

# Private Banking Terms and Conditions

Credit Suisse AG,  
Guernsey Branch

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# Introduction

These Terms and Conditions, together with the Account Opening documentation and, where applicable, the Client Mandate, contain the terms of independent (and several) contracts between you and Credit Suisse AG, Guernsey Branch ("CS") ("we" and "us").

The Terms and Conditions in Section A and Section B set out the basis on which we will provide you with private banking, brokerage and/or other investment services in respect of your Portfolio(s), (collectively, the "Terms and Conditions"). Each Portfolio may contain Cash or Investments or a combination of both.

Section A Part 9 contains a Glossary of Terms that are used in these Terms and Conditions.

**Section C contains risk warnings including those relating to trading in warrants, derivatives, hedge funds, private equity funds and emerging market securities. You must read Section C carefully.**

Section D contains our Best Execution Policy which, unless we notify you otherwise, will apply to all dealing services undertaken by us for you.

Section E contains a summary of our Conflicts Policy.

The Terms and Conditions contain provisions that govern the relationship between you and us. Among other things, they contain provisions under which:

- you give us certain representations and warranties;
- you agree to compensate us for costs and losses that we suffer in providing services to you; and
- we limit our liability to you in relation to the services provided under these Terms and Conditions.

**We recommend that you read these Terms and Conditions very carefully and, if you are unsure about the meaning or effect of any of these Terms and Conditions, you should seek advice from an appropriate professional. Please keep these Terms and Conditions in a safe place for future reference.**

Please contact your Account Manager if you have any questions about these Terms and Conditions or your Account.

These Terms and Conditions come into effect from 22 September 2017.

Any update and/or Variation Notice to these Terms and Conditions will be provided at <https://www.credit-suisse.com/gg/en/legal/legal-notices.html>

# Section A

## Part 1: Investment Services

This Part sets out our details, explains the operation of the Terms and Conditions and describes the Investment Services we offer.

### 1. About Us

- 1.1 The place of business in Guernsey of CS is at Helvetia Court, Les Echelons, South Esplanade, St Peter Port, Guernsey, GY1 3YJ.
- 1.2 We are a financial services business and are authorised and regulated by the Guernsey Financial Services Commission ("GFSC"). Our name, address and information about our statutory status can be checked on the GFSC register of regulated entities by visiting the GFSC's website ([www.gfsc.gg](http://www.gfsc.gg)) or by contacting the GFSC on +44 (0) 1481 712706. The GFSC can be contacted at PO Box 128, Glatigny Court, Glatigny Esplanade, St Peter Port, Guernsey, GY1 3HQ.
- 1.3 Unless otherwise agreed you will be treated as a Retail Client. If you are acting as agent for someone else, we will treat you alone as our customer for the purposes of the GFSC Rules and you will be liable, in addition to that other person, in respect of any Transactions we enter into with or for you. If, instead, we categorise you as a Professional Client you may request that we re-categorise you as a Retail Client, however, please note that we are not obliged to agree to your request which will be assessed on its merits at our discretion. Please contact your Account Manager if you are in any doubt about your classification.
- 1.4 These Terms and Conditions will be effective from the date notified by us to you ("Effective Date").
- 1.5 Although our conduct is governed by the GFSC Rules, this is a matter between us and the GFSC and you agree that the GFSC Rules will not be incorporated into these Terms and Conditions.

### 2. Services

- 2.1 The remaining Parts of Section A apply to all services to be provided by us either when you first set up a relationship with us or as subsequently agreed.

### 3. The Investment Service Provided by Us to You

- 3.1 The Account Opening documentation and/or the Client Mandate for a specified Portfolio indicate the Investment Service that we provide to you under these Terms and Conditions in relation to that Portfolio.
- 3.2 In accordance with the requirements of the GFSC Rules, where we have agreed to provide you with the Discretionary Service, we will be required to ensure the suitability of any discretionary management decision (in the case of the Discretionary Service).
- 3.3 For the purposes of these Terms and Conditions, "suitability" shall mean that we have a reasonable basis for believing, giving due consideration to the nature and extent of the services that we provide to you, that the specific Transaction to be entered into on a discretionary management basis:
  - (A) meets your investment objectives;
  - (B) is such that you are able financially to bear any related investment risks consistent with your investment objectives; and
  - (C) is such that you have the necessary knowledge and experience in order to understand the risks involved with the Transaction or with the management of your Portfolio (as the case may be).

- 3.4 In assessing suitability, we are permitted to rely on any information provided by you to us regarding your investment objectives, financial situation and knowledge or experience, and we will rely on any such information unless we are aware that it is manifestly out of date, inaccurate or incomplete. Subject to the foregoing, we shall be permitted to rely on information provided by you at any time and in any format (including, but not limited to, in writing, by email, or verbally).
- 3.5 Unless we expressly and separately agree otherwise with you, we will assess suitability primarily by reference to the suitability of the composition of your Portfolio as a whole. Without prejudice to the generality of the foregoing, you understand and agree that one consequence of this approach is that your Portfolio may contain a number of different Investments with different risk profiles and, in particular, you understand that your Portfolio may contain certain Investments which have a higher (or lower) risk profile than the overall risk profile of the Portfolio, provided that we have a reasonable basis for believing that the overall composition of the Portfolio is suitable for you.
- 3.6 In accordance with the GFSC Rules, where we have agreed to provide you with the Execution-only Services, we will not be required to ensure the suitability of any Transaction, but we may in certain circumstances (as specified in Clause 5) be required to ensure the "appropriateness" of Transactions.
- 3.7 You understand and agree that the information provided in the Account Opening documentation and/or the Client Mandate shall not be the sole source of information on which we rely for the purposes of assessing suitability or appropriateness, and such information may be superseded or enhanced by (amongst other things) information that you subsequently provide to your Account Manager and/or your course of dealings with us.

### 4. The Discretionary Service

- 4.1 Where you specify "Discretionary Service" in the Account Opening documentation and/or the Client Mandate:
  - (A) you appoint us to manage the Portfolio on a discretionary basis;
  - (B) you authorise us to enter into Transactions and arrangements without prior reference to you on your behalf and for your Account, subject to any investment objective or restriction made by you in the Account Opening documentation and/or the Client Mandate;
  - (C) you understand and agree that we may aggregate the Portfolio both with the portfolios of other clients and with our monies or Investments in order to make a common investment decision for a number of portfolios managed by us;
  - (D) we may in our discretion and without giving reasons decline to accept any particular Instructions.

## 5. Execution-only Services

- 5.1 Where you specify "Execution only" in the Account Opening documentation and/or the Client Mandate, you appoint us to provide you with Execution-only Services.
- 5.2 If you instruct us to provide Execution-only Services and if we provide these Execution-only Services:
- (A) We shall not have any duty to advise you in respect of either that Execution-only Service or any subsequent sale or potential sale of any asset acquired following that Execution-only Service; and
  - (B) You are responsible for assessing the suitability or appropriateness of that Execution-only Service in the context of your investment objectives.
- 5.3 Where, pursuant to your Instruction, we provide an Execution-only Service in relation to an investment that is not of the kind described in Clause 5.2 of this Part of Section A, we shall assess the appropriateness of the Execution-only Service by reference to your experience, knowledge and understanding of the risks involved. If we consider (on the basis of the information that we hold about you) that the Execution-only Service is not appropriate for you, we shall warn you about this. If notwithstanding the warning that we have given you, you ask us to proceed with the Execution-only Service and we provide the service to you (or, as the case may be, we execute the transaction for you), you shall be solely responsible for that decision and we shall have no liability to you in respect of it. The provisions of this paragraph shall be without prejudice to our general rights to refuse to execute your orders or Instructions.
- 5.4 Except as set out in these Terms and Conditions or otherwise required under the Applicable Law, we shall not owe you any duty to advise on the merits or suitability of any Execution-only Transaction or other Execution-only Service entered into, requested or contemplated by you, unless we enter into a specific, signed agreement with you to do so. You agree that you will rely on your own judgment for all decisions in relation to Execution-only Services, except where we have specifically agreed otherwise with you. Furthermore, where we provide you with Execution-only Services, any trading recommendation, market or other information communicated to you is incidental to the provision of Execution-only Services by us under these Terms and Conditions and we give no representation, warranty or guarantee as to its accuracy or completeness.
- 5.5 You agree to supply us with all information that we request to enable us to assess the appropriateness of Execution-only Services in the manner contemplated in Clause 5.3 above.
- 5.6 If you have appointed an External Asset Manager, we may in some cases be appointed by such External Asset Manager to provide discretionary management services in respect of your portfolio and that any such arrangements will be the subject of a separate agreement between us and the External Asset Manager. The assets comprised in the Portfolio shall remain in your safekeeping account. We shall have no responsibility or liability to you in respect of assessing suitability of investments for you. The External Asset Manager shall assess suitability of investments for you and advise us accordingly.

# Section A

## Part 2: General Account Terms

This Part sets out the general Terms and Conditions applicable to the Investment Service(s) we provide to you.

### 1. Operating Your Accounts

- 1.1 You authorise us, until you give us notice otherwise:
- (A) at any time during the term of these Terms and Conditions to open one or more accounts (each, an "Account") in your name. If you instruct us to open a sub-account, we may (but are not obliged to) open such sub-account (subject to the provision of such information as the Bank deems necessary). Such sub-accounts will be opened subject to the current version of the Terms and Conditions and the representations and warranties contained therein;
  - (B) to pay and to debit to the relevant Account all cheques, bills of exchange, promissory notes or other orders or Instructions authorising payment drawn, accepted or made by you in connection with any such Account notwithstanding that any such debiting may cause the relevant Account to be overdrawn or any overdraft to be increased but without prejudice to our right at any time in our absolute discretion to refuse to allow any overdraft or increase of any overdraft;
  - (C) without in any way limiting the foregoing:
    - (1) to carry out Instructions countermending payment of cheques, bills of exchange, promissory notes or Instructions authorising payment when such Instructions are given by you; and
    - (2) to deliver up on your Instructions any Investments, deeds, proxies, folders and parcels and their contents and property of any description held in your name;
  - (D) to place to the credit of such Account as specified by you (or in the absence of any such specification, any Account), all amounts, including dividends, interest and capital sums arising from Investments received or collected by us for your credit;
  - (E) to take such other actions on your behalf and at your expense and exercise such powers as we consider are necessary or desirable for, or incidental to, any actions we are instructed to take or which are authorised under these Terms and Conditions or otherwise by you; and
  - (F) to employ agents or contractors in connection with any services described in these Terms and Conditions as we see fit.
- 1.2 We will account to you for any Transaction effected on your behalf by crediting or debiting payments and deliveries to your Accounts with us or any third party holding money or providing custody services to you. Subject to your discharging all of your Liabilities and otherwise as mentioned herein, we will upon your Instructions deliver Investments to you or to your reasonable order and/or, as the case may be, make a wire transfer of the Cash balances on your Account, in each case, at your risk.
- 1.3 In relation to any specific Transaction or dealing, our obligation to make any payment arising from such Transaction or dealing shall only be to make payment in the Currency that we have previously agreed with you.
- 1.4 We are not obliged to settle Transactions or account to you unless and until we (or our settlement agents) have received all necessary documents or money.
- 1.5 Our obligations to deliver Investments to you or to your order or to account to you for the proceeds of the disposal of Investments are conditional on the prior receipt by us of appropriate documents or money from the other party to the Transaction.

- 1.6 We may purchase or borrow Investments to cover any liability of yours to deliver Investments pursuant to Transactions with or through us and you will reimburse us for any losses and expenses we suffer in this way.
- 1.7 We shall be entitled at any time to close any of your Accounts and to demand immediate payment of all sums due or owing to us whether present or future, actual or contingent and ascertained or unascertained.
- 1.8 We shall be entitled to deduct from the monies held in your Accounts or from any interest payable to you or otherwise to debit to your Accounts any Tax which we are required to deduct or withhold. We will from time to time notify you if such Tax is deducted or withheld.
- 1.9 When we receive a payment instruction from you, we may, at our sole discretion, decide to telephone you in order to confirm your Instructions. In the event that we are unable to contact you by telephone, this may result in a delay in carrying out your payment Instructions. We shall not be responsible for any losses which may be sustained by you or any other party as a result of any delay or failure to make a payment should we be unable to contact you by telephone as provided herein.

### 2. Interest

- 2.1 If you ask us to, we will tell you about the interest rates applied to:
- (A) any Credit Balance; and
  - (B) any Debit Balance on any Account.
- 2.2 We are entitled to vary interest rates at any time, either with immediate effect or with effect from a specified date by giving you notice.
- 2.3 In some circumstances, a currency may attract negative Interest. In the event that we hold a Deposit for you in a currency which attracts negative Interest, a sum or sums equivalent to such negative Interest will be automatically deducted from your Account.

### 3. The General Nature of the Investment Service Provided by Us to You

- 3.1 When effecting a Transaction on your behalf, we may act as principal or as your agent or otherwise arrange Transactions on your behalf. An Associate may from time to time either:
- (A) deal with you as principal; or
  - (B) deal with us as your agent.
- 3.2 You give us, as your agent, full and unrestricted authority, on such occasions as we think fit, to place your orders for execution and/or settlement with or through such other person (who may be connected with us) as we shall at our discretion select, subject to whatever terms we, as your agent, may agree with that person or as may be implied, and by which you will be bound. In particular, orders will be placed on the basis that that person will be responsible for executing the Transaction and that we will not be responsible for the execution of the order (provided that we have complied with any applicable best execution obligations in our selection of that person) or for any default of that person in connection with the execution. Such other person may not be authorised under the Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended, in which case the regulatory regime applying, including any compensation

arrangements, may in some or all respects be different from that of Guernsey. From time to time we may act as agent for an Associate. Your sole counterparty to such Transactions will be the Associate and we will not be liable as a principal in respect of them.

- 3.3 We may agree from time to time to undertake stock lending activities with or for you. Neither we nor our agents will lend your securities unless we have your permission in that regard.
- 3.4 We may require you to enter into a Client Mandate or an additional or supplementary agreement before providing any additional or varied service to you (including undertaking any stock lending activity or stock borrowing activity with or for you).
- 3.5 You understand and agree that we do not provide any Tax, accounting or legal advice to you. We give no representation, warranty or guarantee, or advice, as to the taxation consequences of any services to be provided, or investments made by us. In providing our services to you, we shall not be required to take into account taxation matters and you should therefore seek such Tax advice as you consider appropriate from your own Tax adviser and take such advice into account in framing your investment objectives and restrictions and limits on Investments in the Account Opening documentation and/or the Client Mandate. On occasions we may offer to explain our general understanding of the Tax consequences of investing in a particular product. Any information or explanation given relates to our own understanding of the Tax consequences applying to investors of a particular class but will not in any event take into account your personal circumstances. Such information or explanation may not be relied upon by you and should therefore be independently verified by your Tax adviser and reviewed in the light of your particular Tax position.

#### 4. General Restrictions

- 4.1 Where we provide you with a Discretionary Service, we will observe all investment limits or restrictions provided in your Account Opening documentation and/or your Client Mandate. Except as expressly provided in these Terms and Conditions or your Account Opening documentation and/or your Client Mandate there are no limits or restrictions on:
  - (A) the type or value of any Portfolio Assets (or class of Portfolio Assets) or any one Portfolio Asset that may be held in the Portfolio;
  - (B) the proportion of the Portfolio which any one Portfolio Asset or any particular kind of Portfolio Asset may constitute;
  - (C) the amount of the consideration that may be involved in any Transaction (or class of Transaction) which we enter into with or for you; or
  - (D) the markets on which such Transactions may be effected.
- 4.2 We may enter into Transactions for you, either generally or subject to specified limitations, pursuant to which you will incur obligations as an underwriter or sub-underwriter.

#### 5. Reporting Obligations

- 5.1 You should be aware that, among other reporting obligations, you may have a duty to disclose to the United Kingdom Panel on Takeovers and Mergers (and authorities in other jurisdictions carrying out similar regulatory functions) Transactions in certain Investments. We shall not be under any obligation to notify you that you are or may be subject to any specific reporting obligation, even where this is obvious from the Investments in your Portfolio.
- 5.2 You authorise us in respect of any Portfolio Investment to comply with the requirements of:
  - (A) Any notice served on us under Part 22 of the UK Companies Act 2006; or

- (B) Any inter-governmental agreement(s) between Guernsey and any other jurisdiction(s) which may be in place from time to time ("IGAs"); or
- (C) Any other legislation or regulation which imposes similar requirements.

- 5.3 You hereby agree to provide us and our service providers with any information that we may request or require in order to comply with applicable laws, including Tax laws, and/or IGAs.
- 5.4 Without prejudice to the generality of the foregoing, you hereby acknowledge and understand that we are required to comply with the Foreign Account Tax Compliance Act provisions of the U.S. Hiring Incentives to Restore Employment Act ("FATCA"), and you agree to furnish any information and documents that we or our service providers may from time to time request for the purpose of compliance with our obligations under FATCA, including but not limited to information required under FATCA, and you agree that we may share such information with any third party as required by law. In the event that you are identified as a "US Person", you authorize us to disclose required information as defined under FATCA regulations to appropriate authorities in the United States or in Guernsey as per the requirements under FATCA. In the case of any material changes to the circumstances affecting your US Person status as per FATCA, you undertake to inform such changes to us within 90 days or such timeline as defined under FATCA for such an event. You hereby agree and acknowledge that in the event that monies receivable by you in connection with any investment which becomes subject to withholding Tax under FATCA, all such monies shall be paid net of such Taxes and you will have no recourse to us or any of our agents in respect of a refund of such Taxes and will instead, if eligible, be required to seek a refund from the Internal Revenue Service in accordance with the provisions of FATCA.

#### 6. Use of English Language

These Terms and Conditions are available only in English and all communications in connection with the services we provide shall be in English, unless we notify you otherwise.

#### 7. Instructions from You to Us

- 7.1 You are entitled to send Instructions to us by telephone, fax, post or email as set out in these Terms and Conditions (for email see Part 7 of Section A) provided in each case that an Instruction will not take effect until we receive it. Unless we agree otherwise with you, you shall have no right to amend or revoke an Instruction once received by us.
- 7.2 Unless you notify us otherwise, where you comprise more than one person, any written Instruction or other written communication to be given by you must be given by all of you.
- 7.3 Where you comprise more than one person, each person has the authority (as full as if that person was the only person entering the Client Agreement) on behalf of the others to give or receive any telephone Instruction or other verbal communications without notice to the others, including a telephone or other verbal Instruction to liquidate and/or withdraw any Portfolio Asset or Portfolio Investment. We cannot accept mandates where we can only accept telephone Instructions or other verbal communications from two or more persons. Notwithstanding the foregoing, each person agrees that we may, at our sole discretion: (i) require joint Instructions from some or all of you before acting upon any particular telephone or other verbal Instruction; and (ii) if we receive telephone or other verbal Instructions from one of you that are, in our opinion, in conflict with Instructions received from another of you, comply with any of these Instructions and/or advise each of you of the apparent conflict and/or take no action as to any of these Instructions until we receive Instructions from all or any of you that are satisfactory to us.

- 7.4 We are entitled to act on any Instruction which we reasonably believe to be sent or otherwise communicated to us by an Authorised Signatory. You will be bound by any agreement entered into or expense incurred on your behalf in reliance on such an Instruction.
- 7.5 We shall we be under no obligation to confirm Instructions before they are executed or the accuracy or completeness of any information provided by you before it is acted upon or otherwise relied upon. However, except where we are providing a Discretionary Service, we will provide you with information about the status of your Instruction on request.
- 7.6 You understand and agree that you are responsible for informing us of any change to the group of Authorised Signatories previously notified to us.
- 7.7 We shall not be under any obligation to discover errors made by you or your agents or to check the accuracy, authenticity or contents of any Instruction or notice.
- 7.8 If we receive an instruction which we consider to be ambiguous, incomplete, unclear or which we are unable to authenticate to our own satisfaction, or which appears to us to conflict with another instruction, or which might result in a breach of any relevant law, rule, regulation, or any other applicable code of conduct, or which gives rise to a suspicion of fraud, money laundering or terrorist financing, we may in our absolute discretion and without any liability on our part, act or decline to act as we think fit.
- 7.9 There may be occasions where we are unable to act upon an Instruction and in such circumstances we shall endeavour to notify you promptly, unless it may be unlawful for us to do so. In no event shall we be liable for any loss, expense or damage incurred by reason of our failure to notify you or omission to act.
- 7.10 You understand and agree that:
- (A) we may record any telephone conversation between you and us;
  - (B) any recording will be our sole property;
  - (C) we may act upon telephone Instructions before receipt of any written confirmations and any recording will be conclusive evidence of the relevant conversation (including any Instruction communicated during the conversation) or the terms of any Transaction verbally agreed on;
  - (D) the period for which any recording is retained will be determined by us in our absolute discretion; and
  - (E) we may provide:
    - (1) any recording;
    - (2) a copy of any recording; or
    - (3) any transcript of any recording, to an Associate or as requested under any Applicable Law or as required or requested by any governmental or regulatory authority.
- 7.11 If you are an entity other than a natural person you undertake to ensure that your employees, partners and other persons who may contact us on your behalf are aware of the provisions of Clause 7.10.
- 7.12 We may freeze an Account or refuse to act in accordance with an Instruction in the absence of consent from the relevant Guernsey authority (or other relevant body) where there is a suspicion of fraud, money laundering or terrorist financing, or if we become aware that there is a disagreement in relation to an Account or in relation to ownership of funds in an Account (including a dispute between account holders). You may not be notified and we may refuse to provide information in such circumstances where in doing so we, our directors, officers, employees, agents and/or Associates might be in contravention of any anti-money laundering or other legislation. We shall not be liable for any loss, expense or damage arising out of

any notification to the relevant Guernsey authority (or other relevant body) of any suspicion of fraud, money laundering or terrorist financing, of any failure to notify you of the freezing of an Account or our refusal to act in accordance with an Instruction.

## 8. Provision of Information by Us to You

- 8.1 We will provide to you the following information in respect of the services provided by us to you:
- (A) if we provide a Discretionary Service;
    - (1) the initial value of the Portfolio at the date when we start to manage the Portfolio; and
    - (2) the benchmark (if any) against which the performance of the Portfolio will be compared and reported to you.
  - (B) Unless we agree otherwise, a confirmation of every Transaction by post or such other method as we may notify to you from time to time (which will be provided as soon as possible after the Transaction has been effected) provided always that where we execute a series of Transactions to achieve one investment objective, we may issue a single confirmation with a uniform price for such Transactions;
  - (C) a statement of holdings of Custody Investments (which will be provided at least annually);
  - (D) a valuation of the Portfolio (may be requested monthly, quarterly or six monthly or otherwise as agreed in the Account Opening documentation) and;
  - (E) information about the performance of your Portfolio.
- 8.2 In addition to valuation statements and statements of holdings, we may from time to time send you, for information purposes, review documents containing information in relation to your Account ("Portfolio Reports"). Please note, however, that neither we nor any of our Associates nor any person holding money or providing custody services to you makes any representation as to the completeness or accuracy of any information contained within any part of such Portfolio Reports nor do we or they accept any liability for any loss or damage (including, without limitation, loss of profit), which may arise directly or indirectly from use of or reliance on such information.
- 8.3 Please note that any United Kingdom capital gains tax reporting to you will not take into account any Foreign Exchange Transactions. The calculation and classification of certain products for capital gains and income tax purposes may be undertaken by a third party service provider and shall be based on our understanding of tax law in the United Kingdom alone. Any reports provided may not contain the taxable income or capital gains or losses associated with certain transactions or products executed by or through us, including in relation to foreign exchange transactions and derivatives. Any information concerning tax exemptions or allowances is determined in relation to transactions undertaken with our Private Banking division alone and does not consider any other circumstances (including transactions undertaken with third parties).
- 8.4 Except as we may otherwise indicate in writing on any specific contract note or confirmation, any contract note, confirmation, account or other statement which we give in writing will, in the absence of manifest error, be deemed correct, conclusive and binding on you if not objected to in writing within five Business Days of dispatch by us.
- 8.5 You understand that unless we are required by the GFSC Rules, neither we nor any Associate need disclose to you or take into consideration any fact, thing or matter:
- (A) if any such disclosure would or might be a breach of confidence or duty to any other person; or
  - (B) relating in nature or extent to any interest we or an Associate have in any Investment.

## 9. Aggregation of Transactions

- 9.1 You understand and agree that:
- (A) we may aggregate any Transaction for you with other Transactions for other persons (including Associates);
  - (B) aggregation may result in a more favourable or less favourable price or rate being achieved and, on other occasions, may therefore work to your disadvantage; and
  - (C) we may keep any benefit arising from aggregation if we cannot determine whether or not the benefit should be passed on to you (for example, because the benefit is too small or because we are not sure whether or not the benefit is rightfully yours).

## 10. Allocation of Transactions and Limit Orders

- 10.1 You understand and agree that if any Transaction is aggregated with other transactions for other persons. (including Associates) and the resulting aggregated transaction (the "Aggregated Transaction") is not completely filled, then we may allocate to the Portfolio and to the portfolio of any other person (including any Associate) the relevant proportion of the relevant Cash and Investments.
- 10.2 Where you place a Limit Order in respect of Securities traded on a Regulated Exchange, such Limit Order is not immediately executed:
- (A) Where such an order has been passed to a third party exchange member by us, such member may in its discretion choose not to make your Limit Order public; and
  - (B) Where we place such Limit Order on a Regulated Exchange through a direct market access arrangement with a third party exchange member you expressly instructed us not to make your Limit Order public where we in our discretion decide that such action will facilitate the earliest possible execution of your Order.

## 11. Best Execution

We will provide Best Execution where so required by the GFSC Rules and in accordance with our Best Execution Policy a summary of which is set out in Section D.

## 12. Charges/Fees

- 12.1 We will notify you from time to time of fees payable by you under these Terms and Conditions. Other Taxes or costs may exist that are not paid through us or imposed by us.
- 12.2 Where permitted by Applicable Law (and in particular the Guernsey Financial Advice Standards, effective from 1 January 2015), we may receive from other persons and keep, and we may share with other persons, payments and/or non-monetary benefits in respect of any Transaction effected or Investment held on your behalf. Details of these payments will not be set out in the relevant confirmation unless otherwise required under Applicable Law but, instead, will be provided to you if you ask for them. You agree that we may deal on your behalf with or through an Associate on the Associate's usual terms of business on an arm's length basis and the Associate may keep all or part of any resulting fee, charge, commission or profit.
- 12.3 We may deduct from any amount payable to you in respect of a Transaction any Tax payable by you in respect of the Transaction.
- 12.4 We may without notice to you debit from any Account any sum due to us.
- 12.5 We will not make any charge to you as a consequence of the termination of these Terms and Conditions, except for:
- (A) charges that we have told you about;
  - (B) fees in respect of the Discretionary Service as well as safe custody up to and including the date of the termination of these Terms and Conditions;

- (C) any losses, charges, fees or expenses incurred by us in settling or concluding any outstanding obligation on your behalf during the course of bringing these Terms and Conditions to an end; and
- (D) any losses, charges, fees or expenses incurred by us generally during the course of bringing these Terms and Conditions to an end.

- 12.6 We may discharge and you hereby authorise us to discharge the fees of the External Asset Manager (if any) out of monies held for your account on first presentation of the External Asset Manager's invoice.

## 13. Material Interests

- 13.1 You acknowledge that we are part of the Credit Suisse Group which is involved in banking and investment banking including corporate finance and capital markets activities, Securities issuing, Securities distribution, research and trading, investment management and the operation, distribution and management of collective investment schemes.
- 13.2 Therefore, we and/or any Associate have or may have a material interest or conflict of interest in services or Transactions with or for you. Details of how we manage or avoid actual or potential conflicts of interest are set out in our Conflicts Policy. A summary of our Conflicts Policy may be found at Section E.
- 13.3 While we believe that the measures contained in our Conflicts Policy should ensure, with reasonable confidence, that risks of damage to your interests will be prevented we feel that it is only fair to alert you to the situations in which a conflict of interest might arise. Please therefore note that, when enter into a Transaction for you, we or one of our Associates, could be:
- (A) dealing as principal for our, or its own, account by selling the Investment concerned to you or buying it from you and thereby making a profit (or loss) or taking a mark-up, mark-down or credit for our or their own account;
  - (B) acting as agent or arranging a transaction for an Associate or another customer or investor and also acting as agent for you in the same transaction, and receiving and retaining commission or other charges from both parties, and the price of the transaction being different from the bid or, as the case may be, offer price;
  - (C) buying or selling units in a collective investment scheme where we are, or an Associate is, the trustee, operator (or an adviser of the trustee or operator) of the scheme;
  - (D) buying Investments where we are, or an Associate is, involved in a new issue, offer for sale, rights issue, take-over offer, other offer or similar transaction concerning the Investment;
  - (E) executing a Transaction for or with you in circumstances where we have knowledge of other actual or potential transactions in the relevant Investment;
  - (F) acting as adviser or banker to, or having any other business relationship with, or interest in, the issuer (or any of its Associates or advisers) or any Investments purchased or sold by you or advising or acting as banker to any person in connection with a merger, acquisition or take-over by or for any such issuer (or Associate);
  - (G) the issuer of any Investments purchased or sold by you or being (or being adviser or banker to, or having any other business relationship with) the trustee, custodian, operator or manager of, or investment adviser to any form of collective investment scheme in which interests are purchased or sold by you; or
  - (H) acting as banker to you and/or extending credit to you.

- 13.4 If you object to our acting, on the basis set out in this Clause 13, notwithstanding that we have a material interest or conflict of interest you should notify us in writing. Unless so notified, we will assume that you do not object to our so acting.
- 13.5 Any Instructions received to buy or sell Investments may be fulfilled (in whole or in part) by the sale to or the purchase from you of the relevant Investments by us, an Associate or another customer of ours or of an Associate. This will generally not be disclosed to you in advance.
- 13.6 To the extent permitted under the GFSC Rules, and subject to Clause 12.2, neither we, nor any Associate, will be liable to account to you for, or (except in respect of our fees or other charges) disclose to you, any profit, commission or remuneration made or received by us or it from or by reason of any Transaction entered into with or for you, any connected Transaction or any of the matters described in this Clause 13. We, or an Associate, may benefit from any commission or any mark-up or mark-down and may act and be remunerated as an agent for the counterparty to such a Transaction (which may include another customer of ours) as well as for you.
- 13.7 The relationship between us is as described in these Terms and Conditions. Neither the relationship, nor the services we provide, nor any other matter, will give rise to any fiduciary or equitable duties on our part, or that of any Associate, which would prevent or hinder us or it from market making or otherwise acting in a dual capacity (either as principal or agent) in respect of Investments sold or purchased or to be sold or purchased by you, in doing business with Associates, connected customers and other investors whether for our take-over offer or similar transaction concerning the Investment;
- (A) executing a Transaction for or with you in circumstances where we have knowledge of other actual or potential transactions in the relevant Investment;
- (B) holding a position in, or trading, dealing or market-making in, Investments purchased or sold by you;
- (C) sponsoring, underwriting, sub-underwriting, placing, purchasing, arranging, acting as stabilising manager for, or otherwise participating in, the issue of Investments purchased or sold by your own account, your account or for the account of Associates, connected customers and/or other investors or in any other way from acting as provided in these Terms and Conditions.

## 14. Margin

- 14.1 You will provide us with Margin (whether initial margin or variation margin) on our request in respect of a Contingent Liability Transaction.
- 14.2 If you fail to provide the Margin upon our request, then we will be entitled either:
- (A) to close out the relevant Contingent Liability Transaction early; or
- (B) to provide you with Temporary Borrowing (please refer to Clause 15.1 below).

