and Transaction, so far as they are applicable to it; and (ii) use all reasonable steps to comply with all Applicable Regulations in relation to the Agreement and each order or Transaction, where the Applicable Regulations do not apply to the Client but the Client's co-operation is needed to help the Firm comply with its obligations; and
- 9.2.5 the Client will observe the standard of behaviour reasonably expected of persons in the Client's position and not take any step which would cause the Firm to fail to observe the standard of behaviour reasonably expected of persons in the Firm's position.

10 EVENTS OF DEFAULT

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

- 10.1.1 the Client fails to make any payment or to make or take delivery of any property, in each case, when due under the Agreement, or to observe or perform any other provision of the Agreement;
- 10.1.2 the occurrence of an Insolvency Event in relation to the Client;
- 10.1.3 [the Client or any Credit Support Provider (or any custodian acting on behalf of either of the Client or a Credit Support Provider) disaffirms, disclaims or repudiates any obligation under this Client Clearing Agreement or any guarantee, hypothecation agreement, margin or security agreement or any other document containing an obligation of the Client or a third party in favour of the Firm supporting any of the Client's obligations under the Agreement (each a "Credit Support Document");]
- 10.1.4 any representation or warranty made or given or deemed made or given by the Client under this Client Clearing 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;

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES

NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

- 10.1.5** the Client [or any Credit Support Provider] transfers all or substantially all its assets to another entity, or otherwise is consolidated, amalgamated or merged with or into another entity or undergoes a similar process, with the effect that the resultant, surviving or transferee entity does not assume all obligations of the Client [or the Credit Support Provider (as applicable)] under this Client Clearing Agreement [or any Credit Support Document, or the Credit Support Document does not apply to the obligations of the resultant, surviving or transferee entity to the same extent as it applied to the obligations of the Client];
- 10.1.6** [(i) any Credit Support Provider, or the Client, fails to comply with or perform any agreement or obligation to be complied with or performed by it, or the Client, in accordance with the applicable Credit Support Document; (ii) any Credit Support Document expires or ceases to be in full force and effect prior to the satisfaction of all the Client's obligations under this Client Clearing Agreement, unless the Firm has agreed in writing that this will not be an Event of Default; (iii) any representation or warranty made or given or deemed made or given by any Credit Support Provider pursuant to any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given; or (iv) an event equivalent to an Insolvency Event occurs in respect of any Credit Support Provider]; [or]
- 10.1.7** [the Client [or Credit Support Provider] is dissolved, or, if its capacity or existence is dependent upon a record in a formal register, the registration is removed or ends, or any procedure is commenced seeking or proposing the Client's dissolution, removal from such a register or the ending of such a registration;] [or]
- 10.1.8** [where the Client [or a Credit Support Provider] is a partnership, an event equivalent to an Insolvency Event occurs [or any of the events referred to in clause 10.1.7] occurs in respect of one or more of the Client's [or the Credit Support Provider's] partners;] [or]
- 10.1.9** [the Firm considers it necessary or desirable to prevent what the Firm considers is or might be a violation of any Applicable Regulations or a good standard of market practice;] [or]
- 10.1.10** the Firm considers it necessary or desirable for the Firm's own protection or for the protection of the Client (including to prevent a violation or continued violation of Applicable Regulations) or any action is taken or event occurs which the Firm considers might have a material adverse effect upon the Client's [or a Credit Support Provider's] ability to perform any of its obligations under this Client Clearing Agreement [or a Credit Support Document] including loss of a necessary licence; [or]
- 10.1.11** [any event of default (however described) occurs in relation to the Client [or a Credit Support Provider] under any other agreement [between the Firm and/or its Associates with the Client] [or Credit Support Provider (as applicable)]; [or]
- 10.1.12** [any other event specified to be an Event of Default [for these purposes] in the Annex or elsewhere in this Client Clearing Agreement occurs.]

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

11 RIGHTS OF THE FIRM FOLLOWING AN EVENT OF DEFAULT

11.1 *Actions of the Firm:* The Client acknowledges and agrees that, notwithstanding any provision of the Agreement, on the occurrence of an Event of Default, the Firm may deal with any or all Transactions as principal and may take any action in respect of any or all of the Transactions as the Firm considers necessary or desirable, including:

11.1.1 entering into and unwinding one or more Risk Hedging Transactions in order to hedge, mitigate or eliminate the market risks associated with one or more Transactions relating to one or more Cleared Transaction Sets;

11.1.2 entering into one or more Close-out Transactions in order to offset and close-out such Transactions to another clearing member; and

11.1.3 transferring each Transaction to the proprietary account of the Firm at the Agreed CCP Service.

11.2 *Consequences of an Event of Default:* Following the occurrence of an Event of Default and the Firm having taken any action it is permitted to take in accordance with clause 11.1 (*Actions of the Firm*) and the Rules of each relevant Agreed CCP Service:

11.2.1 for so long as any Transactions in a Cleared Transaction Set remain outstanding and recorded to the relevant Segregated Account at the relevant Agreed CCP Service, the Firm's rights, title, interest and benefit in and to such Transactions shall continue to be held on trust by the Firm pursuant to, and in accordance with, the Segregated Asset Terms;

11.2.2 if an amount is due from the Agreed CCP Service to the Firm in respect of the Transactions in a Cleared Transaction Set, any and all rights of the Firm against the Agreed CCP Service in relation to that amount shall be held on trust by the Firm pursuant to, and in accordance with, the Segregated Asset Terms;

11.2.3 if an amount is due from the Firm to the Agreed CCP Service in respect of the Transactions in a Cleared Transaction Set, a Shortfall Amount equal to such amount shall be payable from the Client to the Firm in accordance with clause 15 (*Shortfall Amounts*);

11.2.4 if the Firm transfers any Transaction to its proprietary account at the Agreed CCP Service:

(i) if the Relevant Value ascribed to such Transaction by the Firm is negative, a Shortfall Amount equal to the absolute value of such amount shall be payable from the Client to the Firm in accordance with clause 15 (*Shortfall Amounts*); and

(ii) if the Relevant Value ascribed to such Transaction by the Firm is positive, the Firm shall account to the Client for such Relevant Value as if it were a Title Transfer Asset in the form of cash in the Base Currency transferred by the Client to the Firm in accordance with the Title Transfer Provisions; and

11.2.5 if the Firm incurs any other Losses or makes any other gains not already contemplated by this clause 11.2 (*Consequences of an Event of Default*) in each case as a result of:

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

- (i) entering into one or more Risk Hedging Transactions;
- (ii) entering into one or more Close-out Transactions; and/or
- (iii) otherwise managing the default management process,

a continuous account shall be taken of any such Losses and gains and, if, at any time, the net amount is a Loss, a Shortfall Amount equal to such Loss shall be payable from the Client to the Firm in accordance with clause 15 (*Shortfall Amounts*) and, if, at any time, the net amount is a gain, the Value of such gain shall be credited to the Title Transfer Balance.

12 TERMINATION FOLLOWING A FIRM TRIGGER EVENT¹⁹

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

12.2 Porting of Transactions: Any Transactions and related margin transferred ('ported') by an Agreed CCP to another clearing member following the occurrence of a Firm Trigger Event will no longer be subject to the Segregated Asset Terms as provided in clause 18 (*Effect of termination and transfers of Transactions*).

12.3 Consequences of Firm Trigger Event: Following the occurrence of a Firm Trigger Event, and the application of the Rules of the Agreed CCP Service:

12.3.1 If an amount is due from the Agreed CCP Service to the Firm in respect of the Transactions in a Cleared Transaction Set, any and all rights of the Firm against the Agreed CCP Service in relation to that amount shall be held by the Firm pursuant to, and in accordance with the Segregated Asset Terms; and

12.3.2 if an amount is due from the Firm to the Agreed CCP Service in respect of the Transactions in a Cleared Transaction Set, a Shortfall Amount equal to such amount shall be payable from the Client to the Firm in accordance with clause 15 (*Shortfall Amounts*).

13 TERMINATION FOLLOWING A CCP DEFAULT

13.1 CCP Default: The occurrence of a default, termination event or other similar event in respect of an Agreed CCP that entitles the Firm to terminate, or results in automatic termination of, the Transactions shall constitute a “**CCP Default**”.

¹⁹ *Drafting Note: If amounts are due to the CCP on termination, the CCP will resort to its default processes and waterfall, including recourse to the default fund, and will have a claim against the estate of the Defaulting Firm for any shortfall but will have no recourse to the Client. It is, however, not necessary to specify this in this Client Clearing Agreement given that there is no contractual nexus between the CCP and the Firm. The CCP also has rights in accordance with EMIR to pay any termination amounts directly to the Client following a Firm Trigger Event. It is not, however, necessary to refer to these rights in this Client Clearing Agreement given that the CCP is not a party to this Client Clearing Agreement and in any case these powers arise as a matter of law.*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

13.2 Consequences of CCP Default: Following the occurrence of a CCP Default and the application of the Rules of the Agreed CCP Service:

13.2.1 if an amount is due from the Agreed CCP Service to the Firm in respect of the Transactions in a Cleared Transaction Set, any and all rights of the Firm against the Agreed CCP Service in relation to that amount shall be held by the Firm pursuant to, and in accordance with the Segregated Asset Terms; and

13.2.2 if an amount is due from the Firm to the Agreed CCP Service in respect of the Transactions in a Cleared Transaction Set, a Shortfall Amount equal to such amount shall be payable from the Client to the Firm in accordance with clause 15 (*Shortfall Amounts*).

14 HIERARCHY OF EVENTS

14.1 Hierarchy of events: Subject to clause 14.2 (*Priority given by Rules of Agreed CCP*) but without prejudice to clause 16 (*Net Termination Amount*), if more than one of an Event of Default, a Firm Trigger Event or a CCP Default has occurred (each, a “**Default**”), then the Default on the basis of which the CCP or the Firm first takes action (whether to port, terminate or otherwise manage any Transactions) will prevail for the purposes of the Transactions in the relevant Cleared Transaction Set.

14.2 Priority given by Rules of Agreed CCP: If each of a Firm Trigger Event and a CCP Default occurs, either clause 12 (*Termination following a Firm Trigger Event*) or clause 13 (*Termination following a CCP Default*) will take priority in accordance with the order of priority, if any, given to such events in the Rules of the Agreed CCP, provided that, if no such order of priority is given in the Rules of the Agreed CCP, clause 14.1 (*Hierarchy of Events*) will apply.

15 SHORTFALL AMOUNTS

15.1 Notification of Shortfall Amount: If, following the occurrence of an Event of Default, a Firm Trigger Event or a CCP Default, the Firm determines that a Shortfall Amount is due from the Client to the Firm, the Firm will notify the Client of that Shortfall Amount.

