

## **BNY Mellon Capital Markets EMEA Limited - Institutional Client Brokerage Terms and Conditions**

These terms of business, together with the schedules and any appendices hereto as may be amended and/or supplemented from time to time (the "**Terms**") are issued by BNY Mellon Capital Markets EMEA Limited of One Canada Square, London, E14 5AL authorised and regulated in the United Kingdom by the FCA.

These Terms shall govern the relationship between BNY Mellon Capital Markets EMEA Limited ("**BNYME**", which term shall include a reference to BNYME's directors, officers, employees and agents) and its client ("**Client**"), pursuant to which from time to time BNYME will: (i) provide certain brokerage and other services, including but not limited to, trade execution services and order transmission services, to Client; and/or (ii) arrange for the provision of execution, clearing and/or settlement services in respect thereof.

As a condition of, and in consideration for, BNYME accepting Orders and/or effecting Transactions (in each case as defined below) at Client's direction or on Client's behalf, Client: (i) agrees to all terms and conditions in these Terms; (ii) authorises BNYME to use any third party, including any Affiliate (as defined below), for the provision of services including execution, clearing and settlement services (as the case may be) without Client's further consent on such terms that BNYME deems appropriate and reasonable in order to facilitate the provision of any execution, clearing, settlement or other services; and (iii) agrees that any Transaction with, or any service BNYME provides through a third party or arranges a third party to provide, is subject to the terms of business of such third party, and Client may be subject to such terms of business of third parties, including as to any liability arising under the terms of business of any such third party.

If BNYME has confirmed separately and explicitly in writing to Client, the services provided under these Terms shall include the provision of Investment Advice (as defined in Clause 1 below) to Client. Accordingly, the provisions in Schedule 4 (Investment Advisory Services) shall apply.

**These Terms create a contractual relationship between Client and BNYME and are legally binding. By placing an Order with BNYME after receiving these Terms, Client is deemed to agree that the services will be provided on the basis of these Terms and these Terms will apply every time Client enters into a Transaction.**

### **1. Definitions**

1.1 In these Terms:

"**Account**" shall mean any account opened or arranged to be opened by or on behalf of BNYME for the purpose of receiving monies, Financial Instruments and/or any other property from or for Client from time to time;

"**Affiliate**" shall mean any person or entity in which The Bank of New York Mellon Corporation (a Delaware corporation with its registered office at One Wall Street, New York, 10286) controls (directly or indirectly) an interest of no less than 30% in the voting stock or interests in such entity;

"**Applicable Laws**" shall mean collectively, as applicable to the provision of the services described in the Terms, all laws, rules (including any default rules of any Market or central counterparty or any default arrangements of any system, including any order routing system, or any trading rules or conventions in the relevant Market/s), regulations, rules, directives, customs, practices, decisions and usages of any relevant exchange, Market, multi-lateral trading facility, central securities depository and/ or clearing house or system and/or central counterparty, if any, and all applicable procedures, guidance, codes of conduct of any Market or governmental or regulatory authority or any self-regulatory organisation, including without limitation any accounting rules, fiscal regulations, anti-money laundering, terrorist financing and sanctions laws, rules, procedures, guidance and regulations, all as amended from time to time;

"**Business Day**" shall mean a day on which banks are open for business in London, excluding Saturdays, Sundays and bank holidays;

"**CCP**" shall have the meaning set out in Clause 7.2(a);

"**Client Obligations**" shall mean any indebtedness, liabilities, obligations, payment of fees or charges or any other sum that is due from Client to BNYME and/or any Affiliate including, without limitation, any expenses and/or any costs incurred as a result of any buy-in, any outstanding payment or undischarged obligation to deliver any Financial Instruments in relation to an Order or a Transaction, any contingent or prospective liability, and any payment pursuant to any indemnity;

"**Collateral**" shall have the meaning set out in Clause 8.1;

"**Confirmation**" shall mean the confirmation of any Transaction as described in Clause 6.4(a);

"**CSD**" shall have the meaning set out in Clause 7.2(a);

"**Custodian**" shall mean a person duly authorised and appointed by Client to hold money, Financial Instruments and other assets and/ or documents evidencing or transferring title to any asset for or on behalf of Client;

"**Eligible Third Party**" shall have the meaning set out in Clause 11.3;

"**Event of Default**" shall mean any of the events described at Clause 17;

"**Executing Broker**" shall have the meaning set out in Clause 5.2;

"**Financial Instrument**" shall mean any investment instrument in which BNYME is authorised to deal, as set out from time to time in the list of permitted instruments at the register of the FCA;

"**FCA**" shall mean the Financial Conduct Authority (or, where the context or timing requires, its predecessor) of 25 The North Colonnade, Canary Wharf, London E14 5HS or its address from time to time and "**FCA Rules**" shall mean the rules and regulations of the FCA as amended, supplemented or replaced from time to time;

"**Instruction**" shall have the meaning set out in Clause 14.1;

"**Investment Advice**" shall mean the advice and/or recommendations relating to Financial Instruments or portfolios reflecting the personal circumstances and investment objectives of Client as the recipient of such advice or recommendations, and "**Investment Advisory Services**" shall mean the service of providing Investment Advice;

"**Losses**" shall mean any and all costs, losses, liabilities, damages, costs, expenses (including reasonable legal fees and expenses), penalties, taxes, judgments, fines, fees, proceedings, amounts to be paid in settlement, expenses, claims, actions, investigations, damages or taxes sustained by either party;

"**Market**" shall mean any regulated market, clearing house, central clearing counterparty or multilateral trading facility (as such terms are defined in the Glossary to the FCA Rules) or other trading venue through or in connection with which BNYME and/or its Affiliates provides the services from time to time;

"**Order**" shall mean any instructions received by BNYME from or on behalf of Client for the purchase or sale of Financial Instruments;

"**Order Execution Policy**" shall mean the policy setting out the reasonable steps BNYME shall take to achieve the best possible result for its clients when executing an Order ("**best execution**") and for the prompt, fair and expeditious execution of Orders. The Order Execution Policy may be amended from time to time. The current version of the Order Execution Policy is available at [www.bnymellon.com/capitalmarketsemae](http://www.bnymellon.com/capitalmarketsemae);

"**Politically Exposed Person**" shall mean a person who is: (i) an individual who is or has, at any time in the preceding year, been entrusted with a prominent public function by a state other than the United Kingdom, an EU institution, or an international body (including

any person who is an individual who is or has been entrusted with prominent public functions including (A) a head of state, head of government, minister or deputy or assistant minister; (B) member of a parliament; (C) member of a supreme court, of a constitutional court or of other high-level judicial body whose decisions are not generally subject to further appeal, other than in exceptional circumstances; (D) a member of a court of auditors or of the board of a central bank; (E) an ambassador, chargé d'affaires or a high-ranking officer in the armed forces; and (F) a member of the administrative, management or supervisory body of a state-owned enterprise); (ii) an immediate family member of a person referred to in (i) (including a person who in relation to such person is (A) a spouse; (B) a partner; (C) a child or spouse or partner of such child; or (D) a parent); or (iii) a known close associate of a person referred to in (i) (including a person who is (A) any individual who is known to have joint beneficial ownership of a legal entity or legal arrangement, or any other close business relations, with a person referred to in (i); or (B) any individual who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit of a person referred to in (i));

**"Public Official"** shall mean: (i) an employee, officer or representative of, or any person otherwise acting in an official capacity for or on behalf of, a Government Authority; (ii) a person holding a legislative, administrative or judicial position of any kind, regardless of whether elected or appointed; (iii) an officer of, or individual who holds a position in, a political party; (iv) a candidate for political office; (v) an individual who holds any other official, ceremonial or other appointed or inherited position with a government or any of its agencies; or (vi) an individual who exercises a public function for or on behalf of a country or territory or for any public agency or public enterprise of that country or territory; and "Government Authority" means: (i) a national government, political subdivision thereof, or local jurisdiction therein; (ii) an instrumentality, board, commission, court or agency, whether civilian or military, of any of the above, however constituted; (iii) a government owned or government controlled association, organisation, business or enterprise; (iv) a political party; or (v) a public organisation, being an organisation whose members are (A) countries or territories; (B) governments of countries or territories; and/or (C) other public international organisations and includes, without limitation, the World Bank, the United Nations, the International Monetary Fund and the OECD;

**"Senior Foreign Political Figure"** shall mean a senior official in the executive, legislative, administrative, military or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned corporation and includes any corporation, business or other entity that has been formed by, or for the benefit of, such a person, within the meaning of the US Department of Treasury's Guidance on Enhanced Scrutiny for Transactions That May Involve the Proceeds of Foreign Official Corruption and as referenced in the US Patriot Act of 2001;

**"Third Party Service Provider"** shall have the meaning set out in Clause 4.2, and shall include any Executing Broker;

**"Transactions"** shall mean the transactions in Financial Instruments effected to fulfil Orders pursuant to these Terms, and shall include any transaction entered into as a result of the transmission of such Orders to any third party (including an Affiliate) for execution, clearing and settlement.

1.2 In construing these Terms, the so-called "*esjusedem generis*" and "*expressio unius est exclusio alterius*" rules of contractual construction shall not apply and, accordingly, the interpretation of general words is not restricted by (i) being preceded by words indicating a particular class of acts, matters or things, or (ii) being followed by a particular example; and the express mention of one thing in a provision shall not exclude the same thing being included within the scope of another provision where the same is not expressly included.

1.3 In these Terms, references to a person shall be interpreted to

include a reference to any of its respective directors, officers, employees or agents.

## 2. Applicable Laws

2.1 These Terms and all Orders and Transactions will be subject to all Applicable Laws.

2.2 Unless otherwise instructed to the contrary by Client (in accordance with Clause 14), BNYME is entitled to assume that there are no restrictions to the type of transaction Client may enter into or the Markets upon which transactions may be effected and that Client's conduct under these Terms (which shall include Client's instructions, Orders and Transactions entered into hereunder) are consistent with all Applicable Laws.

2.3 If there is any conflict between these Terms and any Applicable Laws, the Applicable Laws will prevail, and BNYME (and any Affiliate who is a Third Party Service Provider) may take or omit to take any action it considers necessary to ensure compliance with any Applicable Laws (including any action or inaction required by a Market or a CCP). Any act taken or omitted in order to comply with Applicable Laws shall be binding on Client, and shall not render BNYME or any Affiliate or their respective directors, officers, employees or agents, liable hereunder.

## 3. Client's Capacity

3.1 For the purpose of (and as defined in) the FCA Rules, BNYME will classify Client as either an Eligible Counterparty or a Professional Client. Client shall notify BNYME immediately and in writing if, at any point, it ceases to fall within such client classification. Where BNYME has classified Client as a Professional Client, Client may also request to be classified as an Eligible Counterparty (as defined in the FCA Rules). Client understands that a request to be classified as an Eligible Counterparty will result in a lesser degree of protection under the FCA Rules. A summary of the different protections to which Client is entitled, depending on Client's categorisation, is set out in the enclosed Schedule of Differences in the Level of Protections Provided for Different Categories of Clients under the FCA Rules.

3.2 Client is entitled to request categorisation as a Retail Client (as defined in the FCA Rules), but BNYME is unlikely to be able to provide the services under these Terms in such case, as it does not deal with Retail Clients.

3.3 Where Client is acting for or on behalf of another person (in any capacity, including as agent or trustee, and whether disclosed to BNYME or not), BNYME shall and Client agrees BNYME is entitled to treat Client alone as its Client for the purposes of the FCA Rules and Client will be liable as principal in relation to any Transactions which are to be performed under these Terms in respect of all obligations and liabilities arising from instructions or other information given to BNYME. Client will in such cases be solely responsible for fulfilling any regulatory obligations in respect of such other persons (as the case may be), and Client agrees that no other person (whether disclosed to BNYME or not) shall be BNYME's client nor have any rights hereunder, unless BNYME explicitly agrees otherwise in writing.

## 4. Securities Transactions

4.1 BNYME shall provide Client with dealing services either on an agency or principal basis, as indicated in the Confirmation from time to time.