## 15. Temporary Borrowing

- 15.1 We may from time to time lend money to you if necessary, for example, to meet settlement obligations that you have incurred or to cover a margin call that has been made on you. This borrowing by you (the "Temporary Borrowing" shall be deemed to be a temporary borrowing and shall be repayable by you on our demand. Alternatively, you hereby instruct and authorise us to transfer such funds as may be required from your Account(s) (and where you are a Trustee the Account(s) holding the relevant Trust's funds) with one or more of our Associates to us or as otherwise may be required to meet your settlement obligations.

- 15.2 The interest rate in respect of the Temporary Borrowing is 5% (five per cent) above the Bank's standard base rate as determined by the Bank from time to time for the respective currency.

## 16. Applicable Law

- 16.1 We shall be entitled, at any time and from time to time and without notice to you, to take any action we think appropriate to ensure compliance with, and shall not be required to take any action in violation of Applicable Law so that if there is any conflict between the provisions of these Terms and Conditions and the Applicable Law the latter will prevail. Whatever we do or do not do to comply with Applicable Law shall be binding on you.
- 16.2 We shall have no obligation to make any payment, and you shall have no right to demand or receive any payment, if it would be contrary to Applicable Law for us to make, or for you to demand and/or receive, any such payment or if you have not executed and delivered to us (or as we may direct) such instruments and documents with respect thereto as may be required by us and/or by any such Applicable Law.
- 16.3 All Transactions, whether executed and/or settled by us or a third party will be subject to Applicable Law so that:
- (A) if there is any conflict between these Terms and Conditions, or the terms of any agreement with a third party pursuant to which a Transaction is executed and/or settled, and Applicable Law, the latter will prevail;
- (B) we may take or omit to take any action we think appropriate to ensure compliance with Applicable Law; and
- (C) any such action we take and all Applicable Law will be binding on you.

## 17. Our Discretion

Any right or power which may be exercised or any determination which may be made hereunder by us may be exercised or made in our absolute and unfettered discretion and we shall not be under any obligation to give reasons therefor.

## 18. Netting

- 18.1 Where on any date, the Parties owe an amount of Currency to one another, and where we so decide in our discretion, then, on such date, each Party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one Party exceeds the aggregate amount that would otherwise have been payable by the other Party, it is replaced by an obligation upon the Party by whom the larger aggregate amount would have been payable, to pay to the other Party the excess of the larger aggregate amount over the smaller aggregate amount.
- 18.2 For the purpose of Clause 18.1 above, in determining the amount of Currency owed by one Party to the other, pursuant to the above, we may, acting in good faith and in a commercially reasonable manner, convert that amount of Currency into another Currency, in an amount and at a time, as we determine in our absolute discretion.
- 18.3 The above shall not apply to the extent that we are unable to convert an amount of Currency into another Currency for the purpose of determining the aggregate amounts of Currency the Parties owe to each other.

# Section A

## Part 3: Your Money and Assets

This Part sets out the terms on which we will hold your Cash and Investments.

### 1. Client Money

1.1 Money will be held for you as follows:

- (A) any money held for you by us in an account with us will be held by us as banker and not as trustee and as a result, the money will not be held as “client money” for the purposes of the GFSC Rules; and
- (B) we will only hold your money in circumstances where such money would not need to be treated as “client money” for the purposes of the GFSC Rules (for example in the course of delivery versus payment transactions).

### 2. Custody

If you so require, we will provide you with custody and valuation services on the terms set out below.

### 3. Custody Investments

3.1 All Portfolio Assets that are Investments (the “Custody Investments”) may, if they are in registerable form, be registered in either:

- (A) your name; or
- (B) the name of Nominee Company, for whose acts and omissions we will be responsible; or
- (C) the name of any other custodian (which may be a custodian controlled by an Associate) (the “Custodian”) in accordance with the GFSC Rules; or
- (D) our name; or
- (E) the name of any other third party where the portfolio is held outside of Guernsey and we reasonably believe that it is in your best interests to do so.

### 4. Depository Investments

All Portfolio Assets that are Investments in bearer form (other than scrip issued in respect of a Portfolio Investment (the “Depository Investments”) will be physically held to our order by a depository selected by us (which may be an Associate) (the “Depository”) or with a further depository selected by the Depository.

### 5. General Terms and Conditions Relating to Custody

- 5.1 We will make reasonable endeavours to claim any dividend, interest payment or other entitlement due to you in respect of Custody Investments or Depository Investments. All Cash benefits will be credited to and retained in the Account once we have received them unless we receive from you any Instruction telling us otherwise.
- 5.2 We will have no obligation to exercise any voting rights arising in respect of any Investments except where we are providing a Discretionary Service in which case we will use our discretion as we consider appropriate.

5.3 In exercising on your behalf any conversion, subscription, or other right, including any right arising in connection with a takeover or capital re-organisation, we will:

- (A) (if we are providing a Discretionary Service) use our discretion as we consider appropriate; or
- (B) (if we are providing an Execution-only Service) seek your Instruction.

5.4 Except as otherwise agreed, we will not lend to or deposit with, by way of collateral, any third party any Portfolio Asset without your consent. You understand and agree that any Custody Investment and any Depository Investment may become subject to a security interest (including a power of sale) in favour of the relevant Custodian or Depository to secure any obligations owed to the relevant Custodian or Depository, either through the operation of the laws of the Island of Guernsey or the law of another jurisdiction or as a result of any agreement we enter into with the Custodian or Depository.

5.5 Notwithstanding Clause 5.3, we may lend Portfolio Assets to, or deposit them with, an intermediate Broker, an Exchange or a clearing house, as Margin (or security for Margin) in respect of trading activities carried out with such intermediate Broker or on such Exchange or with or through such clearing house on your behalf or in connection with your Account.

5.6 We may deduct Tax from any payment of income to you if we are obliged to do so under any Applicable Law.

5.7 Where we hold or have previously held Investments belonging to you in custody and we become aware that the existing or former holders of such Investments may be entitled to participate in, or recover compensation as a result of any class action litigation that is taking place or has taken place in any court (or any settlement resulting therefrom), we shall have no obligation to inform you about the litigation or your potential rights in relation to it.

5.8 Where corporate events (such as partial redemptions) affect some but not all of the Portfolio Assets held in a pooled account we will allocate the Assets so affected to particular clients in such fair and equitable manner as we consider appropriate (including without limitation pro rata allocation).

5.9 We shall in the absence of contrary Instructions receive and hold all assets received as a distribution on the Portfolio Assets held by us as a result of a stock dividend, share sub-division or reorganisation, capitalisation of reserves or otherwise. We shall not be required to credit such assets to your Account until actual receipt by us or our sub-custodian, nominee or agent of such assets.

5.10 Where we hold Portfolio Assets of a particular description for you and for other of our clients, and our sub-custodians, agents or nominees have not allocated particular Portfolio Assets to particular clients, then in the event of some but not all of such Portfolio Assets being called for early redemption we shall be entitled to allocate such partial redemptions and the fees attributable to such redemption between all of our clients holding Portfolio Assets of that description either pro rata or in such other manner as we consider fair and equitable in the circumstances.

- 5.11 You may tender assets to us but we may decline to accept assets tendered if we determine that it would be illegal or contrary to any applicable rules of any Exchange or market for us to accept such assets, or if we reasonably suspect that such assets are tainted by fraud, or at our absolute discretion for any reason.

## 6. Sub-Custodians And Agents

- 6.1 We shall be entitled to appoint agents, nominees, sub-custodians and other similar third parties (each a "Sub-Custodian"), whether in our name or in your name, to perform any of the duties undertaken by us in these Terms and Conditions.
- 6.2 Where assets are held by a Sub-Custodian, you accept that our obligations shall be limited to promptly passing on Instructions. You acknowledge that the terms of business of such Sub-Custodian may contain provisions relating to the giving of Instructions and action permitted in the absence of such Instructions. Such provisions shall be binding on you.
- 6.3 Unless otherwise agreed we shall not have any liability for the failure of any agent or Sub-Custodian. We are obliged under the GFSC Rules to exercise due skill, care and diligence in the selection, appointment and periodic review of any Sub-Custodian but, apart from this obligation, we shall not be liable for any acts or omissions of that Sub-Custodian (except where such Sub-Custodian is the Nominee Company) in which case we shall be liable for its negligence, wilful default and fraud).

## 7. Risks Relating to Your Custody Investments

- 7.1 You understand and agree that the relevant Sub-Custodian will be based outside of Guernsey. If the Sub-Custodian becomes insolvent, the insolvency will be governed by the laws of a country other than Guernsey and, in some jurisdictions, it is possible that you might rank as an unsecured creditor in respect of the Custody Investments that were held by that Sub-Custodian.
- 7.2 Custody Investments held by a Sub-Custodian are likely to be held in an omnibus account containing the Custody Investments of a number of our clients. In the event that your Custody Investments are held in an omnibus account with a Sub-Custodian, they may not be segregated from those of our other clients. Consequently, your individual entitlement to those Custody Investments may not be identifiable by separate certificates, either physical documents or electronic records. Additionally, entitlements are likely to be distributed on a pro rata basis which means that, in the event of an irreconcilable shortfall in relation to the omnibus account, you might not receive your full entitlement and may be required to share in that shortfall pro rata (particularly in the situation where the Sub-Custodian defaults).
- 7.3 It may not be possible under the law of the jurisdiction in which the Sub-Custodian is based for your Custody Investments to be separately identifiable from our assets or those of the Sub-Custodian. As a result you may not be as well protected from claims brought by our creditors or, as the case may be, the creditors of the Sub-Custodian.
- 7.4 You understand and agree that the legal and regulatory practices applied outside Guernsey in respect of your Custody Investments may be different from the legal and regulatory practices applied in Guernsey.

- 7.5 Investment firms in the EEA are subject to rules that are designed to ensure that client assets are protected on the default of the relevant firm. You understand and agree that, where we consider it appropriate, accounts containing your Custody Investments may be subject to the law of a jurisdiction outside the EEA, in which case, your rights in relation to those Investments may differ from the rights that you would have if they were held in accounts within the EEA. This may mean that your Custody Investments may not be as well protected as they would be when held in an account in the EEA. For example, those Custody Investments may not be segregated from our assets, the assets of any Sub-Custodian with whom they are held or the assets of other persons whose assets are held in that account and therefore that on an insolvency you may not be as well protected from claims brought by our (or the relevant other persons') creditors. Also, the reporting to you by any such Sub-Custodian in relation to those Custody Investments may not correspond with the standards required by the GFSC Rules and/or under EEA law and regulation.
- 7.6 The steps that we take to ensure the protection of your Custody Investments include our exercise of due skill, care and diligence in the selection, appointment and periodic review of any Sub-Custodian (in accordance with GFSC Rules).
- 7.7 Where your Custody Investments are held in or via a securities depository, that depository may have a security interest or lien over, or right of set-off in relation to, those Custody Investments.

## 8. Abandoned Accounts

Where we are unable to contact you for a period of 24 consecutive months, we may treat your Account(s) as abandoned and subsequently will cease reporting to you on the Account. Cash balances and assets will continue to accrue interest and any payable dividends and/or coupons. If we have not had any contact with you after a further 12 consecutive months we may take such further action as we deem appropriate.

# Section A

## Part 4: Default Remedies

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In certain circumstances, we shall have the remedial rights specified below. For such purposes, we may value any delivery obligation by you at such amount as we reasonably consider appropriate and may translate payment obligations denominated in one Currency into any other Currency for the purpose of exercising any netting right or right of set-off. Any balance remaining after the exercise of such rights shall be payable to you upon request.

### 1. Close Out

- 1.1 At any time either:
- (1) after the termination of these Terms and Conditions; or
  - (2) during the term of these Terms and Conditions, if we have determined, in our sole discretion, that:
    - (i) you have not performed (or after we have reasonably determined that you may not be able or willing in the future to perform) any of your obligations to us; or
    - (ii) there has been a material adverse change in market or economic conditions; or
    - (iii) an Event of Default has occurred in respect of you, we may, without notice, and without prejudice to any other rights that we have under these Terms and Conditions and/or under Applicable Law:
- (A) treat any Transaction that is then outstanding as having been cancelled and terminated;
  - (B) sell or otherwise convert any Portfolio Asset under our control into monies in such manner as we consider necessary or appropriate; and/or
  - (C) close out, replace or reverse any Transaction, enter into any other Transaction or take, or refrain from taking, such other action at such times and in such manner as we consider necessary or appropriate to cover, reduce or eliminate our loss or liability under or in respect of any contracts, positions or commitments.
- 1.2 If an Event of Default occurs in respect of you, then, in addition to our rights under Clause 1.1, we shall be entitled to exercise our rights under Part 8 of Section A.

### 2. Set-Off

- 2.1 All property held by us or any Associate is subject to a lien in our favour in so far as there remains due from you to us any outstanding monies or Liabilities that have been properly incurred by us as a result of the provision of custody services to you and to your assets. You agree with us as trustee of the benefit of your promise for each other Associate that without prejudice and in addition to any lien, right to combine or consolidate Accounts, set-off or other similar right to which we may be entitled by law, contract or otherwise, we and each of our Associates may at any time and without notice to you debit any Liabilities of yours to any of your Accounts. We may appropriate all payments received for your Account in reduction of any of the Liabilities as we decide.
- 2.2 You irrevocably authorise us in your name and at your expense to perform such acts and sign such documents as may be required to give effect to any set-off or transfer made under this Clause, including the right to convert any Currency at our own rate of exchange then prevailing.

- 2.3 We are not obliged to exercise any of our rights under this Clause.
- 2.4 Except where you are a trustee and you have several Accounts each holding assets for different underlying trusts, where we have more than one Account for you, we may at any time and without prior notice transfer all or any part of any balance standing to the credit of any such Account to any other such Account which may be in debit, undertaking any related Foreign Exchange Transactions as may be necessary, but we shall notify you of the transfer having been made.

### 3. Currency

- 3.1 If you are required under these Terms and Conditions to pay us a sum in a particular Currency, and you instead pay us in a different Currency, then to the extent permitted by Applicable Law, your obligation to pay us will not be satisfied and discharged unless we are able to convert, acting in good faith and in a commercially reasonable manner, the sum you actually paid us into the required amount of the required Currency.
- 3.2 The obligation of each Party to make payments in the Currency in which they are due will be enforceable as an alternative or additional cause of action to the extent (if any) by which such actual receipt falls short of the full amount of the appropriate Currency and will not be affected by judgement being obtained for any other sums due under these Terms and Conditions and any relevant Transaction or contract.

### 4. No Withholding by You

- 4.1 You shall not be entitled for any reason whatsoever to exercise any rights of set-off or withholding of payment in any dispute or litigation between us and you or otherwise.
- 4.2 All payments to be made by you to us shall be made in full without set-off, counterclaim or condition and free and clear of and without deduction of or withholding for or on account of any Tax of any nature now or hereafter imposed unless you are required to by law to make such payments subject to the deduction or withholding of Tax. If any such payment shall be subject to any Tax or if you shall be required to make any such deduction or withholding, you shall deduct or withhold an amount in respect of such Tax and, in so doing, shall ensure that such deduction or withholding does not exceed the relevant minimum legal liability. In addition you will simultaneously pay to us such other amount as may be necessary to enable us to receive and retain (free from any liability in respect of any such deduction or withholding) the same amount as we would have been entitled to receive and retain in the absence of such requirement to make such deduction or withholding. If you make any such deduction or withholding you shall account for the full amount deducted or withheld to the relevant authority in accordance with Applicable Law and, within 30 days thereafter, forward to us an official receipt or other official documentation evidencing such payment.

# Section A

## Part 5: Liability and Indemnity

This Part sets out the extent of our respective liabilities to each other.

For your general information, certain legal terminology is used in this section (for example the terms Indemnity and Consequential Loss). These terms are broadly defined in the Glossary for your information and reference only. However, in the event of any dispute, the meaning and interpretation that is ascribed to these terms under the Applicable Law will apply.

### 1. Our Liability to You

- 1.1 To the extent permitted by law and the GFSC Rules and save as otherwise expressly provided in these Terms and Conditions, we shall not be liable for any losses, liabilities, costs, claims, damages, expenses, demands or Taxes (including, but not limited to, value-added taxes and stamp duties) ("Costs") incurred or suffered by you:
- (A) as a result of any Transaction effected under these Terms and Conditions (including without limitation any loss or damage caused by a depreciation in value of any Portfolio Asset or any adverse Tax consequence); or
  - (B) otherwise arising directly or indirectly out of or in connection with these Terms and Conditions or any Transaction contemplated hereunder, other than Costs arising directly as a consequence of the gross negligence, fraud or wilful default of ours or any of our directors, officers, or employees.
- 1.2 Without limiting the foregoing or any other provision of these Terms and Conditions (or any other agreement between us) that excludes or restricts our liability to you, we shall not, save as otherwise expressly provided in these Terms and Conditions, be liable to you for any loss or damage suffered by you directly or indirectly as a result of:
- (A) any loss of opportunity whereby the value of any Investments purchased, held or sold by us on your behalf might have been increased;
  - (B) any decline in the value of any Investments purchased, held or sold by us on your behalf howsoever arising;
  - (C) acting or omitting to act where we or an Associate has a material interest or conflict of interest in services or Transactions with or for you;
  - (D) any delay or change in market conditions before any Transaction is effected;
  - (E) faults and interruptions in processing including in the context of email communications;
  - (F) the solvency, acts or omissions of any Broker, Nominee Company, Custodian, settlement agent, Depository or other third party by whom or in whose control any of your Investments (or documents of, or certificates evidencing, title thereto) may be held or through whom any Transactions may be effected; or any bank with whom we maintain any bank account, or any other third party with whom we deal or transact business or who is appointed by us in good faith on your behalf, but we will make available to you, when and to the extent reasonably requested, any rights that we may have against such person;
  - (G) any action taken or omitted to be taken by us in good faith following an Instruction or purported Instruction;
  - (H) us not investigating any Instruction that we reasonably believe may be genuine which turns out not to be genuine;
  - (I) any delay or failure by us to follow an Instruction in circumstances where we consider in our sole discretion that following such Instruction might give rise to a breach of any relevant law, regulation, rule or applicable code of conduct;
  - (J) us failing to give effect to an Instruction prior to receipt by us of such Instruction;
  - (K) any error by you or your agents in sending any instruction; or
  - (L) you countermanding any outstanding Instruction which has already given rise to binding rights or obligations, unless the liability arises directly as a consequence of the gross negligence, fraud or wilful default of us or any of our directors, officers, or employees.
- 1.3 We shall be responsible to you only for any loss of your Custody Investments where the loss results directly from our gross negligence, fraud or wilful default or the gross negligence, fraud or wilful default of the Nominee Company. We shall not be responsible for any loss of Investments the custody of which has been arranged or carried out under Instructions given by you (e.g. where you have chosen the custodian).
- 1.4 Subject to clause 1.1, under no circumstances shall we be liable to you for loss of profits, loss of data, indirect loss, Consequential Loss, or any other losses or damages that are not directly and specifically covered by these Terms and Conditions, regardless of whether the possibility of such damages was disclosed to, or could have reasonably been foreseen by, us.
- 1.5 Under no circumstances shall we be liable to you or any third party for any expense, loss or damage howsoever suffered, by reason of the termination of, or our refusal to carry out a Transaction or Instruction in circumstances where we are entitled under these Terms and Conditions to terminate, or refuse to carry out, such Transaction or Instruction.
- 1.6 We will not be liable to you for any delay in performance, or for the non-performance of any of our obligations hereunder by reason of any cause beyond our reasonable control, or for any losses caused by the occurrence of any contingency beyond our reasonable control. This includes without limitation any breakdown or failure of transmission, communication or computer facilities, postal or other strikes or similar industrial action and the failure of any relevant Exchange, Clearing House and/or Broker for any reason to perform its obligations, any act of God, fire, riot, war, terrorism, civil commotion, act of state or government, prevention from or hindrance in obtaining any materials, energy or other supplies, or labour dispute.
- 1.7 Neither the relationship between us nor any other matter will give rise to any fiduciary or equitable duties on our part which would require us or an Associate to accept responsibilities more extensive than those set out in these Terms and Conditions.

- 1.8 Nothing in these Terms and Conditions excludes or restricts any obligation we have to you under the GFSC Rules or under the Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended or its successor legislation and the Guernsey regulatory system or requires you to provide us with an Indemnity against any breach by us of such an obligation to the extent prohibited, in any such case by such legislation or regulatory system.
- 1.9 We accept the same level of responsibility to you for any nominee company controlled by us, as for ourselves, in respect of any requirement of the GFSC Rules.
- 1.10 We will not be liable for any acts or omissions of our Associates or any third party except where specifically accepted in these Terms and Conditions.
- 3.2 Unless otherwise expressly provided in the rules of the relevant Exchange or Clearing House or in any other agreement to which the relevant Exchange or Clearing House is party, we and the relevant Exchange or Clearing House shall not be liable to you for any loss (including any indirect loss or consequential loss including, without limitation, loss of profit), damage, injury or delay, whether direct or indirect, arising from any of the circumstances described above or any failure of some or all market facilities or from any act or omission of the relevant Exchange or Clearing House, their officers, employees, agents or representatives under the rules of the relevant Exchange or Clearing House or pursuant to the relevant Exchange or Clearing House's obligations under statute or from any breach of contract by or any negligence howsoever arising of the relevant Exchange or Clearing House, their officers, employees, agents or representatives.

## **2. Your Liability to Us and Indemnity**

To the extent permitted by law and the GFSC Rules, you agree to be responsible on an Indemnity basis for all Costs incurred by us and any Associate, or any employees, agents and delegates of us or any Associate, arising directly or indirectly in connection with or as a result of any service performed or action permitted under these Terms and Conditions or in the performance of the powers or duties of any such person or in connection with any claim, action, proceeding or investigation arising out of or in connection with these Terms and Conditions or any Transactions hereunder (including in any such case any costs of enforcing the same) and from any misrepresentation or breach of any warranty, condition, covenant or agreement set forth in these Terms and Conditions, except as is caused by our and/or their gross negligence, wilful default or fraud. Such Costs shall become immediately due and payable upon demand together with interest thereon at such rate as we may reasonably determine.

## **3. Exclusion of Liability for Market Suspension etc.**

- 3.1 You understand that business on an Exchange or Clearing House may from time to time be suspended, restricted or closed for a temporary period or for such longer period as may be determined in the interests of maintaining a fair and orderly market in accordance with the rules of the relevant Exchange or Clearing House or as otherwise permitted by the rules of the relevant Exchange or Clearing House. Any such action may result in us, and through us, you being prevented from or hindered in entering into or settling contracts in accordance with the rules of the relevant Exchange or Clearing House either by means of Contracts entered into on the market floor or through other facilities of the Exchange or Clearing House. Furthermore, failures or malfunction of the Exchange or Clearing House's communications or equipment, market facilities or other processing systems, or one or more workstations supplied to us by the relevant Exchange or Clearing House or otherwise used by us or software provided by Exchange or Clearing House may result in our being hindered in or prevented from entering into or settling contracts in the terms of Exchange Contracts, or may result in errors in orders or in contracts in the terms of Exchange Contracts. We wish to draw the following exclusion of liability to your attention.

# Section A

## Part 6: Representations and Warranties

In this Part we each give the other various assurances about ourselves and the performance of our obligations hereunder:

### 1. Ongoing Nature of Representations and Warranties

- 1.1 You acknowledge that we provide services to you in full reliance on the representations and warranties set out in these Terms and Conditions and undertake to notify us should any of these representations and warranties cease to be valid.
- 1.2 The representations and warranties set out in these Terms and Conditions are given by you on an ongoing basis and will be deemed, unless specified otherwise, to be repeated by you on each day following the commencement of these Terms and Conditions until it is terminated.

### 2. General Representations and Warranties

- 2.1 You make the following general representations, warranties and undertakings to us:
  - (A) unless you are acting as a trustee, you beneficially own the Portfolio Assets;
  - (B) if you are acting as a trustee (or in any other capacity on behalf of another party), the Portfolio Assets are held by you in accordance with the terms of the relevant trust or other agreement and are beneficially owned by the beneficiaries of that trust or by your client(s) under the relevant agreement;
  - (C) the Portfolio Assets are free from any mortgage, charge, lien, assignment, pledge, encumbrance or other security agreement or security interest of any kind (each, an "Encumbrance") and you undertake not to create or attempt to create or permit to exist any Encumbrance in or over any Portfolio Asset, except for any right arising under these Terms and Conditions, the Security Agreement, any Encumbrance created by you in our favour or any Encumbrance created by you with our prior written consent;
  - (D) you will not allow any other person to be registered as holder of any Portfolio Asset except as provided by these Terms and Conditions;
  - (E) where we provide the Discretionary Service to you or where we hold the relevant Portfolio Asset in custody, you will notify us as soon as possible if you:
    - (1) sell, transfer or otherwise dispose of (or agree to sell, transfer or otherwise dispose of) any Portfolio Asset; or
    - (2) grant (or agree to grant) any option or other right over either:
      - (a) any Portfolio Asset; or
      - (b) any of your right to, title to or interest in any Portfolio Asset;
  - (F) where we provide any Execution-only Service to you, you will rely on your own judgment for all decisions in relation to the Execution-only Service;
  - (G) we shall be entitled to hold and, where we provide you with the Discretionary Service, manage any Portfolio Asset until we have received from you notification under this Clause. We will not be responsible for any loss or damage suffered by you as result of your failure to give us any notice that you are required to give under this Clause. You will be responsible for any loss or damage suffered by us as a result of your failure to give us any notice that you are required to give under this Clause;
  - (H) you will promptly pay:
    - (1) all calls which may from time to time be made for any unpaid sum in respect of any Portfolio Asset; and
    - (2) any other sum that you may be required to pay in respect of any Portfolio Asset, and if you fail promptly to pay such call or other sum, then you authorise us to pay such call and to debit the Account accordingly;
  - (I) the Portfolio Assets have been and will at all times be duly authorised and validly issued and are and will at all times be free from any restriction on either transfer (unless notified to us otherwise in writing) or rights of pre-emption;
  - (J) these Terms and Conditions do not and will not conflict with or result in any breach or constitute a default under any agreement, instrument or obligation to which you are a party or by which you are bound;
  - (K) you have duly executed and delivered, and you have all requisite power, authority and approvals to enter into, and perform your obligations under, these Terms and Conditions and any other documentation relating to these Terms and Conditions (including any obligations under a Transaction or the Finance Documents);
  - (L) you have, and any person designated by you has, and you and they will at all times have, due authorisation to act in all respects in relation to these Terms and Conditions and each Transaction and Contract and any other documentation relating to these Terms and Conditions including any obligations under a Transaction or the Finance Documents;
  - (M) you have read, understood and accepted the risk warnings contained in Section C of these Terms and Conditions;
  - (N) you have complied with Applicable Law in respect of any Instruction, notification or information given to us;
  - (O) you will provide to us, on demand, such evidence as we may reasonably require of your identity, and such other matters and documents as we may reasonably require to comply with Applicable Law (including but not limited to anti-money laundering laws) and you acknowledge that, if you fail to do so, we may terminate or decline to carry out any Transaction;
  - (P) in addition to this Clause, if you are acting on behalf of a third party:
    - (1) you have undertaken "Know Your Client" and anti-money laundering checks compliant with all Applicable Laws and you shall, prior to the effecting of any Transaction or within any other timescale stipulated by us, provide to us such identification information in relation to such third party as is requested by us and you acknowledge that, if you fail to do so, we may either terminate or decline to carry out any such Transaction or terminate or decline to carry out such part of any such Transaction that is attributable to any such third party;
    - (2) you have considered all requisite suitability requirements relating to any Transactions on the Portfolio and have deemed each purchase, sale or other action as suitable for each relevant client;

- (3) you will comply (and will ensure that each of your clients complies) with all distribution rules that apply to you (and each of your clients) relating to any Transaction on the Portfolio and your distribution of any Portfolio Assets to your clients (or their distribution to another party), including any rules relating to best execution;
- (4) if you are subject to the Data Protection (Bailiwick of Guernsey) Law, 2001, as amended ("2001 Law") or to any other data protection legislation, you have sought and obtained appropriate consent from each of your clients to pass to us any information or data which is required for us to act on your behalf pursuant to the Terms and Conditions and where that data is sensitive personal data (as that term is defined in the 2001 Law), you have obtained explicit consent from your client to pass that data to us;
- (5) you have at all times acted and will hereunder act as an independent entity and none of the provisions or the Terms and Conditions shall constitute to be deemed to constitute the parties in a partnership, association or employment relationship;
- (6) you will not (without express prior consent) create, publish, distribute, disseminate or otherwise engage in or utilise, directly or indirectly, any form of general solicitation or advertisement, including without limitation, any marketing letters, brochures or other documents referring to or relating to us or our Associates, or display in any manner whatsoever, directly or indirectly, or by implication the Credit Suisse name, logo or other service marks, trademarks or trade names of any company or entity within the Credit Suisse Group; and
- (7) you are neither a US taxpayer nor a "Restricted Person" (as the term is defined in Rules 5130 and 5131 of the Rules of the United States Financial Industry Regulatory Authority ("FINRA"));
- (Q) in addition to this Clause (including (P) above), if you are acting as a third party custodian:
- (1) you are acting as custodian for your clients' assets held within the Portfolio(s) and your clients have appointed you as custodian with respect to their Portfolio Assets;
- (2) you are authorised and regulated in the provision of custodial services as required by the laws of your jurisdiction, and will immediately notify us of any matter that may impact such authorisation;
- (3) you are appointing us as your sub-custodian and have full power and authority to enter into and implement the Client Agreement;
- (4) your appointment of us as sub-custodian of the assets in the Portfolio(s) does not create a legal relationship or otherwise between your client(s) and us. For the avoidance of doubt, you confirm that we may deal only with you as if you were the beneficial owner of the Portfolio Assets; and
- (5) you are not operating a collective investment scheme which is not regulated by the GFSC or an unregulated collective investment scheme as that term is defined in the Handbook issued by the UK Financial Conduct Authority. Rules;
- (R) you have obtained, and made and you will maintain in effect, all necessary authorisations, consents or approvals, exemptions, licences, notifications and filings and you will comply with the terms of the same and with all Applicable Law. You will provide us with copies or other proof of the same as we may reasonably require. No other action by or in respect of, or filing with, any governmental body, agency or official is required in connection with the execution, delivery and performance referred to in (K) and (L) above;
- (S) these Terms and Conditions and each Transaction is your valid and legally binding obligation, enforceable against you in accordance with its terms except for the effect of bankruptcy, insolvency, reorganisation, moratorium and other similar laws relating to or affecting creditors' rights generally and to general equitable principles;
- (T) if you are a company, partnership or trust, your execution, delivery and performance of these Terms and Conditions and each Transaction does not and will not violate, contravene, conflict with or constitute a default under any provision of your memorandum and articles of association (or equivalent constitutional documents);
- (U) your execution, delivery and performance of these Terms and Conditions and each Transaction does not and will not violate, contravene, conflict with or constitute a default under any law, regulation, rule, decree, order, judgement or charge, contract, trust deed or other instrument binding on you or any of your assets;
- (V) in relation to your acceptance of these Terms and Conditions, we have not made, and you are not relying upon, any statements, representations, promises or undertakings whatsoever that are not contained herein;
- (W) you will inform us in writing if any acts or omissions of ours contemplated by these Terms and Conditions could adversely affect your taxation position and you acknowledge that, in the absence of any such written notice, we will assume that there are no such constraints on our services under these Terms and Conditions;
- (X) for the duration of this Agreement, you will promptly notify us of any change to the details supplied during the account opening process, including in particular any change of address, change to the appointment of an agent of Professional Advisor or change to your tax residence or tax purposes, and any change or anticipated change in your financial circumstances or employment status (including redundancy and/or unemployment) which may affect the basis on which we do business with you. You must also inform us of any changes to information relating to any Authorised Signatory or person having a beneficial interest in the Investments or Cash in any Account, including changes to the country of residence of such persons. Any material change should be notified to us as soon as possible and, in relation to any status change as a US Person, within 30 days. This includes amendment to those authorised to sign on behalf of the account;
- (Y) you warrant and represent that the purposes for which Drawings shall or are being used (as the case may be) are in each case a lawful purpose;
- (Z) you confirm that no one except you has an interest in any Account(s) or Deposit Account(s) with us and that you are not acting as trustee or agent for any other person except as may have been disclosed to us in writing;
- (AA) where we have agreed to make available to you the facility to enter into certain over-the-counter derivative transactions under the Master OTC Terms, you understand how OTC Transactions operate and the risks which arise;
- (BB) where we have agreed to make available to you a Facility, you will at all times ensure that the Outstanding Liability Amount does not exceed the Facility Amount;
- (CC) you have the financial resources to bear even substantial losses;
- (DD) no Event of Default or Potential Event of Default has occurred and is continuing with respect to you;
- (EE) you will promptly notify us of the occurrence of any Event of Default or Potential Event of Default with respect to you; and
- (FF) you will be responsible for adherence to the laws and regulations applicable to you (including tax laws) and adhere (and will continue to adhere) to the same.