15.2 Settlement of Shortfall Amount: The Firm may apply any Title Transfer Balance in respect of the Client to satisfy, in whole or in part, any Shortfall Amount due from the Client to the Firm. If the Firm determines that, when taken together with any other obligations owed by the Client to the Firm pursuant to this Client Clearing Agreement, it holds an insufficient Title Transfer Balance to satisfy any Shortfall Amount in full, the Firm may (subject to clause 6.5 (*Negative Title Transfer Balance*)) require the Client to, and the Client shall accordingly, transfer or make available to the Firm such amounts as are required to satisfy the remaining Shortfall Amount in full in the Base Currency and on the first Business Day after delivery of the notification of the amount payable.

The Firm may not apply any Segregated Assets to satisfy the Shortfall Amount due from the Client other than in accordance with clause 20 (*Additional Rights*).

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

16 NET TERMINATION AMOUNT

16.1 *Net Termination Date:* At any time following an Event of Default, the Firm may, by notice to the Client, specify a date (the “**Net Termination Date**”). Upon the occurrence of a Net Termination Date, no further payments or deliveries in respect of the Agreement, howsoever described, will be required to be made, and an amount equal to the Net Termination Amount will instead be payable (whether by payment, set-off or otherwise).

16.2 *Settlement of Net Termination Amount:* If:

16.2.1 the Net Termination Amount is negative, an amount equal to the absolute value of such Net Termination Amount shall be payable by the Client to the Firm in full in the Base Currency and on the first Business Day after delivery of the notification of the amount payable; and

16.2.2 the Net Termination Amount is positive, the Net Termination Amount shall be payable by the Firm to the Client in full in the Base Currency.

16.3 *Set-off following an Event of Default:* The Firm may also, following an Event of Default, exercise its rights under clause 20.1 (*Set-off*) and clause 20.2 (*Running account*) to apply any amount owed by the Client to the Firm (including any amount owed pursuant to clause 16.2.1 (*Settlement of Net Termination Amount*)) against any amount owed by the Firm to the Client (including any amount owed pursuant to clause 16.2.2 (*Settlement of Net Termination Amount*)).

17 DIRECT SETTLEMENT

The Client will notify the Firm promptly after becoming aware that it has been paid an amount or received credit or any asset (or will be paid or receive credit or any asset) directly from an Agreed CCP in connection with one or more Transactions. If any such amount, credit or asset is received by the Client, then the Parties acknowledge that to the extent that any corresponding right of the Firm as against the Agreed CCP to such amount, credit or asset is extinguished, that right will cease to be subject to the Segregated Asset Terms.

18 EFFECT OF TERMINATION AND TRANSFERS OF TRANSACTIONS

Upon: (i) the transfer of Transactions and any related margin held for the benefit of the Client from the Segregated Account of the Firm at the relevant Agreed CCP in accordance with clause 4 (*Porting*) or on the occurrence of a Firm Trigger Event; or (ii) the termination of Transactions:

(a) subject to clause 18(b), such Transactions and related margin will no longer be held by the Firm pursuant to, and in accordance with, the Segregated Asset Terms and the Firm will be automatically and immediately released and discharged from all further obligations or duties in relation to those Transactions;

(b) any rights of the Firm against the CCP in respect of the terminated or ported Transactions will continue to be held by the Firm pursuant to, and in accordance with, the Segregated Asset Terms until such rights are satisfied in full and the Firm will, at such time, be automatically and immediately released and discharged from all further obligations or duties in relation to those rights; and

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

- (c) any Title Transfer Assets received by the Firm (including any Settled Assets received, or Deemed Settled Assets that are deemed received, by the Firm) in relation to those Transactions following the termination or transfer of such Transactions shall accrue to the Title Transfer Balance and be accounted for by the Firm to the Client in accordance with the Title Transfer Provisions and, if applicable, clause 8 (*Settled Assets*).

19 LIMITED RECOURSE

19.1 *Limitation of recourse:* The Client agrees that its recourse against the Firm shall be limited to: (i) the portion of the Segregated Assets held by the Firm for the benefit of the Client pursuant to the Segregated Asset Terms; and (ii) Equivalent Title Transfer Assets of a Value that is equal to the Title Transfer Balance Value.

19.2 *Good discharge:* Any amounts that would have been paid by the Agreed CCP to the Firm but for the application of:

19.2.1 netting or set-off in accordance with Applicable Regulations; or

19.2.2 any provision of Applicable Regulations for porting or direct settlement following a Firm Trigger Event,

will be considered to have been paid to the Client or, if such amounts would have been held by the Firm for the Client pursuant to the Segregated Assets Arrangement, accounted for to the Client in accordance with the Segregated Asset Terms and to have discharged the Firm's obligations to the Client to the same extent.

19.3 *Third parties:* The Client agrees that performance and payment of obligations owed by the Firm under the Agreement are limited by, and contingent on, the actual performance or payment by any account bank, custodian or other third party holding cash, margin or other property for the Firm which relates to the Client and the Firm will only be obliged to perform its obligations to the Client under the Agreement to the extent that the relevant account bank, custodian or other third party holding cash, margin or other property for the Firm performs its obligations.

19.4 *Notification:* The Firm will give notice in writing to the Client of any deduction or withholding from any payment or performance (including the deemed satisfaction of any obligations and/or duties of the Firm in respect of the Segregated Assets Arrangement) effected under this clause 19 as soon as reasonably practicable following the relevant event.

20 ADDITIONAL RIGHTS

20.1 *Set-off:* Subject to clause 20.3 (*Restriction on set-off against Segregated Assets*), without prejudice to any other rights to which the Firm may be entitled, the Firm may at any time and without notice set off any amount (whether actual or contingent, present or future) owed by the Client to the Firm against any amount (whether actual or contingent, present or future) owed by the Firm to the Client. For these purposes, the Firm may ascribe a commercially reasonable value to any amount which is contingent or which is unascertained for any other reason and the Firm may convert any amounts denominated in different currencies into the Base Currency in accordance with clause 30.1 (*Base Currency*).

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES

NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

20.2 *Running account:* Without prejudice to the generality of clause 20.1 (*Set-off*), any amount owed to the Firm by the Client can be charged to the Account and the Firm may from time to time apply any part of the Title Transfer Balance towards satisfaction of any liabilities shown on the Account as due from the Client to the Firm or otherwise due from the Client to the Firm in accordance with this Client Clearing Agreement, so as to reduce the Title Transfer Balance from time to time. To satisfy such liabilities, the Firm may, to the extent it determines is necessary or desirable, convert Title Transfer Assets (by reference to their Value) into cash in the currency in which any such liability is due.

20.3 *Restriction on set-off against Segregated Assets:* Notwithstanding any contrary provision of the Agreement, if any amount, obligation or liability (whether actual or contingent, present or future) is owed to the Firm either by the Client or by another EATM Client (including, in each case, any obligation arising in respect of a Principal Model Transaction), the Firm shall not:

20.3.1 set off that amount, obligation or liability against any obligation or duty owed by the Firm to the Client that arises under the Segregated Assets Arrangement;

20.3.2 retain that amount, obligation or liability from the Segregated Assets to which the Client is beneficially entitled; or

20.3.3 enforce the indemnity set out in paragraph 5.1 (*Indemnity*) of the Segregated Asset Terms against the Client in respect of that amount, obligation or liability,

unless that amount, obligation or liability is a Segregated Assets Arrangement Liability attributable to the Client and/or the Transactions.

20.4 *Additional Firm protections:* In addition to the rights, powers, authorities and discretions set out in the Segregated Asset Terms and notwithstanding anything to the contrary expressed or implied herein, the Firm:

20.4.1 shall not be required to comply with any direction of the Client, expend or risk its own funds in the performance of the Segregated Asset Terms, or take any other action (including any action that would result in the Firm incurring any financial liability) or otherwise incur any liability, in respect of the Segregated Assets (other than routine expenditure incurred in performing the Services under the Agreement), unless the Firm has been indemnified and/or secured and/or pre-funded to its satisfaction; and

20.4.2 is entitled to exclusively rely on the information and directions provided or reasonably believed to have been provided by the Client without further enquiry as to the genuineness, authority or identity of the person giving or purporting to give such information or directions.

21 EXCLUSIONS, LIMITATIONS AND INDEMNITY

21.1 *General exclusion:* The Firm and its Associates, and their directors, officers, employees or agents, will not be liable for any Losses incurred or suffered by the Client under or in connection with the Agreement (including by reason of the Services, the performance of its obligations under the Agreement in respect of a Transaction, where the Firm has declined to enter into a proposed Transaction or perform the Services or where the Firm, in its capacity as trustee under the Segregated Assets Arrangement has taken, or declined to take, any action under that Segregated Assets Arrangement if so permitted by the Agreement or

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES

NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

necessary or desirable to address or prevent an additional risk to the Firm), unless the Loss is a reasonably foreseeable consequence of, and arises directly from, the Firm's or its Associates' gross negligence, wilful default or fraud, or, in the case of the Firm, any gross negligence in the appointment of Associates by the Firm. In no circumstance will the Firm, its Associates or their directors, officers, employees or agents have liability for Losses suffered by the Client or any third party for any special or consequential damage, loss of profits, loss of goodwill or loss of business opportunity arising under or in connection with the Agreement, whether arising out of negligence, breach of contract, misrepresentation or otherwise. Nothing in the Agreement will limit or exclude the Firm's liability for any liability that cannot legally be limited or excluded in accordance with applicable law, including liability for fraud, or negligence which causes death or personal injury.

21.2 *Adverse implications of Transactions:* Neither the Firm nor its Associates accept liability for any adverse tax, accounting or other implications of the Firm's or the Associates' performance of the Services or any Transaction whatsoever.

21.3 *Force Majeure:* The Firm and its Associates will not be liable to the Client for any partial performance or non-performance of the Firm's or its Associates' obligations under the Agreement by reason of any cause beyond the Firm's or its Associates' reasonable control, including any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, act of terrorism, war, act of God, acts and regulations of any governmental, quasi-governmental or supranational bodies or authorities or failure by any intermediary, account bank, custodian, sub-custodian, Infrastructure or any agent of the above, for any reason, to perform its obligations.

21.4 [*Validity and effectiveness:* The Firm shall not be responsible for the legality, validity, effectiveness, suitability, adequacy or enforceability of the Agreement (including the Segregated Assets Arrangement) or other documents entered into (or created) in connection therewith, nor shall it be responsible or liable to any person because of any invalidity of any provision of such documents or the unenforceability thereof, whether arising from statute, law or decision of any court.]

21.5 *Effect of Applicable Regulations:* Nothing in the Agreement will exclude or restrict any duty or liability the Firm may have to the Client under Applicable Regulations which may not be excluded or restricted.