4.2 BNYME may, at its sole discretion, arrange for any third party (including any Affiliate) to provide associated services for Clients in respect of all Transactions, including execution, clearing and settlement and connected services (each such third party, a **"Third Party Service Provider"**).

4.3 Any Third Party Service Provider shall, in the course of providing services, be entitled to exercise the rights afforded to BNYME under these Terms in connection with the provision of the relevant services and references to BNYME shall be deemed to be references to such Third Party Service Provider, where necessary, to

ensure that the Third Party Service Provider is able to provide services in a manner consistent with these Terms. For example, where BNYME has a right to aggregate Client's orders with its own or with the orders of its other clients, a Third Party Service Provider shall also have the right to aggregate orders with its own or with the orders of its other clients, and where the liability of BNYME is limited, or BNYME is authorised to take certain actions, the same limitations and authorisations shall apply to any Third Party Service Provider, regardless of whether the relevant provision under these Terms explicitly grants such right, or applies such limitation or authorisation, to a Third Party Service Provider or any other third party.

4.4 Unless BNYME has separately agreed explicitly and in writing to provide Investment Advice to Client, services provided hereunder are provided on an execution-only basis, and BNYME will not advise Client as to the suitability to Client or merits of any service provided under these Terms, or any Financial Instrument or Transaction.

4.5 All Orders will be given by Client and executed, or transmitted for execution, by BNYME, with the understanding that an actual bona fide purchase or sale is intended and that Client will procure delivery of unrestricted Financial Instruments to cover all sales and procure remittance of funds to pay for all purchases upon demand, but in no event beyond the time period required in the relevant Market and/or as set out under Applicable Laws. BNYME shall be entitled to rely on such understanding.

4.6 Client shall ensure a Custodian will accept delivery of all monies, Financial Instruments and/or other assets for or on behalf of Client in connection with a Transaction.

## 5. Handling and Execution of Orders

5.1 BNYME shall be responsible for the execution of any Order on Client's behalf and, in doing so, shall act in accordance with the Order Execution Policy and the FCA Rules.

5.2 Including as provided in, and without prejudice to, Clause 4.2, BNYME may execute Orders through any one or more third parties, including an Affiliate, and such third party may or may not be in the United Kingdom ("**Executing Broker**"). If an Order is executed through an Executing Broker, BNYME, rather than Client, shall be treated as the Executing Broker's client for the purposes of the FCA Rules. If BNYME uses an Executing Broker, BNYME will be responsible to Client for the compliance of the transmission of the relevant Order with the Order Execution Policy (if and to the extent applicable). However, BNYME will not be responsible for any act or omission of any Executing Broker that is not an Affiliate, or liable to Client for any Losses arising therefrom.

5.3 Client confirms that it has read and agrees to BNYME's Order Execution Policy. Client will be responsible for checking for any changes to BNYME's Order Execution Policy that are published from time to time. If Client has been classified as an Eligible Counterparty, BNYME does not owe Client a duty of best execution (as defined by the FCA Rules) unless Client requests BNYME to provide best execution, and BNYME has consented to the same in writing.

5.4 Client agrees that the placement of Orders by Client shall be deemed to constitute Client's continued consent to BNYME's Order Execution Policy in effect at the time an Order is placed.

5.5 If BNYME accepts an Order from Client, BNYME will seek to action it as soon as reasonably practicable in the circumstances. However, provided BNYME has acted reasonably, it will not be responsible for any Losses incurred by Client (or any person on whose behalf Client is acting) if BNYME, or any Executing Broker, is unable to action an Order, or if the execution or transmission of an Order fails or is delayed, including as a result of:

- (a) any delay or any change in market conditions before BNYME, or an Executing Broker, effects a Transaction pursuant to the Order;
- (b) BNYME taking steps to check Client's authorisation of an Order;

- (c) BNYME taking steps to ensure that funds and/or Financial Instruments (as the case may be) are available for settlement;
- (d) compliance by BNYME or any Executing Broker with its internal procedures and anti-money laundering legislation;
- (e) a delay in the receipt of cleared funds and/or Financial Instruments (as the case may be) necessary to settle the Transaction.

5.6 BNYME reserves the right, in its absolute discretion, to refuse to accept and/or execute an Order at any time. If BNYME declines to accept and/or execute an Order, it shall not be obliged to give a reason but shall notify Client accordingly.

5.7 When Financial Instruments can be traded in more than one marketplace, BNYME will route Orders to the market directed by Client, and in the absence of such direction, will, subject to Applicable Laws, select the best available market to route Client's Orders in accordance with the Order Execution Policy. BNYME shall carry out or transmit an Order on Client's behalf only when the relevant Market is open for dealings, and BNYME shall deal with any instructions received outside Market hours as soon as possible when that relevant Market is next open for business (in accordance with the rules of that Market).

5.8 Client agrees and consents that BNYME may execute an Order on Client's behalf outside of a Market.

5.9 To the extent that Client gives BNYME specific instructions and BNYME follows such specific instructions when executing a Transaction or transmitting an Order for execution, the Order Execution Policy will not apply.

5.10 BNYME may arrange for a Transaction to be executed, either in whole or in part, by selling an investment to Client from another client, or a client of an Affiliate, or vice-versa. BNYME shall not give Client prior notice if BNYME arranges for a Transaction to be executed in this manner.

5.11 BNYME (or any Executing Broker, if relevant) may combine orders received from Client with those received for the accounts of its other clients (and exceptionally may combine with its own orders). Such aggregation may operate on some occasions to Client's advantage and on some occasions to Client's disadvantage. Where orders have been aggregated, they will be allocated out to Client and other clients of BNYME (or any Executing Broker) on a pro-rata basis.

## 6. Order Cancellation; Limits; Short Selling; Confirmations; Restricted Securities

### 6.1 Order Cancellations

(a) Cancellation of an Order by Client is rarely possible. BNYME is unable to cancel an Order unless the cancellation request is received by the Market to which the Order was routed and matched with the Order to be cancelled before the Order is executed, and unless the rules and processes of the relevant Market practicably permit such cancellation. BNYME does not guarantee the cancellation of any Order under any circumstances. An Order may only be withdrawn or amended by Client with BNYME's consent. Client shall not assume the execution or cancellation of any Order until Client has received a Confirmation or a confirmation of the cancellation of an Order from BNYME and/or an Affiliate.

(b) Subject to Clause 6.1(a) above, Client is solely responsible for requesting any open Order to be cancelled if a substitute Order has been sent to BNYME. Client shall be fully liable for the settlement of a Transaction that results from the execution of any Order which Client has not successfully cancelled.

### 6.2 Limits and Limit Orders

(a) BNYME may impose trading limits on Client or generally restrict trading with or for Client, provided that BNYME shall use commercially reasonable efforts to give Client notice of

such restriction as soon as reasonably practicable. In particular, BNYME has the right (but not obligation) to set limits and/or parameters to control Client's ability to place Orders with BNYME at BNYME's absolute discretion ("**Trading Limits**").

- (b) Trading Limits may (i) include any position limits imposed by a Market which limit the number of open positions that Client may have with BNYME at any time; and (ii) be amended, increased, decreased, removed or added to by BNYME at its absolute discretion. Client shall agree to and adhere to any Trading Limits communicated to Client by BNYME from time to time.
- (c) Limit Orders. As further discussed in the Order Execution Policy, Client may from time to time give BNYME an order to execute at a certain price or better ("**limit order**"), which BNYME is not able to execute immediately. Client hereby instructs BNYME to not make public any unexecuted part of such a limit order other than pursuant to the prior written instruction by Client otherwise.

#### 6.3 Short Selling

- (a) Unless explicitly instructed otherwise, BNYME will treat all Orders as Market orders to be executed under Market conditions.
- (b) Client represents and warrants that it owns any Financial Instrument with respect to which it has placed an Order to sell and will deliver the Financial Instruments in good deliverable and unrestricted form by the applicable settlement date.
- (c) BNYME may, at its absolute discretion, cancel and/or close out any Transaction relating to any Financial Instruments with respect to which Client has placed an Order to sell but has not delivered some or all of the relevant Financial Instruments in time for BNYME to effect settlement of such Transaction, or borrow or buy-in the Financial Instruments (or direct or arrange for the Financial Instruments to be borrowed or bought-in by a Third Party Service Provider) as necessary to make delivery to the purchaser under any Transaction effected by BNYME pursuant to an Order.
- (d) Client shall indemnify and hold harmless BNYME and any Affiliate against any Losses incurred by BNYME or any Affiliate arising from Client's breach of the provisions under this Clause 6.3.
- (e) Any stock lending arrangement to be entered into pursuant to Clause 6.3(c) above, shall be at the sole discretion of BNYME and subject to separate documentation.

#### 6.4 Confirmations

- (a) BNYME shall send or procure the sending of confirmations to Client setting out the agreed details of a Transaction at the end of the trading day on which a Transaction is agreed ("**Confirmations**"). Confirmations shall be sent to Client (and, pursuant to Clause 7.1(g) below, a relevant Affiliate) by facsimile or by such other electronic means as BNYME may reasonably determine at the number and/or other details notified by Client from time to time.
- (b) Client shall be solely responsible for checking Confirmations and any other trading information or statements of account it receives by, or on behalf of, BNYME. Any Confirmation shall be conclusive and shall override any oral or informal trade summary or information that may be provided to Client by or on behalf of BNYME. Client shall be deemed to have accepted any Confirmation if Client has not objected to such Confirmation in writing within one Business Day of dispatch. Client shall send any such written objection (which may be sent by email or facsimile) to the attention of the BNYME person who communicated with the Client on the relevant Transaction, and such written objection shall include a

detailed explanation of the grounds for the objection.

#### 6.5 Restricted Securities

There may be circumstances in which BNYME is unable under Applicable Laws to execute transactions with or for Client in relation to particular counterparties or particular Financial Instruments. BNYME shall not be obliged to disclose to Client the reason for or provide any further information in respect of the same. Any Order relating to such counterparties or Financial Instruments shall be handled in accordance with the internal policies and procedures of BNYME in force at the time and applicable to such circumstances.

### 7. Settlement and Market Requirements

#### 7.1 Settlement

- (a) Unless otherwise explicitly agreed, settlement of all Transactions must be made in accordance with these Terms, the relevant Confirmation, Market requirements and Applicable Law, and Client acknowledges and agrees that time is of the essence in respect of any delivery obligations by Client hereunder.
- (b) Unless BNYME explicitly agrees to the contrary, all amounts payable and Financial Instruments deliverable by Client to BNYME in relation to the settlement of Transactions will be so payable or deliverable on a delivery against payment basis.
- (c) Client is solely and fully responsible for the timely settlement of each and every Transaction, including but not limited to, delivery and/or procuring the delivery, in reasonably sufficient time on or before the contractual settlement date and into the relevant account/s, of any instructions, money (including any charges, fees or any other amounts due and payable to BNYME), documents, Financial Instruments or any other property deliverable by Client under a Transaction, for the purpose of enabling the clearing and settlement of the Transaction and/or, as the case may be, enabling BNYME to perform its obligations under any related Transaction (including with any Executing Broker).
- (d) Client acknowledges that it shall not have any rights in respect of any cash or Financial Instruments that are due to be received pursuant to a Transaction, and that BNYME shall have no obligation to account to Client for any such cash or Financial Instruments, until (i) Client has performed its obligations (which shall include procuring any transfer of Financial Instruments, cleared funds or documents (including settlement instructions) by a Custodian or other person authorised to act on Client's behalf) in relation to such Transactions; and (ii) BNYME or a third party has been able to settle the Transaction.
- (e) BNYME shall be entitled, without prior notice to Client, to make the currency conversions necessary or desirable for the purposes of fulfilling Client's trading obligations, or arrange for the same to be made by a third party. Any such conversion shall normally be made by BNYME, as principal, at a rate which reflects the size, liquidity and timing of the Transaction. BNYME shall disclose to Client the relevant rate on the Confirmation, but will not be required to account to Client for any profit that may be derived from the transaction. Any foreign exchange risk arising from any contract, BNYME's compliance with its obligations or any exercise of its rights under these Terms shall be borne by Client.
- (f) BNYME shall not have any responsibility for, or have any obligations in relation to, any cash or Financial Instruments or other assets delivered by or on behalf of a Client unless and until such cash or Financial Instruments or other property is actually received by or on behalf of BNYME.
- (g) If Client's assets are custodied by an Affiliate of BNYME and the Client and the relevant Affiliate agree that the Affiliate will input settlement instructions in respect of each Transaction on

the Client's behalf, the Client will sign and return to the relevant Affiliate, a separate standing instruction in a form to be agreed. Furthermore, the Client hereby authorises and instructs BNYME, subject always to the terms of Clause 6.4(a) and (b) above and in addition to sending a copy of each Confirmation to the Client, to promptly send a copy of each Confirmation to the relevant Affiliate for all Transactions. The contents of the Confirmation shall be the sole responsibility of the Client (which shall check the Confirmation pursuant to Clause 6.4(b)) and shall constitute an instruction from the Client to the Affiliate in accordance with the terms of the relevant custody agreement between Client and Affiliate in force from time to time. Save as explicitly set out above, BNYME shall have no further obligations, duties or liabilities whatsoever in this regard.