2.2 If you are one or more individuals, you make the following additional representations and warranties to us:

- (A) these Terms and Conditions shall be binding on the estate and legal representatives of each of you; and
- (B) each of you is not in breach of or in default under any agreement (and no such breach or default will occur by virtue of you entering into these Terms and Conditions or a Finance Document) to which you are a party or which is binding upon you or any of your assets and you have not taken any action nor have any other steps been taken or legal proceedings been started or (to the best of your knowledge and belief) threatened against you in any jurisdiction for bankruptcy or for the appointment of a trustee or similar officer of any or all of your assets.

2.3 If you are a body corporate, you make the following additional representations and warranties to us:

- (A) you have been properly formed and constituted under the laws of the jurisdiction of your incorporation, you have the capacity to sue or be sued in your own name and you have power to carry on your business as now being conducted and to own your property and other assets; and
- (B) you shall provide us with:
  - (1) (if applicable) a translation into the English language of your constitutional documents; and
  - (2) any amendment of such constitutional documents (and if applicable a translation into the English language of such amendments) which may from time to time be made.

### 3. Representations Made by Us

We do not have any holding, direct or indirect, representing more than 10% of the voting rights or of the capital in any undertaking, whether or not an insurer, which carries on insurance business.

### 4. Representations, Warranties and Undertakings Relating to the Security Interest

4.1 Until the Liabilities have been unconditionally and irrevocably paid and discharged in full, where you have granted us a Security Interest over the Charged Property, you represent and warrant and undertake to us that:

- (A) the Charged Property is and will be owned beneficially by you (or, if you are the trustee of a trust, legally owned by you for the benefit of the beneficiary(ies) under the trust);
- (B) the Charged Property is and will be free from any Encumbrance other than those arising under these Terms and Conditions, the Security Interest or any other security created by you in our favour;
- (C) the terms on which the Credit Balances are held by us do not restrict or prohibit the assignment of the Credit Balances by us, or any of our rights under the Security Interest;
- (D) you will not permit any other person to be registered as holder of any Charged Property except as provided by the Security Interest or as otherwise permitted in writing by us;
- (E) you:
  - (1) will promptly pay:
    - (a) all calls which may from time to time be made for any unpaid sum in respect of any Charged Property; and
    - (b) any other sum that you may be required to pay in respect of any Charged Property; and

- (2) authorise us to debit any of your Accounts (and where you are a Trustee the Account holding the relevant Trust's funds) to pay any such call if you fail promptly to pay such call or other sum;

- (F) you will deposit with us (or, at our direction, with our nominee or custodian):

- (1) all bonus shares, stock or other Investments of a similar nature which may at any time be issued in respect of any Securities; and
- (2) all dividends, interest or other sums paid to or payable to you in respect of any Securities, and any such Security Interest or sum will become subject to the Security Interest;

- (G) the Securities have been and will at all times be duly authorised and validly issued and are fully paid and are and will at all times be free from any restriction on either transfer or rights of pre-emption;

- (H) you will maintain with us, our agents or representatives (as we shall in our absolute discretion determine) such margin of security in relation to the Liabilities as we may from time to time require;

- (I) in the event that we notify you that all or any amount deposited by you with us no longer forms a part of the Credit Balance, then you will deposit with us such further equivalent sum at such office or offices as we may specify and such further equivalent sum shall form a part of the Credit Balance for the purpose of the Security Interest and shall be held by us subject to the terms of the Security Interest;

- (J) the entry into and performance of the Security Interest does not and will not conflict with any law, regulation or official directive binding on or affecting you or your constitutional documents (if any) or conflict with or result in any breach or constitute a default under any agreement, instrument or obligation to which you are a party or by which you are bound; and

- (K) you have full capacity and authority to create and to perform your obligations under the Security Interest.

### 5. Representations and Warranties for Investment in Funds and Notes

5.1 In the course of your banking relationship with us, you may wish to invest in certain collective investment schemes, funds and open-ended investment companies (each a "Fund") or to invest in certain structured products issued by an Associate or a third party (each a "Note").

5.2 Where we, our Associate, a Nominee Company subscribes for shares or units in the Fund ("Units") or for Notes on your behalf, we, our Associate or a Nominee Company may be required to complete formal subscription documentation ("Fund Subscription Form" in the case of Units in a Fund and "Note Purchase Agreement" in the case of Notes). Such Fund Subscription Form or, as the case may be, Note Purchase Agreement, will contain various statements, representations and warranties which we, our Associate or such Nominee Company will be required to provide on your behalf.

5.3 To enable us, our Associate, a Nominee Company to make such statements, representations and warranties and to subscribe on your behalf, you hereby give to us the statements, representations and warranties set out in Part 6 of Section B, in relation to purchases of Units in a Fund, and Part 7 of Section B in relation to Notes and agree that those statements, representations and warranties shall be repeated at the time of each such subscription in a Fund or purchase of Notes and are given on a continuing and ongoing basis. You also agree to notify us immediately of any changes in the foregoing information which may occur prior to or following an investment in any Fund.

# Section A

## Part 7: Terms for Use of Email and Online Services

This Part explains how we can accept certain Instructions from you by email.

### 1. Application

This Part applies where you have inserted electronic mail ("email") addresses for you or any of your Authorised Signatories in the Account Opening Booklet or subsequently notified us of such email addresses (each, an "Authorised Email Address").

### 2. Use of Email

- 2.1 By providing an Authorised Email Address to us you hereby authorise us to process all Instructions sent by email via that Authorised Email Address to us and authorise us to send information with regard to our relationship to that Authorised Email Address.
- 2.2 Any Instruction is transmitted at your own risk. We shall not be liable for any loss suffered on account of any Instruction not being received by us.
- 2.3 Additional email addresses may be added or existing email addresses may be modified by written notice to us. If the email address (or amendment to an existing email address) is provided to us by post, our obligations under these Terms and Conditions are subject to our prior confirmation to you that we have received the relevant email address (or amendment to an existing email address). This confirmation may be given in any form, including, email.
- 2.4 We will notify you of one or more email addresses, which serve as the exclusive email addresses for Instructions to be transmitted to us by you via email. Notifications of additional email addresses or modifications to such email addresses may be given by us in any form, including email.
- 2.5 We consider any person who identifies themselves by using an Authorised Email Address as entitled to send and receive Instructions by email. Consequently, we may accept and process Instructions from any such person identifying themselves by email, subject always to the framework and scope of these Terms and Conditions.
- 2.6 You unreservedly acknowledge that all Transactions booked to your Accounts by us which are ordered by email as described above and all Instructions which reach us through this channel are regarded as having been entered and authorised by you.
- 2.7 We may at any time in our sole discretion refuse to accept Instructions via email and we may insist that alternative proof of identity (by means of a signature or meeting in person) be provided before we accept such Instruction.
- 2.8 We retain the right at all times to suspend the use of email by you for providing Instructions to us. We are not obliged to provide reasons for such action. We accept no liability for any damages incurred as a result of such interruptions.
- 2.9 You acknowledge that it is relatively easy to adopt the identity of another person when sending information electronically. The possibility that external systems may be accessed and misused means, for example, that an intruder is able to fraudulently take on the address or name of a familiar system vis-à-vis the recipient computer. You agree that you bear all risks and consequences which may arise from the manipulation of your Authorised Email Address(es). If there is reason to suspect that unauthorised third parties have obtained a relevant Authorised Email Address and are misusing the system, you must inform us immediately and request that this email service is suspended. Normal business hours must be observed in this case.
- 2.10 We do not provide technical access to email services on the internet. This is your responsibility. We do not accept any liability for damages sustained by you as a result of transmission errors, technical defects, interruptions, faults, unlawful access, network overload, malicious blockage of electronic access by third parties or other shortcomings on the part of network operators.
- 2.11 You acknowledge that:
  - (i) information is carried on a publicly accessible network (the internet) and that, under certain circumstances, third parties may discover that a relationship exists between you and us;
  - (ii) information is transmitted in unencrypted form, such that some of the contents of the email can be read by anyone;
  - (iii) there is the risk that information might be altered;
  - (iv) we are unable to verify the integrity of the Instruction we receive; and
  - (v) information may be transmitted regularly and without control across borders.
- 2.12 You acknowledge that information is only transmitted electronically and that processing takes place by conventional means of communication (post, fax or telephone), whereby normal business hours and normal business procedures are still observed. Therefore, we do not accept any liability for information which is not processed on time (specifically Instructions that are not acted upon on time) or for damages incurred as a result. Therefore, we strongly recommend that time critical Instructions are provided by conventional means of communication.
- 2.13 You acknowledge that, in certain circumstances, the transmission of Instructions by email from outside Guernsey may breach local laws. You are responsible for finding out whether or not this is the case and we accept no liability in this regard.
- 2.14 This Part may be terminated by written notice from either you or us at any time, such notice to be effective on receipt. Once terminated we will cease to
  - (i) process all Instructions sent by you or on your behalf by email and
  - (ii) send information with regard to your relationship with us by email until otherwise agreed between us.
- 2.15 This Part is without prejudice to any other provision of these Terms and Conditions relating to the giving of Instructions including, without limitation, Section A Part 2 Clause 7.

# Terms and Conditions for Internet Banking

## (hereinafter referred to as the Bank)

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### 1. Definitions

1.1 In these Terms and Conditions for Internet Banking, unless the context requires otherwise;

**"Access Procedures"** means all user IDs, Passwords, SecurIDs, Internet Banking log-on codes, Internet Banking PINS, smartcards, digital certificates, digital signatures, electronic keys, logon identifiers, passwords, passbooks, electronic devices and other PINs, codes and access procedures issued by the Bank or any other party designated by the Bank from time to time in order to enable the Client to access and/or use Internet Banking and the Core Services.

**"Affiliate Conduit Factors"** means all of the four factors set out below:

- (a) The non-US Person is a majority-owned affiliate of a US Person.
- (b) The non-US Person is controlling, controlled by or under common control with the US Person;
- (c) The financial results of the non-US Person are included in the consolidated financial statements of the US Person;  
and
- (d) The non-US Person, in the regular course of business, engages in swaps with non-US third-party(ies) for the purpose of hedging or mitigating risks faced by, or to take positions on behalf of, its US affiliate(s) and enters into off-setting swaps or other arrangements with its US affiliate(s) in order to transfer the risks and benefits of such swaps with third-party(ies) to its US affiliates.

**"Agreement"** means the application form for Internet Banking as may be prescribed by the Bank from time to time read together with these Terms and Conditions for Internet Banking.

**"Application"** means any application on forms prescribed by the Bank for any of the Core Services.

**"Bank"** means Credit Suisse AG, Guernsey Branch and includes its successors, transferees and assigns.

**"Client"** means the person or entity named as such in the Agreement and any and all of such person's or entity's agents (as hereinafter defined), and including (and in the case of an entity only) an entity's authorized employees or representatives.

**"Core Service(s)"** means the financial, banking or other services, products, information, functions and facilities which may be offered by the Bank and accessed through Internet Banking from time to time (as may be withdrawn, added to or modified by the Bank in its discretion).

**"Compromised Access Procedure"** is defined in Clause 4.3 below.

**"Content"** is defined in Clause 14.1 below.

**"Internet Banking"** means the service of making available any one or more channels of electronic access or other channels of self-service access to any of the Core Service(s), which channels may include but not limited to websites, computers, telephones, mobile telephones, wireless data networks, electronic mails, mobile devices (including without limitation personal digital assistants), in or outside Guernsey and/or any other channels and/or means as may be determined by the Bank from time to time.

**"Instruction(s)"** means any instructions, communications, orders or requests transmitted through Internet Banking and authenticated, whether individually or collectively, with the Access Procedures in accordance with the Bank's prescribed procedures and requirements and shall include all Applications which have been submitted in electronic form via Internet Banking.

**"Password"** means the password initially issued by the Bank and freely changed by the Client thereafter.

**"PIN"** means personal identification number.

**"Security Notification"** is defined in Clause 4.3 below.

**"Terms of Banking Services"** is defined in Clause 2.3 below.

**"Third Party Mandate"** means any general or limited third party issued by the Client (in the Bank's standard form or such other form as the Bank may approve), a copy of which has been forwarded to and received by the Bank.

### 2. Access to Internet Banking

2.1 Access to Internet Banking is subject to these Terms and Conditions and is granted to persons having identified themselves by using the Access Procedures issued or as designated by the Bank and by complying with the Bank's instructions and procedures regarding the use of such Access Procedures.

2.2 The Client and/or his/her agent(s) (duly appointed under the Third Party Mandate and hereinafter called "agent") must change the first Password he or she receives from the Bank immediately upon receipt. The Bank strongly recommends that the Password be changed periodically.

2.3 In addition to this Agreement, the Client agrees that all other terms and conditions applicable to the Core Services and/or the Applications or other arrangements between the Bank and the Client ("Terms of Banking Services") will continue to apply in full force and effect.

2.4 In the event of any inconsistency between this Agreement and the Terms of Banking Services:

- (a) the Terms of Banking Services shall prevail in so far as the inconsistency relates to the Core Service in question; and
- (b) This Agreement shall prevail in so far as the inconsistency relates to Internet Banking.

2.5 The Bank is authorised to act upon any Instructions. The Bank shall neither be liable for acting upon such Instructions nor be obliged to investigate the authenticity or authority of the person effecting the Instructions or verify the accuracy and completeness of the Instructions. The Bank may at its absolute discretion refuse to act on any Instructions without notice to the Client or his/her agent and/or assigning any reasons therefor.

2.6 Notwithstanding and without prejudice to the foregoing, the Bank may, but shall not be obliged to, at its sole absolute discretion and without stating reasons require that the Client or his/her agent identifies himself/herself by alternative means (by signature or in person or otherwise) and/or to give confirmation of the Instructions (whether in writing or otherwise and in such form and substance as prescribed by the Bank from time to time) before the Bank proceeds to act on such Instructions.

2.7 The Client unconditionally accepts that all transactions via his/her accounts accessible through Internet Banking and which were carried out using Internet Banking in connection with the Client's or the agent's form of identification and without a written order, are irrevocable and binding on the Client.

- 2.8 The Client hereby acknowledges and understands that the transmission of Instructions to the Bank through Internet Banking may not be received or completely or accurately received by the Bank for reasons beyond the Bank's reasonable control including but not limited to mechanical, software, computer, telecommunications or electronic failure. The Client further acknowledges that unless the Client receives confirmation of receipt of the same from the Bank, Instructions may not have been received or completely or accurately received and accordingly, may not be processed or accepted by the Bank, or may be wrongly processed by the Bank. The Client acknowledges and agrees that the Bank shall not be liable to the Client in any way for any damage, loss, liability, expense or costs whatsoever or howsoever caused arising, directly or indirectly, in connection with the transmission, failure of transmission, or incomplete or inaccurate transmission of Instructions to the Bank through Internet Banking or any lack of confirmation of receipt of any Instructions by the Bank for whatever reason.

### **3. Funds Transfer**

- 3.1 The transfer of funds from account(s) of the Client maintained with the Bank to any account including third party account(s) with the Bank or any other banks as specified by the Client is subject to such limits and conditions as may be fixed or specified by the Bank from time to time in its sole and absolute discretion.
- 3.2 The Bank is not obliged to make such transfers instructed by the Client or his/her agent if the Client has not maintained sufficient funds in the Client's account(s) as specified by the Client or his/her agent at the time the transaction is instructed. The Client or his/her agent shall ensure that there are sufficient funds in the specified Client's account with the Bank, at the time of the transaction before instructing the transaction.
- 3.3 Where fund transfers are made to other banks and/or organisations, the Bank shall not be responsible for any loss or damage caused to or suffered by the Client arising from non-acceptance or rejection by the receiving banks or any failure, delay or error by the receiving banks in crediting the account of the Client's payee.
- 3.4 Upon the Instruction of any transaction by the Client via Internet Banking, the Bank is entitled to debit forthwith the Client's account and shall not be responsible for any missing funds and/or misuse and/or mismanagement of funds not attributable to the Bank's gross negligence and/or wilful default.

### **4. Obligation to exercise due diligence on the part of Internet Banking users; Liability of the Client**

- 4.1 The Client and his/her agent undertake to treat the Access Procedures confidentially and to protect them against misuse by unauthorised persons. The Password in particular may not be stored unprotected in any way, including but not limited to on the computer of the Client or his/her agent. The Client shall bear all risks arising from the disclosure of the Access Procedures.
- 4.2 The obligation of confidentiality in this Clause 4.2 applies to each individual agent of the Client. The Client shall thus also be liable for any damages resulting from agents misusing the identification codes of other of the Client's agents.
- 4.3 If there is any reason to suspect that unauthorised third parties have knowledge of one of the Client's or agent's Access Procedures or that any Access Procedure has been compromised in any other way (hereinafter collectively referred to as "Compromised Access Procedure"), the Client or the agent (whichever the case may be) must immediately cease to use such Compromised Access Procedure and notify the Bank immediately of such compromise or suspected compromise ("Security Notification"). Any Security Notification given verbally shall be confirmed in writing by the Client and actually received by the Bank failing which the Bank shall not be obliged to act upon the Security Notification.

- 4.4 In the event a Security Notification has been given by the Client, the Client understands that it is the Client's responsibility to ascertain which of his/her Instructions made using the Compromised Access Procedure prior to the receipt by the Bank of such Security Notification are valid and if the Client wishes such valid Instructions to be carried out, the Client shall re-instruct the Bank, by notice in writing, faxed or sent by post to the Bank, to carry out those Instructions.
- 4.5 The Client hereby acknowledges that the Bank shall be entitled to deactivate or revoke the use of any one or more of the Access Procedures at any time without assigning any reason and without prior notice to the Client.
- 4.6 The Client hereby acknowledges and confirms that the Client shall be bound by all Instructions and transactions resulting from any Instructions made which are referable to any Compromised Access Procedure until such time as the Bank has received the Security Notification from the Client and has effected cancellation of the Compromised Access Procedure, and accordingly, the Client agrees that the Client will be liable for all such transactions which were processed by the Bank prior to or at the time of such cancellation, or which the Bank, notwithstanding its reasonable endeavours, was unable to stop the processing of.
- 4.7 The Client hereby agrees that the Bank shall not be liable in contract, tort (including negligence or breach of statutory duty) or otherwise, for any damages, losses, liability, expenses or costs whatsoever (whether direct or indirect, or whether foreseeable or not) suffered or incurred by the Client as a result of:
- (a) any transaction resulting from any Instruction made by the Client or purportedly made by the Client and referable to such Compromised Access Procedure and which was processed by the Bank prior to or at the time of its cancellation, or which the Bank, notwithstanding its reasonable endeavours, was unable to stop the processing of; or
  - (b) any failure by the Bank to carry out any Instruction referable to a Compromised Access Procedure which was outstanding as at the time the Bank cancels such Compromised Access Procedure and which the Bank had stopped the processing of.
- 4.8 For the purposes of this Clause 4, an Instruction shall have been "processed" where the Bank had commenced carrying out the Instruction and it is no longer reasonably able to cancel or revoke the transaction without causing prejudice to the Bank as determined by the Bank in its sole discretion, and an Instruction is "outstanding" where it is at any stage prior to being processed.

### **5. Security with Internet Banking; Non-liability on the part of the Bank**

- 5.1 The Client and his/her agent shall be responsible for obtaining and using the necessary web browser and/or other software and/or hardware and/or equipment necessary to obtain access to Internet Banking at his/her own risk and expense. If new or different versions of the web browser and/or other software and/or hardware and/or equipment necessary for the operation of Internet Banking become available, the Bank reserves the right not to support any prior version of the web browser or other software or hardware equipment. If the Client and/or his/her agent fail to upgrade the relevant software and/or web browser or to use the enhanced version of software and/or web browser or hardware or equipment as required by the Bank, the Bank may reject the instructions or communications, or process the instructions incorrectly, or the Client and/or his/her agent may not be able to obtain access to all features and/or services available and the Bank shall not be held liable as a result thereof.

5.2 The Client hereby acknowledges the following risks in particular:

- Insufficient technical knowledge and lack of safety precautions can make it easier for unauthorised persons to access the system (e.g. insufficiently protected storage of data on the hard disk, file transfers, monitor emissions, etc.) It is the Client's and his/her agent's responsibility to inform himself/herself of the necessary security precautions.
- The possibility that the network provider (e.g. Internet provider) may profile the Client's or his/her agent's user characteristics cannot be ruled out, i.e. the provider is able to identify when the Client or his/her agent makes contact with them.
- There is a latent danger that third parties could gain unnoticed access to a computer system of the Client or his/her agent during an Internet session (e.g. via a Java, etc. application). There is also the possibility that third parties may record communication with the Bank.
- There is also the danger that intrusion or attack by any person, hardware, software, virus, Trojan horse, worm, bot and/or macro or other harmful components that may interfere with Internet Banking, the web browser or the Bank's, the Client's or his/her agent's or the network provider's computer system.
- It is important that the Client and his/her agent only use software from reliable sources.

5.3 The Client's and/or his/her agent's user name, Password and SecurID and any other relevant Access Procedure issued by the Bank may be dispatched by the Bank by registered mail to the last known address of the Client or his/her agent or in such manner as may be advised by the Client or his/her agent, as the case may be, at the Client's or his/her agent's risk.

5.4 The Bank does not represent or warrant that any Content, information or data transmitted via Internet Banking is accurate, complete and/or not misleading in any way. The Bank assumes no responsibility whatsoever for the accuracy and completeness of Internet Banking data which it transmits, in particular, information regarding accounts and transactions (balances, statements, etc.) and generally available information such as stock market prices and foreign exchange rates is to be regarded as non-binding.

5.5 The Bank shall in no event be liable for any damages, loss or expense including without limitation, direct, indirect, special, or consequential damage, or economic loss arising from or in connection with:

- (a) 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 the network providers;
- (b) any software it may have supplied (e.g. via diskette or download), or for consequences resulting from or occurring during transport of the software via the Internet.

5.6 The Bank may from time to time upgrade, modify or alter the Internet Banking services at any time and at its sole discretion. The Bank shall not be liable if any such upgrade, modification or alteration prevents the Client and/or his/her agents from fully accessing and/or using the Internet Banking.

## 6. Obtaining account balance and transaction history

The data or information relating to the accounts (e.g. the statements, balances, transactions etc.) provided by the Bank via Internet Banking may not be conclusive as to the latest current balance as deposits, withdrawals, buy/sell orders may be made or items charged without the relevant entry being made in time when the data or information is provided. The data or information provided is therefore not binding unless where it is explicitly declared as such.

## 7. Quotes, news and research data; Alerts

7.1 Quotes, news and research data, including market information displayed or transmitted (collectively, "market data") are obtained from sources the Bank believes to be reliable. However, all market data is provided "as is" and there may be delays, omissions and inaccuracies in such data. Neither the bank or its agents, affiliates or third party providers or anyone else involved in creating, producing, delivering or managing the delivery of such data, information or services (collectively, the "Disseminating Parties") can guarantee, nor does the bank or they guarantee, the correctness, quality, accuracy, sequence, timeliness, currentness, reliability, performance, completeness, continued availability, merchantability, fitness for a particular purpose, title or non-infringement or otherwise of any market data or third party provider services. The bank and the disseminating parties hereby disclaim any such express or implied warranties.

7.2 The Bank and the Disseminating Parties shall not be liable to the Client or to anyone else for any loss or damage, whether or not caused in whole or in part by the negligence or omission on the part of the Bank or the Disseminating Parties in procuring, compiling, editing, writing, reporting or delivering any market data or by any force majeure or other cause beyond the control of the Bank or the Disseminating Parties. The Bank and the Disseminating Parties shall also not be liable to the Client or anyone else for any decision made or action taken by the Client in reliance on such market data or for direct, indirect, incidental, special, consequential, punitive or any other damages whatsoever even if the Bank has been advised of the possibility of such damages.

7.3 The Client acknowledges and agrees that the market data is provided by the Bank for the personal use of the Client or his/her agent and undertakes not to redistribute or transmit all or some of the market data to any third party (whether free of charge or for consideration, in any manner or form whatsoever), without the prior written approval of the Bank.

7.4 At the Bank's discretion, the Bank may upon the Client's or his/her agent's request allow the Client or his/her agent to receive specific and timely prompts (collectively, "Alerts", individually, an "Alert") in respect of certain information provided by the Bank from time to time. Each Alert may be notified via Email, Pop-up screen in the Client's or his/her agent's browser and/or mobile phone, (supported by certain mobile phone service provider(s) only) subject to the relevant terms and charges of Client's or his/her agent's network provider(s) or mobile phone service provider(s). The Client agrees and acknowledges that each Alert may be delayed or prevented by factor(s) affecting the relevant network provider(s), mobile phone service provider(s), stock exchange(s), currency market(s) and such other relevant entities and that the Bank guarantees neither the delivery nor accuracy of the contents of each Alert. The Client also acknowledges that the information in respect of any Alert may be subject to certain time lags and/or delays.

7.5 The Bank reserves the right to vary the features of any Alert and/or to terminate any request for any Alert at any time. The Bank shall not be liable to the Client or anyone else for losses or damages arising from (a) a non-delivery, delayed delivery or wrong delivery of each Alert; (b) inaccurate content of each Alert; or (c) use or reliance by the Client on the contents of any Alert for any purposes including investment and business purposes.

## 8. Blocking

The Bank may in its sole and absolute discretion block access by the Client and/or one or all of his/her agents to individual or all services at any time without stating reasons and without prior notification and shall not be liable or responsible for any loss or damage suffered by the Client or arising out of or connected to or by reason of such blockage.

## 9. Foreign legal provisions/restrictions

- 9.1 The Client acknowledges and accepts that due to the laws of some countries, the Client and/or his/her agent:
- (a) may not be able to access or use Internet Banking services from these countries; or
  - (b) may be infringing the laws of these countries (including any import and export restrictions governing encryption algorithms) when accessing Internet Banking services from these countries; or
  - (c) may be prevented by the Bank from accessing or using some or all of the services of Internet Banking in such countries as the Bank may determine from time to time.
- 9.2 The Client acknowledges that it is his/her and/or his/her agent's duty to ascertain whether any laws will be infringed and will not hold the Bank liable for any infringement or inability to access or use such services of Internet Banking.

## 10. Cancellation and discontinuance of Internet Banking

The Bank may at its absolute discretion at any time cancel or discontinue Internet Banking without prior notice to the Client and/or his/her agent. After cancellation or discontinuance, Internet Banking may be reinstated in such manner and form on such terms and conditions as the Bank may determine at its absolute discretion.

## 11. Indemnity

The Client shall indemnify the Bank, its officers, employees, nominees and agents promptly on a full indemnity basis from and against all claims, demands, actions, suits, proceedings, orders, losses (direct or consequential) damages costs and expenses (including all duties, taxes and other levies and legal fees on a full indemnity basis) and any and all other liabilities of whatsoever nature or description howsoever arising which the Bank may sustain or incur directly or indirectly in connection with the execution, performance or enforcement of these Terms and Conditions or any other agreement including without limitation, the Bank taking, relying and acting upon any Instructions given or purported to be given by the Client and/or his/her agent regardless of the circumstances prevailing at the time of such instructions or the nature of the transaction and notwithstanding any error, misunderstanding, fraud or lack of clarity in the giving, receipt of the contents of such Instructions.

## 12. Variation of these Terms and Conditions

The Client hereby acknowledges and agrees that the Bank may impose such further terms and conditions and make such changes to this Agreement as well as to any of the Bank's terms and conditions applicable to each of the services (including Core Services) or Applications available under Internet Banking as the Bank may in its discretion deem fit from time to time. Upon any change in the terms and conditions of this Agreement, the Bank will notify the Client by such method of notification as may be designated by the Bank, which may include notification by way of email or by posting the changes on-line at the Bank's web-sites. If the Client does not agree to be bound by the changes, the Client shall cease all access and/or use of the Internet Banking and shall terminate this Agreement immediately by giving written notice to the Bank. The Client further agrees that if the Client continues to use and/or access Internet Banking after being notified of such change to this Agreement, such use and/or access shall constitute an affirmative:-

- (1) acknowledgement by the Client of this Agreement and its changes; and
- (2) agreement by the Client to abide and be bound by this Agreement and its changes.

## 13. Evidence and Records

- 13.1 The Client agrees that:
- (a) all Instructions in electronic form are deemed to be written documents. The Client shall not dispute or challenge the validity or enforceability of any Instruction on the grounds that it is not a written document and the Client hereby waives any such right the Client may have at law; and
  - (b) the Instructions in electronic form are original documents and that the Client will not challenge the admissibility of any Instruction on the grounds that it is made in electronic form.
- 13.2 The Client acknowledges and agrees that the Bank's records of the Instructions, communications, operations or transactions made or performed, processed or effected through Internet Banking and/or the Core Services by the Client or any person purporting to be the Client, acting on the Client's behalf or purportedly acting on the Client's behalf, with or without the Client's consent, and any record of any transactions maintained or by any relevant person authorised by the Bank relating to or connected with Internet Banking and/or the Core Services shall be binding and conclusive on the Client for all purposes whatsoever and shall be conclusive evidence of the transaction and the Client's liability to the Bank. The Client hereby agrees that all such records are admissible in evidence and that the Client shall not challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records merely on the basis that such records were incorporated and/or set out in electronic form or were produced by or are the output of a computer system, and hereby waives any of the Client's rights (if any) to so object.

## 14. Intellectual Property Rights

- 14.1 The Client hereby acknowledges that:
- (a) the content, including but not limited to text, software (including any html, Java script, java, CGI script or any other computer code), music, sound, photographs, video, graphics, graphical user interface, forms, diagrams or other material, used in connection with, incorporated or contained in or presented to the Client through Internet Banking; and

- (b) any materials (including any software or computer code of any kind and user manuals) and/or information presented by the Client by the Bank for use with Internet Banking, (all the aforementioned content and/or materials to be collectively referred to as "Content") are the exclusive property of the Bank and/or its third party licensors.

14.2 The Client hereby acknowledges and agrees that the Client is only permitted to use the Content as expressly authorised by the Bank. This Agreement does not transfer any right, title or interest in Internet Banking or the Content to the Client and the Client may not copy, reproduce, modify, distribute, publish or commercially exploit the Content or create derivative works from this Content without expressly being authorised to do so by the Bank.

## 15. Force Majeure

15.1 The Bank shall not be responsible or liable to the Client for:

- (a) delays or failure in performance, whether foreseeable or not; and/or
- (b) any damage, loss, liability, expenses or costs howsoever arising, whether foreseeable or not, resulting from or due to any circumstances or causes whatsoever which are not within the reasonable control of the Bank.