21.6 *Indemnity:* The Client will indemnify the Firm and its Associates on demand against any Losses which the Firm or its Associates may incur or be subjected to from time to time:

21.6.1 in performing the Services or with respect to any of the Client's accounts or assets (including where the Firm provides the Client or its directors, employees or agents with access to any Infrastructure);

21.6.2 in relation to any order or Transaction or any transaction which: (i) an Agreed CCP does not accept for clearing for any reason; or (ii) is automatically accepted by the Firm and is subsequently unwound for any reason;

21.6.3 in respect of any exercise by the Firm of any power or discretion under the Segregated Assets Arrangement or as a result of endeavours made by the Firm in good faith to give effect to the Segregated Asset Terms, in each case: (i) if, and to

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

the extent, attributable to the Client; and (ii) which the Firm has not recovered pursuant to an indemnity of the Client in the Segregated Asset Terms;

- 21.6.4 which are allocated to the Client by an Agreed CCP;
 - 21.6.5 in relation to any Transaction if the Client has not transferred or made available to the Firm any securities, commodities, money, documents or other property in accordance with clause 6.1 (*Performance and settlement*) by the deadline specified by the Firm (including, any costs of funding which the Firm incurs in satisfying that obligation and any costs incurred by the Firm pursuant to clause 6.1 (*Performance and settlement*));
 - 21.6.6 as a result of any misrepresentation by the Client or any breach of this Client Clearing Agreement or Applicable Regulations by the Client or caused by the Client;
 - 21.6.7 which arise from the Firm enforcing its rights under the Agreement, acting (or omitting to act) in reliance on communications or actions of the Client or taking other action contemplated by the Agreement;
 - 21.6.8 as a result of any investigation, action, litigation or proceeding by or involving any government agency, Infrastructure, regulatory or self-regulatory authority, counterparty, dealer, or other third party with respect to Transactions (including any dispute relating to delivery); or
 - 21.6.9 as a result of the Firm making an Erroneous Payment.
- 21.7 *Relationship to the Agreement:*** The provisions of this clause 21 apply notwithstanding any other term of the Agreement.
- 21.8 *References to the Firm:*** Any reference to the Firm in this clause 21 shall be taken as a reference to the Firm acting as principal and in its capacity as trustee in respect of the Segregated Assets Arrangement.
- 21.9 *Amendments:*** The Parties agree that this Client Clearing Agreement sets out the contractual agreement between the Firm and Client in relation to the matters covered by it and that whilst the Parties may contractually agree, pursuant to this Client Clearing Agreement, to supplement, depart from or override the Segregated Asset Terms as between the Parties only, such agreement does not amend or vary the Segregated Asset Terms themselves nor incorporate any terms of this Client Clearing Agreement into the Segregated Asset Terms.

22 INFORMATION ABOUT THE CLIENT AND THE FIRM

- 22.1 [*Confidentiality of Client information:*** The Firm will treat all non-public information it holds about the Client or the Client's account or Transactions as confidential. The Client agrees, however, that the Firm may disclose that information to its Associates without the Client's consent, and that the Firm and its Associates may disclose that information without the Client's consent to:
- 22.1.1 those who provide advice or other services to the Firm or act as the Firm's agents;
 - 22.1.2 anyone to whom the Firm transfers or proposes to transfer any of the Firm's rights or duties under the Agreement;

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES

NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

22.1.3 credit reference agencies or other organisations that help the Firm and others: (i) make credit decisions and reduce the incidence of fraud; or (ii) in the course of carrying out identity, fraud prevention or credit control checks;

22.1.4 any other party where the Firm is required to do so by Applicable Regulations or where the Firm's interests require disclosure; and/or

22.1.5 to any Infrastructure, regulator or government agency upon request from such entity.

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

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

22.3 [**Data protection:** Before providing the Firm with any information relating to identifiable living individuals in connection with the Agreement, the Client shall provide [[those individuals with the categories of personal data that the Client is providing to the Firm.] OR [the following information to those individuals (except where those individuals already have the information):

22.3.1 the categories of personal data that the Client is providing to the Firm;

22.3.2 the Firm's identity, and the fact that those individuals can contact the Firm at [contact details] [and the Firm's data protection officer at [contact details]];

22.3.3 that the Firm may process those individuals' personal data for the purposes of administering and operating the Client's account, complying with Applicable Regulations and [specify other purposes for which personal data collected from the Client may be processed];

22.3.4 that this processing is permitted by applicable data protection law because it is: (i) necessary for the purposes of the Firm's legitimate interests in pursuing the purposes set out in clause 22.3.3 (which are not overridden by prejudice to the relevant individuals' privacy); and/or (ii) in some cases, necessary so that the Firm can comply with Applicable Regulations;

22.3.5 that the Firm may disclose the personal data of those individuals to persons in the categories identified in clause 22.1 (*Confidentiality of Client information*);

22.3.6 that this may involve transfer of the personal data of those individuals outside the UK, but that, except where the country to which the data are transferred has been determined to ensure an adequate level of data protection for the purposes of UK data protection law by the Secretary of State [or the Firm needs to make the transfer in order to perform a contract concluded in the interests of the relevant individual], the Firm will ensure that the transferred personal data are protected by [a data

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

transfer agreement in the appropriate standard form under UK data protection law [or specify other basis – such as binding corporate rules – on which transfer may be justified]] (and that further details of these transfers and copies of these [agreements] are available from the Firm on request);

22.3.7 that the Firm will retain the personal data of those individuals for [specify retention period (i.e. maximum period for which data will be retained) or criteria used to determine the retention period]; and

22.3.8 that those individuals: (i) have rights of access to and rectification or erasure of their personal data and to restrict or object to its processing, which they can exercise by contacting the Firm (see clause 22.3.2); and (ii) can lodge complaints about the Firm's processing of their personal data with the office of the Information Commissioner (<https://www.ico.org.uk>.)]]

23 INFORMATION COLLECTION, FATCA AND REPORTING

23.1 **Collection of information:** The Client will promptly provide the Firm with any information the Firm determines is required, permitted or desirable to enable the Firm or any Associate of the Firm to comply with any Applicable Regulations, to respond to requests from any Infrastructure or regulatory body in relation to the Client's orders or Transactions or other matters relating to the Services (including the identity of Clients given direct access to a trading venue by electronic means). The Client agrees to co-operate with the Firm and that any information relevant to the enquiry may be passed to any Associate of the Firm or any Infrastructure or regulatory body as may be appropriate and the Client will update that information or data as required by the Firm from time to time. The Client will notify the Firm in writing within 30 days of any material change in the validity of, or information contained in, any information that the Client has previously provided to the Firm further to this clause 23.1. If the relevant information relates to a third party (including a client of the Client for whom the Client is providing related services), the Client will procure the third party's consent to such disclosure.

23.2 **FATCA reporting:** The Firm (which for the purposes of this clause 23.2 includes its Associates and the agents and service providers of any of them) may collect, store and process information obtained from the Client or otherwise in connection with the Agreement and the Transactions for the purpose of complying with FATCA, including disclosures between themselves and to governmental authorities. The Client acknowledges that this may include transfers of information to jurisdictions which do not have strict data protection laws, data privacy laws or banking secrecy laws. The Client will ensure that, before it or anyone on its behalf discloses information relating to any third party to the Firm in connection with the Agreement or the Transactions, that third party has been provided with such information and has given such consents or waivers as are necessary to allow the Firm to collect, store, process and disclose his, her or its information for the purpose of complying with FATCA as described in this clause 23.2.

23.3 **Other reporting:** Without prejudice to any provision of this Client Clearing Agreement relating to information or data or its disclosure, the Client consents to the disclosure by the Firm or its Associates of any information or data in connection with or relating to the Client, the Agreement and/or any Transaction (including pricing data) to the extent that the Firm determines is required, permitted or desirable to comply with Applicable Regulations, to

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

respond to requests from any Infrastructure or regulatory body in relation to the Client's orders or Transactions or to perform the Services. If the relevant information relates to a third party (including a client of the Client for whom the Client is providing related services), the Client will procure the third party's consent to that disclosure.

24 VOLUNTARY TERMINATION

24.1 *Termination of a Clearing Service and/or this Client Clearing Agreement:* Either Party may terminate any Agreed CCP Service and/or this Client Clearing Agreement (and, in the case of termination of this Client Clearing Agreement, the relationship between the Parties) for no reason by giving [●] days' written notice of termination to the other or the Firm may terminate immediately on notice following an Event of Default or in accordance with clause 2.2 (*Acting as general clearing member*).

24.2 *Termination of the Segregated Assets Arrangement:* Each Party acknowledges and agrees that neither Party shall exercise its rights under the Segregated Asset Terms to terminate the Segregated Assets Arrangement other than in a manner consistent with the Agreement.

25 CONSEQUENCES OF VOLUNTARY TERMINATION

25.1 *Surviving terms:* If this Client Clearing Agreement is terminated in accordance with clause 24.1 (*Termination of a Clearing Service and/or this Client Clearing Agreement*), outstanding rights and obligations (including those relating to netting and indemnities, those relating to margin, payments and deliveries and those created by the miscellaneous and governing law clauses) will survive the termination of this Client Clearing Agreement. Subject to the exercise of the Firm's powers under clause 25.2 (*Additional powers on termination of this Client Clearing Agreement*), clause 25.4 (*Additional powers on termination of a Clearing Service*) and clause 25.5 (*Active management*), the outstanding rights will continue to be governed by its provisions until all obligations have been fully performed.