## 7.2 Market Requirements

- (a) Client agrees, in respect of any Transaction which is the subject of a netting process as applied by a central counterparty ("CCP"), central securities depository or other securities settlement system ("CSD"), or other body in respect of any Transaction entered into on its behalf, that it consents to the discharge of the settlement obligations arising from such Transaction on a net basis in accordance with the rules and practices of that CCP, CSD or other body.
- (b) Any Transactions undertaken on Client's behalf on non-UK Markets shall be subject to the rules of the relevant Market or depository and any terms of the foreign agent or custodian engaged by BNYME, including any right of reversal of any Transaction (including any delivery or redelivery of any Financial Investment and any payment) on the part of any such entity or person.
- (c) Where Transactions are settled by a third party (or, where relevant, BNYME), such Transactions may settle in the books of a relevant CSD, other body or custodian, together with Transactions for the account of other clients. The third party (or BNYME) will allocate cash or Financial Instruments received by it or on its behalf as a result of such settlements in accordance with the Transactions as recorded in its books and records. In the event that cash or Financial Instruments for Transactions intended to settle at the same time (but which do not settle at the same time) are received by a third party (or BNYME), the third party (or BNYME) will allocate such cash or Financial Instruments received by it on the following basis:
  - (i) in accordance with the priority for settlements as determined by the third party (or BNYME);
  - (ii) where transactions have the same priority, on the basis of the earliest or the earlier in time, by reference to their intended settlement date ("ISD"), as specified by the third party (or BNYME), such that the earlier transaction will settle first in each case;
  - (iii) in the case of transactions with the same priority and with the same ISD, by reference to the larger or largest trade by value, such that the larger trade by value (and not by number of units or size) will settle first in each case;

and in each case such allocations are subject to the operations of the relevant CSD or other body, custodian or CCP in each case and may be affected, for example, by operation of any netting rule or practice or any other customary and widely followed market practice.

## 8. Margin Transactions

8.1 Client undertakes to pay, deliver or otherwise provide to BNYME (or to its order) on demand such sums, property, security or other assurances against financial loss as BNYME may from time to time require by way of deposit, margin or collateral in order to secure Client's obligations to BNYME arising under these Terms in the course of, or in connection with, the provision of services by BNYME

to Client in accordance with these Terms ("Collateral"). Client shall provide Collateral of such amount or value as BNYME may from time to time require, which amount or value shall be not less than that required under the rules or requirements of the relevant Market, CCP or any securities lender but, at the discretion of BNYME, may exceed such requirement.

8.2 Client shall provide all Collateral to BNYME by transferring full title to, and full rehypothecation rights over, the Collateral to BNYME (such that no option, lien, charge, security or encumbrance exists or will exist over the Collateral provided to BNYME) with a view to BNYME using such Collateral in its own operations, including BNYME granting security over Collateral to third parties at its sole discretion. Client acknowledges that any Collateral so provided shall not be subject to the FCA's client asset or client money rules.

8.3 BNYME reserves the right to vary its Collateral requirements at any time and to make intra-day Collateral calls with respect to any open position of BNYME or of any other person who is a participant of a CCP and is used by BNYME or any relevant third party in connection with its provision of services under these Terms.

8.4 Collateral shall be provided to BNYME (or to its order) in such manner, at such times and in such form as BNYME may request. Acceptable Collateral may include cash or investments or other property by way of assurance against financial loss (including guarantees, indemnities or letters of credit) approved by BNYME. Cash or securities provided as Collateral will not be registered in Client's name but may be registered in the name or otherwise held in the possession of, while held by or for BNYME and subject to its right of use under Clause 8.2 above, any Affiliate or BNYME's nominee or custodian in accordance with FCA Rules. BNYME will exercise reasonable care in the selection of such persons but, in the absence of negligence, fraud or wilful default by BNYME, BNYME does not accept responsibility for the default of any such nominee company or custodian (other than an Affiliate).

8.5 Client is responsible for maintaining appropriate arrangements with BNYME at all times for the communication and delivery of Collateral calls. If BNYME is unable to contact Client or Client fails to comply with its obligations to pay, deliver or otherwise provide Collateral to BNYME within the required timescales, or otherwise perform its obligations under this Clause 8, BNYME may, without further notice, take such steps and exercise such rights as it considers necessary to protect its position or that of any Affiliate including, without limitation, suspending any payment or delivery of securities or cash required to be paid to Client, closing out, or requesting a CCP or any securities lender to close out, or liquidating transactions or positions, invoicing back or otherwise settling early any transaction or selling or realising any Collateral or other property held by or on behalf of Client or terminating its relationship with Client. Without prejudice to any other rights or remedies (including its right to do so earlier) BNYME will, in any event, close out transactions or positions in relation to which any Collateral call remains outstanding for four Business Days.

## 9. Cancellation

9.1 Client understands and agrees as follows:

- (a) if Client fails to procure delivery of monies or Financial Instruments for any Transaction within the applicable settlement period (but no later than the due date for settlement), the relevant Transaction may be cancelled immediately by BNYME;
- (b) if Client has sold Financial Instruments and has procured delivery of such Financial Instruments within the settlement period but the purchaser fails to deliver the corresponding payment on a timely basis, Client will be obligated to accept redelivery of such Financial Instruments and no sale of such Financial Instruments will occur; and
- (c) if Client is purchasing Financial Instruments and has procured the delivery of the required payment within the settlement

period but the seller fails to deliver the Financial Instruments on a timely basis, Client's funds will be promptly returned to Client and no purchase of Financial Instruments will occur.

- (d) In no event pursuant to (a) to (c) above, will BNYME be liable to (i) deliver such Financial Instruments or any similar Financial Instruments to Client; or (ii) deliver all or any part of the purchase price of the Financial Instruments, if BNYME has not received the Financial Instruments and/or the full amount of the purchase price from the purchaser and/or seller (as the case may be).
- (e) If, when settlement of any Transaction is due, Client has not made available sufficient cash in cleared funds or, as the case may be, Financial Instruments in deliverable form to enable Client to meet its settlement obligations, BNYME may, at its absolute discretion, nevertheless opt to settle the Transaction. If BNYME does settle the Transaction, the obligation of BNYME to deliver the Financial Instruments to Client, accept the Financial Instruments from Client or receive/pay the consideration, will cease.
- (f) If BNYME does settle the Transaction as set out in Clause 9.1(e) above, it may, at any time before receiving repayment by Client pursuant to Clause 9.1 (g) below, sell or purchase as the case may be, such Financial Instruments in the market. If it does so and the cost of such sale or purchase of the Financial Instruments is greater than the amount received by BNYME on the settlement of the transaction, Client shall immediately procure payment to or as directed by BNYME of an amount equal to the difference between those two sums (together with any commission or other fees or expenses that are due to BNYME).
- (g) Further to Clause 9.1 (f) above, Client shall, upon demand, pay and/or transfer to BNYME (or to its order) sufficient cash or, as the case may be, Financial Instruments, to reimburse BNYME for any shortfall (including any commission or other fees, charges or expenses that are due to BNYME). Client shall also, on demand by BNYME, reimburse BNYME for any stock, securities, borrowing, charges or other expenses it has incurred in the Transaction prior to receiving such cash or Financial Instruments.

## 10. No advice

10.1 Unless BNYME has agreed separately in writing to provide Investment Advice to Client BNYME, and/or any Affiliate, deals on an execution only basis and does not advise on the merits of particular Transactions, or the taxation consequences of such Transactions other than as required by any Applicable Laws. For the avoidance of doubt, neither BNYME, nor any Third Party Service Provider, will provide, and shall not at any time be deemed to be under any duty to provide, any such advice, including advice on investments, tax or accounting. Client agrees it will not receive advice, and instructs BNYME on an execution-only basis. BNYME will only accept Client's Order, and Client agrees that BNYME will execute Client's Order, on an execution-only basis.

10.2 Unless BNYME has agreed separately in writing to provide Investment Advice to Client, in asking BNYME to enter into any Transaction, Client represents that it has been solely responsible for taking its own advice and making its own independent appraisal and investigations into the risks of the Transaction. Client represents that it has the necessary level of experience and knowledge, and access to independent professional advice, to evaluate the merits and risks (including without limitation, credit risk, market risk, liquidity risk, interest rate risk, tax risk, foreign exchange risk, operational risk, insolvency risk, regulatory risk, legal risk and the risks of "over the counter" (as opposed to on-exchange) trading such as the nature of clearing house "guarantees") of any Transaction without, and has not relied on any, information or recommendation provided by BNYME. BNYME is not required to assess the suitability of the instrument or service provided or offered, and Client will not benefit from the protection of Applicable Laws on assessing suitability. BNYME gives

Client no warranty as to the suitability of the products traded under this Agreement and assumes no fiduciary duty in relation to Client.

10.3 If BNYME has agreed separately and explicitly in writing to provide Investment Advice, such Investment Advice shall be expressly made either orally or in writing. BNYME shall not be required to ensure that such Investment Advice takes into account any investment research or other recommendations BNYME or any Affiliate may have published from time to time. If BNYME provides Investment Advice to Client, the provisions in Schedule 4 (Investment Advisory Services) shall apply.

10.4 Where BNYME provides any research, trade ideas, market information or other communications from time to time:

- (a) it is incidental to the order-execution relationship, is provided solely to assist Client to make its own investment decisions, does not amount to advice or a recommendation, and shall not be relied on by Client;
- (b) it shall not be construed as a solicitation or an offer to buy or sell any Financial Instruments in any jurisdiction;
- (c) BNYME gives no representation, warranty or guarantee, express or implied, as to the accuracy, completeness, relevance or reliability of such information or as to the legal, regulatory or tax consequences of any Transaction effected on the basis of BNYME's research or information. BNYME is under no obligation to update or keep current such information;
- (d) where research or information is in the form of a document containing a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, Client agrees that it will not pass it on to any such person or category of persons;
- (e) Client accepts that prior to despatch, BNYME may have acted upon such information itself or made use of the information on which it is based. BNYME does not make representations as to the time of receipt by Client and cannot guarantee that Client will receive such information at the same time as other clients. Any published research reports or recommendations may appear in one or more screen information service.

## 11. Client Assets and Client Money; Money, Financial Instruments and other assets held by third parties

11.1 BNYME intends to hold no client assets or client money (as defined in the FCA Rules) pursuant to these Terms. In the event that BNYME inadvertently comes to hold client assets or client money, BNYME will comply with the FCA Rules on client assets or client money to the extent that it is required to do so.

11.2 Client shall be solely responsible for arranging any safe custody services it may require, and BNYME shall not provide, arrange or be responsible for any safe custody arrangements for Client's cash, Financial Instruments or other assets in connection with any services provided under these Terms. Accordingly, neither BNYME nor any Third Party Service Provider shall be responsible for any safe custody obligations of any third party holding any cash, Financial Instruments or other assets of Client.