15.2 Without prejudice to the generality of Clause 15.1 above, the following shall be regarded as circumstances and/or causes beyond the Bank's reasonable control:

- (i) flood, lightning, acts of God, fire, earthquakes and other natural disasters
- (ii) strikes, labour disturbances, lockouts, material shortages, riots, acts of war
- (iii) acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority or any governmental regulations imposed after the fact
- (iv) power failures
- (v) acts or defaults of any telecommunications network operator and
- (vi) circumstances where communications lines for the Bank's computer systems (whether in Guernsey or elsewhere) cannot be used for reasons attributable to third party telecommunications carriers.

15.3 The obligations of the Bank, so far as affected by circumstance or causes beyond the Bank's reasonable control, shall be suspended during the continuance of any delay or failure in performance so caused and such delay or failure shall not be a breach of this Agreement.

## 16. Notice

The Client or the Bank may terminate the use of Internet Banking by notice in writing to the other party at any time. Notice of termination by the Client is to be sent to the Bank.

## 17. Waiver

The Bank's failure or delay in exercising or enforcing its rights under these Terms and Conditions against the Client shall not operate as a waiver of such rights nor shall it in any way prejudice, alter or affect the Bank's other rights, powers and remedies.

## 18. Severability

The invalidity, illegality, unenforceability of any provision of these Terms and Conditions under the laws of any jurisdiction shall not affect or impair its validity, legality or enforceability under the laws of any other jurisdiction nor the validity, legality or enforceability of any other provision herein.

## 19. Governing law and submission to jurisdiction

These Terms and Conditions shall be governed by and construed in accordance with the laws of the Island of Guernsey and the Client hereby submits to the non-exclusive jurisdiction of the courts of the Island of Guernsey.

# Section A

## Part 8: General Relationship Terms

This Part contains additional general terms governing our relationship.

### 1. Bringing these Terms and Conditions to an End

- 1.1 Either we or you may bring all or any part of these Terms and Conditions to an end at any time by giving written notice ("Notice of Termination") to the other in accordance with the terms of these Terms and Conditions. Such notice may take effect immediately on receipt or at such later time specified in the notice, although such notice to us shall only be effective on actual receipt by us. We may complete any Transaction started prior to our receipt of a Notice of Termination given by you.
- 1.2 These Terms and Conditions will automatically end on:
  - (A) (if you are one individual) your death;
  - (B) (if you are more than one individual) the death of all of you; or
  - (C) (if you are a body corporate or partnership) the commencement of proceedings for your winding-up or dissolution (or any analogous event in any jurisdiction).
- 1.3 On the termination of these Terms and Conditions, we:
  - (A) may decide, acting in good faith and in a commercially reasonable manner, whether or not to effect any further Transaction, and
  - (B) will arrange for the delivery as soon as practicable to you or your agent of the Portfolio, after the deduction of any sum due to us under these Terms and Conditions.
- 1.4 Termination will not affect any provision of these Terms and Conditions which is intended to survive termination (including, without limitation, Part 5 of Section B), or any of our accrued rights at the time of termination.

### 2. Death of Individual(s)

- 2.1 Where we provided the deceased with a Discretionary Service we will continue to do so in line with the existing Account Opening documentation and/or Client Mandate until the earlier of six months following the date of death or we receive a contrary Instruction from an executor, administrator or equivalent.
- 2.2 Where we operate joint accounts and one of you dies, then we will hold to the order of those of you who survive (and if more than one, jointly for the survivor), any Portfolio Asset (including any Credit Balance).
- 2.3 Where we operate joint accounts and you all die, then we will recognise the relevant executors and administrators (or those persons who appear to us to have lawful authority) as the only persons having any title to or interest in any Portfolio Asset (including any Credit Balance), provided that we have received a certified copy of the Guernsey grant of probate or letters of administration. Grants of probate or letters of administration from jurisdictions other than the Island of Guernsey are not acceptable.

### 3. Important Information About Compensation Arrangements

#### Guernsey Banking Deposit Compensation Scheme

AS A LICENSED BANK IN GUERNSEY, CREDIT SUISSE AG, GUERNSEY BRANCH ("The Bank") IS A PARTICIPANT IN THE GUERNSEY BANKING DEPOSIT COMPENSATION SCHEME (THE "SCHEME") ESTABLISHED BY THE BANKING DEPOSIT COMPENSATION SCHEME (BAILIWICK OF GUERNSEY) ORDINANCE, 2008 (THE "ORDINANCE"). THE FOLLOWING IS A BRIEF SUMMARY OF THE SCHEME, BUT IS NOT INTENDED AS A SUBSTITUTE FOR THE ACTUAL WORDING OF THE ORDINANCE, A COPY OF WHICH IS AVAILABLE ON REQUEST.

- 3.1 The Scheme only applies to 'qualifying deposits', which broadly means deposits made by natural persons for their own benefit; with a few limited exceptions such as, for example, deposits made by trustees of retirement annuity trust schemes, the Scheme does not apply to companies, trusts, partnerships or charities.
- 3.2 The Scheme will provide compensation in the event that a Licensed Bank is unable to repay its depositors. Under normal circumstances, payment will be made within 3 months of receipt of a valid claim form.
- 3.3 Compensation is limited to a maximum of £50,000 per individual claimant; in the case of a joint account each depositor would be entitled.
- 3.4 Total Scheme compensation in any five year period is limited to £100 million. If claims exceed this cap, compensation would be reduced pro rata. The cap also means that compensation in respect of any one bank cannot exceed £100 million.
- 3.5 The amount payable may be reduced if the Bank has any contractual right of set-off against the account. The Scheme is entitled to recover compensation from any funds subsequently paid out by the Bank. Further information and a leaflet about the Scheme is available at:

The Administrator  
Guernsey Banking Deposit Compensation Scheme  
P.O. Box 380, St Peter Port, GY1 3FY  
Telephone: +44 (0) 1481 722756  
Website: [www.dcs.gg](http://www.dcs.gg)

### 4. Complaints

Complaints will be handled in accordance with our internal complaint handling procedure, a copy of which is available on written request. If you have a complaint about us you should raise it in the first instance with your Account Manager who will provide you, if appropriate, with a copy of the procedure as well as our initial response. You may refer your complaint to the Office of the Financial Services Ombudsman (OFSO) as provided in The Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014. In normal circumstances, the OFSO will not consider your complaint unless you have given us a reasonable opportunity to deal with your complaint.

## 5. Confidentiality

5.1 You agree that we may disclose any information in respect of:

- (A) you;
- (B) your business;
- (C) any Account;
- (D) any Transaction; or
- (E) any Investment which is or has been at any time in the Portfolio, as we in our sole discretion consider to be required by, desirable in relation to, or requested under any Applicable Law or by any governmental or regulatory authority, or by any court order or similar process or where our interests require disclosure, or as required to perform our obligations under these Terms and Conditions or where required in the course of our defending any action brought against us or an Associate.

5.2 We may also disclose on any occasion such information as we think fit to our professional advisers and Associates or persons holding money or providing custody services to you.

5.3 Where you have appointed an External Asset Manager any information listed in clause 5.1 may be disclosed by us to such External Asset Manager.

## 6. Events of Default

The following shall constitute an Event of Default:

- (A) you fail to make any payment when due or to make or take delivery of any property when due, or to observe or perform any other provision of, these Terms and Conditions (including any Transaction governed by the Netting Terms) or you fail to comply with any request given to you by us and we consider that your compliance with such request is reasonably necessary for us to provide any service under these Terms and Conditions or in relation to the termination of these Terms and Conditions;
- (B) you commence a voluntary case or other procedure seeking or proposing liquidation, reorganization, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or to your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent), or seeking the appointment of a trustee, receiver, liquidator, conservator, administrator, custodian, examiner or other similar or other similar official (each a "Relevant Official") of you or any part of your assets; or take any corporate action to authorize any of the foregoing; and, in the case of a reorganization, arrangement or composition, we do not consent to the proposals;
- (C) an involuntary case or other procedure is commenced against you seeking or proposing liquidation, reorganization, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent) or seeking the appointment of a Relevant Official of you or any part of your assets;
- (D) you die, become of unsound mind, are unable to pay your debts as they fall due or are bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to you; or any of your indebtedness is not paid on the due date therefore or becomes, or becomes capable at any time of being declared, due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or proceedings are commenced for any execution, any attachment or garnishment, or any distress against, or an encumbrancer takes possession of, the whole or any part of your property, undertaking or assets (tangible and intangible);

- (E) you (or any Relevant Official acting on your behalf) disaffirm, disclaim or repudiate any obligation under these Terms and Conditions (including any Transaction governed by the Netting Terms);
- (F) any representation or warranty made or deemed made by you pursuant to these Terms and Conditions proves to have been false or misleading in any material respect as at the time it was made or given or deemed to be made or given;
- (G) any event referred to in Clause (B) to (D) above or (H) below occurs in respect of any person who has provided a guarantee or other surety in respect of your obligations to us under these Terms and Conditions;
- (H) you are dissolved, or if your existence is dependent upon a formal registration, such registration is removed or ends, or any procedure is commenced seeking or proposing your dissolution or the removal of ending of such a registration; or
- (I) any event of default (however described) occurs in relation to you under any terms of business in place between you and us.
- (j) You agree to co-operate with us to the fullest extent possible in the prosecution or defence of any action or proceeding brought by or against us against or by any third party in relation to any Transaction.

## 7. Data Protection

- 7.1 The Data Protection (Bailiwick of Guernsey) Law, 2001, as amended (the "2001 Law") imposes requirements on persons who process 'personal data' as those words are defined in the 2001 Law. We agree to comply with the 2001 Law. If the 2001 Law also applies to you, you also agree to comply with it.
- 7.2 You acknowledge that in accordance with the terms of our registration under the Data Protection (Bailiwick of Guernsey) Law, 2001, as amended or re-enacted from time to time (the 'Law'), we may process all personal data contained in the Account Application together with any additional personal data supplied to or obtained by us from time to time in connection with your Account(s) for any purpose permitted under the Law and in particular but without limiting the above:
  - (1) to facilitate the provision of products or services by us or any other Credit Suisse Group entity, including communications concerning such products or services and compliance with any internal policies and procedures of any member of the Credit Suisse Group;
  - (2) assessing your suitability for any products or services, including any credit or fraud risk assessments;
  - (3) to facilitate statistical and behavioural analysis and profiling;
  - (4) to comply with all legal and regulatory obligations under any local or foreign laws, rules or regulations applicable to any member of the Credit Suisse Group, whether or not they are mandatory and including at the request of any competent authority, Court or regulator;
  - (5) for the prevention, detection and investigation and prosecution of crime in any jurisdiction;
  - (6) for the purpose of identification; and
  - (7) to provide information about products and services which we believe may be of interest to you unless you have declined to receive such information.\*\*

- 7.3 You consent to your personal data being disclosed by us to:
- any member of the Credit Suisse Group including their officers, employees, agents and directors;
  - our professional advisers;
  - any banking and other institutions with which we wish to conduct or conduct a business relationship, any personal data that are required to be provided in order to further that relationship, comply with contractual obligations and/or comply with anti-money laundering and other regulatory requirements, whether or not they are mandatory. This includes personal data in relation to you as well as parties and entities connected to you;
  - any person to whom disclosure is allowed or required by local or foreign law, regulation or other applicable rules, including any competent authority, Court regulator or enforcement agency or their agents;
  - any External Asset Manager appointed by you in respect of the Portfolio;
  - anyone we consider necessary in order to provide you with the products or services.
- 7.4 You understand that we may need to transfer personal data in relation to you to a jurisdiction outside of Guernsey, and in certain circumstances outside of the European Economic Area, to a jurisdiction which may not ensure adequate levels of protection for the rights and freedoms of data subjects, including to the United States of America. You hereby consent to any such transfers.
- 7.5 Should we agree to provide a retained mail service, important communications from us requiring the provision of further information from you, will not be received by you and therefore personal data held by us may not be accurate and up-to-date.
- 7.6 We reserve the right to monitor, log or intercept any communications between you and ourselves, as permitted by law and regulation, for internal training, regulatory or other purposes.

## 8. Credit Reference Agencies

Enquiries may be made with credit reference agencies and in such cases the agencies will keep a record of our enquiries. However, we will only disclose to the agencies information about you in the event of your defaulting on a debt. All information received by such agencies may be used by other lenders in making credit decisions about you and other members of your household.

## 9. Changing These Terms and Conditions

Subject to any term relating to a specific Part or Parts of these Terms and Conditions, to the extent permitted by law and the GFSC Rules, we may change these Terms and Conditions by giving written notice (the "Variation Notice") to you. A change to these Terms and Conditions will take effect on the date specified in the Variation Notice (the "Variation Date"). The Variation Date will be at least two weeks later than the date of the Variation Notice, unless any relevant law, regulation, rule or action of any applicable government or regulator otherwise requires.

## 10. Transfer

- 10.1 Your rights under these Terms and Conditions are not capable of transfer and your obligations shall not, without our consent be capable of performance by anyone other than yourself. We may without your consent transfer all or any of our rights and obligations under these Terms and Conditions (which includes for the avoidance of doubt any Facility which forms a part of these Terms and Conditions) either to another appropriately authorised member of the Credit Suisse Group or to another company which succeeds to our business as contemplated by these Terms and Conditions.
- 10.2 The obligations under these Terms and Conditions bind, and the rights will be enforceable by you and us and your and our respective successors, permitted assigns and personal representatives.

## 11. Joint Clients

- 11.1 Where there are joint clients:
- (A) the word "you" shall mean and include each and all of those persons. In addition, all duties, obligations and liabilities assumed by or imposed on you shall bind all such persons jointly and each of them severally; and
  - (B) any Instruction to be given to you under these Terms and Conditions may be given to any one of you.
- 11.2 Notwithstanding that obligations incurred by one of you are or become illegal, unenforceable or void by operation of law, such obligations shall continue to bind and be enforceable against the rest of you.
- 11.3 You shall notify us upon any joint arrangements between you being terminated, by reason of divorce, separation or otherwise. If we are aware of any dispute between joint account holders:
- (A) deposits will always be repaid to the Account from which they were taken unless we receive written Instructions to the contrary from all joint Account holders; and
  - (B) we will require joint written Instructions from each of you to operate any Account.

## 12. Waiver

- 12.1 Our rights and your rights under these Terms and Conditions will not be lost or limited:
- (A) by any earlier exercise of them;
  - (B) by any failure to exercise them;
  - (C) by any delay in exercising them; or
  - (D) by exercising them in part only, and no single or partial exercise of a right or remedy under these Terms and Conditions shall prevent any further exercise of any other right or remedy or the exercise of any other right or remedy.
- 12.2 The rights and remedies provided in these Terms and Conditions or any Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

## 13. Notices

- 13.1 Any Instructions, confirmations or contract notes or notices required to be made under or pursuant to these Terms and Conditions ("Notices") may be given orally unless required in writing by these Terms and Conditions.

- 13.2 Any Notice in writing may be given as follows:
- (A) by posting (first class or, where appropriate, by air mail) and will be deemed delivered seven Business Days after posting. Proof that the Notice was correctly addressed and was posted first class or, where appropriate, air mail will be sufficient proof of delivery.
  - (B) by delivering it and will be deemed delivered upon delivery. Proof that it was delivered to the correct address will be sufficient proof of delivery.
  - (C) by sending it by telex, facsimile transmission or any other instantaneous electronic transmission and will be deemed delivered upon transmission. Proof that it was transmitted to the correct number or destination and the proper answer back was received (in the case of telex) will be sufficient proof of delivery.
- 13.3 All Notices in writing in relation to these Terms and Conditions (other than notices in respect of a Facility, Instructions, contract notes or confirmations) are to be addressed to our Head of Legal & Compliance, except as otherwise provided in these Terms and Conditions.

#### **14. Severability**

- 14.1 If any provision of these Terms and Conditions is or becomes illegal, invalid or unenforceable in any jurisdiction that shall not affect the legality, validity or enforceability:
- (A) in that jurisdiction of the rest of that provision or of any other provision of these Terms and Conditions; or
  - (B) in any other jurisdiction of any provision of these Terms and Conditions.

#### **15. Governing Law and Jurisdiction**

- 15.1 These Terms and Conditions and any non-contractual obligations arising out of or in relation to these Terms and Conditions are governed by and construed in accordance with the laws of the Island of Guernsey.
- 15.2 You irrevocably agree for our benefit that the courts of the Island of Guernsey are to have exclusive jurisdiction to settle any dispute which may arise out of these Terms and Conditions and that, accordingly, any proceedings arising out of these Terms and Conditions may be brought in such courts. You irrevocably submit to the jurisdiction of such courts and waive any objection to proceedings in any such court on the grounds of venue or on the grounds that the proceedings have been brought in an inconvenient forum. Your submission is made for our benefit and shall not limit our right to take proceedings in any other court of competent jurisdiction nor shall taking of proceedings by us in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

- 15.3 These Terms and Conditions supersede any previous written or oral agreement between you and us in relation to the matters dealt within these Terms and Conditions. Except as expressly stated, these Terms and Conditions contain the entire agreement between us relating to the subject matter herein at the Effective Date to the exclusion of any terms implied by law which may be excluded by contract. You acknowledge that you have not been induced to enter into these Terms and Conditions by any representation, warranty or undertaking not expressly incorporated into these Terms and Conditions. So far as permitted by law and except in the case of fraud, you agree and acknowledge that your only rights and remedies in relation to any representation, warranty or undertaking made or given in connection with these Terms and Conditions shall be for breach of the terms of these Terms and Conditions, to the exclusion of all other rights and remedies (including those in tort or arising under statute). In this Clause "these Terms and Conditions" includes all documents entered into pursuant to these Terms and Conditions.

# Section A

## Part 9: Interpretation

This Part contains explanations of what certain defined terms mean in these Terms and Conditions.

### 1. Glossary Of Terms

In these Terms and Conditions, unless the context otherwise requires:

**"Account"** means the accounts described in Clause 1.1 of Part 2 of Section A;

**"Account Manager"** means our employee who is responsible for operating your Account;

**"Account Opening documentation"** means the Account Opening documentation provided with the Terms and Conditions;

**"Advisory Service"** means the service outlined in Clause 5 of Part 1 of Section A of the Terms and Conditions;

**"Advisory Fee"** means the fee that we charge for the provision of our Advisory Service. The Advisory Fee is set out in the Standard Fee Schedule.

**"Applicable Law"** includes any applicable: (i) laws, rules and/or regulations of any jurisdiction (ii) Market Requirements and (iii) rules, regulations, orders, directives, announcements, decisions, procedures, terms, other requirements and/or customs made, given or issued by, or published under the authority of any Regulatory Body, all as amended, supplemented or replaced from time to time;

**"Associate"** means any of our Group Companies, directors, officers, employees, agents or relationship managers;

**"Associated Costs Rate"** means during any period for which an interest rate is to be calculated in relation to an Advance, the rate per annum (rounded upwards, if not already such a multiple, to the nearest 0.01%) calculated by us to be the rate which expresses the cost to us of maintaining such sum during such period by reason of compliance with (a) the current requirements of the Bank of England and/or the GFSC or in either case any other authority which replaces all or any of its functions and (b) the requirements of the European Central Bank with reference to Eligible Liabilities and the fees payable to the GFSC pursuant to the Financial Services Commission (Fees) Regulations, 2012 (or such other law or regulation as may be in force in respect of the payment of fees for banking supervision) in respect of such sum for such period;

**"Authorised Signatory"** means each person that you have identified as your authorised signatory in the Account Opening documentation or subsequently, and may include your External Asset Manager (if any) appointed by you to provide us with Instructions by separate mandate, in accordance with the requirements of the Terms and Conditions;

**"Bank Business Day"** is any Business Day on which the banks in Guernsey and in the main trading location for the Underlying or the main trading locations for the Currencies involved in the OTC Transaction (including effecting deliveries of these Currencies and the taking of deposits denominated in foreign Currencies) are open for business for the whole day;

**"Base Currency"** means the base Currency for the Facility stated on the first page of the Facility Letter;

**"Best Execution"** means effecting a Transaction in accordance with the relevant GFSC Rules which generally require that we take all reasonable steps to obtain the best possible result for you taking into account various factors including but not limited to the type and size of the Transaction;

**"Broker"** means such member of an Exchange and/or Clearing House as is instructed by us to enter into any Transaction on an Exchange and/or clear and/or settle the same;

**"Business Day"** means a day (other than a Saturday or a Sunday) on which banks and financial institutions are open for the transaction of business of the nature contemplated by these Terms and Conditions, in Guernsey and in any relevant financial centre (as determined by us) other than Guernsey where such business is to be transacted;

**"Call Option"** means the right but not the obligation of the buyer to purchase the Underlying against the payment of the Exercise Price;

**"Cash"** means any cash denominated in any Currency;

**"CEA"** means the US Commodity Exchange Act, as amended.

**"CFTC"** means the US Commodity Futures Trading Commission.

**"CFTC Swap Regulations"** means the rules, regulations, orders and interpretations adopted or issued by the CFTC, as in effect from time to time, that apply to Swaps and that are promulgated under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

**"Charged Property"** means: (A) the Credit Balances, (B) the Securities, (C) the Metals and (D) any other property of any type which is now or may at any future time be (1) held in our actual or constructive possession (or that of another CS Entity) on behalf of or for your account either alone or jointly; (2) deposited by you, or by any other person on your behalf of or for your account; either alone or jointly, with our (or another CS Entity's) agents, representatives or correspondents; or (3) transferred (whether for safe custody, security or for any other specific purpose or generally, and whether in Guernsey or elsewhere) by you or by any other person on your behalf or for your account either: (a) to us or to another CS Entity (whether alone or jointly with any other person); or (b) to our or their nominees;

**"Clearing House"** means any clearing house providing settlement or clearing or similar services for, or as part of, an Exchange;

**"Client Agreement"** means the contents of the Account Opening documentation together with the Client Mandate, the Terms and Conditions and, where applicable, the Security Agreement;

**"Client Mandate"** means the client mandate document signed by you, which contains your risk profile and your selected investment strategy;

**"Client Profile"** means the information provided to us in the Account Opening documentation, as updated by notice from you to us from time to time;

**"Collateral"** means the Cash and/or marketable Securities or other assets acceptable to us over which security in a form and amount acceptable to us has been granted in our favour;

**"Consequential Loss"** means any loss incurred which is not a direct consequence of the relevant circumstance and includes losses which are indirectly or remotely caused by the relevant circumstance;

**"Contingent Liability Transaction"** means a Transaction under the terms of which you will or may be liable to make further payments either when the Transaction is completed or when the Transaction is closed out early;

**"Contract"** means a Derivative Contract entered into by us on an Exchange or with or through a Broker under Part 4 of Section B;

**"Credit Balances"** means all sums now or hereafter standing to your credit (either individually or jointly with another person) on any Account held with us or any Associate in any Currency together with all entitlements to interest the right to repayment and other rights and benefits accruing thereto or arising in connection therewith and the debts represented by such sums;

**"Credit Suisse Group"** means, collectively, every CS Entity; "CS Entity" means any entity that is a Group Company in relation to CS;

**"Currency"** means money denominated in the lawful currency of any country or the Euro;

**"Deposit Account"** means the one or more deposit accounts opened by us for you, at your request;

**"Derivative Contract"** means a futures contract, an option or a contract for differences in each case being a contract, for future delivery and/or settlement, to:

(A) buy or sell an underlying asset; and/or

(B) pay or receive a sum or money by reference to an index or formula (including without limitation the price or value of any underlying assets);

**"Discretionary Service"** means the service outlined in Clause 4 of Part 1 of Section A of the Terms and Conditions;

**"Drawing"** means any Advance, Overdraft or Guarantee (and in the case of a Guarantee the amount of the Drawing shall be the principal or face value of such Guarantee);

**"EEA"** means the European Economic Area;

**"Eligible Liabilities"** shall have the meaning given to them from time to time under or pursuant to the Bank of England Act 1998 or (as appropriate) by the Bank of England;

**"Email"** means electronic mail;

**"ETD"** means Exchange-Traded Derivatives as determined in Part 4 of Section B;

**"ETD Terms"** has the meaning ascribed to it in Part 4 of Section B;

**"ETD Transaction"** includes the entering into of a Contract, closing-out or effecting delivery and/or settlement of a Contract (which terms shall include exercise or allocation of an option Contract) pursuant to the ETD Terms;

**"EUR"** or **"€"** means the lawful common Currency of various member states of the European Union;

**"Event of Default"** means the circumstances outlined in Clause 6 of Part 8 of Section A;

**"Exchange"** means any exchange, market or association of dealers in any part of the world on or through which Investments or Currencies or assets underlying, derived from or otherwise related directly or indirectly to Investments or Currencies are bought and sold and includes, without limitation, any automated trading system administered by any such exchange, market or association;

**"Exchange Contract"** means a class of contract as defined by the rules of the relevant Exchange or Clearing House;

**"Execution-only Service"** means a service provided by us upon your specific Instructions and in respect of which we give you no investment advice, and includes an Execution-only Transaction and also includes credit-facility only services;

**"Execution-only Transaction"** means a Transaction executed by us on your specific Instructions and in respect of which we give you no investment advice;

**"Exercise Price"** means in relation to an option, the price per Underlying pursuant to the OTC Confirmation, at which the Underlying may be purchased or sold upon exercise of the option;

**"Expiration Date"** means in relation to an option, the (last) day on which an option can be exercised. If the agreed Expiration Date is not a Bank Business Day, the Expiration Date shall be the next following Bank Business Day;

**"External Asset Manager"** means an investment manager or adviser appointed by you to provide you with investment management or advisory services in respect of your Portfolio;

**"Facility"** has the meaning ascribed to it in the Facility Letter;

**"Facility Amount"** means the lower of (A) the headline amount stated on the first page of the Facility Letter; and (B) the Lending Value of the Collateral, less any amount determined by us in accordance with the Facility Letter;

**"Facility Letter"** means the letter from us to you pursuant to which the Facility is made available to you;

**"Finance Document"** means the Facility Letter, the Security Agreement and any other document designated as such by you and us;

**"Foreign Exchange Forward Transaction"** means a Foreign Exchange Transaction in which the parties agree to effect the deliveries of the Currencies on a determined future Value Date;

**"Foreign Exchange Spot Transaction"** means a Foreign Exchange Transaction with a Value Date being the second Business Day after the OTC Transaction is entered into between the parties;

**"Foreign Exchange Swap Transaction"** means an OTC Transaction in which the parties enter simultaneously into either a Foreign Exchange Spot Transaction and a Foreign Exchange Forward Transaction or two Foreign Exchange Forward Transactions which have different Value Dates. In either case, the OTC Transaction with the later Value Date involves a reversal of the OTC Transaction with the earlier Value Date: the Currency purchased by one party in the OTC Transaction with the earlier value date is sold back to the other party while the other Currency is repurchased;

**"Foreign Exchange Transaction"** means an over-the-counter Call Option or Put Option for the purchase by one party of an agreed amount in one Currency against the sale to the other party of an agreed amount in another Currency, both such amounts being deliverable on the same Value Date, that you have entered and/or anticipate entering with us pursuant to the Master OTC Terms and will also include a Foreign Exchange Forward Transaction, Foreign Exchange Spot Transaction and/or a Foreign Exchange Swap Transaction;

**"GFSC"** means the Guernsey Financial Services Commission;

**"GFSC Rules"** means the GFSC's Conduct of Business Rules, as amended from time to time;

**"Group Company"** means in relation to a company, any other company which is that company's holding company or subsidiary (as defined by Section 531 of the Companies (Guernsey) Law, 2008, as amended) or the subsidiary of such holding company or subsidiary;

**"Guarantee"** means an agreement or arrangement under which a person commits to provide a financial backstop or funding against potential losses that may be incurred by another person in connection with a Swap Transaction.