25.2 *Additional powers on termination of this Client Clearing Agreement:* If this Client Clearing Agreement terminates in accordance with clause 24.1 (*Termination of a Clearing Service and/or this Client Clearing Agreement*), the Firm and, at the Firm's discretion, its Associates, will be entitled without prior notice to the Client, other than in respect of Segregated Assets²⁰:

25.2.1 instead of returning to the Client, or accounting for, investments equivalent to those credited to the Client's account, to pay to the Client the fair market value of those investments at the time the Firm exercises this right;

25.2.2 to sell any of the Client's investments that are in the Firm's possession (or in the possession of any nominee or third party) as the Firm may select and upon the terms as the Firm may think fit (without being responsible for any Loss or diminution in price) in order to realise funds sufficient to cover any amount due from the Client;

²⁰ *Drafting Note: If the Firm wishes to exercise these powers in respect of Segregated Assets, it could terminate the Transactions following the voluntary resignation of the Client, with any termination amounts payable by the CCP following such termination falling outside the Segregated Assets, allowing the Firm to exercise the powers described in this clause 25.2.*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES

NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

- 25.2.3** to close out, replace or reverse any Transaction, buy, sell, borrow or lend or enter into any other transaction (or combination of transactions) or contract, open any new positions, or take, or refrain from taking, any other action in the Firm's discretion to cover, reduce, hedge, manage or eliminate its risk or Loss under or in respect of any of the Client's contracts, positions or commitments;
- 25.2.4** to treat any (or all) instructions received from the Client which have not been effected by the Firm as having been repudiated; and/or
- 25.2.5** to transfer any outstanding Transactions to another clearing member.
- 25.3** **Consequences of termination of Transactions:** The Parties acknowledge and agree that any Transactions terminated pursuant to clause 25.2 (*Additional powers on termination of this Client Clearing Agreement*) will no longer be subject to the Segregated Asset Terms as provided in clause 18 (*Effect of termination and transfers of Transactions*).
- 25.4** **Additional powers on termination of a Clearing Service:** If a Clearing Service terminates in accordance with clause 24.1 (*Termination of a Clearing Service and/or this Client Clearing Agreement*), the Firm and, at the Firm's discretion, its Associates, will be entitled in respect of any Transactions related to such terminated Clearing Service without prior notice to the Client to exercise the rights set out in clause 25.2.3, 25.2.4 or 25.2.5 in connection with the Transactions associated to the terminated Clearing Service.
- 25.5** **Active management:** If the Firm exercises any of its powers under clause 25.2 (*Additional powers on termination of this Client Clearing Agreement*) or clause 25.4 (*Additional powers on termination of a Clearing Service*) to terminate or close out any Transactions, the Firm shall be entitled to determine the resultant amount (if any) owed by the Firm or the Client in relation to those Transactions in accordance with clause 11.2 (*Consequences of an Event of Default*) as if an Event of Default had occurred in respect of the Client. The Client agrees that, for these purposes, the Firm is entitled to take into account any Losses realised in closing out any Transactions or settling or concluding outstanding obligations incurred by the Firm on the Client's behalf.

[The Firm's rights under this clause 25 apply separately to each Transaction and the Firm does not need to account for a single amount payable by the Firm or the Client in respect of all Transactions. Any account for payment in relation to closed-out or terminated Transactions will not prejudice the Firm's surviving rights in relation to Transactions which have not been closed out or terminated (including the Firm's right to charge amounts under clause 26.4 (*Charges*), to demand amounts under applicable indemnities, to demand payments and deliveries due in respect of those Transactions pursuant to clause 6.1 (*Performance and settlement*) and to make margin calls in respect of those Transactions).]

- 25.6** **Right of Retention:** If this Client Clearing Agreement terminates in accordance with clause 24.1 (*Termination of a Clearing Service and/or this Client Clearing Agreement*), the Firm will not be obliged to make any payment or delivery scheduled to be made by it in respect of a Transaction or to repay cash or return any Title Transfer Assets or perform any other obligation under the Agreement to the extent that the Firm determines that margin may be required to be posted under any relevant Rules or to the extent that the Client owes, or may owe, obligations to the Firm.

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

26 PAYMENTS AND DELIVERIES

- 26.1 *Payments, deliveries and other obligations:*** Subject to clause 11.2 (*Consequences of an Event of Default*), the Firm will not be obliged to make any payment or delivery scheduled to be made by it in respect of a Transaction or to repay cash or return any part of the Title Transfer Balance or perform any other obligation under the Agreement for as long as an Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination under this Client Clearing Agreement, or any combination thereof) an Event of Default has occurred and is continuing.
- 26.2 *Withholding:*** The Firm may make any deduction, including a FATCA Deduction, that it is required to make by any Applicable Regulations and any payment required in connection with that deduction, including any payment in connection with FATCA. The Firm will not be required to increase any payment or otherwise compensate the Client for any payment in respect of which it makes a deduction, including a FATCA Deduction.
- 26.3 *Gross-up:*** All payments under this Client Clearing Agreement by the Client to the Firm will be made free of and without withholding or deduction, including on account of any taxes, duties, assessments or governmental charges of whatsoever nature imposed, withheld or assessed by any relevant tax authority, unless required by Applicable Regulations, in which case the Client will pay such additional amounts as will result in the receipt by the Firm of an amount which it would have received had no deduction or withholding been made.
- 26.4 *Charges:*** The Client will pay the Firm's charges as notified by the Firm, including:
- 26.4.1** any fees, commissions or other charges charged by the Firm for the provision of the Services (including any minimum account fee);
 - 26.4.2** any taxes or duties imposed by any competent authority on any account opened or Transaction cleared for the Client;
 - 26.4.3** any fees or other charges imposed by any Infrastructure, or any Associate or service provider involved in the provision of the Services or which the Firm agrees to be responsible for under a give-up agreement;
 - 26.4.4** any fines imposed by any competent authority where attributable to the Client's conduct; and
 - 26.4.5** any other value added or other applicable taxes in respect of any of the foregoing, including any withholding tax.
- These amounts will be payable on the due date specified by the Firm or otherwise on demand.
- 26.5 *Payments:*** All payments to the Firm under this Client Clearing Agreement (other than margin) will be made, unless otherwise agreed, in same day funds in any currency which the Firm may specify from time to time to the bank account designated by the Firm for such purposes.
- 26.6 *Currency conversion:*** If the Client provides cash to the Firm in a currency other than that in which the Client's obligation is denominated, the Firm may (at the Client's cost) convert the currency provided so as to satisfy the obligation to the extent possible.

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

- 26.7 *Default and Negative Interest:*** The Firm may charge interest on any amount due to the Firm at the rates then charged by the Firm which are available on request. In relation to any monies held by the Firm for the Client, the Firm may charge negative interest where appropriate.
- 26.8 *Remuneration and inducements:*** The Firm may, with the Client's agreement, receive remuneration from or share charges with an Associate or with a third party in connection with the provision of Services for the Client's account where this is designed to enhance the quality of the service provided to the Client. The Firm will upon request disclose such remuneration or sharing arrangements to the Client, together with the calculation methodology used to calculate such payments.

27 RECORDS, NOTICES AND CONTRACTUAL ARRANGEMENTS

- 27.1 *Modification of terms:*** The Firm may change the terms of this Client Clearing Agreement (but not, for the avoidance of doubt, the Segregated Asset Terms) immediately upon giving written notice where required by Applicable Regulations or by giving at least [10] Business Days' written notice to the Client and any change will take effect on the date specified in the notice. Unless otherwise agreed or required by Applicable Regulations, an amendment will not affect any outstanding order or Transaction or any legal rights or obligations which may already have arisen.

- 27.2 *Notices:*** Unless otherwise agreed:

27.2.1 all notices, instructions and other communications to be given by the Firm or the Client under the Agreement other than communications relating to the matters referred to in clause 27.2.2 will be given to the address (whether electronic or otherwise) provided by the other Party for this purpose in the Annex or otherwise notified by the addressee from time to time; and

27.2.2 all notices and other communications to be given by the Firm or the Client relating to close-out or termination (whether voluntary or involuntary) or determinations of any Shortfall Amount will be delivered to the other party at the physical address[, fax number] or email address provided by the other Party for this purpose in the Annex or otherwise notified by the addressee from time to time.

The Client will notify the Firm of any change of the Client's address in accordance with this clause 27.2.

- 27.3 *Effectiveness of notices:*** Notices, instructions and other communications given in accordance with clause 27.2 (*Notices*) will only be effective on the date indicated below (or, if that day is not a Business Day or the notice is given after 5:00 p.m. in the place of receipt, the immediately following Business Day):

27.3.1 if in writing and delivered in person or by courier, on the date it is delivered;

27.3.2 if by way of fax, when received in legible form;

27.3.3 if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date it is delivered or its delivery is attempted;

27.3.4 if sent by email, on the date it is delivered; and

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

27.3.5 if sent by any other electronic messaging system, on the date it is received.

27.4 [*Deliveries of notices for CDS Transactions and other services:* The Client acknowledges that, in relation to any credit default swap Transactions and certain other services, Infrastructures have established cut-off times for the delivery of notices and that the Firm may designate notice cut-off times which are earlier than those specified by Infrastructures. If the Client does not instruct the Firm by the applicable cut-off time, the Firm will have no liability for the relevant notice not being delivered or (if applicable) the relevant Transaction not being exercised or settled in accordance with that notice. In the absence of instructions from the Client, the Firm may send notices relating to any Transaction or any other service where it deems it appropriate to do so.]

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

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

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

28 CLIENT ACKNOWLEDGEMENTS

28.1 *Firm relationship with Agreed CCP:* The Client hereby acknowledges and agrees that the Firm shall enter into Transactions with each Agreed CCP as principal and that the Client shall have no rights against any Agreed CCP to enforce any term of that Transaction.

28.2 *Settled Assets:* The Client further acknowledges and agrees that Settled Assets (and assets which would have been Settled Assets were they not Deemed Settled Assets instead) will cease to be subject to the Segregated Assets Arrangement in accordance with paragraph 1.6 (*Nature of beneficial interest and entitlement*) of the Segregated Asset Terms, following which any claim of the Client to payment or delivery of Equivalent Settled Assets in respect of those Settled Assets and Deemed Settled Assets will rank as a senior, unsecured claim against the Firm.

29 DISCLOSURES

29.1 *Complaints procedure:* The Firm is obliged to put in place internal procedures for handling complaints fairly and promptly. The Client may submit a complaint to the Firm, for example by letter, telephone, email or in person. The Firm will send the Client a written acknowledgement of the Client's complaint promptly following receipt, enclosing details of

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

the Firm's complaints procedures, including when and how the Client may be able to refer the Client's complaint to the Financial Ombudsman Service. The Client should contact the Firm if the Client would like further details regarding the Firm's complaints procedures.

- 29.2** [*Investor protection schemes*: The Firm is a member of the Financial Services Compensation Scheme (the "**Scheme**") in the UK. 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 and deposits respectively are currently subject to a maximum payment to any eligible person of GBP 85,000. Further details of the Scheme are available on request or at the Scheme's official website at <https://www.fscs.org.uk/>.]

30 MISCELLANEOUS

- 30.1** *Base Currency*: For the purposes of any calculation under the Agreement, the Firm may convert amounts denominated in any currency into the Base Currency at such rate prevailing at the time of the calculation as the Firm reasonably selects.
- 30.2** *Third Party Rights*: This Client Clearing Agreement will be for the benefit of and binding upon the Firm and the Client and their respective successors and assigns. A person who is not a party to this Client Clearing Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999, except that each Associate may enforce terms which purport to confer a benefit on it in accordance with the terms of this Client Clearing Agreement and the Contracts (Rights of Third Parties) Act 1999.
- 30.3** *Transfer*: The Client will not assign, charge or otherwise transfer or purport to assign, charge or otherwise transfer the Client's rights or obligations under the Agreement, or any interest in the Agreement, without the Firm's prior written consent, and any purported assignment, charge or transfer in violation of this clause 30.3 will be void. The Firm may transfer its rights and obligations under the Agreement without the Client's consent pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity.
- 30.4** *Time of essence*: Time is of the essence in respect of all obligations of the Client under the Agreement.
- 30.5** *Rights and remedies*: The rights and remedies provided under the Agreement are cumulative and not exclusive of those provided by law. The Firm will be under no obligation to exercise any right or remedy available to it either at all or in a manner or at a time beneficial to the Client. No failure by the Firm to exercise, or delay by the Firm in exercising, any of the Firm's rights under the Agreement or otherwise will operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy will prevent further exercise of that right or remedy or the exercise of another right or remedy.
- 30.6** *Partial invalidity*: If, at any time, any provision of the 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 the Agreement, nor the legality, validity or enforceability of those provision under the law of any other jurisdiction will in any way be affected or impaired.