11.3 In order to arrange for the clearing and settlement of any Transaction, BNYME may pass any cash, Financial Instruments or other assets received for Client by or on behalf of BNYME to a clearing or settlement system, any participant in such system (including any settlement agent or securities depository) or any Executing Broker (each such person, an "Eligible Third Party") without the prior consent of Client. BNYME may from time to time notify Client of the arrangements by which any Eligible Third Party may hold cash, Financial Instruments or other assets received for Client (including in its own name or the name of any nominee of such Eligible Third Party). Any arrangement so notified to Client shall be binding on it.

11.4 Client acknowledges and agrees that

- (a) any such Eligible Third Party may impose a lien or other security interest over, or right of set-off in relation to, such cash, Financial Instruments or other assets;
- (b) the settlement, legal and regulatory requirements applicable to cash, Financial Instruments or other assets held overseas jurisdictions may differ from those applicable in the United Kingdom (including as regards the practices for the separate identification of cash, Financial Instruments or other assets);
- (c) upon the insolvency or similar event of any Eligible Third Party, the treatment applicable to cash, Financial Instruments or other assets held by an overseas Eligible Third Party for Client may differ from the treatment that would be applicable to an Eligible Third Party in the United Kingdom;
- (d) an Eligible Third Party may hold Client's assets in an omnibus account, and, accordingly, it may not be possible to identify Client's cash, Financial Instruments or other assets in the books and records of an Eligible Third Party; and
- (e) in the event of an irreconcilable shortfall in the assets held by an Eligible Third Party (following its default or otherwise), Client may not receive its full entitlement and may share in any shortfall on a pro rata basis with other clients or creditors of the Eligible Third Party, or as allocated according to Applicable Laws.

11.5 BNYME will exercise due skill, care and diligence in the selection and monitoring of any Eligible Third Party, but in the absence of negligence, wilful default or fraud by BNYME, BNYME shall not be responsible for any Losses incurred by Client as a result of the default of any Eligible Third Party that is not an Affiliate.

## 12. Fees and Charges

12.1 Client shall be responsible for BNYME's proper and reasonable charges, unless otherwise agreed. Charges will be determined in accordance with our rates in effect at the time the charges are incurred or as otherwise notified to Client, verbally or in writing, prior to dealing. Any alteration to these charges will be notified to Client prior to such change becoming effective.

12.2 BNYME may, to the extent permitted by Applicable Law, share its charges or commission with, or receive remuneration or non-monetary benefits from, intermediaries introducing business to BNYME, Affiliates or other third parties. BNYME will separately provide details of such remuneration or non-monetary benefits to Client.

12.3 Unless otherwise agreed in writing, fees and charges shall include the following (without limitation): mark-ups/mark-downs (which may result in additional compensation to BNYME), commissions, foreign exchange transaction or corporate action fees and charges, brokerage fees, transfer fees, registration fees, stamp duty and any other applicable taxes, and all other liabilities, charges, costs and expenses payable in connection with Orders and Transactions effected or services provided by BNYME or an Affiliate on Client's behalf. BNYME may charge Client interest at a rate to be determined at our sole but reasonable discretion where Client is in default by virtue of late payment for or delivery of, Financial Instruments, Collateral and/or cash.

12.4 All amounts payable by Client shall be due and payable to BNYME on demand without set-off, counterclaim or deduction and time shall be of the essence with respect to any payment, delivery or other obligation of Client to BNYME.

12.5 Client authorises BNYME to use the services of one or more other persons or entities (including its Affiliates) in connection with the pricing, execution, clearance and/or settlement of any Order and/or Transaction, or custody of funds or Financial Instruments or otherwise to service Client or perform its obligations, and such persons or entities may act as principal and earn a spread, may receive custodial fees, licensing fees, clearing and settlement fees and/or other remuneration and share it with BNYME. The Bank of New York

Mellon Corporation and its subsidiaries (collectively, "BNYM") have adopted an incentive compensation scheme designed (i) to facilitate clients of BNYM gaining access to and being provided with explanations about the full range of products and services offered by BNYM and (ii) to expand and develop client relationships. This program may lead to the payment of referral fees to employees of subsidiaries of BNYM and to registered representatives of broker subsidiaries of BNYM who may have been involved in a referral that resulted in the obtaining of products or services by Client covered by this Agreement or which may be ancillary or supplemental to such products or services. Any such referral fees are funded solely out of fees and commissions paid by Client under this Agreement or with respect to such ancillary or supplemental products. Client will be advised if an employee of BNYME or of any affiliate is participating in the program. BNYME may also receive from Affiliates transaction based compensation as a percentage of trade value, where the percentage received shall be dependent and calculated upon a variety of transaction parameters to be agreed upon from time to time between BNYME and the relevant Affiliates (including but not restricted to the class, nature, maturity, price and liquidity of the underlying instrument). Further information is available on request addressed to the Chief of Compliance at the address set out in Clause 26.7.

## 13. Representations and Warranties

Client hereby represents and warrants (which representations and warranties are deemed repeated on each day on which these Terms are in effect and at the time of any Order submitted and/or Transaction BNYME may enter into with or for Client) and, where appropriate, undertakes, that:

13.1 if it is a corporation, it is duly incorporated and validly existing under the Applicable Laws of the country of its incorporation;

13.2 it has and will have at all times the necessary power, capacity, authority and consents (including, without limitation, any regulatory or governmental consents, approvals, licenses of or exemptions under, any governmental or regulatory authority) required under all Applicable Laws and from any person or persons on whose behalf it may act, to enable it to enter into these Terms and to perform its obligations hereunder (including submitting Orders and effecting Transactions) and to enable or entitle BNYME to enter into and perform its own obligations and to enforce its own rights hereunder (including the exercise of any security interests in favour of BNYME or any Affiliate);

13.3 these Terms, and any Orders submitted or Transactions executed pursuant to these Terms, constitute legal, valid, enforceable and binding obligations of and on Client that will not violate any Applicable Laws to which Client is subject, or constitute an event of default under any agreement to which Client is a party or by which Client is bound, subject only to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally, and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at law;

13.4 it has adequate resources to enter into, perform and settle any and all Transactions;

13.5 it will ensure that all relevant investments or any documents of title and/or transfer forms and/or any relevant payments are delivered, paid or transferred to BNYME or to whomever BNYME may direct in sufficient time, on or before the contractual settlement date, to enable BNYME to settle or arrange for the settlement of any Transaction in accordance with market requirements;

13.6 no communication (written or oral) received from BNYME shall be deemed to be an assurance or guarantee as to the expected results of any Order or Transaction;

13.7 the decision to place any Order or enter into any Transaction, is solely Client's decision and Client has read and understands the risk disclosures set out in Schedule 2 (Risk Warnings);

13.8 (unless BNYME has agreed separately and explicitly in writing to provide Investment Advice to Client) it is solely responsible for determining whether the execution of any Order on any Market is suitable or appropriate in the best interests of Client or any other person, as the case may be, and has taken its own independent professional (including legal and financial advice, and is capable of assuming and willing to assume (financially and otherwise) those risks;

13.9 it fully understands all the terms, conditions, and risks (economic and otherwise) of these Terms and of each Order and Transaction;

13.10 each Order and Transaction effected at Client's direction or on Client's behalf will be duly authorised by Client, and given by a person with due authority to give such direction and to bind Client;

13.11 it will promptly notify BNYME if Client is or becomes a Public Official, or a Politically Exposed Person Client, or is, has been, or becomes, a Senior Foreign Political Figure, or an immediate family member or close associate of a Senior Foreign Political Figure;

13.12 it will promptly inform BNYME in accordance with Clause 26.7 of any subpoenas, investigations, regulatory inquiries or investigations, or litigation to which it or its customers are subject that relate to its relationship with BNYME, any Account, or any of its Orders, Transactions or instructions that it has placed with BNYME;

13.13 any and all information which Client has provided to BNYME pursuant to these Terms (including but not limited to in relation to Client's financial position, domicile or any other matter) is complete, accurate and not misleading and any changes to the information given to BNYME will be promptly notified to BNYME;

13.14 no Event of Default with respect to Client has occurred and is continuing, and Client will promptly notify BNYME of the occurrence of any Event of Default or of any event that may become an Event of Default with respect to Client;

13.15 it will not send Orders or otherwise take any action that would constitute a breach of Applicable Laws, and at the time of sending an Order, Client is not in default or any payment or delivery obligation arising under these Terms;

13.16 all cash, Financial Instruments and/or any other assets transferred to or held by BNYME (or any Third Party Service Provider) either for Client or for BNYME's or any Affiliate's own account, will be and shall remain free from any and all liens, charges or encumbrances, other than those that may arise in favour of BNYME or any Affiliate;

13.17 it will not take any action or fail to take any action in circumstances where taking such action or failing to take such action would amount to market abuse, nor fail to observe the proper standards of market conduct in relation to any relevant Market and not take any step or omit to take any step that would cause BNYME (or any Third Party Service Provider) to commit market abuse or fail to observe such proper standards;

13.18 any third party appointed by Client to give and receive instructions (including Orders), notices and/or other communications on Client's behalf hereunder, has all requisite power and authority and/or appropriate regulatory or governmental consents (if applicable) to give and receive such instructions, notices or other communications;

13.19 upon demand, Client will provide BNYME with such information as BNYME may reasonably require to evidence the matters referred to in this Clause 13 and/or to comply with any Applicable Laws.

#### 14. Instructions; Authorisations

##### 14.1 Instructions

(a) Any Order, instruction, notice or other communication from or on behalf of Client ("**Instruction**") may be communicated

orally or in writing (including by letter or by email or such other electronic means as may be agreed by BNYME and Client from time to time). All Instructions must be received by BNYME during normal London business hours allowing sufficient time for it to act upon them. Instructions are transmitted at Client's own risk. BNYME shall have no obligation to act upon any Instruction unless and until the Instruction is actually received by BNYME.

(b) All Instructions must be in the format, and must contain such information as may be required by BNYME and notified to Client from time to time, and BNYME shall be entitled in its absolute discretion to reject or decline to act upon any Instruction failing to satisfy such requirements.

(c) BNYME is authorised to comply with, rely upon and treat as binding any Instruction received which purports, and which BNYME believes in good faith, to come from Client or to have been given on Client's behalf, regardless of whether Client has provided BNYME with a list of persons authorised to act on its behalf, and regardless of whether the person who gave the Instruction is included on such list, unless the authority of the person giving the Instruction has been revoked by Client and Client has given, and BNYME has actually received, written notice from Client of such revocation of authority. BNYME has no obligation to inquire into the purpose or propriety of any Instruction, and shall not be liable if any Instruction was in fact given without appropriate or sufficient authority. No liability shall attach to BNYME if an Instruction that BNYME has accepted and acted on in good faith is subsequently discovered to have been given or amended without Client's authority, or forged or otherwise falsified.

(d) Client agrees that acceptance of an Instruction to withdraw or amend an existing Instruction is always subject to BNYME receiving the Instruction in time for the appropriate action to be taken. If BNYME requests an Instruction and Client does not respond within a reasonable time (as determined by BNYME), BNYME reserves the right to take such action as it reasonably considers appropriate.

(e) If Client disputes or denies knowledge of any Instruction or Transaction, BNYME may, but shall not be obliged to, make such efforts as BNYME considers reasonable to cancel, accelerate, terminate, liquidate or otherwise offset any disputed position. Client will promptly notify BNYME of any Instruction or Transaction Client believes to be in error.

(f) BNYME shall have no obligation to inform Client of any corporate action in respect of any Financial Instrument. Client agrees that whenever it places an Order with BNYME to purchase Financial Instruments, during the period between execution and settlement, Client shall be solely responsible for instructing BNYME in a timely fashion to take up any rights attached or other corporate action in respect of any such Financial Instruments.

(g) Client authorises BNYME, without further prior notice to Client, to record and monitor (or to authorise the recording and monitoring by a third party) any or all telephone conversations or electronic communications in any form between BNYME and Client without the use of an automatic tone-warning device or other prior warning. BNYME may use such recordings as evidence in any dispute with Client. BNYME's recordings will be and will remain the BNYME's sole property. BNYME may retain such records for whatever period may be required as a matter of its internal policies and/or Applicable Law.