**"Indemnity"** means a promise by one person to compensate in full another person or persons, including (by way of example) a promise by a person to pay in full losses or costs suffered by another person;

**"Instruction"** means any notice, demand, information, request or instruction (or any cancellation of any request or instruction) issued by you to us or by an Authorised Signatory in connection with these Terms and Conditions;

**"Intrinsic Value"** in relation to an option, means the amount by which the market price of the Underlying, as determined by us, exceeds (in the case of Call Options) or falls short of (in the case of Put Options) the Exercise Price;

**"Investment"** means any Controlled Investment' as defined in Schedule 12 to The Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended, including without limitation shares, stocks, bonds, notes, derivative contracts or other similar property;

**"Investment Service"** means either a Discretionary Service or an Execution-only Service;

**"LCH"** means the London Clearing House Limited;

**"Lending Value"** means the value attributed by us in our sole discretion in accordance with our current policy for lending against the assets secured in our favour;

**"Liabilities"** means:

- (A) all commission, fees, Taxes and charges;
- (B) all expenses (on a full Indemnity basis) incurred by us acting reasonably or any receiver at any time in connection with the Secured Assets (if any) or the Liabilities or in taking or perfecting these Terms and Conditions or the Security Agreement or in preserving, defending or enforcing the security created by these Terms and Conditions or the Security Agreement or in exercising any power under these Terms and Conditions or the Security Agreement or otherwise, with interest from the date they are incurred;
- (C) all of your liabilities to us or any CS Entity of any kind and in any Currency (whether present or future, actual or contingent, whether incurred alone or jointly with another, whether you are a principal or a surety, and includes any liability of yours to a third party or a CS Entity which subsequently becomes payable to us by way of assignment or otherwise); and
- (D) interest at the rate(s) charged to you by us from time to time. The interest will be calculated both before and after judgment on a daily basis and compounded according to agreement or in the absence of agreement in accordance with our normal banking practice;

**"LIBOR"** means the rate at which funds in sterling or the relevant Currency (as the case may be) and for the relevant term are offered to us by prime banks in the London interbank market in the usual course of trading;

**"LIFFE"** means the London International Financial Futures and Options Exchange and/or, as the context requires, LIFFE Administration and Management;

**"Limit Order"** means an order to buy or sell an Investment at a specified price limit or better and for a specified size;

**"Liquidation Date"** means a day on which we commence the termination and liquidation of Transactions or such a termination and liquidation commences automatically;

**"Loan Margin"** means in respect of an Advance, the respective percentage rate set out on the first page of the Facility Letter;

**"Margin"** means the amount of Cash (including premiums or other assets) as may from time to time be demanded by us from you for the purpose of protecting us against any loss or risk of loss on present, future or contemplated Contingent Liability Transaction;

**"Margin Account"** means an Account with such bank(s) or Broker(s) as we may from time to time determine;

**"Market Requirements"** means:

(A) the constitution, by-laws, rules, regulations, orders, directives, announcements, decisions, procedures, standard terms and/or customs made, given or issued by, or published under the authority of any Exchange, Clearing House, self regulating organisation or market of which we or any relevant Associate or any Broker is a member, or to whose authority we are or any of them is subject directly or indirectly or whether the relevant Transaction is executed to and/or cleared; and

(B) any other requirements of the relevant Exchange, Clearing House or Broker (including without limitation any and all agreements and deeds entered into by us or any relevant Associate or Broker with or in favour of the relevant Broker, Exchange or Clearing House, as the case may be), all as amended, supplemented or replaced from time to time;

**"Master OTC Terms"** means Part 3 of Section B;

**"Metals"** means all Precious Metals, silver or other metals and all commodities (and all benefits, rights, proceeds or other assets arising from any options, futures or contracts for differences relating to the same and all rights and entitlements arising therefrom or attaching thereto);

**"Netting Terms"** means Part 5 of Section B;

**"Nominee Company"** means the company appointed from time to time by us or an Associate to hold registered title to Portfolio Assets;

**"Notice of Drawdown"** means written or oral notice requesting a Drawing under the Facility, specifying whether the Drawing is by way of an Advance, an Overdraft or a Guarantee, the date of the desired drawdown (which must be a Business Day), the desired Currency and the amount of the Drawing and, in respect of an Advance, the desired Interest Period;

**"Open Contract"** means a Contract which has not been closed-out and which is not yet matured;

**"Option Contract"** means an option transaction on terms acceptable to us to which you are a party;

**"Option Transaction"** means an over-the-counter Call Option or Put Option on Currencies and Precious Metals that you have entered and/or anticipate entering with us pursuant to the Master OTC Terms;

**"OTC Confirmation"** is the written notice (including telex, facsimile or other electronic means from which it is possible to produce a hard copy), which contains the specific terms of an OTC Transaction entered into between the Parties. Ancillary agreements referred to in the OTC Confirmation are part of such OTC Confirmation;

**"OTC Transaction"** means a Foreign Exchange Transaction or Option Transaction;

**"Parties"** means you and us;

**"Portfolio"** means any of your portfolios, in respect of which we provide Investment Services under these Terms and Conditions;

**"Portfolio Asset"** means any property for the time being contained in the Portfolio, including without limitation every Account, Cash, Investments, Precious Metals and other property;

**"Portfolio Investment"** means any Investment contained in the Portfolio;

**"Portfolio Value"** means the value (as determined in accordance with these Terms and Conditions, our policies and procedures and Applicable Law) of Portfolio Assets without Cash;

**"Potential Event of Default"** means any event which may become (with the passage of time, the giving of notice, the making of any determination hereunder or any combination thereof) an Event of Default;

**"Precious Metal"** means any of gold, silver, platinum and palladium;

**"Professional Client"** has the meaning given to it in the GFSC Rules;

**"Put Option"** means an option pursuant to which the buyer of the option has the right but not the obligation to receive the Exercise Price against delivery of the Underlying;

**"Regulatory Body"** includes an Exchange, Clearing House or self regulating organisation of which we are a member or which otherwise has direct or indirect regulatory or enforcement authority or responsibility in relation to us (or to any relevant Associate or Broker), or to any investment business conducted by us or such relevant Associate or Broker for or with you, and any governmental, quasi- governmental or other department, agency, body or authority which has such authority or responsibility;

**"Retail Client"** has the meaning given to it in the GFSC Rules;

**"Securities"** means all shares, stocks, bonds, debentures, certificates of deposit, warrants, loan notes and all benefits, rights, proceeds or other assets arising from any options, futures or contracts for differences and other securities and any other financial instruments of any kind whatsoever and all rights and entitlements arising therefrom or attaching thereto including all dividends, interest or other distributions and all allotments, accretions, offers, rights, benefits, advantages and entitlements whatsoever at any time accruing, offered or arising in respect of the same whether by way of conversion, redemption, pre-emption, bonus, preference, option or otherwise;

**"Securities Act"** means the United States Securities Act of 1933;

**"Security Agreement"** means the agreement, in such form as may be agreed by us, pursuant to which we take the Security Interest;

**"Security Interest"** means the security interest over the Charged Property created pursuant to the Security Agreement;

**"Sterling"** or **"GBP"** or **"£"** means the lawful Currency for the time being of the United Kingdom;

**"Swap"** means a "swap" as defined in the Section 1a(47) of the CEA and CFTC Regulation 1.3(xxx). The term "Swap" also includes any foreign exchange swaps and foreign exchange forwards that may be exempted from regulation as "swaps" by the Secretary of the Treasury pursuant to authority granted by Section 1a(47)(E) of the Commodity Exchange Act;

**"Swap Transaction"** means any transaction that results in the creation of new Swap between two or more parties or in a change to the terms of an existing Swap between parties, including execution, termination, assignment, novation, exchange, transfer, amendment, conveyance, or extinguishing of rights or obligations of a Swap;

**"Tax"** or **"Taxes"** means any tax, levy, impost, duty or other charge or withholding of a similar nature in any jurisdiction (including any penalty or interest payable in connection with failure to pay or any delay in paying of the same), together with amounts payable in respect of any of the foregoing;

**"Terms and Conditions for Deposits"** means Part 1 of Section B;

**"Transaction"** means a transaction effected for the Portfolio including transactions which are entered into by a Broker or another intermediary to which we introduce an order for your Account, including but not limited to OTC Transactions;

**"Underlying"** means a Currency or a Precious Metal;

**"US Dollars"** or **"USD"** or **"\$"** means the lawful Currency for the time being of the United States of America;

**"US Person"** has the meaning given to it in Regulation S of the Securities Act; and

**"Value Date"**, the Value Date with respect to Option Transactions is the second Business Day after the option is exercised and in relation to Foreign Exchange Transactions it is the date agreed between the Parties to deliver the respective Currencies to each other provided in each case that where the agreed Value Date is not a Bank Business Day, the Value Date shall be the next following Bank Business Day.

## 2. Interpretation

2.1 Unless a contrary indication appears, any reference in these Terms and Conditions to:

- (A) the singular shall include the plural and vice-versa and the masculine, the feminine and the neuter;
- (B) any statutory provision or other provision of law shall be deemed to mean and to include a reference to any modification, consolidation or re-enactment thereof for the time being in force and any analogous provision or rule under any Applicable Law;
- (C) a time of day shall be construed as a reference to Guernsey time;
- (D) the Client Agreement, any other agreement or instrument shall be construed as a reference to the Client Agreement, agreement or instrument as the same may have been, or may from time to time be, amended, varied, novated, replaced or supplemented;
- (E) a Clause is, except as otherwise stated, a reference to a Clause of the Part in which such reference appears;
- (F) a Part is, except as otherwise stated, a reference to a Part of the Section in which such reference appears;
- (G) a party to these Terms and Conditions shall be construed so as to include its successors in title, permitted assigns and permitted transferees; and
- (H) a person includes any person, firm, company, corporation, body corporate, individual government, state or agency of a state or any association, trust unincorporated body of persons or partnership (whether or not having separate legal personality) or two or more of the foregoing.

2.2 Section, Part and Clause headings are for ease of reference only.

# Section B

## Part 1: Terms and Conditions for Deposits

This Part will apply if you wish to place deposits with us. By depositing funds with us you will be deemed to have agreed to and accepted these Terms and Conditions for Deposits.

### 1. Application

- 1.1 You may place deposits with us either on a "current account" basis whereby such deposits will be freely available to you and, where applicable, will accrue interest daily (payable quarterly) or on a fixed term basis where the terms will be agreed in respect of each such deposit ("Fixed Deposit").
- 1.2 You will be required to open a separate Deposit Account for each Currency of deposit you wish to place with us. We will accept deposits in GBP, USD, EUR and CHF and such other Currencies as we notify you of from time to time. When you place funds on deposit, we will confirm to you in writing the type of deposit, term, interest rate, or other specific features applicable to that deposit ("Deposit Confirmation").
- 1.3 Any initial deposit must be for a minimum of £100,000 (or equivalent in other Currency). If you withdraw funds from a Deposit Account and the balance in such Deposit Account is less than £100,000 (or equivalent in other Currency) we may ask you to close your Deposit Account.
- 1.4 Please note that Fixed Deposits will tie your deposit in for the duration of the term and any withdrawal prior to the maturity of the Fixed Deposit will result in additional fees and costs (see Clause 5). If you would like access to your deposit within this period you should not put your deposit into a Fixed Deposit.
- 1.5 In respect of Fixed Deposits only, in the absence of any Instruction to the contrary received at least two Business Days prior to maturity of the Fixed Deposit, when your deposit matures, we will renew your deposit for the same term at the then prevailing interest rate.

### 2. Interest

- 2.1 Interest payable on your Deposit Account will be calculated daily on cleared balances up to the date of repayment and paid into your Deposit Account in accordance with the terms specified in the relevant Deposit Confirmation.
- 2.2 Interest payable to you on any Deposit Account that is opened on the "current account" basis described at Clause 1.1 above, and which contains a positive account balance, may be set above or below zero.
- 2.3 Except to the extent that our services also include the provision of Payment Services (see further Section B, Part 2), we may make changes to our interest rates at any time in accordance with Section A, Part 2, Clause 2.2 of these Terms and Conditions.

### 3. Payments

- 3.1 We shall have no liability to you in the event of funds being unavailable on the maturity date of a deposit or deposits, or on any date on which interest is payable on a deposit or deposits, due to restrictions on convertibility or transferability of the Currency in which the deposit may be denominated or payable, or other causes beyond our control. In addition, if the Currency's country of origin restricts the availability, convertibility or transferability of such Currency, we shall be under no obligation to source such foreign Currency and may satisfy our obligations by payment of the equivalent in any other Currency converted at the prevailing rate or, in the event that no rate is available, at a rate of exchange which, in our opinion, is reasonable, and you shall provide us with an Indemnity against the cost of purchasing any other Currency. The provisions of Clause 5 shall apply in the event of any deposit being broken before its maturity.
- 3.2 In any event, and without prejudice to the generality of the foregoing, you shall not be entitled to demand payments in Cash.

### 4. Exchange Control

- 4.1 You agree to obtain and maintain in effect all necessary exchange control and other consents, registrations and the like with any Regulatory Body applicable to the Deposit Account and to comply with the terms of the same.

### 5. Early Withdrawal

- 5.1 If all or part of a Fixed Deposit is withdrawn before its maturity date, we will deduct such amount as we determine is required to reimburse us for any costs, losses or expenses (including any funding costs and the costs of closing out any Transactions hedging our position in relation to the deposit) which we may incur as a result of the early withdrawal. In addition, we will deduct a fee of 2% of the capital value of the deposit and reserve the right to deduct an administration fee of up to GBP 250. We will notify you of the applicable aggregate fees and costs when you request a withdrawal.

### 6. Taxes

- 6.1 Interest will be paid gross where permitted by law and you will at all times be fully responsible for payment of all Taxes due and for the making of all claims whether for exemption from withholding Taxes or otherwise. On deposits that do not qualify for gross payment, we will pay interest after deduction of Tax at the applicable rate.
- 6.2 You will be responsible for filing Tax returns and for providing any relevant Tax authorities with information in relation to any services we carry on for or with you, or any money which we hold on your behalf. We will use all reasonable endeavours to forward to you any Tax documents which we may receive relating to you or any monies held by us on your behalf.

# Section B

## Part 2: Payment Services

This Part applies to payment services which we may provide to you from time to time.

### 1. Application – General

- 1.1 This Part 2 applies where we provide “current account” services and fixed term deposit accounts. This includes payments by SWIFT, BACs and CHAPs, but not cheque, banker’s draft or postal order.
- 1.2 This Part 2 and the parts of the Terms and Conditions which are relevant to the Payment Services that we provide to you (including any relevant Deposit Confirmation provided to you pursuant to the Terms and Conditions) form a separate framework contract for Payment Services on your Account(s) (the “Framework Contract”).

### 2. Making a Payment

- 2.1 In order to give us instructions requesting us to place, transfer or withdraw funds (make a “Payment”) from or to your Account (a “Payment Instruction”) you agree to provide us with the following information either by phone, email (from an Authorised Email Address), post or fax:
  - (A) your name and address;
  - (B) your account number;
  - (C) the name and address of the recipient;
  - (D) the correct details of the recipient’s bank or building society, including, where applicable, the bank’s or building society’s SWIFT Bank Identifier Code (BIC), address, sort code or national bank code; and
  - (E) the recipient’s bank account number or, where applicable, International Bank Account Number (IBAN).
- 2.2 The time of receipt of a Payment Instruction by us is the time at which the Payment Instruction is received by us. Payment Instructions received on a non-Business Day will be deemed to have been received by us on the next Business Day. If we receive a Payment Instruction after midday (Guernsey time) we may treat such Payment Instruction as being received on the next Business Day.
- 2.3 If you make a request to us to make a Payment on a future date or on the occurrence of a particular event, we will treat the time of receipt of the Payment Instruction as the day you specify or the day that the particular event occurs (unless such day is not a Business Day in which case the Payment Instruction will be deemed to have been received by us on the following Business Day) (the “Default Day”).

### 3. When Payments Will be Made by Us

- 3.1 We will make/authorise a Payment (or a series of Payments) from your Account if you authorise it in any of the ways set out in Clause 2.1 above, and:
  - (A) there are cleared funds in your Account to make the Payment; or
  - (B) the Payment is covered by an overdraft or other form of lending facility that we have agreed with you.

- 3.2 Once we have received a Payment Instruction from you (including pursuant to Clause 2.3), you will not be able to revoke it unless otherwise agreed with us. Where the Payment is initiated by or through the recipient, you may not revoke the Payment Instruction after transmitting the Payment Instruction or giving consent to the Payment Instruction to the recipient unless otherwise agreed with us and the relevant recipient. For the avoidance of doubt, you may revoke a Payment Instruction due to be made pursuant to Clause 2.3 at any time up until the end of the Business Day before the Default Day.

### 4. Unauthorised or Incorrectly Executed Payments

- 4.1 You must read any statements and confirmations (including Deposit Confirmations) provided to you about your Account(s) carefully. You must tell us immediately by post, phone, email or fax if you do not recognise any transaction on your statement or if you think any Payment that you have authorised has been executed incorrectly. If you do not tell us promptly (at the latest within 13 months of the date that the Payment was debited from your Account) you may not be entitled to have any errors corrected.
- 4.2 Subject to Clause 11.2, if we execute a Payment that has not been authorised by you in the manner set out in Clause 2.1 above, we will, without undue delay:
  - (A) refund the amount of the unauthorised Payment to you; or
  - (B) where applicable, restore your debited Account to the state that it would have been in had the unauthorised Payment not taken place.

### 5. Charges Applicable to Payment Services

- 5.1 Our charges for Payments you make from your Account(s) are set out in the Schedule of Fees.
- 5.2 Where permitted by Applicable Law, we may charge you for providing information to you pursuant to this Framework Contract in the following circumstances:
  - (A) if such information is additional to the information we have agreed to provide to you pursuant to the Framework Contract;
  - (B) if you request such information more frequently than as stated in the Framework Contract; or
  - (C) if you request the information in a format other than that stated in the Framework Contract.
- 5.3 We may also charge you for:
  - (A) revoking a Payment Instruction in accordance with Clause 3.2;
  - (B) the provision of the information in Clause 11.2 for each Payment Instruction that has been refused; and
  - (C) for recovering funds as a result of incorrect information you have provided to us (pursuant to Clause 11.2).
- 5.4 Where you are the recipient of Payments we may, where applicable, deduct any relevant charges from the amount transferred before crediting it to you. Where we do so we will clearly indicate the full amount of the charges that have been deducted.

## 6. Provision of Information

- 6.1 When you initiate an individual Payment you may request us to provide you with the following information:
- (A) the maximum execution time;
  - (B) the charges payable by you in respect of the payment; and
  - (C) where applicable, a breakdown of such charges.

## 7. Interest Rates and Currency

- 7.1 Where we make a change to the interest rates payable on your Account, the change shall apply immediately.
- 7.2 All Payments must be made to us in the currency of the Account (as stated in the Deposit Confirmation) unless otherwise agreed.

## 8. Termination of Framework Contract

- 8.1 For current accounts, this Framework Contract will continue until terminated by either you or us. For fixed term deposit accounts, the duration of the Framework Contract applicable to that account is as stated in the relevant Deposit Confirmation. If at the end of a fixed term deposit you elect (or if we so elect in accordance with Clause 1.5 of Section B, Part 1 of the Terms and Conditions) to rollover your account into a new fixed term deposit, you acknowledge that each time your account is rolled over in this manner you will be deemed to have entered into a new Framework Contract with us.
- 8.2 You may terminate the Framework Contract in accordance with these Terms and Conditions. For any of your Accounts which are not fixed term deposit accounts, we will give you one month's notice before we terminate this Framework Contract and close your Accounts. Nothing in this clause affects either party's right to treat the Framework Contract as unenforceable or void (including any right arising out of a breach of contract).

## 9. Changes to Framework Contract

- 9.1 We may make changes to the Framework Contract at any time by giving you at least 2 months' notice of such change. The notice which we send to you will specify the date on which such changes are due to come into effect. If we do not receive a notice from you to the contrary before the proposed changes are due to come into force then you will be deemed to have accepted those changes. If you do not accept the proposed changes notified by us then you must tell us before the effective date of the changes and we will treat this as a notice from you to end the Framework Contract and close any of your Accounts immediately. There will be no charge for this.

## 10. Refusing to Make a Payment

- 10.1 We may refuse to make a Payment if the conditions of the Framework Contract are not satisfied or if:
- (A) we consider it reasonably necessary to protect the security of your Account;
  - (B) you have exceeded any limits agreed from time to time;
  - (C) we are required by law or a court of competent authority or by another duty which applies to us;
  - (C) we are not reasonably satisfied that the payment is lawful; or
  - (E) for fraud prevention purposes.
- 10.2 Unless such notification could be unlawful, we will notify you of our refusal to make a Payment, where possible, the reasons for such refusal and, where relevant, the procedures for rectifying any factual errors that may have led to the refusal. This information will be notified or made available to you at the earliest opportunity after our refusal of your instruction by post, phone, email or fax.

## 11. Liability

- 11.1 You will be responsible for all losses incurred in respect of unauthorised Payments if you have acted fraudulently.
- 11.2 We will make Payments based on the information you are required to give us pursuant to Clause 2.1 above. If you provide us with incorrect or incomplete information then each other bank or other payment service provider involved in executing the Payment Instruction will be treated as having correctly executed the Payment Instruction. As a result we will not be responsible if the Payment is not made, is delayed or is made incorrectly. However, we will make reasonable efforts to recover any funds involved in an incorrect Payment.
- 11.3 If you provide us with extra information to that specified by us as required to execute a Payment, we will only be responsible for making the Payment based on the information we have told you that we require.

## 12. Conflict of this Part with Other Parts of the Terms and Conditions

Where there is any conflict between the content of this Part and any other content of the Terms and Conditions, this Part will prevail, solely in respect of its subject matter and where it is applicable (i.e., where we provide you with in-scope payment services).

# Section B

## Part 3: Master Terms for OTC Transactions

In addition to the Terms and Conditions contained in Section A, this Part applies where we have agreed to make available to you the facility to enter into certain over-the-counter derivative transactions.

All OTC Transactions are entered into on the condition that Parts 2-9 of Section A and the Master OTC Terms together with all OTC Confirmations constitute one single agreement ("OTC Agreement").

### 1. Conclusion of OTC Transactions

- 1.1 The inclusion of these Master OTC Terms in these Terms and Conditions does not constitute an obligation to conclude any individual OTC Transaction.
- 1.2 Single OTC Transactions can be agreed in any form. On conclusion of an OTC Transaction, we will issue an OTC Confirmation. In case of a discrepancy between the Master OTC Terms and the OTC Confirmation, the OTC Confirmation shall prevail.
- 1.3 If you find discrepancies between the OTC Confirmation and your own documentation, you will inform us immediately upon receipt of the OTC Confirmation, but no later than seven days after the OTC Transaction has been entered into. If you do not receive an OTC Confirmation, you must inform us of this fact no later than five days after the OTC Transaction has been entered into. If we receive no objection or notification within these time limits, the OTC Confirmation is deemed binding.

### 2. Payments, Deliveries and Other Obligations

- 2.1 Each Party shall discharge its payments, deliveries and other obligations owed to the other Party no later than on the Value Date(s) specified in the OTC Confirmation.
- 2.2 All payments shall be made in the Currency specified in the OTC Confirmation free of charge and in the manner customary for payments in such Currency. Payments must be made into the recipient's account stipulated in the OTC Confirmation and must be freely available on the Value Date.
- 2.3 Physical deliveries of Precious Metals by either party must be made at Credit Suisse's Zurich-Uetlihof offices.
- 2.4 On request, we will deliver the Precious Metal to another location, provided this is practicable and not in violation of the Applicable Law in that location. Delivery to such alternative locations is made entirely at your expense and risk.

### 3. Force Majeure

- 3.1 A "Force Majeure Event" ("FM") shall occur if it becomes impossible, illegal or impracticable for a party ("Affected Party") to make or to receive a payment or a delivery in respect of an OTC Transaction ("Affected Transaction") by reason of an event or circumstance beyond the reasonable control of the Affected Party, including for the avoidance of doubt an act of state, war, or terrorism.
- 3.2 If a Force Majeure Event occurs, then the Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of the Force Majeure Event and each Affected Transaction. Either Party may then serve a notice on the other Party that it wishes to terminate the Affected Transaction(s) ("FM Termination Notice"). The FM Termination Notice will specify the date on which such Affected Transaction(s) is/are to be terminated ("FM Termination Date").
- 3.3 Upon the occurrence of a FM Termination Date:

(A) neither Party shall be obliged to make any further payments or deliveries under any Affected Transactions governed by these terms which would, but for this Clause, have fallen due for performance on or after the FM Termination Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the FM Termination Amount;

(B) we shall (on, or as soon as reasonably practicable after, the FM Termination Date) determine (discounting if appropriate), in respect of each Affected Transaction governed by these terms, our total cost, loss or, as the case may be, gain, in each case expressed in sterling (and, if appropriate, including any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position), as a result of the termination, pursuant to this agreement, of each payment or delivery which would otherwise have been required to be made under such Affected Transaction (assuming satisfaction of each applicable condition precedent and having due regard to, if appropriate, such market quotations published on, or official settlement prices set by, a relevant Exchange or clearing organisation as may be available on, or immediately preceding, the date of calculation);

(C) we shall treat each cost or loss to us, determined as above, as a positive amount and each gain by us, so determined, as a negative amount and aggregate all of such amounts to produce a single, net positive or negative amount, denominated in sterling ("FM Termination Amount"); and

(D) if the FM Termination Amount determined pursuant to this Clause 3.3 is a positive amount, you shall pay it to us and if it is a negative amount, we shall pay it to you. We shall notify you of the FM Termination Amount, and by which of us it is payable, immediately after the calculation of such amount.

3.4 The amount payable by one Party to the other Party pursuant to the provisions of Clause 3.3, or any applicable laws or regulations, shall be paid in sterling by the close of business on the business day following the completion of the termination and liquidation under Clause 3.3, or any laws or regulations having a similar effect, (converted as required by applicable law into any other currency, any costs of such conversion to be borne by, and (if applicable) deducted from any payment to, you). Any such amount which is not paid on the due date therefor shall bear interest, at the Default Debit Rate.

3.5 For the purposes of any calculation hereunder, we may convert amounts denominated in any other currency into sterling at such rate prevailing at the time of the calculation as we shall reasonably select.

3.6 The Parties' rights under this Clause 3 shall be in addition to, and not in limitation or exclusion of, any other rights which the Parties may have (whether by agreement, operation of law or otherwise).

### 4. Collateral Provided by You

4.1 We may demand that you put up security in form and amount acceptable to us as Collateral for all claims that we may have against you in respect of Option Transactions, Foreign Exchange Forward and Foreign Exchange Swap Transactions. Moreover, we have the right at any time to alter the collateral requirements and, in particular, to demand additional collateral during the life of Option Transactions, Foreign Exchange Forward and Foreign Exchange Swap Transactions or to demand collateral for an OTC Transaction that has been entered into without cover.

- 4.2 If the value of the collateral decreases, we have the right to call for additional Collateral.
- 4.3 If you fail to comply with our demand for Collateral or additional Collateral within the period stipulated by us, in addition to but not in limitation of Part 4 of Section A or Part 5 of Section B we have at any time the right, but not the obligation, to sell on the open market assets deposited as collateral or, in the case of Option Transactions, to set off premiums due by you against the Collateral.

## 5. Fees, Taxes, Duties

All fees, Taxes and duties incurred under the OTC Agreement shall be paid by you.

## 6. Special Provisions for Option Transactions

### 6.1 Exercise

#### (A) Location and Time

- (1) A European Style Option (i.e. an option which may be exercised in accordance with the OTC Agreement only on the Expiration Date) may only be exercised on the Expiration Date until 10.00 am. New York time (options on Currencies) or 09.30 am. New York time (options on Precious Metals); or
- (2) An American Style Option (i.e. an option which may be exercised in accordance with the OTC Agreement on any Bank Business Day to and including the Expiration Date) may be exercised on any Business Day or on the Expiration Date until 10.00 a.m. New York time (options on Currencies) or 09.30 am. New York time (options on Precious Metals).

Notices of exercise received on a Bank Business Day after these deadlines will be deemed to be received on the next following Bank Business Day.

#### (B) Exercise by us

If you have deposited the Underlying of an Option Transaction with us, then we are entitled (1) to exercise our rights under the Option Transaction without first serving notice on you; and (2) to apply any such deposited Underlying in satisfaction of your obligations under the Option Transaction, provided that we will notify you after exercise.

#### (C) Automatic Exercise of Option Transactions

If you have given no prior Instructions and an Option Transaction of yours has a positive Intrinsic Value on the Expiration Date and at the point in time in accordance with Clause 6.1(A), the Option Transaction is deemed to be automatically exercised. In this case, we are obliged, immediately after this exercise, to close the position by making an opposing OTC Transaction regardless of any other OTC Transaction which you may have entered into.

#### (D) Special Provisions for the Exercise of an Option on Precious Metal:

- (1) In exercising a Call Option on Precious Metal by you, you may choose either:
  - (i) to have the Precious Metal credited to your Precious Metal account; or
  - (ii) to have the Precious Metal placed in your safekeeping account; or
  - (iii) to take physical delivery of the Precious Metal.
- (2) The opposite applies when a Put Option is exercised by you.

- (i) Unless you state otherwise, delivery will take the form of a credit/debit to your Precious Metal account. If you do not wish to take delivery of standard bars with the usual fineness, an extra manufacturer's surcharge will be levied to cover the cost of producing smaller bars and/or bars with a higher fineness; and
- (ii) In the case of a residual claim as a result of a difference between the fine weight of the delivered bars and the quantity of Precious Metal due or from you under an option on Precious Metal, the claim shall be settled at the price quoted on the Zurich Precious Metal market (or, failing that, the price quoted on the free international Precious Metal market) at the time of the rendering of the Account for the OTC Transaction.

## 7. Special Provisions for Foreign Exchange Transactions on Gold (XAU)

- 7.1 If you enter into a Foreign Exchange Transaction on gold, any reference to Currency or Currencies for such purposes shall be deemed to include gold, which shall be identified in any OTC Confirmation as XAU (being the USD value of one fine troy ounce of gold, as determined by us in our sole discretion).
- 7.2 For the avoidance of doubt, any Foreign Exchange Transactions in XAU shall be cash settled and you will not deliver or receive physical gold. The XAU price for such purposes does not represent any interest in allocated or unallocated gold. Any amounts payable to or receivable from you under a Foreign Exchange Transaction referencing XAU will be credited to or debited from your currency account.

## 8. Scope

- 8.1 Every OTC Transaction covered by these agreements, if any, will be deemed to be an OTC Transaction for the purposes of and under the OTC Agreement.
- 8.2 For the purposes of the OTC Agreement, any confirmation relating to an OTC Transaction is deemed to be an OTC Confirmation, even if it does not refer expressly to the OTC Agreement.

## 9. Representations for Swap Transactions

- 9.1 You hereby represent to us that you do not fall within the category of a US Person and are not the non-US branch of any entity falling within the category of a US Person.
- 9.2 You hereby represent to us that, considering the Affiliate Conduit Factors, you would not be classified as an "Affiliate Conduit" and that your obligations to us in connection with any relevant Swap Transaction are not supported by any Guarantee (of which you are aware) other than any Guarantee provided by a person who you reasonably believe does not fall within any of the US Person Categories and who you believe in good faith would not otherwise be deemed a "US Person".
- 9.3 You acknowledge and agree that the Bank may rely on your representation herein until you notify the Bank in writing of the contrary. You acknowledge that the Bank recommends that you consult with your accountant, legal or tax advisers, as appropriate, to ensure accuracy of your representations in this letter.
- 9.4 You are aware that further information on the CFTC Swaps Regulations and the US Person Categories can be found in the "Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations" published by the CFTC on July 26, 2013, available at: <http://www.gpo.gov/fdsys/pkg/FR-2013-07-26/pdf/2013-17958.pdf> (hereinafter referred to as "Interpretive Guidance")

# Section B

## Part 4: Master Terms for Exchange-Traded Futures, Options or Other Derivative Contracts

In addition to the Terms and Conditions contained in Section A, this Part (“ETD Terms”) applies to services provided by us in relation to financial and commodity options, futures, contracts for differences or other derivative contracts traded on any Exchange (“Exchange-Traded Derivatives”).

### 1. General

- 1.1 We are not obliged to accept any order that relates to Exchange-Traded Derivatives (an “ETD Order”) from you and need not give any reason for refusal of such an Instruction. Without limiting the foregoing, we may also impose trading limits on your trading Exchange-Traded Derivatives on such basis as we may from time to time determine.
- 1.2 For the purposes of these ETD Terms, “close-out” means the entering into of a Contract equal and opposite to a Contract previously entered into (and, in the case of Contracts entered into by us as principal, each matching a Client Contract) so as to create a level position in relation to the assets underlying the Contracts or in relation to the Contracts themselves, and fix the amount of profit or loss arising from such Contracts and any corresponding Client Contracts.

### 2. Exchange Terms

Certain Exchanges require additional terms to be agreed with clients using, directly or indirectly, the facilities of those Exchanges. We may, from time to time, provide you with Supplements to the ETD Terms dealing with the requirements of particular Exchanges and the provisions of such Supplements shall have effect as if incorporated herein. The existence of an express term in any such Supplement relating to a particular Exchange shall not prevent the same or a similar term being implied in relation to any other Exchange.

### 3. Acceptance and Execution of ETD Orders

- 3.1 Every ETD Order which we may take is accepted and executed on the basis that, we contract with you as an agent for you.
- 3.2 You agree to be bound by all Market Requirements of that Exchange and you undertake to sign and deliver to us such further documentation as we may require and (except in so far as we may otherwise require) such Market Requirements of that Exchange shall be incorporated in these ETD Terms.

### 4. Acting as Agent

In respect of every Contract in respect of which we act as agent, such Contract shall have been made or placed on the floor of the relevant market by open outcry or in the relevant market conducted on an automated trading system administered by a futures, options or other derivative Exchange or otherwise in accordance with the rules of the relevant Exchange or shall have been so entered with or through a Broker.

### 5. Client Actions

- 5.1 You shall, immediately on request by us, take such action and supply to us in relation to a Contract or, as the case may be, any corresponding Client Contract such information as we may request in relation to the delivery and/or settlement, and/or if a purchased option Contract, the exercise or allocation, of any Contract which has not been closed-out.

- 5.2 Notwithstanding Clause 5.1 above and regardless of any right of equity, set-off or counterclaim which you may have or allege against us, any of our Associates or any person(s) connected with us, you shall promptly take all action necessary (including the supply of information) to enable due settlement and/or delivery by us in accordance with Market Requirements or any Contract which you have instructed us to open and which has not been closed-out at the time such Contract falls due under its terms to be performed.

### 6. Closing Out by You

- 6.1 Subject to these Terms and Conditions, Market Requirements and any further requirements notified by us to you, you may at any time request us to close-out such Contract or, as the case may be, the matching Contract or, if a purchased option Contract then, subject to the terms of such option Contract, exercise the same. If such closing-out or exercise results in a sum of money being due to us and/or the relevant Exchange, Clearing House and/or Broker, we shall notify you of that amount, which shall be payable forthwith by you to us.
- 6.2 Unless we shall in our absolute discretion determine otherwise or accept Instructions from you to do otherwise, equal and opposite Contracts (where applicable) will automatically fix the amount of profit or loss in relation to each other.