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

- 30.7** [**Mandatory CCP Provisions:** In entering into this Client Clearing Agreement, [each of the Firm and] the Client represents that it is aware of the Rules of the related Clearing Service and agrees to be bound by and comply with the Mandatory CCP Provisions of the related Clearing Service.]
- 30.8** **Counterparts:** This Client Clearing Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Client Clearing Agreement.
- 30.9** **Entire Agreement:** This Client Clearing Agreement constitutes the entire agreement and understanding of the Parties with respect to its subject matter and, together with the Segregated Assets Arrangement, constitutes the singular, entire arrangement between the Firm and the Client with regard to the Services. The Client acknowledges that in entering into this Client Clearing Agreement it has not relied on any oral or written representation, warranty or other assurance (except as provided for or referred to in this Client Clearing Agreement) and waives all rights and remedies which might otherwise be available to it in respect thereof, except that nothing in this Client Clearing Agreement will limit or exclude any liability of a Party for fraud.

31 GOVERNING LAW AND JURISDICTION

- 31.1** **Governing law:** This Client Clearing Agreement and all non-contractual obligations and other matters arising from or in connection with this Client Clearing Agreement will be governed by and construed in accordance with English law.
- 31.2** [**Jurisdiction:** Each of the Parties irrevocably:
- 31.2.1** agrees, subject to 31.2.3, that the courts of England and Wales have exclusive jurisdiction to settle any dispute arising from or in connection with the Agreement and, for that purpose, submits to the jurisdiction of the courts of England and Wales;
 - 31.2.2** waives any grounds for objection that it may otherwise have to the courts of England and Wales settling any disputes arising from or in connection with the Agreement and, accordingly, agrees not to contend that the courts of England and Wales are an inappropriate or inconvenient forum or otherwise should not exercise their jurisdiction to settle any such dispute; and
 - 31.2.3** agrees that nothing in this clause 31.2 prevents the Firm from taking proceedings in any other court with jurisdiction or, to the extent allowed by law, from taking concurrent proceedings in more than one court.]

[OR]

- 31.2** [**Jurisdiction:** Each of the Parties irrevocably:
- 31.2.1** agrees that the courts of England and Wales have exclusive jurisdiction to settle any dispute arising from or in connection with the Agreement and, for that purpose, submits to the jurisdiction of the courts of England and Wales; and
 - 31.2.2** waives any grounds for objection that it may otherwise have to the courts of England and Wales settling any disputes arising from or in connection with the Agreement and, accordingly, agrees not to contend that the courts of England and Wales are an

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

inappropriate or inconvenient forum or otherwise should not exercise their jurisdiction to settle any such dispute.]

- 31.3 Service of process:** If the Client is situated outside England and Wales, process by which any proceedings in England are begun may be served on the Client by being delivered to the address in England or Wales nominated by the Client for this purpose in the Annex. This does not affect the Firm's right to serve process in another manner permitted by law.
- 31.4 [Waiver of immunity and consent to enforcement:** The Client irrevocably waives to the fullest extent permitted by applicable law, with respect to the Client and its revenue and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from: (i) suit; (ii) jurisdiction of any courts; (iii) relief by way of injunction, order for specific performance or for recovery of property; (iv) attachment of assets (whether before or after judgment); and (v) execution or enforcement of any judgment to which the Client or the Client's revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction and irrevocably agrees that the Client will not claim any immunity in any proceedings. The Client consents generally in respect of any proceedings to the giving of any relief or the issue of any process in connection with such proceedings, including the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such proceedings.]

32 INTERPRETATION

- 32.1 Definitions:** In this Client Clearing Agreement:

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

"Account" has the meaning given to that term in clause 2.8 (*Records*);

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

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

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

"Applicable Regulations" means:

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

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

“Associate” means:

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

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

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

“CCP” has the meaning given to that term in paragraph 9.1 (*Definitions*) of the Segregated Asset Terms;

“CCP Default” has the meaning given to that term in clause 13.1 (*CCP Default*);

“Cleared Transaction Set” means all Transactions which are cleared through the same Agreed CCP and which are recorded to the same account at the Agreed CCP or, where there are sub-accounts at the Agreed CCP, the same sub-account;

“Clearing Eligible Trade” means, with respect to an Agreed CCP and an Agreed CCP Service, any over-the-counter swap, forward, option or similar transaction capable of being cleared by the Firm as general clearing member of an Agreed CCP on behalf of the Client using such Agreed CCP Service and in accordance with the terms of this Client Clearing Agreement and which is of a type specified in respect of such Agreed CCP Service in Table A;

“Clearing Service” means any clearing service, including an Agreed CCP Service;

“Client Clearing Agreement” means the Agreement other than the Segregated Asset Terms;

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

“Close-out Transaction” means, with respect to a Transaction:

- (a) one or more cleared derivatives transactions (which transactions may be executed with an Affiliate of the Firm or an unaffiliated third party) that (1) are cleared through the same Agreed CCP Service as such Transaction and (2) in accordance with the applicable Rule Set, result in a proportional offset and close-out of such Transaction at the relevant Agreed CCP Service; or
- (b) a transfer, including by way of assignment, novation or termination and replacement, of the Firm's rights, obligations and interest in or under such Transaction as a result of which the obligations of the Firm in respect of the Transaction are substituted or replaced, in whole or in part, with the obligations of an assignee or transferee (and the Firm's corresponding obligations are extinguished);

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

“Compressed” means, in respect of two or more Transactions, having the same or offsetting terms (other than notional amounts) (the **“Existing Transactions”**), the termination of such Existing Transactions and, where they do not give rise to an exact offset, replacement with a single Transaction, which represents the net economic position of the Existing Transactions, or any contractual netting, trade compression or other similar process, howsoever described, that has an equivalent effect;

“Conditions to Clearing” has the meaning given to that term in clause 3.4 (*Conditions for accepting Clearing Eligible Trades for clearing*);

[**“Credit Support Document”** has the meaning given to that term in clause 10.1.3;]

[**“Credit Support Provider”** means any person who has entered into any guarantee, hypothecation, agreement, margin or security agreement in favour of the Firm in respect of the Client’s obligations under this Client Clearing Agreement;]

“Deemed Settled Assets” has the meaning given to that term in paragraph 9.1 (*Definitions*) of the Segregated Asset Terms;

“Default” has the meaning given to that term in clause 14.1 (*Hierarchy of events*);

“Distribution” has the meaning given to that term in clause 7.3.1 (*Distributions*);

“EATM Beneficiary” has the meaning given to that term in paragraph 9.1 (*Definitions*) of the Segregated Asset Terms;

“EATM Client” has the meaning given to that term in paragraph 9.1 (*Definitions*) of the Segregated Asset Terms;

“EATM Conversion” has the meaning given to that term in clause 3.6.2(ii) (*Conversion to Principal Model Agreement*);

“EATM Conversion Set” means all Transactions that are cleared by the Firm on behalf of the Client pursuant to this Client Clearing Agreement at the same Agreed CCP Service;

“EATM Conversion Time” means the time and date agreed between the Parties on which an EATM Conversion will be effected;

“EATM Conversion Transaction” has the meaning given to that term in clause 3.6.2(i) (*Conversion to Principal Model Agreement*);

“Equivalent Distributions” has the meaning given to that term in clause 7.3.1(i) (*Distributions*);

“Equivalent Settled Assets” has the meaning given to that term in paragraph 9.1 (*Definitions*) of the Segregated Asset Terms;

“Equivalent Title Transfer Assets” means cash, securities and/or other assets of the same type, nominal value, description and amount as any Title Transfer Asset in respect of the Transaction (or, if any Title Transfer Assets have been redenominated, converted, redeemed or otherwise modified, cash, securities and/or other assets of the same type, nominal value, description and amount of the cash, securities and/or other assets into which Title Transfer Assets have been redenominated, converted, redeemed or otherwise modified);

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND ‘NICE TO HAVE’ AMENDMENTS VERSION

“Erroneous Payment” means a payment of an amount by the Firm which the Firm determines (in its sole discretion) was made in error;

“EU” means the European Union;

“Event of Default” has the meaning given to that term in clause 10.1 (*Events of Default*);

“Existing Transactions” has the meaning given to that term in the definition of “Compressed”;

“FATCA” means:

- (a) sections 1471 to 1474 of the US Internal Revenue Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction;

“FATCA Deduction” means a deduction or withholding from a payment under the Agreement required by FATCA;

“FCA” means the Financial Conduct Authority;

“FCA Rules” means the FCA’s handbook of rules and guidance;

“Firm Trigger Event” has the meaning given to that term in clause 12.1 (*Firm Trigger Event*);

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

“Insolvency Event” means, in relation to any person:

- (a) the person commences a voluntary case or other procedure seeking or proposing liquidation, administration, reorganisation (by way of voluntary arrangement, scheme of arrangement or compromise or arrangement), moratorium, or other similar relief or the equivalent in another jurisdiction with respect to the person or the person’s debts under any insolvency, regulatory, corporate or similar law, or seeking the appointment of a receiver, liquidator, administrator or other similar official, or the equivalent in another jurisdiction (each an **“Insolvency Official”**) of the person or any substantial part of the person’s assets, or the person proposes a compromise or composition with its creditors, or the person takes any corporate action to authorise any of the foregoing;
- (b) an involuntary case or other procedure is commenced against the person, seeking or proposing liquidation, administration, reorganisation or moratorium, or other similar relief or the equivalent in another jurisdiction with respect to the person or the person’s debts under any insolvency, regulatory, corporate or similar law or seeking the appointment of an Insolvency Official of the person or any substantial part of the person’s assets; and/or

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

- (c) the person is unable to pay its debts as they fall due or is bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to the person; or any indebtedness of the person is not paid on the due date, or becomes capable at any time of being declared due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or any suit, action or other proceedings relating to this Client Clearing Agreement are commenced for any execution, any attachment or garnishment, or distress against, or an encumbrancer takes possession of, the whole or any part of the person's property, undertaking or assets (tangible and intangible);