(h) Client agrees that its use of electronic communications will be solely for its commercial and business purposes. Client agrees that the provisions of the E-Commerce Directive (2000/31/EC) are excluded to the fullest extent permissible under Applicable Law.

## 14.2 Authorisations

- (a) Client authorises BNYME to give instructions and provide information (including financial information) concerning Client to its Affiliates and any Third Party Service Provider, who shall be entitled to rely on any such instructions or information without further enquiry.
- (b) Client authorises BNYME, which shall exercise such authority on its sole discretion, to transfer, or to procure the transfer to any Custodian of any cash, securities and other Financial Instruments, which are the subject of any Transaction in accordance with the terms of such Transaction.
- (c) Client authorises BNYME to investigate and make and obtain reports concerning Client's credit standing, financial position, and business conduct as required under Applicable Laws.
- (d) If Client instructs BNYME to execute Transactions, or transmit Orders for execution, in Depository Receipts or Depository Shares (collectively, "**DRs**"), in order to effect such Transactions BNYME may purchase or sell the securities underlying such DRs in the relevant local market. BNYME may effect such foreign exchange and/or DR conversion transactions in connection with such Transactions as BNYME may consider appropriate, and the cost of such services may be included in the price reflected in the Confirmation for such Transactions.
- (e) BNYME may use information received from or in respect of Client or Client's individual representatives to check identities and credit-worthiness, to provide Client with and improve BNYME's services, to prevent and detect crime (including fraud and money laundering), for systems testing and for legal and regulatory purposes (including where disclosure of information is required by any regulatory or fiscal authority).
- (f) Subject to Applicable Laws, BNYME may share this information with: other members of its corporate group (and BNYME and such other entities may disclose it to those who provide services to, or act as agents of, BNYME or such other entities), Third Party Service Providers or other persons providing services to it or to Client; anyone to whom BNYME transfers or proposes to transfer any of its rights or duties under this Agreement; credit reference and fraud prevention agencies or other organisations that help BNYME and others make credit decisions and reduce the incidence of fraud or in the course of carrying out identity, fraud prevention or credit control checks; regulatory and other governmental authorities in any jurisdiction; any other persons to whom BNYME is required by Applicable Laws to disclose, or where there is a public duty to disclose, or where the interests of BNYME require disclosure; and any other persons at Client's request or with Client's consent. This may involve transfer of information to countries outside the European Economic Area, including countries whose data privacy laws are not as stringent as those in the United Kingdom. BNYM will not disclose Client's information to any person except as described above. BNYME or its affiliates may contact Client by mail, e-mail, telephone or other means to provide information on products and services that BNYME or its affiliates believe will be of interest to Client. If Client does not wish to receive such communications, or wishes to exercise its rights of access to or correction of the information that BNYME hold about it, Client should contact its BNYME relationship manager. Before Client gives BNYME information about any of Client's individual representatives who are identifiable living individuals, Client should ensure that those individuals are aware of: the identity of BNYME; that BNYME may use their information to administer and operate Client's Account; that this may involve disclosure of their information as discussed above and transfer of their information to any country, including countries outside the European Economic Area which may not have strong data protection laws; and that

they have rights of access to, and correction of, their information which they may exercise by contacting Client's BNYME relationship manager.

## 15. Security interests

Client represents, warrants and undertakes to BNYME that:

15.1 Where BNYME (including where it is acting through a Third Party Service Provider or any other nominee, custodian or agent) receives cash or assets (which shall include any Collateral) payable or deliverable to Client, and, for whatever reason, Client is at any time in default of its obligations under these Terms to make any payment of cash or delivery of Financial Instruments, or meet any other contractual obligations, which shall include any indebtedness, obligations and liabilities of any nature, whether present or future, actual or contingent, primary or collateral, several or joint, secured or unsecured, then, to the extent of such default, it is agreed that:

15.2 BNYME (including where it is acting through a Third Party Service Provider or a nominee, custodian or agent) shall be entitled to set-off, transfer, consolidate or apply (without prior notice) any indebtedness, liabilities or obligations or any sum that is due from BNYME (or any Affiliate) to Client against outstanding Client Obligations (whether or not expressed in the same currency). Where any set-off, transfer, consolidation or application requires the conversion of one currency to another, such conversion shall be carried out at such rates as BNYME may, in good faith, determine;

15.3 unless and until such time as Client has fully discharged all outstanding Client Obligations:

- (a) BNYME shall have no obligation to make any payment of cash otherwise payable to Client or to deliver any Financial Instruments otherwise deliverable to Client, in respect of which, without prejudice to any general lien, right of set-off or other similar rights which BNYME may have, by law or otherwise, over such property (including any lien routinely imposed on securities held in a relevant clearing system), Client's property shall be subject to a general lien in favour of BNYME and its Affiliates, insofar as there remains any outstanding Client Obligations under these Terms;
- (b) Client shall have no right, title or interest in or to any cash or Financial Instruments that is exercisable against BNYME (or any Third Party Service Provider or a nominee, custodian or agent of BNYME) and will not assert any interest or right that it may claim to have in such any cash or Financial Instruments in any way that would prevent the exercise by BNYME (or a Third Party Service Provider or a nominee, custodian or agent of BNYME) of its rights or powers under these Terms in relation to the relevant assets;

15.4 without any requirement to give any prior notice to Client or any other person, BNYME (and any Third Party Service Provider or any nominee, custodian or agent of BNYME) may withhold the making of any payment or delivery of any cash or any Financial Instruments otherwise payable or deliverable to Client and apply such cash or Financial Instruments in discharge or reduction of Client's Obligations to BNYME and/or an Affiliate which are then due and payable, but unpaid. Client agrees that the foregoing shall include the right of BNYME (and/or any Third Party Service Provider or a nominee, custodian or agent of BNYME) to sell or otherwise dispose of or realise any Financial Instrument or other property and apply the proceeds in discharge and/or reduction of any outstanding Client Obligations. BNYME shall pay or deliver to Client any surplus of cash or Financial Instruments that is not applied in discharge or reduction of outstanding Client Obligations without affecting Client's continuing liability to BNYME in relation to any amount by which such cash or Financial Instruments fall short of the amount of any outstanding Client Obligation;

15.5 The rights of BNYME (and any Third Party Service Provider, nominee, custodian or agent of BNYME) contained in this Clause 15 are created by way of reservation by BNYME of all its rights, title and

interest in and to any cash, Financial Instruments and other assets in connection with any Transaction, and not by way of grant by Client or any person of any rights or interest in such assets;

15.6 if BNYME (and/or any Third Party Service Provider, nominee, custodian or agent of BNYME) exercises its rights under and in accordance with this Clause 15, it shall have no further obligation to Client, and Client shall have no right to require BNYME (or any Third Party Service Provider, nominee, custodian or agent of BNYME) to account to Client or any other person for any cash or Financial Instruments so applied by BNYME (or any Third Party Service Provider, nominee, custodian or agent of BNYME) unless and until such time as Client has fully discharged all outstanding Client Obligations.

15.7 BNYME (or any Third Party Service Provider, nominee, custodian or agent of BNYME) shall not have any liability whatsoever to Client for any Losses incurred by Client in consequence of any exercise by BNYME (or any Third Party Service Provider, nominee, custodian or agent of BNYME) of any right or remedy hereunder and any purchase, sale, transaction or other action may be undertaken at such price and on such terms as BNYME (or any Third Party Service Provider, nominee, custodian or agent of BNYME) shall, in its absolute discretion, determine.

## 16. Conflicts of Interest

16.1 Client agrees that each of BNYME and/or any Affiliate may engage in transactions in Financial Instruments for its respective proprietary accounts, on behalf of accounts under its management, or on behalf of its clients or other counterparties, for the same or different types of instruments or the same or related reference entities involved in any Transaction, or engage in open market transactions that are designed to hedge or reduce the risks incurred by it in connection with a Transaction, and the effect of any such transactions may be to affect or reduce the value of a Transaction.

16.2 Client agrees that (i) the Investment Advisory Services which BNYME provides to Client under these Terms (if relevant) shall not be exclusive and BNYME may provide Investment Advisory Services for other persons, provided that BNYME shall continue properly to provide the services required under these Terms and is not thereby prevented from properly performing its duties under these Terms; and (ii) BNYME, its Affiliates and any of their directors, officers, employees, agents and affiliates may be involved in other investment advisory activities which may on occasion cause conflicts of interest with Client.

16.3 BNYME and/or any Affiliate may have interests which are material in relation to a Transaction (or any Investment Advice, where relevant) or which give rise or may give rise to a conflict of interest in relation to a Transaction (or any Investment Advice, where relevant), and may have clients with conflicting interests in relation to a Transaction (or any Investment Advice, where relevant). Without limiting the nature of such interests, examples include where BNYME or its Affiliates could:

- (a) provide execution, clearing, settlement, custody, investment advisory or other services to other clients where such clients may have an interest in the Financial Instruments which conflicts with Client's interests;
- (b) provide Investment Advisory Services to other clients who may have similar or overlapping investment objectives to or with Client;
- (c) deal as agent for Client in relation to Transactions involving Financial Instruments in which BNYME or an Affiliate is also acting as agent for other clients;
- (d) deal in Financial Instruments as principal with Client, for example by trading as a riskless principal or entering into a back to back transaction;
- (e) deal in any Financial Instrument for BNYME's or an Affiliate's proprietary account, or another client's own account;

- (f) enter into a transaction in relation to which BNYME or an Affiliate has, indirectly or directly, a material interest;
- (g) deal with or use the services of a Third Party Service Provider (including any Executing Broker) or other agent in relation to Transactions involving Financial Instruments where such person may be an Affiliate; and
- (h) enter into or arrange Transactions in relation to which BNYME or an Affiliate receives payment from a third party.

16.4 BNYME may receive remuneration from, or share charges with, an Affiliate or other third party in connection with Transactions carried out on Client's behalf. In particular, BNYME and its Affiliates may elect to sell Financial Instruments to, or buy such Financial Instruments from, the account of an Affiliate, in order to satisfy an Order for Client or may otherwise execute Transactions with or through Affiliates (whether or not involving a mark-up or a mark-down by BNYME or an Affiliate). Such Affiliates may receive related compensation. Details of remuneration so received or the basis for such remuneration or sharing arrangements will be separately provided to Client.

16.5 In the event that BNYME maintains a proprietary trading desk that is not separated from its client facilitation trading desk, and such desk may from time to time have information about client activity, BNYME will implement policies and procedures reasonably designed to comply with Applicable Laws regarding the use and handling of customer information.

16.6 BNYME and any Affiliate, and their respective directors, officers, employees and agents, may underwrite, privately place, have positions in, effect transactions in and purchase from or sell to an Affiliate, Financial Instruments of companies with respect to which BNYME provides brokerage, advisory or other services to its clients, perform or seek to perform investment banking, credit extension and other services for such clients, and receive fees and compensation pursuant to the same.

## 17. Default Remedies

17.1 Each of the following shall be deemed an "**Event of Default**":

- (a) Client is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 and specifically, fails to make any payment to BNYME or to deliver any Financial Instruments when due to BNYME (or any Affiliate); or
- (b) an order is made or resolution passed for the liquidation, administration, reorganisation or winding up of Client whether compulsory or voluntary (other than for the purpose of a bona fide reconstruction or amalgamation of a solvent company); Client compounds with or enters into any arrangement or composition with or for the benefit of its creditors (or proposed to do so) including any voluntary arrangement as defined in the Insolvency Act 1986;
- (c) a receiver, liquidator, trustee, administrator or similar officer is appointed or an encumbrancer takes possession with respect of any part of Client's assets, undertaking or revenues of Client or any distress, execution or other process is levied or enforced or served out upon or against any part of Client's assets, undertaking or revenues;
- (d) a material breach of these Terms or any Market or regulatory requirements (including any failure by Client to deliver or arrange to be delivered cash or Financial Instruments in accordance with Client's obligations under these Terms), or the misleading or material inaccuracy of any representation or warranty made under or pursuant to these Terms or any document provided to BNYME; and/or
- (e) a force majeure event (within the meaning of Clause 20 shall continue to exist for a 30 day continuous period.