### 7. Allocation

Where the relevant Clearing House and/or Broker does not allocate long Open Contracts at maturity direct to a specific Account of ours or to short Client Contracts, or vice versa, we shall have complete discretion to allocate the same randomly or in a way which seems to us to be most equitable as between clients, and if dealings on our accounts are involved at the same time allocation will, to the extent required by GFSC Rules, be to all clients first on the above basis with us receiving no allocation until all relevant Client Contracts have been satisfied.

### 8. Delivery to You

Upon receipt of any sums and/or underlying assets (including documents of title thereto), payable or receivable pursuant to an ETD Transaction, and subject to compliance by you with all your obligations hereunder, we shall, subject to any security interest, right of set-off, lien, or similar right deliver such sums and/or underlying assets to you in respect of the corresponding Contract, or as the case may be, Client Contract, subject to the deduction of any charges and/or Taxes payable in connection therewith.

### 9. Option Premiums

In respect of an option Contract:

- (A) you, if a buyer of such Contract (or, as the case may be, of the matching Client Contract), shall pay to us on demand any premium payable under the rules of the relevant Exchange and/or Clearing House (“premium”) which sum will be paid by us into a Margin Account as Margin; and

- (B) if you are a seller, we shall, on receipt from the relevant Exchange, Clearing House and/or Broker pay or deliver into a Margin Account as Margin for your Account, any premium payable under the rules of the relevant Exchange and/or Clearing House, provided that you may be required to pay or deliver further Margin in respect of the relevant Contract and (where applicable) to the corresponding Client Contract. Broker(s) may take security over the Margin in your Margin Account.

## 10. Alteration of Contracts

If the relevant Exchange, Clearing House and/or Broker requires an alteration in the terms or conditions of any Contract (including underlying assets subject to it), we may without referring to you take all actions as we may, in our absolute discretion, consider necessary, desirable or expedient to comply therewith or as a result thereof, or to avoid or mitigate loss thereunder and all such actions will be binding upon you and such alterations will be deemed incorporated into the Contract and (where applicable) the corresponding Client Contract. We shall notify you of any alteration (in advance where reasonably practicable).

## 11. Margin Payment

- 11.1 Your entering into ETD Transactions in futures, options or other derivative Contracts (except purchased options) will normally result in you having to provide Margin payments.
- 11.2 Providing Margin payments means that you will be required to make further variable payments against the purchase price of (or sums due under) the Contract, instead of paying (or receiving) the whole purchase (or sale) price immediately. The movement in the market price of your Contract will affect the amount of Margin payment you will be required to make.
- 11.3 Margin may be provided in the form of Cash or, at our discretion, acceptable Collateral and, unless we agree otherwise, this will not be registered in your name.
- 11.4 If you fail to meet immediately upon request a call for Margin payments made on you, then we will be entitled to close-out the position and use any collateral or Cash held by us for that purpose including Investments held on your behalf. If we have not already done so, the GFSC Rules require us to close-out the position of a Retail Client in any event if such customer fails to meet a call for Margin payment on five consecutive Business Days. Details of the steps which we will be entitled to take if you fail to meet a Margin call, and any other circumstance which may lead to your position being closed without prior reference to you, are set out in Part 5 of Section A.
- 11.5 In respect of all present, future or contemplated Contracts and (where applicable) Client Contracts, you shall pay to us immediately upon request such sums by way of Margin as we may in our absolute discretion from time to time require.
- 11.6 We shall as soon as practicable pay or credit all Margin to your Account. Settlement of all ETD Transactions (including Margin payments thereon) shall be made in the Currency of the relevant underlying Contract and you shall bear all risk and cost in respect of any conversion of Currency in a Margin Account and any such conversion will be made by us at such reasonable market rate or rates as we shall determine.
- 11.7 Sums due to us from you by way of Margin may, in our absolute discretion, be satisfied by way of deposit or transfer by way of security of such Securities or other assets as we may from time to time determine.
- 11.8 In no circumstances shall we be obliged to you to close-out Contracts or take any other action in respect of Open Contracts acquired on your Instruction, and, in particular no failure by you to pay Margin when demanded shall be taken to put us under an obligation to you to close-out any relevant Contract to which such Margin is attributable.

## 12. Supplement to ETD Terms Relating to LIFFE

LIFFE requires that we include certain terms in our agreements with clients. These terms are set out below. Terms defined in the rules of LIFFE shall have the same meanings in this Supplement.

## 13. Provisions Applicable to All ETD Transactions

- 13.1 The terms set out in this Supplement apply in relation to ETD Transactions made between us subject to the rules of LIFFE from time to time in force. Requirements referred to in this Supplement refer to the requirements as currently in force.
- 13.2 All ETD Transactions on LIFFE must be entered into by a member of LIFFE acting as principal.
- 13.3 Notwithstanding any other provision of the Client Agreement, and subject to the arbitration clause set out below, disputes arising under the Client Agreement in relation to ETD Transactions on LIFFE shall (for our benefit) be subject to the exclusive jurisdiction of the English courts to which both parties hereby irrevocably submit, provided that this shall not prevent us bringing an action in the courts of any other jurisdiction.
- 13.4 Notwithstanding any other agreement between you and us, any dispute arising from or relating to these Terms and Conditions, insofar as it relates to Contracts made subject to the rules of LIFFE, and any dispute arising from or relating to any such Contract, unless resolved between us, be referred to arbitration under the rules of LIFFE, or to such other organisation as LIFFE may direct before either of us resort to the jurisdiction of the courts (other than to obtain an injunction or an order for security for a claim).
- 13.5 In our and your interests, LIFFE may from time to time sanction the making of Contracts by us outside the pit in order to satisfy your order, where there has been an error in the execution of your order in the pit. Where a better price (an improvement) can be obtained, we will seek to secure and offer that improvement to you. However, you should note that where, in response to your order, we have bought or sold in accordance with the Instruction in your order to buy or, as the case may be, to sell but have traded the wrong delivery/expiry month or wrong Exercise Price of the relevant contract, then we may in accordance with LIFFE's rules offset any loss arising from that trade against any improvement achieved for you in the course of correctly satisfying your order, thus offering you only the net improvement, if any.

## 14. Provisions Applicable to Particular Types of ETD Transactions

- 14.1 In this Supplement, unless the context otherwise requires, defined terms shall have the same meaning as in the LIFFE rules and:
- "LIFFE Contract" means an Exchange Contract to which a Linked Participating Exchange Contract is linked;
- "Linked LIFFE Contract" means an Exchange Contract made available for trading on the market pursuant to a Link, which is specified as such in a General Notice published from time to time by the LIFFE Exchange and is linked to a Participating Exchange Contract;
- "Linked Participating Exchange Contract" means a Participating Exchange Contract specified as such in a General Notice published from time to time by the LIFFE Exchange and is linked to an Exchange Contract;
- "Participating Exchange" means an Exchange which has concluded one or more agreements in relation to a Link with the LIFFE Exchange and/or LCH pursuant to which:
- (A) contracts in the terms of one or more Linked LIFFE Contracts are to be transferred to, for clearing by, such Exchange or its Clearing House; or
- (B) contracts in the terms of a Linked Participating Exchange Contract are to be transferred to, for clearing by, LCH.

The term "Participating Exchange" shall include any Clearing House which from time to time provides clearing services to such Exchange; and

"Participating Exchange Contract" in respect of a Participating Exchange, means a class of contract permitted to be made by Participating Exchange Members under Participating Exchange rules.

## 15. General Provisions

- 15.1 We and LIFFE wish to draw to your attention that LIFFE shall have no liability whatsoever to any member or client in contract, tort (including, without limitation, negligence), trust, as fiduciary or under any other cause of action (except in respect of gross negligence, willful default or fraud on its part), in respect of any damage, loss, cost or expense of whatsoever nature suffered or incurred by any member or client, as the case may be, as a result of:
- (A) any suspension, restriction or closure of the market administered by either a Participating Exchange or LIFFE, whether for a temporary period or otherwise, or as a result of a decision taken on the occurrence of a market emergency; or
  - (B) any failure by a Participating Exchange, LIFFE or LCH to supply each other with data or information in accordance with arrangements from time to time established between all or any of them; or
  - (C) the failure of communications facilities or technology supplied, operated or used by either a Participating Exchange, LIFFE or LCH for the purposes of the Link; or
  - (D) any event which is outside its or their control; or
  - (E) any act or omission of either a Participating Exchange (where a Participating Exchange is acting otherwise than in connection with its clearing function) or LIFFE in connection with any Participating Exchange Contract, Linked LIFFE Contract or Linked Participating Exchange Contract or any act or omission of a Participating Exchange, LIFFE, or LCH (as the case may be) in connection with the operation of the Link or the arrangements for the transfer of contracts.
- 15.2 All contracts in the terms of LIFFE Contracts made under these Terms and Conditions shall be subject to and construed in accordance with English Law.
- 15.3 Following the transfer of a contract in the terms of a Linked LIFFE Contract and the creation of a contract in the terms of a Participating Exchange Contract or prior to the transfer of a contract in the terms of a Linked Participating Exchange Contract and the creation of a contract in the terms of a LIFFE Contract (as the case may be), Margin requirements will be determined in accordance with the rules of the Participating Exchange rather than LIFFE's rules. Any money or assets held in any country other than Guernsey may be subject to the Applicable Law of that country rather than Guernsey client money and other asset rules, and you should satisfy yourself that this is acceptable to you before instructing us to transact any such business.

## 16. Provisions Relating to Outward Transfers of Linked LIFFE Contracts

- 16.1 All contracts in the terms of a Linked LIFFE Contract made on LIFFE shall be subject to the rules of LIFFE as from time to time in force.

- 16.2 We shall endeavour to secure the transfer through the relevant Link of each contract in the terms of a Linked LIFFE Contract made between us which is intended for transfer. Upon confirmation by the relevant Participating Exchange of receipt of trade/position details from LCH, rights and obligations under such contract, save for outstanding obligations with respect to fees and Margin and those rights and obligations referred to in the rules of LIFFE and the Regulations of LCH, shall be discharged and there shall arise simultaneously a contract in the terms of a Participating Exchange Contract between us. The contract in the terms of a Participating Exchange Contract shall be subject to the rules of the relevant Participating Exchange and shall not be subject to the provisions of these Terms and Conditions. Upon the transfer of the contract in the terms of a Linked LIFFE Contract we shall, without prejudice to any claim we may have including, without limitation, for fees or Margin, cease to be a party to the contract and shall have no obligation to you for its performance.
- 16.3 In the event that, on any LIFFE trading day, LCH is unable for whatever reason to transmit details of all contracts in the terms of a Linked LIFFE Contract, or the relevant Participating Exchange is unable to receive or acknowledge receipt of all such details, any such contract made between us on that day shall remain as an un-discharged contract in the terms of a Linked LIFFE Contract (but without prejudice to any default provisions agreed between us which may be operated to discharge such contract), subject to the rules of LIFFE and the General Regulations and Default Rules of LCH as from time to time in force, until such time as transfer can be achieved.
- 16.4 If it is not possible for whatever reason for details of contracts in the terms of the Linked LIFFE Contract to be transmitted by LCH, or for the relevant Participating Exchange to receive or acknowledge receipt of all such details, so that transfer of such contracts cannot occur on any particular day, and any circumstances preventing such transfer continues so that the Link is suspended or terminated, any such contract made between us during any such period shall remain as an un-discharged contract in the terms of a Linked LIFFE Contract, subject to the rules of LIFFE and the Regulations of LCH as from time to time in force, and shall be performed in accordance with its terms or may be closed out or otherwise discharged, in accordance with the rules and any agreement reached between us.

## 17. Provisions Relating to Inward Transfers of Linked Participating Exchange Contracts

- 17.1 In respect of each contract in the terms of a Linked Participating Exchange Contract made between us which is intended for transfer through the relevant Link, rights and obligations under such contract, save for outstanding obligations with respect to fees or Margin and any other rights or obligations referred to in the rules of the Participating Exchange, shall be discharged upon confirmation by LCH of receipt of trade/position details from the Participating Exchange and there shall arise simultaneously a contract in the terms of LIFFE Contract between us. The LIFFE Contract shall be subject to the rules of LIFFE and the General Regulations and Default Rules of LCH.
- 17.2 In the event that, on any Participating Exchange trading day, the relevant Participating Exchange is unable for whatever reason to transmit details of all contracts in the terms of a Linked Participating Exchange Contract, or LCH is unable to receive or acknowledge receipt of all such details, any such contract made between us on that Participating Exchange on that day shall remain an un-discharged contract in the terms of a Linked Participating Exchange Contract (but without prejudice to any default provisions agreed between us which might be operated to discharge such contract), subject to the rules of the Participating Exchange as from time to time in force, until such time as transfer can be achieved.

- 17.3 If it is not possible for whatever reason for details of contracts in the terms of a Linked Participating Exchange Contract to be transmitted by the relevant Participating Exchange, or for LCH to receive or acknowledge receipt of all such details, so that transfer of such contracts cannot occur on any particular day, and any circumstance preventing such transfer continues so that the Link is suspended or terminated, any such contract made between us on that Participating Exchange during that period shall remain as an undischarged contract in the terms of a Linked Participating Exchange Contract, subject to the rules of the Participating Exchange as from time to time in force and shall be performed in accordance with its terms or may be closed out or otherwise discharged in accordance with the rules and any agreement reached between us.

## 18. LIFFE's Block Trade Facility

- 18.1 Unless we have classified you as a Professional Client on the basis of your experience and understanding, we will not be able to enter Block Trades for you.
- 18.2 If we have classified you as a Professional Client on the basis of your experience and understanding, before placing an order with us for a Block Trade, you should ensure that you fully understand the Block Trading Facility and its implications, issued originally under cover of LIFFE General Notice 1384 and amended from time to time. On the basis of this representation and warranty and the information which we have about your expertise and knowledge, we hereby give you notice that we shall treat you as a "Wholesale Client" (as defined in the Block Trade Trading Procedures) and that we may conduct Block Trades on your behalf using LIFFE's Block Trading Facility.
- 18.3 The Block Trade Facility was introduced by LIFFE to enable LIFFE members and their clients to arrange business of significant size alongside the LIFFE CONNECT™ central order book, at a price consistent with fair market value for a transaction of that nature, and submit such business to the LIFFE Exchange via LIFFE CONNECT™ for authorisation during the normal trading hours of the contract concerned. LIFFE will designate those contracts eligible for execution as Block Trades from time to time and will prescribe minimum volume thresholds for each, which are subject to change from time to time by General Notice.
- 18.4 LIFFE members must ensure that any Block Trade price quoted satisfies "fair market value" principles.
- 18.5 LIFFE will require justification of any trades negotiated at apparently abnormal levels and will reserve the right to refuse to register any such trades. LCH reserves the right to make an additional intra-day Margin call in respect of any Block Trade submitted for registration.
- 18.6 There are no restrictions upon members entering into Block Trades (provided that the member seeking to register the trade has the requisite trading right). However, only "Wholesale Clients" (i.e. those with sufficient knowledge, expertise and understanding of the implications of the Block Trade Facility) will be able to participate. Before a non-member may participate, the member is required to satisfy himself that the client meets these criteria and to notify the client in writing, in advance, that he is to be treated as a "Wholesale Client". Following authorisation, the Block Trade will be published on LIFFE CONNECT™ and via Quote Vendors.

## 19. Supplement to ETD Terms Relating to Electronic Trading

Electronic trading and order routing systems differ from traditional open outcry pit trading and manual order routing methods. Transactions using an electronic system are subject to the rules and regulations of the Exchange(s) offering the system and/or listing the contract. Before you engage in transactions using an electronic system, you should carefully review the rules and regulations of the Exchange(s) offering the system and/or listing contracts you intend to trade.

## 20. Differences among Electronic Trading Systems

Trading or routing orders through electronic systems varies widely among the different electronic systems. You should consult the rules and regulations of the Exchange offering the electronic system and/or listing the contract traded or order routed to understand, among other things, in the case of trading systems, the system's order matching procedure, opening and closing procedures and prices, error trade policies, and trading limitations or requirements; and in the case of all systems, qualifications for access and grounds for termination and limitations on the types of orders that may be entered into the system. Each of these matters may present different risk factors with respect to trading on or using a particular system. Each system may also present risks related to system access, varying response times, and security. In the case of internet-based systems, there may be additional types of risks related to system access, varying response times and security, as well as risks related to service providers and the receipt and monitoring of email.

## 21. Risks Associated with System Failure

Trading through an electronic trading or order routing system exposes you to risks associated with system or component failure. In the event of system or component failure, it is possible that, for a certain time period, you may not be able to enter new orders, execute existing orders, or modify or cancel orders that were previously entered. System or component failure may also result in loss of orders or order priority.

## 22. Simultaneous Open Outcry Pit and Electronic Trading

Some contracts offered on an electronic trading system may be traded electronically and through open outcry during the same trading hours. You should review the rules and regulations of the Exchange offering the system and/or listing the contract to determine how orders that do not designate a particular process will be executed.

## 23. Limitation of Liability

Exchanges offering an electronic trading or order routing system and/or listing the contract may have adopted rules to limit their liability, the liability of FCMs, and software and communication system vendors and the amount of damages you may collect for system failure and delays. These limitations of liability provisions vary among the Exchanges. You should consult the rules and regulations of the relevant Exchange(s) in order to understand these liability limitations.

# Section B

## Part 5: Netting Terms

In addition to the Terms and Conditions contained in Section A, these Netting Terms apply to and govern each Transaction entered into or outstanding between us.

### 1. Interpretation

- 1.1 The provisions of these Netting Terms shall apply independently and severally as between you and us as if we had entered into a separate agreement with you (on the terms of these Terms and Conditions).
- 1.2 References in these Netting Terms to "Transactions" shall be construed as references to Transactions outstanding between us.

### 2. Single Agreement

The terms of these Terms and Conditions, the particular terms of, and applicable to, each and every Transaction governed by these Terms and Conditions and all amendments to any of such items shall together constitute a single agreement between you and us. You and we acknowledge that all Transactions governed by these terms which are entered into on or after the date of execution of these terms are entered into in reliance upon the fact that all such items constitute a single agreement between us.

### 3. Settlement and Exchange or Clearing Organisation Rules

- 3.1 Unless a Liquidation Date has occurred or has been effectively set, we shall not be obliged to make any payment or delivery scheduled to be made by us under a Transaction governed by these Terms and Conditions for so long as an Event of Default or Potential Event of Default with respect to you has occurred and is continuing.
- 3.2 These terms shall not be applicable to any Transaction to the extent that action which conflicts with or overrides the provisions of these Terms and Conditions has been started in relation to that Transaction by a relevant Exchange or clearing organisation under applicable rules or laws and is continuing.

### 4. Termination and Liquidation

- 4.1 If, at any time, an Event of Default occurs, then we may exercise our rights under Clause 4.3.
- 4.2 The date of the occurrence of either of the following Events of Default:
  - (A) an involuntary case or other procedure is commenced against you seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, desastre, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent) or seeking the appointment of a Relevant Official of you or any part of your assets; or

- (B) you die, become of unsound mind, are unable to pay your debts as they fall due or are bankrupt or en etat de desastre or insolvent, as defined under any bankruptcy or insolvency law applicable to you; or any of your indebtedness is not paid on the due date therefor or becomes, or becomes capable at any time of being declared, due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or proceedings are commenced for any execution, any attachment or garnishment, or any distress against, or an encumbrancer takes possession of, the whole or any part of your property, undertaking or assets (tangible and intangible), shall automatically constitute a Liquidation Date, without the need for any notice by us and to the intent that the provisions of Clause 4.4 shall then apply.

- 4.3 At any time following the occurrence of an Event of Default, we may, by notice to you, specify a Liquidation Date for the termination and liquidation of Transactions in accordance with the provisions of Clause 4.4.

- 4.4 Upon the occurrence of a Liquidation Date:

- (A) neither of us shall be obliged to make any further payments or deliveries under any Transactions governed by these terms which would, but for this Clause, have fallen due for performance on or after the Liquidation Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Liquidation Amount;
  - (B) we shall (on, or as soon as reasonably practicable after, the Liquidation Date) determine (discounting if appropriate), in respect of each Transaction governed by these terms, our total cost, loss or, as the case may be, gain, in each case expressed in sterling (and, if appropriate, including any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position), as a result of the termination, pursuant to this agreement, of each payment or delivery which would otherwise have been required to be made under such Transaction (assuming satisfaction of each applicable condition precedent and having due regard to, if appropriate, such market quotations published on, or official settlement prices set by, a relevant Exchange or clearing organisation as may be available on, or immediately preceding, the date of calculation);
  - (C) we shall treat each cost or loss to us, determined as above, as a positive amount and each gain by us, so determined, as a negative amount and aggregate all of such amounts to produce a single, net positive or negative amount, denominated in sterling ("Liquidation Amount"); and
  - (D) If the Liquidation Amount determined pursuant to this Clause 4.4 is a positive amount, you shall pay it to us and if it is a negative amount, we shall pay it to you. We shall notify you of the Liquidation Amount, and by which of us it is payable, immediately after the calculation of such amount.

- 4.5 The amount payable by one of us to the other pursuant to the provisions of Clause 4.4, or any applicable laws or regulations, shall be paid in sterling by the close of business on the business day following the completion of the termination and liquidation under Clause 4.4, or any laws or regulations having a similar effect, (converted as required by applicable law into any other currency, any costs of such conversion to be borne by, and (if applicable) deducted from any payment to, you). Any such amount which is not paid on the due date therefor shall bear interest, at the Default Debit Rate.
- 4.6 For the purposes of any calculation hereunder, we may convert amounts denominated in any other currency into sterling at such rate prevailing at the time of the calculation as we shall reasonably select.
- 4.7 Our rights under this Clause 4 shall be in addition to, and not in limitation or exclusion of, any other rights which we may have (whether by agreement, operation of law or otherwise).

# Section B

## Part 6: Representations and Warranties for Investments in Funds

The following are the representations and warranties referred to in Clause 5.3, Part 6 of Section A in relation to Funds. If you are unable to make the following disclosures you may still be able, in certain circumstances, to subscribe for Units, but you should contact us for details first.

### 1. Representations and Warranties

- 1.1 Where you have instructed us to purchase Units in a Fund, you acknowledge that you have received and considered the current Listing Particulars or Offering Memorandum or Prospectus (as applicable and each the "Fund Documents") relating to the Fund and have noted in particular the sections relating to investment objectives, expenses, fees, redemption rights, dividends and risks. The application for investment in the Fund is made on the terms of the Fund Documents relating to the Fund and subject to the Fund's Memorandum and Articles of Association or comparable constitutional documents. In addition you confirm you have been provided with the opportunity of obtaining such additional information on the Fund and offering as is available from the Fund.
- 1.2 You agree not to duplicate or to furnish particulars of the Fund Documents, or to divulge any of its contents to any person other than your investment, legal or Tax advisers (who may use the information contained in the Fund Documents solely for the purposes relating to your investment in the Fund).
- 1.3 You hereby certify that the Units are not being acquired for the benefit of directly or indirectly, any US Person nor in violation of any Applicable Law, that you will not, subject to the conditions set forth in the Fund Documents sell or offer to sell or transfer Units to a US Person. In particular (where specified as such in the Fund Documents): (A) you understand that the Fund has not been registered under the United States Investment Company Act of 1940 and that the Units have not been registered and will not be registered under the Securities Act, as amended, or that the Units have not been qualified under the Securities laws of any State of the United States and may not be offered, sold or transferred in the United States or to or for the benefit of, directly or indirectly, any US Person; (B) you are not a US Person; and (C) you are not acquiring the Units for the account or benefit, directly or indirectly, of any US Person or with a view to their offer, sale or transfer within the United States or to or for the account or benefit, directly or indirectly, of any US Person. You will notify us immediately should you become a US Person or hold the Units on behalf of or for the account of a US Person.
- 1.4 You warrant and declare that: (A) your ordinary business or professional activity includes the buying and selling of Investments, whether as principal or agent; or (B) that you individually (or jointly with your spouse) have a net worth in excess of USD1,000,000; or (C) you are an institution with a minimum amount of assets under discretionary management of USD5,000,000.
- 1.5 You warrant that: (A) you have the knowledge, expertise and experience in financial matters to evaluate the risks of investing in the Fund; (B) you are aware of the risks inherent in investing in the Units in particular you understand that the investment in the Fund may at times be volatile and is subject to complex and substantial risks that may arise without warning, losses may arise quickly and in unanticipated magnitude; (C) you are aware of the method by which the assets of the Fund are held and/or traded; (D) you can bear the risk of loss of your entire investment and/or can afford to hold this investment indefinitely; and (E) you have consulted with your own advisers and are fully informed as to the legal and tax requirements within your own country (or countries) regarding the purchase of Units.
- 1.6 You hereby confirm that we have made no guarantees, or assurances whatsoever as to the expected or projected profitability, return, success, performance result, effect, consequence or benefit (whether legal, regulatory, Tax, financial, accounting or otherwise) of an investment in the Fund.
- 1.7 You consent to details of your shareholding being disclosed to the investment manager and administrator of the Fund on request.
- 1.8 You understand that no government or subdivision thereof, has recommended or endorsed the purchase of the Units or approved the content and adequacy of the information set forth in the Fund Documents.
- 1.9 You declare that you or any entity on behalf of whom you wish us to subscribe for Units is not a "benefit plan investor" and is not investing on behalf of a "benefit plan investor". A "benefit plan investor" means an individual retirement account or any plan organised by an employer or employee organisation, which plan is designed to provide retirement, deferred compensation, medical, death, disability, unemployment, severance, vacation or similar benefits to employees. The employer may be private or may be a government, and the employees may be private or governmental employees. A "benefit plan investor" includes any of the foregoing regardless of the jurisdiction where the plan is formed, the employer is located or the employees work. A "benefit plan investor" also includes any entity 25 per cent or more of any class of whose interest are owned by such plans, that portion of any insurance company's general account assets which are considered "plan assets", or the assets of any insurance company separate accounts, which are attributable to such plans.
- 1.10 You warrant that you have the right and authority to invest in the Units, whether the Investment is your own or is made on behalf of another person or entity and that you are/will not be in breach of any Applicable Laws and that investing in the Units does not violate any judgment applicable to you or any of your assets or the terms of any agreement by which you are bound.
- 1.11 You hereby declare, represent and warrant that amounts invested in the Fund:
  - (A) are not property constituting, or derived from, proceeds obtained from a criminal offence in any jurisdiction;
  - (B) do not constitute assets used to provide material support or resources for terrorist activities;
  - (C) are not otherwise derived from activities that may contravene international laws and regulations relating to money laundering or support of terrorist activities; and
  - (D) are not otherwise derived from activities that may contravene US federal state laws or regulations.
- 1.12 You declare that certain Funds may not be obliged to accept a subscription by us, our Associate, our nominee or the nominee of our Associate, on your behalf and that such Funds may have the right in its sole discretion to refuse a subscription and return the purchase price of the Units to us. You acknowledge that in such circumstances we will have no liability to you in respect of any such failed subscription.
- 1.13 You declare that any Instruction to us or any of our Associates to subscribe for Units in the Fund is irrevocable.

- 1.14 You agree not to transfer any of your Units except on the books of the Fund and acknowledge that the Units may only be transferred to eligible investors (as described in the Fund Documents).
- 1.15 You declare, represent and warrant that you are acquiring the Units for investment purposes only and not with a view to distributing or reselling the Units in whole or in part.
- 1.16 You understand that the value of the Units and redemptions thereof may be based on unaudited and in some cases estimated valuations of the Fund's investments.
- 1.17 You understand that the investment manager of the Fund may have authority to allocate transaction costs and obtain research and brokerage services as set forth in the Fund Documentation and you consent to such arrangements.
- 1.18 You represent and warrant that to the best of your knowledge, none of: (A) yourself; (B) any person controlled by you or controlling you; or (C) having any beneficial interest in you, is a country, territory or individual named on the United States Office of Foreign Assets Control list nor is any such person or entity prohibited under the Office of Foreign Assets Control program.
- 1.19 You represent and warrant, if you are a bank that you are not a "shell bank" and have a fixed address other than solely an electronic address in the country you are organised in to conduct business and that you maintain operating records relating to your banking activities and you employ one or more employees on a full time basis.
- 1.20 You agree to notify us immediately in writing if there is any change with respect to any of the information or representations made herein and to provide us with such additional information as we or the Fund may require.

# Section B

## Part 7: Representations and Warranties for Investments in Notes

The following are the representations and warranties referred to in Clause 5.3, Part 6 of Section A in relation to Notes. If you are unable to make the following disclosures you may still be able, in certain circumstances, to subscribe for Notes, but you should contact us for details first.

### 1. Representations And Warranties

- 1.1 You represent and warrant to, and agree with, us that as at the date hereof (and in the case of (E) below, for all periods in which you hold Notes):
- (A) your obligations under any agreement to purchase the Notes from us (a "Notes Purchase") constitute your legal, valid and binding obligations that are enforceable in accordance with the terms of the Notes Purchase, subject, in the event of insolvency or analogous proceedings, to Applicable Law relating to creditors' rights;
  - (B) you have full legal right, power and authority to purchase and hold the Notes, that your purchase and holding of the Notes and treatment of the Transaction for Tax and accounting purposes have been and remain duly authorised and are in compliance with and will not violate any Applicable Law, including without limitation, regulations and policies relating to corporate taxation and accounting, and that all approvals, consents, registrations and filings necessary or appropriate in connection therewith have been duly obtained and complied with or made, as the case may be;
  - (C) you are not prohibited from investing in obligations such as the Notes by the laws of any Applicable Law;
  - (D) you represent and warrant that neither you are, nor any person holding a beneficial interest in the Notes purchased by you is, a US Person;
  - (E) you have observed and will observe the restrictions on the offering of the Notes and distribution of documents relating to the Notes and you have not entered into any arrangement, contractual or otherwise, with respect to the distribution of the Notes;
  - (F) you have determined, based on your own independent review, that your acquisition of the Notes: (1) is fully consistent with your (or, if you are acquiring Notes in a fiduciary capacity or for the purpose of on-sale, each beneficiary's or each third party client's) financial needs, objectives and conditions; (2) complies and is fully consistent with all investment policies, guidelines and restrictions applicable to you, each of your beneficiaries or third party clients (whether acquiring Notes as principal, in a fiduciary capacity or for the purpose of on-sale); and (3) is a fit, proper and suitable investment for you (or, if you are acquiring Notes in a fiduciary capacity or for the purpose of on-sale, for each of your beneficiaries or third party clients) and for the purposes of any on-sale by you, notwithstanding the risks inherent in investing in or holding the Notes;
  - (G) you are a sophisticated investor and have such knowledge, experience and expertise in financial and business matters that you are capable of evaluating the merits of, the risks inherent in and the suitability of an investment in the Notes for you (or, if you are acquiring Notes in a fiduciary capacity or for the purpose of on-sale, for each of your beneficiaries or third party clients);
  - (H) you shall be solely responsible for evaluating whether any consents, licences, authorisations, consultations, notifications, approvals or permissions are necessary or advisable and, where they are necessary or advisable, shall procure that they shall all have been obtained or made (both by you and any subsequent purchaser from you) and are validly existing, in all cases in connection with your marketing, acquisition and any on-sale of the Notes and that no other action for that purpose is required or advisable that has not or will not be taken prior to the commencement of any such marketing, acquisition or on-selling activity; and
  - (I) If you are domiciled in the European Economic Area you are acquiring the Notes to on-sell that any on-sale will be made in accordance with the provisions of the European Union Prospectus Directive (2003/71/EC).
- 1.2 You acknowledge that the Notes have not been and will not be registered under the Securities Act and acknowledge and agree with us that the Notes may not be offered, sold or otherwise transferred except in accordance with the provisions of the Notes Purchase. You represent, warrant and undertake with us that you will not offer, sell, deliver or transfer the Notes, except to an investor who is legally permitted to invest in such obligations and for whom the Notes are a suitable Investment, and that you will obtain and retain in your files a certificate substantially in the form set out in the Notes Purchase from each subsequent purchaser from you, direct or indirect. You further acknowledge that, in the event of any offer, sale, delivery or transfer of all or any portion of the Notes to any subsequent purchaser, we shall have no responsibility whatsoever for determining the suitability of such subsequent purchaser to invest in the Notes. Unless sold or transferred to us or an affiliate of ours, you shall notify us in writing in the event that you sell or transfer all or a portion of the Notes.
- 1.3 You agree with us that you will comply with Applicable Law in each jurisdiction in which you offer, sell, deliver or buy back the Notes, in all cases at your own expense. You confirm that you will also ensure that no obligations are imposed on us in any such jurisdiction as a result of any of the foregoing actions. You agree with us that we shall have no responsibility for obtaining or making, and that you shall obtain or make, any consent, licence, authorisation, notification, consultation, approval or permission required by you for the offer, sale, delivery or buy-back by you of Notes under Applicable Law in force in any jurisdiction to which you are subject or in or from which you make, or is deemed to make, any offer, sale, delivery or buy-back of Notes.
- 1.4 You acknowledge that you have received all financial and other information concerning the Notes and the issuer of the Notes and such other information which you require to evaluate fully the merits and risks of an investment in the Notes.
- 1.5 You represent that you have taken your own professional legal, tax and accounting advice in relation to the merits and risks of investment in the Notes and are not relying on our views in that regard.
- 1.6 The agreements, representations, warranties and other statements set forth in these Terms and Conditions shall remain in full force and effect, regardless of any investigation or statement as to the validity thereof made by or on behalf of you or us, and shall survive the sale, delivery and purchase of the Notes.