"Loss" or **"Losses"** has the meaning given to that term in paragraph 9.1 (*Definitions*) of the Segregated Asset Terms;

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

"Margin Requirement" has the meaning given to that term in clause 6.1.1 (*Performance and settlement*);

"Net Termination Amount" means the Value of the Title Transfer Balance minus: (i) any Shortfall Amounts; and (ii) any other liabilities owing to the Firm after all amounts due in respect of the Event of Default have been calculated in accordance with clauses 11 (*Rights of the Firm following an Event of Default*) and 15 (*Shortfall Amounts*);

"Net Termination Date" has the meaning given to that term in clause 16.1 (*Net Termination Date*);

"Offsetting Conditions" has the meaning given to that term in clause 5.2 (*Acceptance of an Offsetting Transaction*);

"Offsetting Transaction" has the meaning given to that term in clause 5.1 (*Offsetting trades*);

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

"Performance Criteria" means:

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

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

- (f) any margin provided to the Firm by the Client;
- (g) the Client's operational resources, including technological interfaces and connectivity; and
- (h) any involvement of the Client in a breach of the rules ensuring the integrity of the financial markets, including involvement in market abuse, financial crime or money laundering activities,

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

"Posted Margin" has the meaning given to that term in clause 7.5.2;

"Principal Model Agreement" means an agreement entered into by a clearing member and a client for the provision of clearing services to the client whereby that clearing member and its client enter into a back-to-back transaction in respect of each transaction cleared by that clearing member through a CCP, including all associated agreements for the provision of margin in respect of such agreement;

"Principal Model Conversion" has the meaning given to that term in clause 3.6.1(ii) (*Conversion from Principal Model Agreement*);

"Principal Model Conversion Set" means all Principal Model Firm/CCP Transactions that are cleared by the Firm at the same CCP service;

"Principal Model Conversion Time" means the time and date agreed between the Parties on which a Principal Model Conversion will be effected;

"Principal Model Conversion Transaction" has the meaning given to that term in clause 3.6.1(i) (*Conversion from Principal Model Agreement*);

"Principal Model Firm/CCP Transaction" means a transaction between the Firm and a CCP cleared or to be cleared by the Firm on behalf of the Client pursuant to a Principal Model Agreement;

"Principal Model Margin" means, in the context of a Principal Model Conversion, all margin delivered between the Parties under a Principal Model Agreement relating to the Principal Model Conversion Transactions that has not yet been redelivered in accordance with its terms and, in the context of an EATM Conversion, margin required to be delivered between the Parties under a Principal Model Agreement relating to the EATM Conversion Transactions;

"Principal Model Transaction" means any transaction entered into by the Firm with a CCP in relation to a clearing service provided pursuant to a Principal Model Agreement;

"Relevant Value" means the value of a Transaction as of the time at which it was transferred to the proprietary account of the Firm following an Event of Default, as determined by the Firm (acting in a commercially reasonable manner) and which may take into account any cost, loss or, as the case may be, gain of the Firm as a result of the transfer of such Transaction to its proprietary account and which shall be positive if the value reflects a gain to the Firm and negative if the value reflects a Loss to the Firm;

"Risk Hedging Transaction" means, with respect to a Transaction or a portfolio of Transactions, a transaction (which transaction may be executed internally with the Firm or

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

with an Affiliate of the Firm or an unaffiliated third party), other than a Close-out Transaction, that is reasonably designed to hedge, mitigate or eliminate, in whole or in part, whether on an individual transaction or portfolio basis, the market risk associated with the relevant Transactions, including a transaction that hedges, mitigates or eliminates such risk across Transactions related to more than one Cleared Transaction Set;

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

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

"Segregated Account" has the meaning given to that term in paragraph 9.1 (*Definitions*) of the Segregated Asset Terms;

"Segregated Assets" has the meaning given to that term in paragraph 9.1 (*Definitions*) of the Segregated Asset Terms;

"Segregated Assets Arrangement" has the meaning given to that term in paragraph 9.1 (*Definitions*) of the Segregated Asset Terms;

"Segregated Assets Arrangement Liability" has the meaning given to that term in paragraph 5.1 (*Indemnity*) of the Segregated Asset Terms;

"Segregated Asset Terms" means the terms identified as the "EATM Segregated Asset Terms" (as amended from time to time in accordance with its terms) under which the Firm will hold certain assets for the benefit of the Client and all other EATM Beneficiaries, the version as of the date of this Client Clearing Agreement of which is appended to this Client Clearing Agreement as Schedule 1 (*Segregated Asset Terms*);

"Services" has the meaning given to that term in clause 2.1 (*General*);

"Settled Assets" has the meaning given to that term in paragraph 9.1 (*Definitions*) of the Segregated Asset Terms;

"Shortfall Amount" means an amount that is calculated, from time to time, as due from the Client to the Firm following the occurrence of an Event of Default, a Firm Trigger Event or a CCP Default, equal to: (i) any payment or delivery due from the Firm to an Agreed CCP Service in respect of a Transaction; or (ii) any amount that is calculated as due in accordance with clause 11.2.4 or 11.2.5, in each case, and without double counting, plus any outstanding fees, costs or other amounts owed by the Client to the Firm under this Client Clearing Agreement;

"Specified Transaction" has the meaning given to that term in clause 5.1 (*Offsetting trades*);

"Title Transfer Assets" means: (a) any Settled Assets that are received, or Deemed Settled Assets that are deemed received, by the Firm in respect of the Client; and (b) any payments

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

or deliveries made by the Client to the Firm, in each case that have been transferred to the Firm by way of title transfer;

"Title Transfer Balance" means all Title Transfer Assets (including any Title Transfer Assets that have been redenominated, converted, redeemed or otherwise modified), which shall be reduced (including to a negative balance) by those Title Transfer Assets or Equivalent Title Transfer Assets in respect of those Title Transfer Assets that have been: (a) transferred to the Client or an Agreed CCP Service in respect of the Client; or (b) applied against, and in satisfaction of, any liabilities (other than liabilities arising in respect of margin calls) due from the Client to the Firm in accordance with the Client Clearing Agreement (avoiding double counting in respect of clauses 6.1 (*Performance and settlement*) and clause 6.2 (*Margin calls*));

"Title Transfer Provisions" means the terms set out in clause 7 (*Title Transfer Provisions*);

"Title Transfer Balance Value" means the amount (which may be positive or negative) equal to: (i) the aggregate net Value of the Title Transfer Balance, after offsetting any positive Values against any negative Values, in each case of the Title Transfer Assets, minus: (ii) the Value of any liabilities (other than liabilities arising in respect of margin calls) outstanding from the Client to the Firm in accordance with the Client Clearing Agreement (avoiding double counting in respect of clauses 6.1 (*Performance and settlement*) and 6.2 (*Margin calls*), but including any Shortfall Amounts), which have not otherwise been applied so as to reduce the Title Transfer Balance.

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

"transaction" means any of the following:

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

[in any of cases (a), (b) and (c) being a future, option, contract for differences, spot or forward contract of any kind in relation to any commodity, metal, financial instrument (including any security), currency, interest rate, index or any combination thereof;]²¹

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

"Transfer Conditions" has the meaning given to that term in clause 4.3 (*Transfer Conditions*);

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

²¹ *Drafting Note: To refine this list of transactions dependent on those contemplated.*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

“**US**” means the United States of America; and

“**Value**” means, with respect to margin or other assets, in the case of:

- (a) cash, the amount of the cash expressed in the Base Currency (as converted, where relevant, in accordance with clause 30.1 (*Base Currency*));
- (b) securities for which prices are publicly quoted, an amount expressed in the Base Currency and reasonably determined by the Firm as reflecting the value of the securities, by reference where reasonably practicable to independent price sources;
- (c) other Acceptable Margin, Title Transfer Assets or Equivalent Title Transfer Assets, an amount expressed in the Base Currency and reasonably determined by the Firm as reflecting the value of the Acceptable Margin or Equivalent Title Transfer Assets, by reference where reasonably practicable to independent price sources; and
- (d) items that are not Acceptable Margin or otherwise permissible under clause 6.3 (*Form of margin*), zero for the purposes of determining the Client's compliance with any margin obligation, and otherwise in accordance with paragraph (a), (b) or (c) above,

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

32.2 General interpretation: In this Client Clearing Agreement:

32.2.1 a reference to:

- (i) a “clause”, “Annex” or “Schedule” will be construed as a reference to, respectively, a clause of or an annex or schedule to this Client Clearing Agreement, unless the context requires otherwise;
- (ii) any statute or statutory instrument or Applicable Regulations includes any modification, amendment, extension or re-enactment thereof, as in force from time to time;
- (iii) a “document”, “clause”, “Annex”, “Schedule” or “agreement” (including the Agreement) is a reference to that document, clause, annex, schedule or agreement as supplemented, modified or replaced from time to time and will be construed to include any electronic document or agreement;
- (iv) “include” will be construed to be without limitation;
- (v) a person may refer to either a natural or legal person and includes a reference to that person's legal personal representatives, successors and permitted assigns and transferees; and
- (vi) “margin” shall include collateral, variation margin, initial margin and payments of principal, coupon and other payments under Transactions;

32.2.2 the masculine includes the feminine and the neuter and the singular includes the plural and vice versa as the context admits or requires;

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

32.2.3 words and phrases defined in the FCA's Rules have the same meaning in this Client Clearing Agreement unless expressly defined in this Client Clearing Agreement; and

32.2.4 any power or right conferred upon the Firm may be exercised by the Firm in its sole and absolute discretion, subject only to Applicable Regulations.

32.3 *Annex and Schedules:*

32.3.1 The clauses contained in the Annex and any attached Schedule(s) (as amended from time to time) will apply.

32.3.2 The Firm may from time to time send to the Client further Annexes in respect of trading venues or Transactions or other matters. In the event of any conflict between the clauses of any Annex and this Agreement, the clauses of the Annex will prevail. The fact that a clause is or is not specifically included in an Annex in respect of one trading venue or Transaction will not preclude a similar clause being expressed or implied in relation to any other trading venue or Transaction. The Firm may amend existing Annexes by giving notice to the Client in advance.