17.2 Upon the occurrence of an Event of Default, or at any time where BNYME reasonably considers it necessary or appropriate for

its protection, BNYME and any Affiliate shall have, in addition to any rights and remedies under Applicable Laws, the right (but not the obligation), to take any or all of the following actions at its sole discretion and without notice:

- (a) to cancel, close out, terminate, replace or reverse any Orders and/or Transactions or pending Transactions (or portions thereof), enter into any other transaction or take, or refrain from taking, such other action pursuant to any agreement, at such time or times and in such manner as, at its sole discretion, BNYME considers necessary, desirable or expedient to protect BNYME (and/or its Affiliates);
- (b) to sell any or all of the Financial Instruments or other property which BNYME or any Affiliate may be holding or entitled to receive on Client's behalf and to apply the proceeds of such sale in or towards satisfaction of any obligation or liability Client may have to BNYME or any Affiliate;
- (c) to set off any BNYME's or any Affiliate's liability or outstanding obligation to Client against any outstanding Client Obligation, and to direct any Affiliate or third party acting for BNYME in connection with the provision of the services under these Terms, to satisfy any outstanding Client Obligation using any money or assets otherwise payable or deliverable to Client;
- (d) to terminate these Terms.

17.3 Upon failure of Client to discharge any outstanding Client Obligations when due, or, in the event of any bankruptcy (or similar event) of Client, or in the event of Client not taking all such steps as may be necessary to secure the due and prompt settlement of any Transaction (or if BNYME reasonably considers that Client has not or is unlikely to perform any Client Obligation or other obligations under these Terms), BNYME (and/or its Affiliates) may:

- (a) enter into any other transaction or do or refrain from doing anything which would or could have the effect of reducing or eliminating liability under any Transaction, position or commitment taken for Client;
- (b) without any requirement to give any prior notice to Client or any other person, BNYME (or any Affiliate) may retain, withdraw and liquidate or otherwise dispose of any Collateral and apply it or any proceeds of sale thereof, towards satisfaction of (but not in extinguishment of) any outstanding Client Obligations, and any such application is hereby irrevocably authorised by Client to be effected at any time currently or in the future;

and shall pay to Client any surplus that is not so applied.

17.4 BNYME (or any Affiliate) is not obliged to exercise its rights under this Clause 17, which are without prejudice to any other rights to which BNYME (or any Affiliate) is otherwise entitled.

17.5 Where any set-off, consolidation, combination or transfer requires the conversion of one currency to another, such conversion shall be carried out at such rates and in such manner as BNYME (or any Affiliate) may, in its absolute discretion, determine.

17.6 Client irrevocably appoints BNYME to be its attorney and in its name and on its behalf to execute, deliver and perfect all documents and do all things which BNYME as its attorney may consider to be required or desirable at any time, or upon the occurrence of an Event of Default, for

- (a) carrying out any obligation imposed on Client by these Terms or any other agreement binding on Client to which the BNYME is a party (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Collateral); or
- (b) enabling BNYME (or any Affiliate) to exercise, or delegate the exercise of, all or any of its rights under this Clause 17.

17.7 Until Client has paid or discharged in full all outstanding Client

Obligations, any monies from time to time payable, or Financial Instruments deliverable, to Client by BNYME, any Affiliate and/or any Third Party Service Provider with respect to any Transaction up to the value of the outstanding Client Obligations shall not be due and payable or deliverable to Client. BNYME may, however, in its absolute discretion, pay or procure that payments be made to otherwise exercise its rights, including its rights of set-off.

## 18. Liability; Indemnification

### 18.1 Liability

- (a) Notwithstanding any provision to the contrary in these Terms, to the maximum extent permitted by Applicable Laws, none of BNYME, or its Affiliates shall be responsible or liable for any Losses sustained by Client, howsoever arising, under or in connection with these Terms, except insofar as, and then only to the extent that, such Losses arise directly from BNYME's or such Affiliate's negligence, wilful default or fraud.
- (b) Subject always to Clause 18.1(c), none of BNYME, or any Affiliate, shall be responsible or liable for any Losses arising out of or relating to, directly or indirectly:
  - (i) any refusal to accept and/or execute any Order;
  - (ii) any adverse tax, deductions, accounting or other implications of any Transaction whatsoever;
  - (iii) any delay or change in Market conditions before any particular Transaction is effected;
  - (iv) any act or omission of Client, including any error, negligence or misconduct of Client;
  - (v) BNYME's, or any Affiliate's, reasonable reliance on any instructions, notices, or communications that it believes to be from a person authorised by Client to give the same;
  - (vi) any action taken by BNYME, any Affiliate, any Third Party Service Provider, any other executing broker, clearing house, clearing broker, Market, exchange, CSD, custodian, CCP, clearing house, or any other third party, to comply with their respective Applicable Laws;
  - (vii) further to (vi) above, as a result of the operation or provision of the default rules of any Market or CCP or of any default arrangements of any designated system under the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 or made under any laws that implement in the UK or elsewhere Directive 98/26/EC on settlement finality in payment and securities settlement systems. In such circumstances, neither BNYME nor its Affiliates, shall have any obligation to deliver cash or investments to any greater extent than those received and in the event of any shortfall, may apportion cash or investments received between clients of BNYME or its Affiliates in such many as they consider fair and equitable
- (c) For the avoidance of doubt, nothing in these Terms will exclude or restrict any liability for fraud, or for death or personal injury resulting from negligence, or BNYME's liability in connection with any terms where such liability cannot be excluded under Applicable Laws, nor will anything in these Terms require Client to indemnify or compensate BNYME to any extent prohibited by Applicable Laws.
- (d) Neither BNYME, nor any Affiliate, shall be liable to Client for any Losses arising from any act or omission of any Third Party Service Provider or any other agent or third party who performs services pursuant to these Terms, except to the extent that such Loss is directly caused by the wilful default, fraud or negligence on the part of BNYME or any Affiliate. BNYME undertakes to take reasonable care in providing the services hereunder but makes no other warranty,

representation or undertaking in respect of the services (including any systems or software used by such third parties).

- (e) Neither BNYME, nor any Affiliate, shall be liable to Client for indirect, consequential, incidental, exemplary, punitive or special damages of any character, or for any Loss of profits, revenue, business opportunity (including, without limitation, where the value of Client's account may have decreased in the value of Client's account as a result of market movements), goodwill, reputation, or other commercial losses, whether direct or indirect, or foreseeable or not, and whether arising from negligence, breach of contract, misrepresentation or otherwise, or other alleged breach of warranty or action brought in tort or strict liability or under any other theory of liability, regardless of whether any such entity has been advised or is otherwise aware of the possibility of such damages or Losses.
- (f) Client acknowledges that it has not relied on or been induced to enter into these Terms by a representation other than those expressly set out in these Terms. BNYME will not be liable to Client (in equity, contract or tort under the Misrepresentation Act 1967) for a representation that is not set out in these Terms and that is not fraudulent.

#### 18.2 Indemnification

- (a) Client shall indemnify and hold harmless BNYME and any Affiliate on an after tax basis and on demand, from and against any and all Losses as incurred, arising out of or relating to, directly or indirectly:
- (i) an Event of Default;
  - (ii) the performance of BNYME of its obligations under these Terms resulting from BNYME acting upon Instructions which it believes in good faith to have been received from an authorised employee, agent, officer or other representative of Client or from any third party designated by Client as having authority to give Instructions on behalf of Client;
  - (iii) Client's breach of its obligations hereunder or any negligence, wilful default or fraud by Client, or Client's default or failure in the performance of its obligations hereunder including, without limitation, in connection with any Order or Transaction or the failure to make delivery or payment when due;
  - (iv) any representation or warranty given by or on behalf of Client (including in respect of Client's own clients) being untrue or misleading in any respect;
  - (v) any defect in title or any fraud or forgery in relation to any Financial Instruments delivered to BNYME (or any Third Party Service Provider), or in relation to any instruments of transfer in relation to such Financial Instruments;
  - (vi) the exercise or pursuit by BNYME or any Affiliate of its rights or remedies hereunder, including pursuant to Clause 6.3(c) (effecting a buy-in);
  - (vii) any action or inaction that BNYME or any Affiliate takes or refrains from taking or is required to take or refrain from taking pursuant to Clause 2.3;

in each case except to the extent caused by the fraud, negligence or wilful default of BNYME or an Affiliate.

18.3 If Client is acting as agent on behalf of one or more principals in relation to business conducted pursuant to these Terms, Client and each of its principals shall be jointly and severally liable in respect of all obligations and liabilities to be performed in respect of any transaction it has entered into on the relevant principals behalf under these Terms, and references under these Terms to Client shall be construed as a reference to both Client and its principal jointly and severally (as the case may be).

## 19. Electronic Services and Data

19.1 BNYME shall not be liable for any Losses (including any consequential loss) suffered or incurred by Client as a result of any Instruction being given or made via the internet or other electronic medium. Client will be solely responsible for all Orders, and for the accuracy of all information, sent via the Internet or other electronic medium using Client's name or personal identification number. BNYME is not required to execute an Order and transmission of an Order shall not give rise to a binding contract between BNYME and Client.

19.2 Any services provided to Client, including so as to allow Client to effect any Transaction with BNYME through any software, hardware applications (including without limitation e-mail, internet, computer to computer interface, FIX connection) or telecommunications equipment provided by BNYME or any third party provider to BNYME for order routing and/or direct market access, or any statements, Confirmations and account information or market or price information or other systems and services provided through any electronic or internet capability, site or service will be provided subject to the terms set out in Schedule 3 (Electronic Services - Access Terms).

## 20. Force Majeure

In no event, whether for negligence, breach of contract, misrepresentation or otherwise, shall BNYME or any Affiliate be liable for any Losses, whether direct or indirect, due to circumstances beyond its reasonable control, including without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; terrorism; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, transportation, computer (hardware or software) or communications services of any trade execution services, computer dealing or settlement system; clearing system, suspension or limitation of trading by any Market or clearing house; accidents; labour disputes; acts of civil or military authority; actions of any supranational, governmental, judicial, regulatory or fiscal body; strikes; extreme market volatility or trading volume; nationalisation; regulations of the banking or securities industries, including changes in market rules; currency restrictions, devaluations or fluctuations; market conditions affecting the orderly execution of Financial Instrument transactions or the value of assets; and inability to obtain labour, material, equipment or transportation, and in such circumstances any obligations of BNYM (and/or of its Affiliates) to supply or continue to supply services, shall be suspended pending resolution of the event.

## 21. No Fiduciary Duty

Neither the relationship between BNYME and Client (including any person or persons on whose behalf Client may be acting), nor the services to be provided by BNYME to Client under these Terms or otherwise, shall give rise to any fiduciary or equitable duties on BNYME's part which would oblige it to accept responsibilities more extensive than expressly stated in these Terms.

## 22. Rights of Third Parties

22.1 Subject only to the extent explicitly set out at Clause 19.2 below, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 ("Act").

22.2 Client acknowledges that any Affiliate of BNYME may enforce these Terms (including, but not limited to Clause 1, Clause 4.3, Clause 5, Clause 6.3, Clause 15, Clause 16, Clause 17 and Clause 18) subject to and in accordance with this Clause 22 and the provisions of the Act. The parties to these Terms do not require the consent of any Affiliate to rescind or vary this Agreement at any time. Any Affiliate must obtain the written consent of BNYME (which BNYME may give or refuse in its absolute discretion) before it may bring proceedings to enforce any provision under these Terms.

## 23. Termination

23.1 These Terms may be terminated forthwith by either party by

prior notice in writing to the other party.

23.2 Termination shall not affect Client's obligation to settle Transactions effected (including Orders executed) prior to the date of termination (for whatever reason) and shall not prejudice any right or obligation that may already have arisen prior to the date of termination.

23.3 The termination of these Terms shall not affect the rights accrued and obligations incurred prior to the date of termination, and Clauses 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14.2, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 herein shall survive termination for whatever reason.

#### 24. Complaints

24.1 All complaints should be directed in the first instance to the Compliance Department of BNYME in accordance with Clause 26.7. BNYME will endeavour to resolve Client's complaint as quickly as possible, and will acknowledge receipt of a complaint within 10 Business Days. BNYME will provide full details of its internal complaints procedure to Client on written request.