# Section C

## Part 1: General Risk Disclosures

The statements in this Section C do not disclose all the risks and other significant aspects of the Investments and markets referred to. You should satisfy yourself that you fully understand the conditions which apply to such Investments and the potential risk exposures. For example, while derivative instruments can be used for the management of investment risk, some Investments are unsuitable for many investors and different instruments involve different levels of exposure to risk. You should consider this Section C carefully before deciding whether or not to authorise us to include such Investments in or use such markets for the Portfolio.

### 1. General

The price or value of an Investment will depend on fluctuations in the financial markets outside our control. Past performance is no indicator of future performance.

### 2. Foreign Markets

Foreign markets will involve different risks from the markets in the United Kingdom. In some cases, the risks will be greater and in particular, emerging markets may lack the level of transparency, liquidity, efficiency and regulation found in more developed markets. Price volatility in emerging markets can be extreme and price discrepancies and market dislocation can be common. The potential for profit or loss from Transactions on foreign markets or in foreign-denominated contracts will be affected by fluctuations in foreign exchange rates. Please see the Emerging Markets Risk Disclosure in Part 3 below for a further description of the risks regarding emerging markets.

### 3. Limited Liability Transactions

- 3.1 Before entering into a limited liability transaction, you should obtain from us a formal written statement confirming that the extent of your loss liability on each Transaction will be limited to an amount agreed by you before you enter into the Transaction.
- 3.2 The amount you lose in limited liability transactions will be less than in other margined Transactions, which have no predetermined loss limit. Nevertheless, even though the extent of the loss will be subject to the agreed limit, you may sustain the loss in a relatively short time. Your loss may be limited, but the risk of sustaining a total loss of the amount agreed is substantial.

### 4. Collateral

- 4.1 If you deposit Collateral as security with us, the way in which it will be treated will vary according to the type of Transaction and where it is traded. There could be significant differences in the treatment of your Collateral, depending on whether you are trading on a recognised or designated investment Exchange, with the rules of that Exchange (and the associated Clearing House) applying, or trading OTC. Deposited Collateral may lose its identity as your property once dealings on your behalf are undertaken. Even if your dealings should ultimately prove profitable, you may not get back the same assets which you deposited, and may have to accept payment in Cash. You should ascertain from us how your Collateral will be dealt with.
- 4.2 Where Collateral in the form of Securities is custodied as a Security Interest, the way in which we will assess the Security Interest in arriving at a Lending Value, will vary according to the characteristics of the instrument concerned. Accordingly, there could be significant differences in the treatment of different Securities in calculating Lending Value.

- 4.3 The Lending Value of the Collateral may change: (A) due to price movements in the underlying Securities; or (B) or as a result of us revising our assessment of the Lending Value of the Collateral. You may therefore be required to provide additional Collateral to us at any time. The price of your Securities or our assessment of the Lending Value of the Collateral may change rapidly which may expose you to a sudden demand for a transfer of Collateral and/or payments (a 'Margin Call'). Your entitlement to Collateral may be at risk if among other things you fail to meet a Margin Call.

### 5. Commission

Before you begin to trade, you should obtain details of all commissions and other charges for which you will be liable. If the charges are not expressed in money terms (but, for example, as a percentage of contract value), you should obtain a clear and written explanation, including appropriate examples, to establish what such charges are likely to mean in specific money terms. In the case of futures, when commission is charged as a percentage, it will normally be as a percentage of the total contract value, and not simply as a percentage of your initial payment.

### 6. Liquidity

The liquidity of an instrument is directly affected by the supply and demand for that instrument. 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. Placing a stop-loss order will not necessarily limit your losses to the intended amounts, but market conditions may make it impossible to execute such an order at the stipulated price.

### 7. Securities Which May Be Subject To Stabilisation

- 7.1 We or our representatives may, from time to time, recommend Transactions in Securities to you, or carry out such Transactions on your behalf, where the price may have been influenced by measures taken to stabilise it.
- 7.2 You should read the explanation below carefully. This is designed to help you judge whether you wish your funds to be invested in all such Securities and, if you do, whether you wish:
  - (A) to be consulted before we carry out any such Transaction on your behalf; or
  - (B) to authorise us to carry out any such Transaction on your behalf without first having to consult you.

## 8. What Is Stabilisation?

- 8.1 Stabilisation enables the market price of a Security to be manipulated artificially during the period when a new issue of Securities is sold to the public. Stabilisation may affect not only the price of the new issue but also the price of other Securities relating to it. The UK Financial Conduct Authority allows stabilisation in order to help counter the fact that when a new issue comes onto the market for the first time, the price can sometimes drop for a time before buyers are found.
- 8.2 Stabilisation is carried out by a 'stabilisation manager' (normally the firm chiefly responsible for bringing a new issue to market). As long as the stabilising manager follows a strict set of rules, he is entitled to buy back Securities that were previously sold to investors or allotted to institutions which have decided not to keep them. The effect of this may be to keep the price at a higher level than it would otherwise be during the period of stabilisation.
- 8.3 The fact that a new issue or a related Security is being stabilised should not be taken as any indication of the level of interest from investors, nor of the price at which they are prepared to buy the Securities.

## 9. The Stabilisation Rules

- 9.1 The stabilisation rules:
  - (A) limit the period when a stabilisation manager may stabilise a new issue;
  - (B) fix the price at which the stabilisation manager may stabilise (in the case of shares and warrants but not bonds); and
  - (C) require the stabilisation manager to disclose that it may be stabilising but not that it is actually doing so.

## 10. Non-Realisable Investments

Unless otherwise stated in your Account Opening documentation and/or your Client Mandate, we may enter into Transactions on your behalf in non-readily realisable Investments. You should note that these are Investments in which there is a restricted market and it may therefore be difficult to deal in them or to obtain reliable information about their value. Further, it may be difficult to establish a proper market price and to make a subsequent sale. You should indicate under the heading "Investment Restrictions" in your Account Opening documentation if you do not wish us to make recommendations or deal for you in respect of such Investments.

## 11. Stock Lending

- 11.1 Unless otherwise stated in your Account Opening documentation and/or your Client Mandate, we may, in accordance with your Instructions, undertake stock lending activity with you in relation to any Portfolio Asset and any further assets as from time to time agreed.
- 11.2 Stock lending may affect your Tax position and you should consult a Tax adviser before proceeding.
- 11.3 We may undertake such lending with or without taking Collateral and if we do take Collateral such collateral may, subject to your Account Opening documentation and/or your Client Mandate, be in Cash, Investments of any type or physical commodities or any instrument representing any of the same as we may think fit and shall be of a value as determined by us in our absolute discretion. You shall be remunerated for such stock lending by payment of such fee as shall from time to time be agreed with us and such fee shall be added to your Account.

- 11.4 As a result of lending Securities you will cease to be the owner of them, although you will have the right to reacquire on a future date equivalent Securities (or in certain circumstances their Cash value or the proceeds of redemption). However, except to the extent that you have received collateral, your right to the return of Securities is subject to the risk of insolvency or other non-performance by the borrower. Since you are not the owner during the period Securities are lent out, you will not have voting rights nor will you directly receive dividends or other corporate actions although you will normally be entitled to a payment from the borrower equivalent to the dividend you would otherwise have received and the borrower will be required to account to you for the benefit of corporate actions. Full details will be contained in any stock lending agreement you enter into and the above description is subject to the terms of any such document.

## 12. Borrowing

- 12.1 Unless otherwise stated in your Account Opening documentation and/or your Client Mandate, we may, in accordance with your Instructions, commit you to supplement the funds in your Account, including borrowing on your behalf. We may do so in any circumstances we consider appropriate for you.
- 12.2 Unless otherwise stated in your Account Opening documentation and/or your Client Mandate, there are no limitations on our ability to borrow. Any limits stated in your Account Opening documentation and/or your Client Mandate may, however, be exceeded on a temporary basis to cover timing differences between anticipated receipt and disbursements of funds where payment will be due by you on one Transaction before the monies to fund such payment will be received under another Transaction.

## 13. Off-Exchange Transactions

Unless otherwise stated in your Account Opening documentation and/or your Client Mandate, we may deal for you in circumstances in which the relevant deal is not regulated by the rules of any Exchange (or not by an Exchange which is recognised or designated by the UK Financial Conduct Authority). Such Transactions may, accordingly, not be subject to the same investor protection standards as Transactions executed on such an Exchange. Please indicate under the heading "Investment Restrictions" in your Account Opening documentation if you do not wish us to recommend or enter into such Transactions for you.

## 14. Lending Or Pledging Collateral

We may pledge or charge to a third party any part of your Account used as Collateral for the third party to use as Collateral for its own obligations. Such collateral registered with the third party will not be in your name. Collateral may be returned which is equivalent but not identical to the Collateral originally taken from the Account.

## 15. Listed Securities Utilising Leverage

With regard to listed Investments where the issuer of the Investment uses or proposes to use borrowing or other forms of gearing to enhance the return for, or value of investments made by the issuer without increasing the amount the issuer invested, the value of such Investments may be more volatile than the underlying investments made by the issuer and may be subject to sudden and large falls in value, and if the fall in value is sufficiently large, the value of the Investment may fall to zero.

# Section C

## Part 2: Risk Warnings in relation to Specific Types of Investment

### 1. Equities

- 1.1 When you buy or subscribe for equities issued by a company, you are buying a part of that company and you become a shareholder in it, which usually means you have the right to vote on certain issues. You can either buy new shares when the company sells them to raise money (through an initial public offering if a company is listing) or buy existing shares (which in the case of a listed company) are traded on the stock exchange.
- 1.2 The aim is for the value of your shares to grow over time as the value of the company increases in line with its profitability and growth. In addition, you may also receive a dividend, which is an income paid out of the company's profits. Longer-established companies usually pay dividends whilst growing companies tend to pay lower, or no dividends (with these you would typically be hoping for better capital growth).
- 1.3 Under normal circumstances, a shareholder in a company, has no right to require that company to return capital to it. Unless the company chooses to return capital to the shareholder (for example by effecting a share buyback) or the shares carry redemption rights exercisable by the shareholder (which is normally not the case), the shareholder's only way to realise its investment will be to sell the shares to another investor. Consequently, a shareholder's return from investing in the equity will depend to a large extent on the market price of the equities at the time of the sale. The market price of an equity is affected by the supply of and demand for that equity within the market. In turn, supply and demand (and therefore the volatility of the share price) are affected by a number of factors including:
  - (A) domestic versus international factors – the vulnerability of the company to international events or market factors which would include movements in exchange rates, changes in trade or tariff policies and changes in other stock or bond markets;
  - (B) sector specific factors – these would include demand for the product the company produces, commodity prices, the economic cycle of industry, changes in consumer demands, lifestyle changes and changes in technology; and
  - (C) company specific factors – these would include the company's directors, the strength of the company's management and the significance of any key personnel, the company's profit history, the company's tangible assets base, debt level and fixed cost structure, litigation, profits or losses on particular contracts, competition from within the sector, and whether the company already has a profitable business or whether it is exploring for recoverable resources or is developing a new product.
- 1.4 The level of a stock market goes up or down as the prices of the shares that are the constituents of that market go up and down. The main factor determining the price of a share is the perception of its current value to its owner.
- 1.5 One factor that could affect the price of a share is a change in opinion as to how well the company itself is performing or could perform in the future. This opinion is frequently based on predictions about the economic conditions in which a company is operating, which is why it might seem that stock markets go up or down depending on economic conditions.
- 1.6 Shares are generally a fairly volatile asset class – their value tends to go up and down more than other classes such as bonds and regulated collective investment schemes. If you are investing in shares you should expect the value of your investment to go down as well as up, and you should be comfortable with this. Holding shares is high risk – if you have put all your money into one company and that company becomes insolvent then you will probably lose most, if not all, of your money.
- 1.7 In the short term, shares may go up and down in value and this can occasionally be very significant. However, if you have a wide range of shares, you reduce the likelihood of losing all or most of your money.
- 1.8 The liquidity of the shares may be affected by whether the shares are listed or unlisted. Where shares are unlisted it may be more difficult to deal them or obtain reliable information about their value (and it may therefore be difficult to establish a proper market in them for the purposes of making a subsequent sale).
- 1.9 With regard to listed equity investments where the issuer proposes to use borrowing or other forms of gearing to enhance the return for or value of investments it has made without increasing the amount invested, the value of such investments may be more volatile than the underlying investments made by the issuer and may be subject to sudden and large falls in value and, if the fall in value is sufficiently large, the value of the investment may fall to zero.
- 1.10 For details of the risks that may apply where the shares are issued by an issuer in an emerging market, please see the Emerging Markets Risk Disclosure.
- 1.11 If a company goes into liquidation, its shareholders rank behind the company's creditors (including its subordinated creditors) in relation to the realisation and distribution of the company's assets – with the result that a shareholder will normally only receive any money from the liquidator if there are any remaining proceeds of the liquidation once all of the creditors of the company have been paid in full.
- 1.12 Remember as a shareholder in the company you could lose some or all of the money that you have invested in the shares.
- 1.13 In addition to the above general risks, certain types of equity investments results in additional risks. These include the following:
  - (A) Penny Shares
    - (1) A "penny share" is a loose term used to describe shares which have a speculative appeal because of their low value. If the equities in which you are invested include penny shares, you should be aware that there may be a significant difference between the purchase and sale price of such shares and, if you need to sell the shares, you may get back much less than you paid for them.

## (B) Investment Trusts

- (1) An investment trust is a company that is listed on the London Stock Exchange and that has been formed for the purposes of investing in shares (and which therefore gives its investors the opportunity to invest in shares on pooled basis). In that respect, they are similar to open-ended collective investment schemes (see Clause 7 below) but, unlike an open-ended collective investment scheme, an investment trust is closed-ended. This means there are a set number of shares available, and (in the absence of a formal increase in capital) this will remain the same no matter how many investors there are.
- (2) The price of the investment trust shares depends on two main factors:
  - (a) the value of the underlying investments (in this respect it works in the same way as open-ended collective investment schemes); and
  - (b) the popularity (or unpopularity) of the investment trust shares in market.
- (3) The second factor is relevant because an investment trust is closed-ended – it has a fixed number of shares. The laws of economics say that if there is a high demand for something, but limited supply, then the price goes up. So, if you own some investment trust shares and there are lots of people who want to buy them then you can sell them for more money. On the other hand, if nobody seems to want them then you will have to drop the price until someone is prepared to buy.
- (4) The result is that investment trust shares do not simply reflect the value of the underlying investments, they also reflect their popularity in the market. This feature may make them more volatile than other pooled investments (such as open ended collective investment schemes) assuming the same underlying investments.
- (5) Investment trusts can borrow money to invest. This is called gearing. Gearing improves a trust's performance when its investments are doing well. On the other hand, if its investments do not do as well as expected, gearing lowers performance. An investment trust that is geared is a higher risk investment than one which is not geared (assuming the same underlying investments).

## (C) Venture Capital Trusts

- (1) Venture Capital Trusts ("VCTs") were introduced by the UK government in 1995 to encourage investment in smaller unquoted companies. They provide a source of capital for small companies and help the UK economy to develop.
- (2) A VCT is a company, run by a fund manager, which invests in other companies that are not quoted on a stock exchange but may be listed on the Alternative Investment Market (AIM).
- (3) VCTs themselves are listed on the London Stock Exchange, with strict limits laid down by HM Revenue and Customs on what they can invest in. For example, they must invest at least 70% of their funds in companies (or group of companies) which have gross assets of no more than £7 million (with effect from 06 April 2012, subject to EU State aid clearance, £15 million) before the VCT invests. They can invest the remaining 30% in other ways, from cash deposits through to riskier investments.
- (4) VCTs are complex products which carry a certain level of risk. VCTs should be considered as long-term investments and it is important that you understand the risks before investing in them, which are:

- (a) there may be a limited secondary market for shares – this may make them hard to sell. To partially address this issue, some VCT managers offer a buy back facility, normally at a discount to the net asset value.
- (b) VCTs are designed to provide capital for small companies and each VCT will invest in a number of companies. There is a risk that these companies may not perform as hoped and in some circumstances may fail completely.
- (c) typically, VCTs have invested the 30% non-qualifying investments in money market securities/gilts/cash deposits etc. Some, however, invest part of this in more risky investment vehicles which may raise the overall risk profile in the fund still further.
- (d) if certain criteria are not met, for example, if the investment is not held for five years or if the VCT does not invest 70% of its funds in qualifying investments after three years, the initial tax advantages can be withdrawn.
- (e) the levels of charges for VCTs may be greater than for other investments, and you may also be charged performance fees.
- (f) as with any asset-backed investment, the value of a VCT depends on the performance of the underlying assets, so you may get back less than you originally invested, even taking into account the tax breaks.

## (D) Depositary receipts

- (1) Depositary receipts include American or European Depositary Receipts (ADRs or EDRs), Global Depositary Receipts or Shares (GDRs or GDSs) or other similar global instruments that are receipts representing ownership of shares of a foreign-based issuer held in trust by a bank or similar financial institution. These securities are designed for U.S. and European securities markets as alternatives to purchasing underlying securities in their corresponding national markets and currencies. Depositary receipts can be sponsored or unsponsored. Sponsored depositary receipts are certificates in which a bank or financial institution participates with a custodian. Issuers of unsponsored depositary receipts are not contractually obligated to disclose receipts are not contractually obligated to disclose material information in the United States. Therefore, there may not be a correlation between such information and the market value of an unsponsored depositary receipt.
- (2) Depositary Receipts also include securities issued by a trust representing an undivided beneficial ownership interest in the assets of the trust, usually common stocks of a group of companies. The trust generally holds the deposited common stocks for the benefit of the holders of the depositary receipts. Issuers generally are not registered as investment companies under the United States Investment Company Act. The trustee of a trust is typically limited to performing only administrative and ministerial duties, for which it is paid out of the trust assets. The risks of investing in depositary receipts generally reflect the risks of the securities held in the trust. The acquisition and disposal of some depositary receipts is limited to round-lots or round-lots multiples. Depositary receipts may trade in the secondary market at prices lower than the aggregate value of the corresponding underlying securities. In such cases, some depositary receipts enable the holders to realise the underlying value of the securities by cancelling the receipt and receiving a corresponding amount of underlying securities, which requires the payment of fees and expenses.

## (E) Real Estate Investment Trusts

- (1) A Real Estate Investment Trust ("REIT") is a pooled investment vehicle, which invests primarily in income producing real estate or real estate related loans or interests. REITs are sometimes referred to as equity REITs or mortgage REITs. An equity REIT invests primarily in properties and generates income from rental and lease properties. Equity REITs also offer the potential for growth as a result of property appreciation and, in addition, from the sale of appreciated property. Mortgage REITs invest primarily in real estate mortgages, which may secure construction, development or long-term loans, and derive income for the collection of interest payments. REITs are generally organised as companies and their shares are generally listed on a stock exchange.
- (2) In some jurisdictions REITs qualify for beneficial tax treatment provided they invest in accordance with certain rules.
- (3) Like any investment in real estate, a REIT's performance depends on many factors, such as its ability to find tenants for its properties, to renew leases, and to finance property purchases and renovations. In general, REITs may be affected by changes in underlying real estate values, which may have an exaggerated effect to the extent a REIT concentrates its investments in certain regions or property types. For example, rental income could decline because of extended vacancies, increased competition from nearby properties, tenants' failure to pay rent, or incompetent management. Property values could decrease because of over building, environmental liabilities, uninsured damages caused by natural disasters, a general decline in the neighbourhood, losses due to casualty or condemnation, increases in property taxes, or changes in zoning laws. Ultimately, a REIT's performance depends on the types of properties it owns and how well the REIT manages its properties.
- (4) In general, during periods of rising interest rates, REITs may lose some of their appeal for investors who may be able to obtain higher yields from other income-producing investments, such as long-term bonds. Higher interest rates also meant that financing for property purchases and improvements is more costly and difficult to obtain. During periods of declining interest rates, certain mortgage REITs may hold mortgages that mortgagors elect to prepay, which can reduce the yield on securities issued by mortgage REITs. Mortgage REITs may be affected by the ability of borrowers to repay debts to the REIT when due and equity REITs may be affected by the ability of tenants to pay rent.
- (5) Like small-cap stocks in general, certain REITs have relatively small market capitalisation and their securities can be more volatile than – and at times will perform differently from – large cap stocks. In addition, because small-cap stocks are typically less liquid than large-cap stocks, REIT stocks may sometimes experience greater share-price fluctuations than stocks of larger companies. Further, REITs are dependent upon specialized management skills, have limited diversification, and are therefore subject to risks inherent in operating and financing a limited number of projects.

## 2. Bonds

- 2.1 A bond is a loan to a company, government or a local authority. Generally, interest is paid to you as the lender and the amount of the loan repaid at the end of the term.
- 2.2 When you buy or subscribe for bonds, you become a creditor of the issuer of the bonds. The issuer might be a government or a corporate business or it may be an entity that has been formed specifically for the purposes of issuing the bonds (this is normally the case where the bonds pass through to investors the cashflows generated by specific assets, such as corporate loans, residential mortgages or credit card receivables).
- 2.3 Bonds have a nominal value. This is the sum that will be returned to investors when the bond matures at the end of its term.
- 2.4 However, because bonds are traded on the bond market, the price you pay for a bond may be more or less than the nominal value. There are several reasons why the price might vary from the nominal value, for example:
  - (A) if a bond is issued at a fixed interest rate of, say, 8% and general interest rates then fall well below 8%, then 8% will look like a good yield and the market price of the bond will tend to rise above the nominal value.
  - (B) the reverse is also true. If interest rates rise, the fixed rate of a particular bond might become less attractive and its price could fall below the nominal value.
  - (C) ratings agencies might take the view that a particular company's bond no longer qualifies for a higher rating – perhaps the company is not doing as well as it was when the bond was issued. If this happens then the market price of the bond might fall. On the other hand, the company's rating may be improved leading to a price increase.
  - (D) The inflation rate might start to creep up and the interest rate on some bonds might start to look less attractive compared with other investments.
  - (E) The risks associated with investing in bonds include:
    - (1) interest rate risk – the risk that bond prices will fall as interest rates rise. By buying a bond, the bondholder has committed to receiving a fixed rate of return for a fixed period. Should the market interest rate rise from the date of the bond's purchase, the bond's price will fall accordingly. The bond will then be trading at a discount to reflect the lower return that an investor will make on the bond. Market interest rates are a function of several factors such as the demand for, and supply of, money in the economy, the inflation rate, the stage that the business cycle is in as well as the government's monetary and fiscal policies.
    - (2) call risk – the risk that a bond will be called by its issuer. Callable bonds have call provisions, which allow the bond issuer to purchase the bond back from the bondholders and retire the issue. This is usually done when interest rates have fallen substantially since the issue date. Call provisions allow the issuer to retire the old, high-rate bonds and sell low-rate bonds in a bid to lower debt costs.
    - (3) default risk – the risk that the bond's issuer will be unable to pay the contractual interest or principal on the bond in a timely manner, or at all. Credit ratings services such as Moody's, Standard & Poor's and Fitch give credit ratings to bond issues, which helps to give investors an idea of how likely it is that a payment default will occur.

- (4) inflation risk – the risk that the rate of price increases in the economy deteriorates the returns associated with the bond. This has the greatest effect on fixed-rate bonds which have a set interest rate from inception. For example, if an investor purchases a 5% fixed bond and then inflation rises to 10% a year, the bondholder will lose money on the investment because the purchasing power of the proceeds has been greatly diminished. The interest rates of floating-rate bonds are adjusted periodically to match inflation rates, limiting investors' exposure to inflation risk.
- 2.5 Bonds can be bought and sold in the market (like shares) and their price can vary from day to day. A rise or fall in the market price of a bond does not affect what you would get back if you hold the bond until it matures. You will only get back the nominal value of the bond (plus any coupon payment to which you've been entitled during your ownership of the bond), irrespective of what you paid for it.
- 2.6 For some bonds there may be a restricted market and it may be more difficult to deal in them or obtain reliable information about their value (and it may therefore be difficult to establish a proper market in them for the purposes of making a subsequent sale).
- 2.7 For details of the risks that may apply where bonds are issued by an issuer in an emerging market, please see the Emerging Markets Risk Disclosure.
- 2.8 Some bonds generate a return that is linked to the performance of a real or notional pool of underlying assets. In such circumstances, the return you receive will depend upon the performance of the underlying pool. Many structured products take the form of bonds (see Clause 9 for further details of the risks associated with structured products).
- 2.9 As a bondholder you could lose some or (in extreme cases) all of the money that you have invested in the bonds that you hold.
- 2.10 Convertible bonds
- (A) Some bonds are convertible or exchangeable into a specific number of another form of security (usually the issuer's ordinary shares) at a specified price or ratio. A company may issue a convertible security that is subject to redemption after a specified date, and usually under certain circumstances. A holder of a convertible bond that is called for redemption would be required to tender it for redemption to the issuer, convert it to the underlying equities or sell it to a third party.
- (B) Convertible bonds typically pay a lower interest rate than non-convertible bonds of the same quality and maturity, because of the convertible feature. This structure allows the holder of the convertible bond to participate in share price movements in the company's shares. The actual return on a convertible bond may exceed its stated yield if the company's shares appreciate in value and the option to convert to shares becomes more valuable.
- (C) Convertible bonds typically trade at prices above their conversion value, which is the current market value of the shares received upon conversion, because of their higher yield potential than the underlying shares. The difference between the conversion value and the price of a convertible bond will vary depending on the value of the underlying shares and interest rates. When the underlying value of the shares decline, the price of the issuer's convertible bonds will tend not to fall as much as because the convertible bond's income potential will act as a price support. While the value of a convertible bond also tends to rise when the price of the underlying shares rises, it may not rise as much because their conversion value is more narrow. The value of convertible bonds is also affected by changes in interest rates. For example, when interest rates fall, the value of convertible bonds may rise because of their fixed income component.

### 3. Warrants

- 3.1 A warrant is a time-limited right to subscribe for shares or bonds at a particular price and is exercisable against the issuer of the warrants. The issuer of the warrants might be either the original issuer of the underlying securities or a third party issuer that has set aside a pool of the underlying securities to cover its obligations under the warrants (these are called covered warrants).
- 3.2 Generally, the success of investing in warrants depends primarily on how the underlying asset performs during the life of the warrant. The price of the warrants will therefore be affected by the risk factors that can affect the price of the underlying securities to which the warrant relates. A relatively small movement in the price of the underlying security results in a disproportionately large movement, unfavourable or favourable, in the price of the warrant. The prices of warrants can therefore be volatile.
- 3.3 The right to subscribe for underlying securities conferred by a warrant is invariably limited in time with the consequence that if the investor fails to exercise this right within the predetermined time-scale then the investment becomes worthless. The price of a warrant may reflect the value attributed to the life of the warrant.
- 3.4 You should not buy a warrant unless you are prepared to sustain a total loss of the money you have invested plus any commission or other transaction charges.
- 3.5 Transactions in off-exchange warrants may involve greater risk than dealing in exchange-traded warrants because there is no exchange market through which to liquidate your position, or to assess the value of the warrant or the exposure to risk. Bid and offer prices need not be quoted, and even where they are, they will be established by dealers in these instruments and consequently it may be difficult to establish what is a fair price.
- 3.6 Each warrant is a contract between the warrant issuer and the holder. You are therefore exposed to the risk that the issuer will not perform its obligations under the warrant.
- 3.7 Issuers of warrants sometimes reserve the right to nominate an extraordinary event which may result in the early expiry of a warrant series. The type of events which may be nominated as an extraordinary event are set out in the terms of issue of a warrant series.
- 3.8 Examples of extraordinary events include suspension in trading of the underlying security, the de-listing of the underlying company and a takeover of the underlying company. As a consequence of an extraordinary event the warrant's expiry date may be brought forward, or the warrant may lapse with any intrinsic payment provided to the holder.
- 3.9 For details of the risks that may apply where bonds are issued by an issuer in an emerging market, please see the Emerging Markets Risk Disclosure.

### 4. Options

- 4.1 An option gives the buyer of the option the right (but not the obligation) to acquire an underlying security or other asset at a future date and at a pre-agreed price.
- 4.2 Buying options involves less risk than selling options because, if the price of the underlying asset moves against you, you can simply allow the option to lapse. The maximum loss is limited to the premium, plus any commission or other transaction charges. However, if you buy a call option on a futures contract and you later exercise the option, you will acquire the future. This will expose you to the risks described under 'Futures' below.

- 4.3 If you write an option, the risk is considerably greater than buying options. You may be liable for Margin to maintain your position and a loss may be sustained well in excess of the premium received. By writing an option, you accept a legal obligation to purchase or sell the underlying asset if the option is exercised against you, however far the market price has moved away from the Exercise Price. If you already own the underlying asset which you have contracted to sell (when the options will be known as 'covered Call Options') the risk is reduced. If you do not own the underlying asset ('uncovered Call Options') the risk can be unlimited. Only experienced persons should contemplate writing uncovered options, and then only after securing full details of the applicable conditions and potential risk exposure.
- 4.4 The performance of an option that you have written depends primarily on how the underlying asset performs during the life of the option. The value of the option can therefore be affected by any risk factors that can affect the price of the underlying asset to which the option relates. A relatively small movement in the price of the underlying asset can result in a disproportionately large movement, unfavourable or favourable, in the value of the option. The prices of options can therefore be volatile.
- 4.5 If you write options, you may sustain a total loss of any margin you deposit with us to establish or maintain a position. If the market moves against you, you may be called upon to pay substantial additional margin at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss and you will be responsible for the resulting deficit.
- 4.6 Even if a written option transaction is not margined, it may still carry an obligation to make further payments in certain circumstances over and above any amount paid when you entered the contract.
- 4.7 Certain London Stock Exchange member firms under special Exchange rules write a particular type of option called a "traditional option". These may involve greater risk than other options. Two-way prices are not usually quoted and there is no Exchange market on which to close out an open position or to effect an equal and opposite transaction to reverse an open position. It may be difficult to assess its value or for the seller of such an option to manage his exposure to risk.
- 4.8 Certain options markets operate on a margined basis, under which buyers do not pay the full premium on their option at the time they purchase it. In this situation you may subsequently be called upon to pay Margin on the option up to the level of your premium. If you fail to do so as required, your position may be closed or liquidated in the same way as a futures position.
- 4.9 Our insolvency or default, or that of any other brokers involved with your option transaction, may lead to positions being liquidated or closed out without your consent. In certain circumstances, you may not get back the actual assets which you lodged as collateral and you may have to accept any available payments in cash.
- 4.10 On many Exchanges, the performance of a transaction by the relevant broker is "guaranteed" by the Exchange or clearing house. However, this guarantee is unlikely in most circumstances to cover you, the customer, and may not protect you if the broker or another party defaults on its obligations to you. On request, we can explain the extent of any protection provided to you under the clearing guarantee applicable to any on-Exchange derivatives in which you are dealing. There is no clearing house for traditional options, nor normally for "over-the-counter" (OTC) instruments.
- 4.11 Options may be executed on an investment exchange or on an OTC basis. While some OTC markets are highly liquid, transactions in OTC derivatives may involve greater risk than investing in on-Exchange derivatives because there is no Exchange market on which to close out an open position. It may be impossible to liquidate an existing position, to assess the value of the position arising from an OTC transaction or to assess the exposure to risk. Bid prices and offer prices need not be quoted, and, even where they are, they will be established by dealers in these instruments and consequently it may be difficult to establish what is a fair price.