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

**FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION**

ANNEX

- 1 Additional Services** [Not applicable]/[specify]
- 2 Base Currency**
Base Currency: [Not specified]/[specify]
- 3 Alternative Margin:** [Not applicable]/[Applicable]²²
- 4 Excess Margin Posting:** [As may be agreed between the Firm and the Client from time to time] [As specified in Table A in respect of each Agreed CCP Service][The following provisions will apply: [specify].]
- 5 Capacity**
[•]
- 6 Address for Notices**

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

The Firm's Details

For the purposes of clause 27.2.1 (*notices other than those relating to close-out, termination or determinations of any Shortfall Amount*):

Address: [•]
Email address: [•]
Attention: [•]

For the purposes of clause 27.2.2 (*notices relating to close-out, termination or determinations of any Shortfall Amount*):

Name: [•]
Address: [•]
[Fax no: [•]]
[Email address: [•]]

Other contact details:

Telephone no: [•]
Fax no: [•]

The Client's Details

For the purposes of clause 27.2.1 (*notices other than those relating to close-out, termination or determinations of any Shortfall Amount*):

²² *Drafting Note: If the Client is happy to receive alternative margin in accordance with clause 7.5.1, "Alternative Margin" should be specified as "Applicable". If the Client only wants to receive Equivalent Title Transfer Assets in accordance with clause 7.5.2, "Alternative Margin" should be specified as "Not Applicable".*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

Address: [●]

Email address: [●]

Attention: [●]

For the purposes of clause 27.2.2 (*notices relating to close-out, termination or determinations of any Shortfall Amount*):

Name: [●]

Address: [●]

[Fax no: [●]]

[Email address: [●]]

Other contact details:

Telephone no: [●]

Fax no: [●]

7 Service of Process

[Include details of the Parties' service of process agents or the address at which the Firm or Client can be given service of process in England and Wales, where required]

[The indemnity in clause 21.6 (*Indemnity*) shall be extended to cover any Losses which the Firm or its Associates may incur or be subjected to from time to time as a result of the failure of the Client to appoint or maintain an agent to accept service of process on its behalf in England and Wales.]

8 Additional Representations

[Not applicable]/[specify]

9 Other Provisions

[Not applicable]/[specify]

10 Weblinks to Applicable Policy Documents

[specify]]

**FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION**

TABLE A – AGREED CCPS

“Agreed CCP”	“Agreed CCP Service”	Type of Segregated Account and Custodian Details (if applicable)	Mandatory CCP Provisions	Excess Margin Posting
<i>[Insert name of CCP]</i>	<i>[As a Cleared Transaction Set will comprise all Transactions relating to a particular Agreed CCP Service, “Agreed CCP Service” as specified here should reflect the netting set resulting from the Rules of the Agreed CCP]</i>	<i>[Individual Segregation Account/Omnibus Segregation Account]</i>	<i>[Optional – to set out any applicable Mandatory CCP Provisions (see clause 30.7 (Mandatory CCP Provisions))]</i>	<i>[Optional – to set out agreement, if any, in relation to excess margin posting]</i>

**FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION**

EXECUTION SCHEDULE

(A) Client

The Client should address any further queries to the Firm as soon as possible. The Client should complete and sign this Schedule and return one signed copy to the Firm. The Client should arrange for this Client Clearing Agreement to be executed in accordance with applicable law.

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

Executed for and on behalf of[*name of Client*]

By:

Signed:.....

Signed:.....

[*name*]

[*name*]

[*title*]

[*title*]

In the presence of:

[*Include details of witness where required*]

(B) Firm

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

Executed for and on behalf of[*name of Firm*]

By:

Signed:.....

Signed:.....

[*name*]

[*name*]

[*title*]

[*title*]

In the presence of:

[*Include details of witness where required*]

**FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION**

SCHEDULE 1

SEGREGATED ASSET TERMS

For the purposes of each EATM Client's EATM Agreement these terms will be the "EATM Segregated Asset Terms".

1 Segregated Assets Arrangement

- 1.1 *Trust relationship:*** The Firm shall hold the Segregated Assets on a single bare trust for itself and the EATM Clients (together the "**EATM Beneficiaries**"), as sole beneficiaries of that trust, and which together, if more than one, have, as tenants in common, a shared absolute beneficial interest in the Segregated Assets, in accordance with, and subject to, the terms set out in these Terms. Each EATM Beneficiary agrees that these Terms apply to all EATM Beneficiaries to give rise to a single bare trust.
- 1.2 *Entitlements of EATM Beneficiaries:*** The share, at any time, of each EATM Beneficiary of the beneficial interest in the Segregated Assets is determined by reference to the entries in the books and records of the Firm in respect of each EATM Beneficiary and in accordance with paragraphs 1.3 (*Individual Segregation Accounts*) and 1.4 (*Omnibus Segregation Accounts*) of these Terms.
- 1.3 *Individual Segregation Accounts:*** An EATM Client to whom an Individual Segregation Account relates is, at any time, solely entitled to a portion of the beneficial interest in the Segregated Assets equal to that which derives from the EATM Transactions recorded to that Individual Segregation Account. An EATM Beneficiary (which may be the Firm or an EATM Client to whom an Individual Segregation Account relates) is, at any time, solely entitled to a portion of the beneficial interest in the Segregated Assets equal to that which derives from Excess Collateral held by the CCP in respect of that Individual Segregation Account which is identified in the books and records of the Firm as attributable to that EATM Beneficiary.
- 1.4 *Omnibus Segregation Accounts:*** The EATM Beneficiaries to whom an Omnibus Segregation Account relates have, at any time, a shared entitlement to a portion of the beneficial interest in the Segregated Assets equal to:
- 1.4.1** that which derives from the EATM Transactions recorded to that Omnibus Segregation Account; plus
 - 1.4.2** that which derives from Excess Collateral held by the CCP in respect of that Omnibus Segregation Account which is identified in the books and records of the Firm as attributable to those EATM Beneficiaries,
- with the individual entitlements of each such EATM Beneficiary being such portion of that shared entitlement as is attributed to that EATM Beneficiary in the books and records of the Firm.
- 1.5 *Determining entitlement:*** Each EATM Beneficiary's entitlement to any Segregated Assets held by the Firm shall be determined in accordance with the entries made in the books and

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

records of the Firm and not, for example, in accordance with the chronological order in which Segregated Assets became subject to the Segregated Assets Arrangement²³.

1.6 Nature and satisfaction of beneficial interest and entitlement

1.6.1 No EATM Beneficiary shall have an entitlement to any specific Segregated Asset.

1.6.2 Each EATM Beneficiary's entitlement to its portion of the beneficial interest in the Segregated Assets shall be satisfied to the extent that, in relation to one or more EATM Transactions or Excess Collateral that are attributed to such EATM Beneficiary in the books and records of the Firm:

- (i) Equivalent Settled Assets are delivered to, or to the order of, such EATM Beneficiary in accordance with paragraph 1.6.3 of these Terms; and/or
- (ii) the Firm's rights against such EATM CCP in connection with such EATM Transactions cease to be held by the Firm by operation of the CCP Rules of an EATM CCP,

and in each case upon such occurrence any Settled Assets (and any assets which would have been Settled Assets were they not Deemed Settled Assets instead) which gave rise to the entitlement to such Equivalent Settled Assets and/or the Firm's rights against such EATM CCP in connection with such EATM Transactions shall cease, for the avoidance of doubt, to be Segregated Assets.

1.6.3 The Firm shall immediately on receipt of Settled Assets, or the deemed receipt of Deemed Settled Assets, that are attributed to an EATM Client in the books and records of the Firm be subject to a contractual delivery obligation for Equivalent Settled Assets under the EATM Agreement to each such EATM Client, following which: (i) the Firm shall allocate such Equivalent Settled Assets to the account at the Firm under the EATM Agreement; and (ii) the shared beneficial entitlement of the EATM Beneficiaries to such Settled Assets (and to assets which would have been Settled Assets were they not Deemed Settled Assets instead) shall, for the avoidance of doubt, have been satisfied by the Firm.

2 Powers and duties of the Firm

2.1 Trustee Act 2000: To the fullest extent permitted by law and subject to paragraph 3.4 (*Contractual amendments*) of these Terms, none of Part I, II, or III of the Trustee Act 2000, including the requirement to discharge the duty of care set out in Section 1(1) of the Trustee Act 2000 in relation to the exercise of any of the Firm's powers, shall apply to the Segregated Assets Arrangement or the Firm's role as trustee of the Segregated Assets Arrangement. The disapplication of those parts or sections of the Trustee Act 2000 shall constitute an exclusion of the relevant parts or sections of the Trustee Act 2000 for the purposes of that Act. For the avoidance of doubt, the disapplication of Part II of the Trustee Act 2000 shall not

²³ *Drafting Note: This provision has been included to ensure that trust law does not operate such that Client's entitlements to transactions recorded to an Omnibus Segregation Account are determined in accordance with the chronological order in which such transactions were credited to that Omnibus Segregation Account.*

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

in any way qualify the trustee's powers of investment arising otherwise than under the Trustee Act 2000.

2.2 Firm's powers: The Firm shall have the powers conferred by these Terms subject to paragraph 3.4 (*Contractual amendments*) of these Terms and the Firm shall be empowered to deal with the Segregated Assets for the purposes and to achieve the objects of this Segregated Assets Arrangement in accordance with the terms set out in these Terms and may do all such other lawful things as are in the opinion of the Firm necessary, desirable, incidental or conducive to the Firm's powers to enable or facilitate the administration of this Segregated Assets Arrangement and as the Firm considers necessary or desirable to give effect to any EATM Agreement (provided that the Firm may not exercise any power to give effect to an EATM Agreement in a manner that would alter the nature or extent of the entitlement of any EATM Beneficiary to its share of the beneficial interest in the Segregated Assets without that EATM Beneficiary's prior written agreement):

2.2.1 Advice: The Firm may, in relation to any of the provisions of these Terms or any other document relating to these Terms, act and rely on the opinion, advice of, report, confirmation, certificate or information (collectively, "**Advice**") obtained from, any lawyer, valuer, accountant (including auditors), surveyor, banker, broker, auctioneer or other expert, irrespective of whether such Advice or any engagement letter: (i) is obtained by or addressed to an EATM Beneficiary or any other person; or (ii) contains a monetary limit on liability or limits the scope and/or basis of such Advice. Any such Advice may be sent or obtained by letter or electronic communication and the Firm shall not be liable to anyone for acting in good faith on any Advice purporting to be conveyed by such means even if it contains some error or is not authentic;

2.2.2 Recovery: The Firm, acting in the interests of the EATM Beneficiaries, may sue for, recover and receive all debts, all sums of money, goods, effects and other things whatsoever, which may become due, owing, payable, or which may belong to it in its capacity as trustee of this Segregated Assets Arrangement but, to the greatest extent permitted by applicable law, shall not be obliged to take or join in any proceedings against any person in connection with any of the matters contemplated herein;

2.2.3 Settlement: The Firm, acting in the interests of the EATM Beneficiaries, may defend, oppose, adjust, settle, compromise or submit to arbitration all accounts, debts, claims, demands, disputes, legal proceedings and matters which may subsist or arise between itself and any other person whatsoever in relation to this Segregated Assets Arrangement and for the purposes aforesaid do and execute all necessary acts and documents; and

2.2.4 Insolvent creditors: The Firm, acting in the interests of the EATM Beneficiaries, may attend all meetings of creditors of any person whatsoever indebted to it as the Firm, whether in provisional or final insolvency, liquidation, judicial management or otherwise and vote for the election of liquidators and/or judicial managers and also vote on all questions submitted to any such meeting of creditors and generally exercise all rights accruing to a creditor.