24.2 Upon resolution of Client's complaint, BNYME will send to Client a final response communication, including the nature of the resolution and any applicable remedy. If Client is dissatisfied with BNYME's final response, Client may refer its complaint to the Financial Ombudsman Service, details of which will be included in BNYME's final response.

#### 25. Governing Law and Jurisdiction

25.1 These Terms shall be governed by and construed in accordance with English law and, subject to any dispute resolution provisions the parties may agree, each party irrevocably agrees that the courts of England shall have jurisdiction to settle any disputes which may arise out of or in connection with these Terms and that, accordingly, any proceedings may be brought in such courts.

25.2 Nothing contained in the above, however, shall limit the right of BNYME (or, where appropriate, its Affiliates) to take proceedings against Client in any other court of competent jurisdiction, nor shall the taking of proceedings in one of more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction

25.3 If Client is situated outside England and Wales, process by which any proceedings in England are begun may be served on Client by being delivered to the address in England or Wales nominated by Client for this purpose. This does not affect the right of BNYME to serve process in another manner permitted by law.

#### 26. General

26.1 BNYME is a company incorporated under the laws of England and Wales, having its registered office at One Canada Square, London E14 5AL, and is authorised and regulated by the FCA.

26.2 BNYME, a wholly owned indirect subsidiary of The Bank of New York Mellon Corporation, is a separate legal entity from its parent and other Affiliates, and is solely responsible for its obligations and commitments hereunder. No public distribution or solicitation is being made by BNYME to any person or entity, nor is BNYME offering services, products or services in jurisdictions where prohibited. Not all products and services are offered at all locations and such products or services may differ among locations. The Bank of New York Mellon Corporation may be the issuer of stock purchased by Client from time to time. Nothing in these Terms shall be regarded as a recommendation by BNYME to purchase or sell stock issued by The Bank of New York Mellon Corporation.

26.3 BNYME may amend these Terms at any time by at least 10 days written notice to Client and any such amendment shall become effective on the date specified in the notice. Notwithstanding the foregoing, where reasonably considered by BNYME to be necessary or desirable for compliance with Applicable Laws, BNYME may amend these Terms with such amendments to be effective

immediately on notice to Client. By continuing to accept services from or placing an Order with BNYME after receipt of such notice of amendment, Client agrees to such amendments. If Client does not accept such amendments, Client must cease submitting Orders and notify BNYME in writing. Client cannot amend this Agreement except by written agreement signed by Client and BNYME.

26.4 These Terms, together with any amendments pursuant to the above, and any Schedules, set out the terms of the investment business relationship between BNYME and Client. These Terms supersede any other general terms of business for investment business that BNYME may previously have sent Client. In the case of specific types of transactions, these Terms may be supplemented by, and shall be deemed to include any additional Terms which relate to such specific transactions. Where such additional terms relate to specific transactions, such additional terms shall govern such specific transactions. If there is any conflict between these Terms and the terms of another agreement relating to a specific service in place between BNYME and Client, the latter will prevail.

26.5 If at any time any provision of these Terms becomes, or is deemed by an authority of competent jurisdiction to be, invalid, unenforceable or contrary to Applicable Laws, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired by such provision.

26.6 Client may not assign any of their rights or obligations under these Terms to any other person without the prior written agreement of BNYME. BNYME shall have the right to transfer or assign its rights or obligations to any Affiliate. BNYME shall be entitled to delegate the performance of any of its obligations under the Terms to any person or persons as BNYME thinks fit, but shall remain responsible for the acts and omissions of any such delegate as if they were BNYME's own.

26.7 Notices. All notices by either party hereunder shall be sent by facsimile transmission, electronic delivery or by overnight mail or delivery service (return receipt requested), to the other party to the relevant contact details specified in this Agreement. Any party may by notice to the other change the address or facsimile number at which notices or other communications are to be given to it. Any notice shall be effective only upon the receipt thereof by the party to whom sent and shall be effective only for the purpose and in the specific instance for which it is given. Notices shall be sent to BNYME at:

BNY Mellon Capital Markets EMEA Limited  
One Canada Square  
London, E14 5AL  
Attention: Chief Executive Officer  
Fax : +44 207 964 6036

Notices shall be sent to Client at:

[address]  
[ ]  
Attention: [ ]  
Fax: [ ]

26.8 For Government Entities only: to the extent that, in any jurisdiction, Client has or hereafter may acquire, or is or hereafter may be entitled to claim, for itself or its assets, immunity (sovereign or otherwise) from suit, execution, attachment (before or after judgment) or any other legal process, Client irrevocably agrees not to claim and hereby waives to the fullest extent permitted by Applicable Law, such immunity.

26.9 Neither the failure to insist upon strict compliance with these provisions nor any course of conduct, including without limitation failure on the part of BNYME to exercise or delay in exercising any rights, shall constitute a waiver by BNYME of any of its rights

hereunder. No single or partial exercise by BNYME of any right shall preclude any other or future exercise of any such right or the exercise of any other single or partial right. Any waiver by BNYME must be in writing and signed by an authorised official of BNYME, and shall be effective only for the purpose and in the specific instance for which it is given.

26.10 The terms of the Financial Services Compensation Scheme ("**FSCS**") may offer protection, subject to certain eligibility criteria, in the event of the Client suffering a financial loss as a direct consequence of BNYME being unable to meet its obligations (for example, if BNYME were to become insolvent or unable to meet claims against it). Subject to the terms of the FSCS which are amended from time to time, the current limits on the maximum compensation sums payable by FSCS is £50,000 in relation to investment business. Typically clients who meet the criteria to be classified as a 'per se professional client' or an 'eligible counterparty' would be unlikely to qualify as an 'eligible claimant' under the FSCS. Further details of the FSCS are available from the Scheme's official website at [www.fscs.org.uk](http://www.fscs.org.uk) or on request.

## SCHEDULE 1

### DIFFERENCES IN THE LEVEL OF PROTECTIONS PROVIDED FOR DIFFERENT CATEGORIES OF CLIENTS UNDER THE FCA RULES

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The terms "Professional Client", "Retail Client" and "Eligible Counterparty" shall have the meaning set out in the FCA Rules.

1. A client classified as a Professional Client is entitled to fewer protections under the FCA Rules than if such Client were classified as a Retail Client. The reduced protections afforded to Professional Clients in comparison to Retail Clients mean that:
  - (a) Client is entitled to receive fewer information disclosures with regard to BNYME, its services and any investments (for example, on costs, commissions, fees and charges);
  - (b) where BNYME assesses whether a product or service is appropriate for Client, BNYME is entitled to assume that Client has sufficient knowledge and experience to understand the risks involved and (with respect to *per se* professional clients, is entitled to assume that the Client is financially able to bear any related investment risks consistent with its investment objectives);
  - (c) if BNYME is required to assess the suitability of a personal recommendation made to Client, BNYME is entitled to assume that Client has the necessary experience and knowledge to understand the risks involved, and is in certain circumstances entitled to assume that Client is able financially to bear any investment risks consistent with its investment objectives;
  - (d) when providing Client with best execution, BNYME is not required to prioritise the overall costs of the Transaction as being the most important factor in achieving best execution for Client;
  - (e) BNYME is not required to inform Client of material difficulties relevant to the proper carrying out of Client's Order(s) promptly;
  - (f) should BNYME provide Client with periodic statements, BNYME is not required to provide them as frequently as for Retail Clients;
  - (g) where BNYME is holding Client's client money, it is not required to notify Client of whether interest is payable on it or not; and
  - (h) Client may not be entitled to compensation under certain investor compensation schemes.
2. A client classified as an Eligible Counterparty is entitled to fewer protections under the FCA Rules than if such Client were classified as a Professional Client or a Retail Client. The reduced protections afforded to Eligible Counterparties in comparison to Professional Clients and Retail Clients mean that, in addition to the above:
  - (a) BNYME is not formally required to act in accordance with Client's best interests, or to ensure that the information provided is fair, clear and not misleading;
  - (b) BNYME is not required to provide Client with best execution in executing Client Orders;
  - (c) BNYME is not prevented from giving or receiving inducements, and is not required to disclose to Client information regarding any fees or commissions that BNYME pays or receives
  - (d) BNYME is not required to assess the appropriateness of a product or service that BNYME provides to Client but can assume that Client has the expertise to select the most appropriate product or service for itself;
  - (e) BNYME is not required to provide Client with information about BNYME, its services and/or the arrangements through which BNYME will be remunerated;
  - (f) BNYMEM is not required to provide Client with risk disclosures on the products or services that Client selects from BNYME; and
  - (g) BNYME is not required to provide reports, confirmations and statements to Client on the execution of Client's Orders.

**SCHEDULE 2**  
**RISK WARNINGS**

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1. The value of investments and the income from them may fluctuate and go down as well as up. There is no guarantee that Client will get back the amount initially invested. The value of investments may be affected by a variety of factors, including economic and political developments, interest rates and foreign exchange rates, as well as issuer-specific events. Past performance is not a guide to future performance.
2. Investments denominated in currencies other than Client's base currency carry the risk of exchange-rate movements. A movement in exchange rates may have a separate effect, unfavourable as well as favourable, on Client's gains and losses. Hedging techniques may, in certain circumstances, be limited or not be successful.
3. The market for some investments may be restricted or illiquid. There may be no readily available market and from time to time there may be difficulty in dealing in such investments or obtaining reliable information about the value and extent of risks associated with such investments.
4. This Schedule describes some of the risks which could be relevant to the services BNYME provides to Client. BNYME may provide further risk information during the course of its services to Client, as appropriate.
5. Under certain trading conditions it may be difficult or impossible to liquidate a position. This may occur, for example, at times of rapid price movement if the price rises or falls in one trading session to such an extent that under the rules of the relevant exchange trading is suspended or restricted.
6. Client should ensure that it fully understands all of the risks associated with the investments to which an Order and/or Transaction relates and, if it is doubtful as to such risks or the impact of any risks on it or as to its ability to bear risk, it should seek professional advice regarding the relevant investment from a person duly qualified to provide such advice, which may include BNYME if it has agreed to provide Investment Advice to Client by selecting the box on the first page of these Terms.

**SCHEDULE 3**  
**ELECTRONIC SERVICES – ACCESS TERMS**

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If Client from time to time effects Transactions with BNYME through any Electronic Services (as defined in (a) below) , then, in addition to other provisions of these Terms, Client represents, warrants, undertakes and agrees to the following for Electronic Services:

- (a) **“Electronic Services”** shall mean: (i) any software, hardware applications (including without limitation, e-mail, internet, computer to computer interface, FIX connection) or telecommunications equipment provided by BNYME or any Third Party Source for order routing and/or direct market access; (ii) any statements, Confirmations and account information or information (such as market research, reports, materials, market data, prices, news, documents, data and other content); and/or (iii) other systems and services provided through any electronic or internet capability, site or service;
- (b) **“Third Party Source”** shall mean any third party licensors, vendors, service providers, sub-contractors and sources of any of the information described in (a)(ii) above, any trading, order entry or other communications facility or system that is used to facilitate routing of Orders or trading, or other Electronic Services, whether provided directly to Client by BNYME or via a third party;
- (c) Access to Electronic Services is generally available from 8:00 A.M. to 5:30 P.M. (London time) on Business Days. Access to Electronic Services may be limited or unavailable during periods of peak demand, market volatility, system upgrades, and maintenance or for other reasons. In particular, BNYME has the right, unilaterally and with immediate effect, to suspend or withdraw permanently Client's ability to use any Electronic Service, or any part thereof, without notice, where BNYME considers it necessary or advisable to do so, in BNYME's discretion and in good faith, for example due to Client's non-compliance with the Applicable Laws, breach of any provisions of these Terms, on the occurrence of an Event of Default, network problems, failure of power supply, for maintenance, or to protect Client when there has been a breach of security or for other reasons (including reasons not related to electronic trading and/or use of the Electronic Services). In addition, the use of an Electronic Service may be terminated automatically, upon the termination (for whatever reason) of (i) any licence granted to BNYME by a Third Party Source which relates to the Electronic Service; or (ii) these Terms. The use of an Electronic Service may be terminated immediately if an Electronic Service is withdrawn for any reason, including by any Third Party Source or where BNYME is required to withdraw the facility to comply with Applicable Laws. If Electronic Services are unavailable for any reason, Client will use reasonable alternative means to contact BNYME. BNYME will have no liability whatsoever for any disruption or delay in Electronic Services.
- (d) Client shall be responsible for administering its use of Electronic Services including, but not limited to, maintenance and protection of all user authorisations, codes, passwords and other security devices, record keeping, data file backups and maintenance of hardware, software and other equipment.
- (e) Client shall adhere to any and all limitations imposed on any Transaction and/or Client's use of Electronic Services, as communicated by BNYME from time to time, and is responsible for complying with all Applicable Laws regarding Client's use of Electronic Services.
- (f) Client will not place or attempt to place any Order constituting a short sale, or any Order in Financial Instruments deemed to be “restricted” under Applicable Laws.
- (g) Client will be responsible for inputting and transmitting Orders and Transactions correctly and accurately and will not attempt to hold BNYME liable for any Losses arising out of or relating to any input or transmission duplication or error. Subject always to the provisions of Clause 5 of the Terms, Orders transmitted through electronic mail, Bloomberg message, or other electronic instant messaging application shall not be deemed to constitute a binding Order until the Order has been executed.
- (h) All materials, equipment and tools, data, hardware and software used in connection with the provision of the Electronic Services (the **“Materials”**) and all the intellectual property rights in the Materials are and shall remain the exclusive property of BNYME, its Affiliates or relevant Third Party Source (if leased or licensed from a Third Party Source). BNYME reserves the right, at any time and with or without cause or prior notice, to limit in any manner or block Client's use of the Electronic Services and/or to remove any or all of the Materials. Client agrees that it shall not: (i) directly or indirectly copy, reproduce, remanufacture, distribute, translate, convert, interfere with, alter, modify, reverse engineer, decompile, disassemble or in any way duplicate all or part of the Materials; or (ii) permit any such action. Client will not make copies of the Electronic Services provided, other than in order to meet any specific obligation applicable to it under Applicable Laws, without first requesting and receiving consent from BNYME to make such copies (a **“Consent Request”**). BNYME will consider any Consent Request received on a case by case basis, in its absolute discretion. In the event that Client receives any data, information or software via an Electronic Service other than that which Client is entitled to receive pursuant to these Terms, Client will immediately notify BNYME and will not use, in any way whatsoever, such data, information or software. Upon termination or expiration of use of an Electronic Service, or these Terms, the Customer will, upon BNYME's request regarding any or all Electronic Services: (i) promptly return any and all Materials to BNYME; or (ii) destroy such Materials and certify their destruction in writing to BNYME.
- (i) Client consents to the delivery of Confirmations, any other required or optional communication or agreement under any Applicable Laws and any agreements or changes in the terms and conditions by e-mail, through a website or by other electronic means, subject to compliance with Applicable Laws. Any such communications or documents that are delivered to Client electronically are deemed to be “in writing”. If Client's signature or acknowledgement is required or requested with respect to any such document, and BNYME reasonably believes that a person authorised to represent and to bind Client has electronically selected the required option in order to signify Client's consent (including by having “clicked” in the appropriate space on any electronic form), or taken such other action as may be indicated therein, Client will be deemed to have signed or acknowledged the document to the same extent and effect as if Client had signed the document manually. Client acknowledges its understanding that Client has the right to withdraw its consent to electronic delivery and signature of documents at any time by providing reasonable prior written notice. However, if Client revokes its consent, Client's access to various services may be restricted or terminated.
- (j) In respect of any Market to which BNYME allows Client to receive information or data using Electronic Services, BNYME may at any time or times, on reasonable notice (which, in certain circumstances, may be immediate) enter (or instruct BNYME's or the Market's subcontractors to enter) Client's (or, in a co-hosting situation, third parties') premises and/or servers and inspect Client's (or, in a co-hosting situation, third parties') System (meaning all computer hardware and software equipment, network facilities and other resources

and facilities enabling use of the Electronic Services) to ensure that it complies with the requirements notified by BNYME to Client from time to time and that Client is using the Electronic Services in accordance with this Agreement and any requirements of any relevant Applicable Laws.

- (k) Client will be responsible for providing the System to enable Client to use the Electronic Services.
- (l) Client will be responsible for the installation and proper use of any virus detection/scanning program BNYME requires from time to time.
- (m) When using an Electronic Service, Client must:
  - (i) ensure that Client's System is maintained in good order and is suitable for use with such Electronic Service;
  - (ii) run such tests and provide such information to BNYME as BNYME shall reasonably consider necessary to establish that Client's System satisfies the requirements notified by BNYME to Client from time to time;
  - (iii) carry out virus checks on a regular basis;
  - (iv) inform BNYME immediately of any unauthorised access to such Electronic Service or any unauthorised Transaction or instruction which Client knows of or suspects and, if within Client's control, cause such unauthorised use to cease; and
  - (v) not at any time leave the terminal from which Client has accessed such Electronic Service or let anyone else use the terminal until Client has logged off such Electronic Service.
- (n) In the event Client becomes aware of a material defect, malfunction or virus in the System or in an Electronic Service, Client will immediately notify BNYME of such defect, malfunction or virus and cease all use of such Electronic Service until Client has received permission from BNYME to resume use.
- (o) Without prejudice to any other terms of these Terms, relating to the limitation of liability and provision of indemnities, the following sections shall apply to BNYME's Electronic Services.
  - (i) BNYME shall have no liability to Client for damage which Client may suffer as a result of transmission errors, technical faults, malfunctions, illegal intervention in network equipment, network overloads, malicious blocking of access by third parties, internet malfunctions, interruptions or other deficiencies on the part of internet service providers. Client will be responsible for all orders entered on Client's behalf via the Electronic Services and Client will be fully liable to BNYME for the settlement of any Transaction arising from them. Client acknowledges that access to Electronic Services may be limited or unavailable due to such system errors, and that BNYME reserves the right upon notice to suspend access to Electronic Services for this reason.
  - (ii) Neither BNYME nor Third Party Source accept any liability for Losses of any kind in respect of any delays, inaccuracies, errors or omissions in any data, content, prices or information of any description, provided to Client in connection with an Electronic Service. For the avoidance of doubt, Electronic Services may not be provided on a continuous basis and neither BNYME nor any Third Party Source accept any liability in this respect.
  - (iii) Neither BNYME nor any Third Party Source shall have any liability to Client (whether in contract or in tort, including negligence) in the event that any viruses, worms, software bombs or similar items are introduced into Client's System via an Electronic Service or any software provided by BNYME to Client in order to enable Client to use such Electronic Service, provided that BNYME has taken reasonable steps to prevent any such introduction.
  - (iv) Client shall ensure that no computer viruses, worms, software bombs or similar items are introduced into BNYME's computer system or network and Client will indemnify BNYME on demand for any loss that BNYME suffers arising as a result of any such introduction.
  - (v) BNYME shall not be liable for any loss, liability or cost whatsoever arising from any unauthorised use of the Electronic Service. Client shall on demand indemnify, protect and hold BNYME harmless from and against all losses, liabilities, judgements, suits, actions, proceedings, claims, damages and costs resulting from or arising out of any act or omission by any person using an Electronic Service by using Client's designated passwords, whether or not Client authorised such use.
  - (vi) Client agrees to indemnify and hold harmless BNYME, its Affiliates and any applicable Third Party Source against any Losses to which BNYME, its Affiliates and/or any applicable Third Party Source (as the case may be) may become subject, directly or indirectly arising out of or relating to these Electronic Access Terms, any breach hereof or failure by Client to carry out any obligation or responsibility hereunder, any provision of any of the Electronic Services or access to any Electronic Services (including any trading system) by Client, or any sue of any of the Electronic Services (including any trading system) under a user code or any violation by Client, any Affiliate, employee, agent, contractor or sub-contractor of Client (or any persons on whose behalf Client may be acting), unless and to extent caused by BNYME's or its Affiliate's fraud, negligence or wilful default.
  - (vii) BNYME shall not be liable for any act taken by or on the instruction of a Market, clearing house or regulatory body.

**SCHEDULE 4**  
**INVESTMENT ADVISORY SERVICES**

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**1. SERVICES**

- 1.1 If BNYME agrees to provide investment advisory services to Client, BNYME will provide Client with advice on investments, which is suitable for Client or is based on a consideration of Client's particular circumstances and investment objectives ("**Personal Recommendations**") both:
- (a) by contacting Client periodically by telephone, post, fax or email with details of new investments and/or suggested changes to Client's investments that we believe are suitable for Client; and
  - (b) by replying to Client's request for advice.
- 1.2. Client hereby acknowledges that the provision of Investment Advice is incidental to its dealing relationship with BNYME and provided solely to enable Client to make its own investment decisions.
- 1.3. BNYME will only advise Client on the products, services and transactions provided by BNYME or an Affiliate.
- 1.4. Where BNYME provides Client with a Personal Recommendation it is valid only at the time it is made and must not be relied on at any time after BNYME makes it, unless BNYME expressly states otherwise.
- 1.5. BNYME shall not be under any obligation to provide on-going advice in relation to the management of Client's investments. BNYME will not review Client's investment at regular intervals or otherwise and this therefore remains Client's responsibility. BNYME will not act for Client on a discretionary basis.
- 1.6. BNYME will not provide or be responsible for the provision of any tax or legal advice in respect of Client's investments, and gives no advice, representation, warranty or guarantee as to the tax consequences of any transaction.

**2. SUITABILITY**

- 2.1. Where BNYME makes a Personal Recommendation to Client, BNYME is obliged to take reasonable steps to assess whether such Personal Recommendation is suitable for Client based on information provided by Client regarding its knowledge and experience in the relevant type or class of investments, its financial situation and its investment objectives.
- 2.2. Client undertakes to provide to BNYME on request all information regarding its investment objectives, financial situation and knowledge and experience in investments that are relevant to the particular product or transaction, so as to enable BNYME to provide Investment Advice that is suitable for Client.
- 2.3. If Client does not, or is unable to, provide BNYME with the information BNYME requests in a timely manner, or BNYME considers that the relevant product, service or transaction is not suitable for Client, this may result in a delay in BNYME dealing with or for Client and/or BNYME may refuse to deal with or for Client. It is Client's responsibility to notify BNYME if its circumstances have changed.
- 2.4. BNYME will be entitled to rely on the information provided by Client and will assume that such information is complete and accurate in all material respects unless Client has otherwise informed BNYME in writing.
- 2.5. BNYME is also entitled to assume, without carrying out further assessment, that:
- (a) Client has the necessary experience and knowledge in order to understand the risks involved in relation to those services or relevant transactions; and
  - (b) where Client is a per se professional client or an eligible counterparty (as defined in the FCA Rules), that it is financially able to bear any related investment risks consistent with its investment objectives in relation to the proposed products, transactions and services. If Client does not consider this to be the case, it must make BNYME aware of this prior to the provision any Personal Recommendation and provide BNYME with any available information as to the level of Client's knowledge and experience and/or as to Client's financial situation as appropriate. BNYME will rely on the information that Client has supplied to it.

**3. LIMITATION OF LIABILITY**

- 3.1. Whilst BNYME will have taken reasonable care in the preparation of the Personal Recommendation BNYME provides to Client, BNYME gives no representation, warranty or guarantee as to the accuracy or completeness of such Personal Recommendation or as to any tax or other consequences of the same or any Transaction Client enters into pursuant to any Personal Recommendation. Further, Client acknowledges that the Personal Recommendation provided to other clients may be different to Client and that such Personal Recommendation may be inconsistent with and/or contrary to any proprietary investments of BNYME's directors, officers, employees, agents or any Affiliate.
- 3.2. BNYME shall not be liable for any Losses which Client may suffer as a result of relying on any Personal Recommendation provided to it unless BNYME has been negligent, fraudulent or acted in bad faith.