2.3 No implied duties: To the greatest extent permitted by applicable law, the Firm shall have only those duties, functions, obligations and responsibilities expressly undertaken by it under

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

these Terms (and any other duties, functions and responsibilities incidental thereto) and to the extent that, in acting under these Terms, the Firm is performing functions or services governed by an EATM Agreement, such EATM Agreement, and the Firm shall not have any implied duties, functions, obligations or responsibilities. Except to the extent expressly provided for in these Terms, the Firm does not assume any relationship of trust for or with any other person.

- 2.4 Recognition of entitlement:** To the greatest extent permitted by applicable law, save for in respect of the Segregated Assets Arrangement, the Firm shall not be bound by or compelled to recognise any express, implied or constructive trust or other interest in respect of the Segregated Assets, even if it has actual or constructive notice of that trust or interest. The Firm does not undertake any duty or obligation to any person (other than the EATM Clients) and accepts no liability to any such person.
- 2.5 No security interest:** Without prejudice to paragraph 5.2 (*Lien*) of these Terms, nothing in these Terms is intended to nor shall create a charge or other security interest in or in relation to the Segregated Assets in favour of the Firm, the EATM Beneficiaries or any other person. Any right or power of the Firm in respect of the Segregated Assets is reserved by the Firm under its declaration of trust contained in paragraph 1 (*Segregated Assets Arrangement*) of these Terms and is not given by way of grant by the EATM Beneficiaries.
- 2.6 No duty to insure:** The Firm shall have no obligation to insure the Segregated Assets or any part of it against risks of loss or damage due to any event.
- 2.7 Instructions:** The Firm, in performing functions or services governed by an EATM Agreement in relation to the Segregated Assets recorded in the books and records of the Firm as held for the account of an EATM Beneficiary, may act on the exclusive instructions of that EATM Beneficiary and need not have regard to the consequences of such instructions on other EATM Beneficiaries (provided that the Firm may not do anything which alters the nature or extent of the beneficial interest of any EATM Beneficiaries except in accordance with paragraph 6.2 (*Amendments with agreement*) of these Terms). Where several identical Segregated Assets are recorded in the books and records of the Firm as held for the account of more than one EATM Beneficiary, the previous sentence shall apply to the portion of such Segregated Assets held for each such EATM Beneficiary.

3 Firm's protections

In addition to the rights, powers, authorities and discretions set out in these Terms and notwithstanding anything to the contrary expressed or implied herein:

- 3.1 Occurrence of an event:** The Firm may assume that no event, notification of which any other party is bound hereunder to give to the Firm, has occurred unless it has actual knowledge or actual notice to the contrary and the Firm shall not be bound to enquire as to the occurrence or otherwise of such an event;
- 3.2 No obligation to act:** The Firm shall not be obliged to comply with any direction of any EATM Beneficiary or to take any other action as the Firm which, in its opinion, would be contrary to any applicable law, any EATM Agreement or the CCP Rules of any EATM CCP. The Firm may do anything which is, in its reasonable opinion, necessary to comply with any such law or perform its obligations under such documentation;

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

3.3 ***Sums received for Firm's account:*** The Firm shall not be bound under these Terms to account to any EATM Beneficiary for any sum or the profit element of any sum received by it for its own account; and

3.4 ***Contractual amendments:*** The Firm may contractually agree with an EATM Client to amend or release any of the equitable powers exercisable, or duties owed, by the Firm in respect of such EATM Client that arise pursuant to these Terms or undertake that it will use its powers in a certain way in the future, in each case in a manner that binds only the Firm and such EATM Client and the Firm shall not incur any liability to any EATM Client where in exercising its powers, and fulfilling any duties and obligations, under these Terms to the extent that the Firm acts in accordance with the contractual provisions contained in the relevant EATM Agreement.

4 **Discharge of the Firm's duties**

To the greatest extent permitted by applicable law and without prejudice to any liability or cause of action which may already have arisen or accrued prior to such date, all duties and obligations of the Firm (whether actual or contingent or prospective, owing or which may become owing to any EATM Client) under these Terms shall be discharged if and to the extent that there cease to be any Segregated Assets that are held by the Firm for the EATM Clients.

5 **Indemnity and Lien**

5.1 ***Indemnity:*** The Firm shall be entitled to indemnification from the Segregated Assets for any amounts properly incurred by the Firm in its capacity as trustee of the Segregated Assets Arrangement, whether actual or contingent, present or future, including any payments or deliveries that are due from the Firm to the CCP pursuant to any EATM Transaction (each a "**Segregated Assets Arrangement Liability**").

5.2 ***Lien:*** The Firm has an equitable lien in respect of the Segregated Assets and shall be entitled to retain the Segregated Assets to the extent reasonably necessary to secure the Firm against any Segregated Assets Arrangement Liability.

6 **Amendments**

6.1 ***Amendments without agreement:*** Subject to paragraphs 3.4 (*Contractual amendments*) and 6.2 (*Amendments with agreement*) of these Terms, the Firm may amend or supplement any provision of these Terms at any time without the agreement of any EATM Client provided that: (i) such amendment or supplement must also be made to any other EATM Agreement entered into by the Firm with an EATM Client; and (ii) the Firm shall give each EATM Client [●] days' written notice of such proposed amendment or supplement.

6.2 ***Amendments with agreement:*** Notwithstanding any contrary provision of an EATM Agreement, no amendment or supplement may be made by the Firm to these Terms, the effect of which would be to alter the nature or extent of the beneficial interest of the EATM Clients pursuant to the Segregated Assets Arrangement without the prior written agreement of the EATM Clients.

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

7 Effect of termination of an EATM Agreement

Upon termination of an EATM Client's EATM Agreement, such EATM Client will cease to acquire any further beneficial interest in the Segregated Assets (but the beneficial interest of the EATM Client in Segregated Assets existing at the date of termination shall be unaffected and the Segregated Assets Arrangement will continue for the benefit of any other EATM Beneficiaries).

8 Governing law

These Terms and all non-contractual obligations and other matters arising from or in connection with these Terms will be governed by and construed in accordance with English law.

9 Definitions

9.1 For the purposes of these Segregated Asset Terms (these "**Terms**") and notwithstanding any contrary definition in an EATM Agreement, the terms listed below have the following meanings:

"**Advice**" has the meaning given to that term in paragraph 2.2.1 (*Advice*) of these Terms.

"**CCP**" means a central counterparty clearing organisation.

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

"**Deemed Settled Assets**" means any asset that would have been a Settled Asset but for the fact that the relevant CCP's obligation to deliver such asset was deemed satisfied in accordance with the applicable CCP Rules through the operation of settlement or close-out netting whereby the CCP's obligation to deliver such asset was offset and discharged by an equal and offsetting delivery obligation of the Firm to that CCP.

"**EATM Agreement**" means an agreement entered into by a clearing member and a client in the form of the FIA Client Clearing Agreement 2025, European Agent-Trustee Model (Version 1.0) (English Law Agreement and Terms) or any successors thereto or any agreement having a substantially similar effect.

"**EATM Beneficiary**" has the meaning given to that term in paragraph 1.1 (*Trust relationship*) of these Terms.

"**EATM CCP**" means any CCP at which the Firm clears EATM Transactions on behalf of any EATM Client.

"**EATM Client**" means any person who, from time to time, is identified in the books and records of the Firm as a person for whose account EATM Transactions are held.

"**EATM Transaction**" means any transaction between the Firm and a CCP in respect of which the Firm, from time to time, provides clearing services under an EATM Agreement.

"**Equivalent Settled Assets**" means, in relation to any Settled Assets or deemed receipt of Deemed Settled Assets, cash, securities and/or other assets of the same type, nominal value, description and amount as such Deemed Settled Assets or Settled Assets.

FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION

“Excess Collateral” means any cash, securities or other assets that are transferred as margin or collateral by the Firm to an EATM CCP in respect of a Segregated Account in excess of the margining or collateral requirements of that EATM CCP in respect of that Segregated Account.

“Excluded Rights” means the rights of the Firm against a CCP for the return of any default fund contributions or other amounts transferred, or assets delivered, by the Firm to that CCP that are not specifically and solely attributable to one or more EATM Transactions other than the rights of the Firm against a CCP in respect of Excess Collateral.

“Firm” means [●].

“Individual Segregation Account” means each account of the Firm at a CCP to which EATM Transactions relating to a single EATM Client are recorded.

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

“Omnibus Segregation Account” means each account of the Firm at a CCP to which EATM Transactions relating to more than one EATM Client may be recorded.

“Segregated Account” means an Individual Segregation Account and/or an Omnibus Segregation Account, as applicable.

“Segregated Assets” means: (i) all rights of the Firm against each CCP arising under the relevant CCP Rules and in connection with each EATM Transaction and/or Segregated Account, including all of the Firm’s rights, title, interest and benefit, present and future, in and to any payments, deliveries or other settlements or Transferred Collateral Rights in respect of each such EATM Transaction and/or Segregated Account, but excluding any Excluded Rights; and (ii) any Settled Assets.

“Segregated Assets Arrangement” means the arrangements governed by these Terms pursuant to which the Segregated Assets are held on trust by the Firm for the EATM Beneficiaries.

“Segregated Assets Arrangement Liability” has the meaning given to that term in paragraph 5.1 (*Indemnity*) of these Terms.

“Settled Assets” means any cash, securities and other assets (including any principal payments, coupon payments, termination amounts, settlement amounts, initial margin, variation margin, collateral and distributions) received from an EATM CCP by the Firm or otherwise by or on behalf of one or more EATM Beneficiaries in relation to one or more EATM Transactions or Segregated Accounts.

“Transferred Collateral Rights” means the rights of the Firm to the delivery of assets equivalent to or the same as those assets delivered by the Firm to an EATM CCP: (i) in respect of any EATM Transactions recorded to the Segregated Account; (ii) in respect of any Excess Collateral; or (iii) arising as a result of any EATM Transaction ceasing to be recorded to the Segregated Account, in each case in accordance with the CCP Rules of the relevant EATM CCP.

**FOR USE BY FIRMS INCORPORATED IN ENGLAND AND WALES
NO ETD PROVISIONS AND 'NICE TO HAVE' AMENDMENTS VERSION**

9.2 Any references in these Terms to the Firm shall refer to the Firm acting solely in its capacity as trustee of the Segregated Assets Arrangement.