## 5. Futures

- 5.1 Transactions in futures involve the obligation to make, or to take, delivery of the underlying asset of the contract at a future date, or in some cases to settle the position with Cash. They carry a high degree of risk. The performance of a futures contract depends primarily on how the underlying asset performs during the life of the contract. The value of the future can therefore be affected by one of the risk factors that can affect the price of the underlying asset to which the futures contract relates.
- 5.2 The "gearing" or "leverage" often obtainable in futures trading means that a small deposit or down payment can lead to large losses as well as gains. It also means that a relatively small movement can lead to a proportionately much larger movement in the value of your investment, and this can work against you as well as for you. Futures transactions have a contingent liability which means that you may be liable for margin to maintain your position and a loss may be sustained well in excess of the premium received. By entering into a futures contract, you accept a legal obligation to purchase or sell the underlying asset, however far the market price has moved away from the agreed price.
- 5.3 You may sustain a total loss of any margin you deposit with us to establish or maintain a position. If the market moves against you, you may be called upon to pay substantial additional margin at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss and you will be responsible for the resulting deficit.
- 5.4 Our insolvency or default, or that of any other brokers involved with your futures transaction, may lead to positions being liquidated or closed out without your consent. In certain circumstances, you may not get back the actual assets which you lodged as collateral and you may have to accept any available payments in cash.
- 5.5 On many Exchanges, the performance of a transaction by the relevant broker is "guaranteed" by the exchange or clearing house. However, this guarantee is unlikely in most circumstances to cover you, the customer, and may not protect you if the broker or another party defaults on its obligations to you. On request, we can explain the extent of any protection provided to you under the clearing guarantee applicable to any on-Exchange derivatives in which you are dealing. There is no clearing house for futures executed on an OTC basis.
- 5.6 Futures may be executed on an investment Exchange or on an OTC basis. While some OTC markets are highly liquid, transactions in OTC derivatives may involve greater risk than investing in on-Exchange derivatives because there is no exchange market on which to close out an open position, to assess value of the position arising from an OTC transaction or to assess the exposure to risk. Bid prices and offer prices need not be quoted, and, even where they are, they will be established by dealers in these instruments and consequently it may be difficult to establish what is a fair price.

## 6. Contracts For Differences

- 6.1 Futures and options contracts that only contemplate cash settlement of the parties obligations (rather than physical delivery of the underlying assets) are known as "contracts for differences" or "CFDs". CFDs include options and futures on the FTSE 100 index or any other index, as well as currency and interest rate swaps, spreads bets and rolling spot foreign exchange contracts.
- 6.2 The "gearing" or "leverage" often obtainable in CFD trading means that a small deposit or down payment can lead to large losses as well as gains. It also means that a relatively small movement can lead to a proportionally much larger movement in the value of your investment, and this can work against you as well as for you. CFD transactions have a contingent liability which means that you may be liable for margin to maintain your position and a loss may be sustained well in excess of the premium received.

- 6.3 You may sustain a total loss of any margin you deposit with us to establish or maintain a position. If the market moves against you, you may be called upon to pay substantial additional margin at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss and you will be responsible for the resulting deficit.
- 6.4 Our insolvency or default, or that of any other brokers involved with your CFD transaction, may lead to positions being liquidated or closed out without your consent. In certain circumstances, you may not get back to the actual assets which you lodged as collateral and you may have to accept any available payments in cash.
- 6.5 On many Exchanges, the performance of a transaction by the relevant broker is "guaranteed" by the Exchange or clearing house. However, this guarantee is unlikely in most circumstances to cover you, the customer, and may not protect you if the broker or another party defaults on its obligations to you. On request, we can explain the extent of any protection provided to you under the clearing guarantee applicable to any on-Exchange derivatives in which you are dealing. There is no clearing house for most CFDs executed on an OTC basis.
- 6.6 CFD transactions may be executed on an investment Exchange or on an OTC basis. While some OTC markets are highly liquid, transactions in OTC derivatives may involve greater risk than investing in on-Exchange derivatives because there is no Exchange market on which to close out an open position. It may be impossible to liquidate an existing position, to assess the value of the position arising from an OTC transaction or to assess the exposure to risk. Bid prices and offer prices need not be quoted, and, even where they are, they will be established by dealers in these instruments and consequently it may be difficult to establish what is a fair price.

## 7. Collective Investment Schemes

- 7.1 A collective investment scheme ("CIS") is a scheme which allows an investor to invest money on a pooled basis (along with a number of other investors). A CIS may take the form of a company, partnership or trust.
- 7.2 As an investor, you buy shares/partnership interests/units in the CIS in the hope that the value rises over time as the prices of the underlying investments increase. The price of the shares/partnership interests/units depends on how the underlying investments perform.
- 7.3 Some CISs are called "open ended" as the number of shares/partnership interests/units in issue increases as more people invest and decreases as people take their money out. "Closed-ended" CISs are CISs which are either unable to withdraw their investments or can only do so in very restrictive circumstances.
- 7.4 Normally, there is no established secondary market in CISs which means that your investment in them cannot usually be sold to third parties. However, (except for certain types of "closed-ended" fund) the constitutional documents of the CIS will normally provide for you to be able to redeem your investment in the CIS at its net asset value. The frequency with which you can redeem your investment will depend upon the precise terms of those constitutional documents.
- 7.5 The level of risk of an investment in a CIS will depend on the underlying investments in which it is invested and how well diversified the open-ended investment fund is. For example, a fund which invests only in one industrial sector, such as technology, will invariably be more risky than funds that invest across the whole range of companies in a market.
- 7.6 Any details provided of past performance are illustrative only, are not intended to indicate future performance and may not be audited. We do not take responsibility that the contents of material supplied by CIS managers is correct.
- 7.7 Some CISs are regulated which means that there are rules about (and limits on) the types of underlying investments in which the CIS can invest and the frequency and price at which investments in the CIS can be redeemed. In particular, the rules applicable to regulated CISs limit the extent to which they can invest in derivatives or leverage their portfolios. Regulated CISs include authorised unit trusts, OEICs (open ended investment companies, which are the same as ICVCs – Investment Companies with Variable Capital); SICAV (Societe d'investissement a capital variable); and FCPs (Fonds communs de placement).
- 7.8 Other CISs are unregulated which means that there are very few or no rules about the types of investments in which they can invest or the frequency at which they can be redeemed. Four of the most common types of unregulated CIS are hedge funds, private equity funds, real estate funds and fund of funds.
  - (A) Hedge funds
    - (1) Hedge funds are unregulated CISs that use derivatives for directional investing and/or are allowed to have a short position and/or use significant leverage through borrowing. Additional characteristics of hedge funds are the free choice of assets (including illiquid and distressed securities), free choice of markets (including emerging markets) and the free choice of trading style, including a lack of asset diversification.
    - (2) Whilst returns may be higher than standard investments, investments in hedge funds involve a high degree of risk and are only suitable for investors who fully understand and are willing to assume the risks involved. In particular such investors are exposed to potential loss which could involve the complete loss of the investment. Their use of leverage may mean that market movement could have a disproportionate effect on the net asset value of the fund.
    - (3) Hedge funds are often domiciled in offshore jurisdictions where the standards of regulation and in particular the standards of regulatory supervision do not meet the standards required in Guernsey or the UK.
    - (4) Investments in hedge funds are typically subject to transfer and redemption restrictions. Transfer are usually subject to the approval by the fund and redemption may be permitted only after an initial lock-in period and long notification periods. In most cases there is no liquid market for investments in hedge funds. It may therefore be difficult for you to obtain reliable information about its value or the extent of the risks to which you are exposed.
    - (5) Another risk factor to be considered is the dependence upon key portfolio managers of the fund, whose experience levels may vary. Furthermore, where hedge fund portfolio managers are compensated on a performance incentive basis it may cause them to make riskier and more speculative investment decisions than if such a fee was not paid.
  - (B) Private equity funds
    - (1) Private equity funds are unregulated CISs that invest exclusively or almost entirely in financial instruments issued by companies that are not listed (or that take-over publicly listed companies with a view to delisting them). Investments in private equity funds is typically by way of commitment (i.e., whereby an investor agrees to commit to invest a certain amount in the fund and this amount is drawn down by the fund as and when it is needed to make private equity investments).
    - (2) Private equity funds tend to be closed ended and to have a finite lifespan. During the life of the fund it is usually not possible for you to redeem your investment. Therefore, if you invest in a private equity fund, it may be several years before you see any sort of return on the investment.

- (3) Whilst returns may be higher than standard investments, investments in private equity funds involve a high degree of risk and are only suitable for investors who fully understand and are willing to assume the risks involved. The returns are dependent on the performance of the companies in which the fund invests and, in turn therefore, largely dependent on the manager of the fund's ability to influence that performance. Investors in private equity funds are exposed to potential loss which could involve the complete loss of the investment.
- (C) Real estate funds
- (1) Real estate funds are unregulated CISs that invest exclusively or almost entirely in real estate, or in companies that invest in real estate. Most real estate funds are structured and operate in a similar manner to private equity funds. Investment in real estate funds is typically by way of commitment (i.e., whereby an investor agrees to commit to invest a certain amount in the fund and this amount is drawn down by the fund as and when it is needed to make private equity investments).
- (2) Real estate funds tend to be closed ended and to have a finite lifespan. During the life of the fund it is usually not possible for you to redeem your investment. Therefore, if you invest in a real estate fund, it may be several years before you see any sort of return on the investment.
- (3) Whilst returns may be higher than standard investments, investments in real estate funds involve a high degree of risk and are only suitable for investors who fully understand and are willing to assume the risks involved. Returns are dependent on the value of the properties or companies in which the fund invests (and therefore on the ability of the manager to pick investments that increase in value). Investors in such funds are exposed to the risk of a general downturn in the property market. Investors in real estate funds are exposed to potential loss which could involve the complete loss of the investment.
- (D) Funds of funds
- (1) Funds of funds are collective investment schemes that invest in other collective investment schemes. Two common types are funds of hedge funds and private equity funds of funds. A fund of hedge funds invests in other hedge funds. A private equity fund of funds invests in other private equity funds. Fund of funds offer an opportunity for investors to invest in a portfolio of hedge funds or private equity funds (and thereby diversify their risk). The returns on a fund of funds will be lower than a series of direct investments in the underlying funds because the manager of the fund of funds takes a fee in addition to the fee charges by the managers of the underlying funds. Investments in a fund of hedge funds are typically subject to transfer and redemption restrictions.
- (2) Transfers are usually subject to the approval by the fund and redemption may be permitted only after an initial lock-in period and long notification periods. Investment in private equity fund of funds is typically by way of commitment (i.e., whereby an investor agrees to commit to invest a certain amount in the fund and this amount is drawn down by the fund as and when it is needed to honour its commitments to the private equity funds in which it has invested). Private equity funds of funds tend to be closed ended and to have a finite lifespan. During the life of the fund it is usually not possible for you to redeem your investment. Therefore, if you invest in a private equity fund of funds, it may be several years before you see any sort of return on the investment.

## 8. Life Policies

- 8.1 A life policy is a form of pooled investment offered by a life insurance company. You can invest by making regular contributions (called premiums) or by investing a one-off lump sum (a single premium). When you have a policy with regular premiums there is usually a fixed term, and cashing in before the end of the term can involve penalties. Some single premium policies also have a fixed term but most are open-ended.
- 8.2 When you invest in a life assurance policy, a proportion of your contribution will be used to buy life assurance that pays a fixed sum of money if you die before the end of the policy. For regular premium policies the amount of life assurance can be quite high. For single premium policies the amount of life assurance is usually minimal. On either kind of policy, the company will spend part of each contribution you make to meet its costs.
- 8.3 As with open-ended investment funds, a life assurance investment company pools its money and invests in one or more of the asset classes. The company promises to pay you, as described in the policy, part of the money it makes from that investment. The company organises its investments into funds and it will usually allow you to decide which fund you want to share in. There are usually a number of funds to choose from within the policy, for example, shares (UK and other jurisdictions), bonds, property, and cash deposits. Similarly, there are usually funds which invest across different asset classes and these are usually called managed funds.
- 8.4 Most life assurance policies allow you to switch between funds once a year without charge. Some companies make a charge for more than one switch per year, while others allow several switches without charge.
- 8.5 There are some differences between regular premium and single premium products.
- (A) Single premium
- (1) Single premium products are often called investment or insurance bonds. Your single premium (after any costs) buys units, which give you the right to share in the return from your chosen fund(s). The return you achieve, and the risk you take, will depend upon the amount of costs taken from your contribution, the quality of the insurance company's investment management and on the underlying investments – the asset classes chosen.
- (2) The risk to your money is similar to the risks with open-ended collective investment schemes. Most single premium life assurance bonds are open-ended like funds; that is they do not have any fixed term. Some life assurance bonds do have a fixed term and this is likely to mean penalties if you cash in early. Also, some bonds, although they do not have a fixed term, have penalties if you cash it in within, say, five years.
- (B) Regular premium
- (1) Regular premium life assurance investments are usually called endowment policies and have a fixed term. An endowment policy is an investment plan that you usually pay into each month. The life assurance company accumulates money from you and other policy holders. It gives you a policy, which is a contract that promises certain things, such as to provide life insurance which pays a fixed sum of money if you die before the end of the policy. The company also promises to invest the money – for example in shares or bonds – with the aim of making it grow enough to provide you with a lump sum at maturity. Mortgage endowments work on largely the same basis but have a higher level of life assurance cover.

## 9. Structured Products

- 9.1 Structured Products are products structured to fulfil a particular trading or market objective. A structured product may combine the features of two or more financial instruments (for example a bond and a derivative). Derivatives often constitute an integral part of a structured product. The product may involve an element of leverage and so a relatively small movement in the value of the relevant underlying asset or index may have a significant effect on the value of the structured product.
- 9.2 Structured products are generally not traded on regulated markets and you take the risk on the counterparty issuing the structure. There is typically no recognised market for these investments and it may, therefore, be difficult for you to deal in the investment or obtain reliable information about its value or the extent of the risks to which it is exposed.
- 9.3 Some structured products include an element of capital protection – however, you should bear in mind that this is not a guarantee that the amount invested will be returned in all circumstances. The capital protection offered is typically subject to the investment being held until maturity and to the creditworthiness of the issuer.
- 9.4 Credit Suisse AG or an Associate may be the issuer (or may be involved in the design of) structured products that you purchase.
- 9.5 Structured products are often high risk investment and you could lose some or all of the money that you have invested in them.
- 9.6 Further details of the specific risks associated with particular structured products may be made available to you at the time that you invest in them.

## 10. Foreign Exchange Trading

- 10.1 Engaging in foreign exchange trading (buying one currency in exchange for another) exposes you to the risk of adverse changes in exchange rates. Exchange rates can be volatile and are driven by a variety of factors affecting the economies of the jurisdictions whose currencies you are trading.
- 10.2 The “gearing” or “leverage” often obtainable in foreign exchange trading means that a small deposit or down payment can lead to large losses as well as gains. It also means that a relatively small movement can lead to a proportionately much larger movement in the value of your investment, and this can work against you as well as for you. Some foreign exchange transactions have a contingent liability which means that you may be liable for margin to maintain your position and a loss may be sustained well in excess of the premium received.

- 10.3 You may sustain a total loss of any margin you deposit with us to establish or maintain a position. If the market moves against you, you may be called upon to pay substantial additional margin at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss and you will be responsible for the resulting deficit.
- 10.4 Our insolvency or default, or that of any other dealers involved with your foreign exchange transaction, may lead to positions being liquidated or closed out without your consent. In certain circumstances, you may not get back the actual assets which you lodged as collateral and you may have to accept any available payments in cash.
- 10.5 Foreign Exchange Transactions in XAU are linked to the gold price, but will not make you the owner of physical gold. For the avoidance of doubt, any amounts payable by or to you under Foreign Exchange Transactions in XAU will be made in Cash and you will have no right to receive or deliver physical gold at any time.

## 11. Precious Metals

- 11.1 The performance of a Precious Metal is dependent upon various factors, including (without limitation) supply and demand, liquidity, natural disasters, direct investment costs, location, changes in tax rates and changes in laws, regulations and the activities of governmental or regulatory bodies. Precious Metal prices tend to be more volatile than most other asset categories, making Investments in Precious Metals riskier and more complex than other Investments.
- 11.2 Precious Metals are typically considered a finite rather than a renewable resource. If supplies of a Precious Metal increase the price of the Precious Metal will typically fall and vice versa if all other factors remain constant. Similarly if demand for a Precious Metal increases the price of the Precious Metal will typically increase and vice versa if all other factors remain constant. Not all markets in Precious Metals are liquid and able to quickly and adequately react to changes in supply and demand. The fact that there are only a few market participants in the Precious Metals markets means that speculative Investments can have negative consequences and may distort prices.
- 11.3 Changes in law and regulation and/or the action of any applicable government or regulatory body may have a positive or a negative impact on Precious Metal prices.

# Section C

## Part 3: Emerging Markets Risk Disclosure Statement

This risk disclosure statement is intended to inform investors of the uncertainties and risks associated with Investments and Transactions in various types of Investments of, or related or linked to, issuers and obligors incorporated, based or principally engaged in business in emerging markets countries. The risks of investing in Investments linked to these countries are magnified because of, among other things, political uncertainties and the relative instability of their developing financial markets and economies.

Moreover, many emerging markets countries do not have fully developed or clear legal, judicial, regulatory or settlement infrastructures. Consequently, making Investments in or with respect to these markets and Investments involves significant risks that may not be present in or with respect to more developed markets. This risk disclosure statement is intended to summarise some of the investment risks present in investing in emerging markets Investments but, of course, cannot disclose all possible risks of buying and selling such Investments.

Investments in emerging markets Investments should be made only by sophisticated investors or experienced professionals who have independent knowledge of the relevant markets, are able to consider and weigh the various risks presented by such Investments, and have the financial resources necessary to bear the substantial risk of loss of Investment in such Investments.

### 1. Emerging Markets

Countries with emerging markets include, but are not limited to: (A) countries that have an emerging stock market in a developing economy as defined by the International Finance Corporation; (B) countries that have low to middle income economies according to the World Bank; and (C) countries listed in World Bank publications as developing. The list of emerging markets countries is subject to continuous change; broadly they include any country other than Austria, Australia, Belgium, Canada, Denmark, Finland, France, Germany, Hong Kong, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, the United Kingdom, the United States of America.

### 2. Types Of Investments

There are various types of emerging markets equity (including ADRs, GDRs, shares, stock and convertible Securities), debt instruments (including sovereign loans and loan participations) and derivatives (including futures, swaps, swaptions, options and certain structured products). In many cases, these Investments may not be registered with local governments and may be privately placed or not listed on Exchanges.

### 3. Event Risk

On occasion, a country or region will suffer an unforeseen catastrophic event (for example, a natural disaster) which causes disturbances in its financial markets, including rapid movements in its Currency, that will affect the value of Investments in, or which relate to, that country. Furthermore, the value of Investments and any income derived therefrom can be affected by global events, including events (political, economic or otherwise) occurring in a country other than that in which the Investments are issued or traded.

### 4. Political Risk

- 4.1 Many emerging markets countries are undergoing, or have undergone in recent years, significant political change which has affected government policy, including the regulation of industry, trade, financial markets and foreign and domestic investment.

- 4.2 The relative inexperience with such policies and instability of these political systems leaves them more vulnerable to economic hardship, public unrest or popular dissatisfaction with reform, political or diplomatic developments, social, ethnic, or religious instability or changes in government policies. Such circumstances, in turn, could lead to a reversal of some or all political reforms, a backlash against foreign investment, and possibly even a turn away from a market-oriented economy. For investors, the results may include confiscatory taxation, exchange controls, compulsory re-acquisition, nationalisation or expropriation of foreign-owned assets without adequate compensation or the restructuring of particular industry sectors in a way that could adversely affect Investments in those sectors. Any perceived, actual or expected disruptions or changes in government policies of a country, by elections or otherwise, can have a major impact on the value of Investments linked to those countries.

### 5. Economic Risk

The economies of emerging markets countries are by their nature in early or intermediate stages of economic development, and therefore more vulnerable to rising interest rates and inflation. In fact, in many countries, high interest and inflation rates are the norm. Rates of economic growth, corporate profits, domestic and international flows of funds, external and sovereign debt, dependence on international trade, and sensitivity to world commodity prices play key roles in economic development, yet vary greatly from country to country. Businesses and governments in these countries may have a limited history of operating under market conditions. Accordingly, when compared to more developed countries, businesses and governments of emerging markets countries are relatively inexperienced in dealing with market conditions and have a limited capital base from which to borrow funds and develop their operations and economies. In addition, the lack of an economically feasible Tax regime in certain countries poses the risk of sudden imposition of arbitrary or excessive Taxes, which could adversely affect foreign investors. Furthermore, many emerging markets countries lack a strong infrastructure and banks and other financial institutions may not be well-developed or well regulated. All of the above factors, among others, can affect the proper functioning of the economy and have a corresponding adverse effect on the performance of Instruments linked to a particular market.

## 6. Credit Risk

- 6.1 Emerging markets sovereign and corporate debt tends to be riskier than sovereign and corporate debt in established markets. Issuers and obligors of debt in these countries are more likely to be unable to make timely coupon or principal payments, thereby causing the underlying debt or loan to go into default. The sovereign debt of some countries is currently in technical default and there are no guarantees that such debt will eventually be restructured (possibly in a Brady Bond-like arrangement) allowing for a more liquid market in that debt. The measure of a company's or government's ability to repay its debt affects not only the market for that particular debt, but also the market for all Investments related to that company or country.
- 6.2 Additionally, evaluating credit risk for foreign bonds involves greater uncertainty because credit rating agencies throughout the world have different standards, making comparisons across countries difficult. Many debt instruments are simply unrated and may already be in default or considered distressed. There is often less publicly available business and financial information about foreign issuers than those in developed countries. Furthermore, foreign companies are often not subject to uniform accounting, auditing and financial reporting standards. Also, some emerging markets countries may have accounting standards that bear little or no resemblance to, or may not even be reconcilable with, International or US generally accepted accounting principles.

## 7. Currency Risk

Many emerging markets Investments are denominated in foreign Currencies. The weakening of a country's Currency relative to the US dollar or other benchmark Currencies will negatively affect the dollar value of an Investment denominated in that Currency. Currency valuations are linked to a host of economic, social and political factors and can fluctuate greatly, even during intra-day trading. It is important to note that some countries have foreign exchange controls which may include the suspension of the ability to exchange or transfer Currency, or the devaluation of the Currency. Hedging can increase or decrease the exposure to any one Currency, but may not eliminate completely exposure to changing Currency values.

## 8. Market Risk

- 8.1 The emerging equity and debt markets of many emerging markets countries, like their economies, are in the early stages of development. These financial markets generally lack the level of transparency, liquidity, efficiency and regulation found in more developed markets. It is important, therefore, to be familiar with secondary market trading in emerging markets Investments and the terminology and conventions applicable to Transactions in these markets.
- 8.2 Price volatility in many of these markets can be Extreme. Price discrepancies can be common and market dislocation is not uncommon. Additionally, as news about a country becomes available, the financial markets may react with dramatic upswings and/or downswings in prices during a very short period of time. These markets also might not have regulations governing manipulation and insider trading or other provisions designed to "level the playing field" with respect to the availability of information and the use or misuse thereof in such markets. It may be difficult to employ certain risk management practices for emerging markets Investments, such as forward currency exchange contracts, stock options, Currency options, stock and stock index options, futures contracts and options on futures contracts.

## 9. Liquidity / Gapping Risk

Liquidity of an Investment is directly affected by the supply and demand for that Investment. As the supply of potential sellers increases or demand by potential buyers decreases, or both, liquidity of the Investment will decrease and bid/offer spreads will generally widen. On some Investments, because of their structure, liquidity is affected by the costs of unwinding an imbedded Transaction. Natural disasters and economic, social, and political developments in a country can cause a decrease in the liquidity of Investments related to that country, thereby making it difficult to sell promptly at an acceptable price. In addition, the failure, pending failure or financial difficulties of an entity holding significant positions in certain types of Investments may trigger a decrease in the liquidity and value of the same or similar type of Investments. The sale of Investments, including illiquid Investments, could also be subject to legal restrictions in some countries.

## 10. Regulatory/Legal Risk

In emerging markets countries there is generally less government supervision and regulation of business and industry practices, stock Exchanges, over-the-counter markets, Brokers, dealers and issuers than in more developed countries. Whatever supervision is in place may be subject to manipulation or control. Many countries have mature legal systems comparable to those of more developed countries, while others do not. The process of regulatory and legal reform may not proceed at the same pace as market developments, which could result in confusion and uncertainty and, ultimately, increased investment risk. Legislation to safeguard the rights of private ownership may not yet be in place in certain areas, and there may be the risk of conflict among local, regional and national requirements.

In certain areas, the laws and regulations governing Investments in Securities may not exist or may be subject to inconsistent or arbitrary application or interpretation and may be changed with retroactive effect. Both the independence of judicial systems and their immunity from economic, political or nationalistic influences remain largely untested in many countries. Judges and courts in many countries are generally inexperienced in the areas of business and corporate law. Companies are exposed to the risk that legislatures will revise established law solely in response to economic or political pressure or popular discontent. There is no guarantee that a foreign investor would obtain a satisfactory remedy in local courts in case of a breach of local laws or regulations or a dispute over ownership of assets. An investor may also encounter difficulties in pursuing legal remedies or in obtaining and enforcing judgments in foreign courts.

## 11. Trade Settlement, Processing And Clearing

Many emerging markets have different clearance and settlement procedures from those in more developed countries. For many emerging markets Investments, there is no central clearing mechanism for settling trades and no central depository or custodian for the safe keeping of Securities. Custodians can include domestic and foreign custodian banks and depositories, among others. The registration, record keeping and transfer of Investments may be carried out manually, which may cause delays in the recording of ownership. There are times when settlement dates are extended, and during the interim the market value of an Investment may change. Moreover, certain markets have experienced times when settlements did not keep pace with the volume of Transactions resulting in settlement difficulties. Because of the lack of standardized settlement procedures, settlement risk is more prominent than in more mature markets. In addition, you may be subject to operational risks in the event that you do not have in place appropriate internal systems and controls to monitor the various risks, funding and other requirements to which you may be subject by virtue of your activities with respect to emerging market Investments.

## 12. Bondholder/Shareholder Risk

Rules in emerging markets countries regulating the ownership and corporate governance of companies (for example, requiring the disclosure of large ownership positions or governing tender offers by majority shareholders) may not exist or may provide little protection to bondholders and shareholders. Disclosure and reporting requirements in general, from annual and quarterly reports to prospectus content and delivery, may be minimal or non-existent. Antifraud and insider trading law is generally not very developed in many emerging markets countries. There may be no prohibitions or restrictions under local law on the ability of management to terminate existing business operations, sell or dispose of assets, or otherwise materially affect the value of the company without the consent of its shareholders. Antidilution protection may also be very limited. There may be no fiduciary duty, or a limited concept of fiduciary duty, on the part of management or the directors to the company or to the shareholders as a whole or minority shareholders. Remedies for violations of shareholders' rights may be difficult to obtain because of the absence of a system of derivative or class action litigation.

## 13. Risks in General

The nature and extent of investment risks described above vary from country to country and Investment to Investment. Many of these risks overlap, are correlated or related to one another, or are subsets of more general risks. These investment risks will vary with the type of Investment being made, the needs and objectives of particular investors, the manner in which a particular Investment is made or offered, sold or traded, the location or domicile of the issuer, the diversification or concentration in a portfolio (e.g., the amount invested in any one Currency, Security, country or issuer), the complexity of the Transaction and the use of leverage.

## 14. Conclusion

- 14.1 Investments related to emerging markets countries may be considered speculative, and their prices will be much more volatile than those in the more developed countries of the world. It is each client's responsibility to manage the risks which arise as a result of investing in emerging markets Investments and the allocation of assets in its portfolio. The risks set forth herein individually or in the aggregate, as well as other factors, could have a material adverse effect on your investment.
- 14.2 The risk disclosure statement is not intended to be an exhaustive list of all the risk factors affecting emerging markets Investments. You should seek advice from your own advisers with regard to Tax, accounting and other factors to be considered when investing in an emerging markets investment.
- 14.3 Before transacting in an emerging markets investment, you should independently satisfy yourself that you understand and appreciate the significance of the relevant risks, and that such an Investment is appropriate and suitable for you or your managed accounts in light of your objectives, experience, financial and operational resources, and other relevant circumstances. You should also ensure that you fully understand the nature of the Transaction and contractual relationship into which you are entering and the nature and extent of your exposure to risk of loss, which may significantly exceed the amount of any initial payment by or to you.

# Section D

## Best Execution Policy

The summary of our Order Execution Policy below outlines the manner in which we will execute Transactions for you as to obtain the best possible result for you, the factors which will influence the manner of execution and details of execution venues.

### 1. Application

Where you are a Retail Client or a Professional Client we will take all reasonable steps to provide Best Execution when executing your orders in Financial Instruments (each an "Order") except where the Order relates to the primary issuance of securities.

### 2. Types of Financial Instruments

We can facilitate transactions in the following Financial Instruments:-

- Equity investments – e.g. Shares;
- Fixed Income investments – e.g. Bonds, notes, debenture stock, loan stock, certificates of deposit, commercial paper or other debt instruments including any government, public agency, municipal or corporate issues;
- Foreign exchange;
- Fund investments - Units and shares in collective investment schemes;
- Derivative contracts – e.g.
  - Warrants to subscribe for, or purchase, investments falling within the above definition of Financial Instruments;
  - Forwards or futures on investments falling within the definition of Financial Instruments;
  - Options on investments falling within the definition of Financial Instruments;
  - Structured Investment Products.

### 3. Execution Factors

- 3.1 In considering how each of your orders will be executed, we will take into account the following:
- (a) price;
  - (b) cost;
  - (c) speed;
  - (d) likelihood of execution or settlement;
  - (e) size of the Order;
  - (f) nature of the Order; and
  - (g) any other consideration relevant to the efficient execution of the Order.
- 3.2 Each of these factors will not necessarily be given equal weighting in our evaluation of how to obtain the best possible result for you and we will determine the relative importance of each of these factors by reference to:
- (a) your characteristics as a client;
  - (b) the characteristics and nature of the Order, including whether any specific instructions are given;
  - (c) the characteristics of the Financial Instruments that are the subject of the Order; and
  - (d) the characteristics of the execution venues to which that Order can be directed.

3.3 For most Orders, price and cost are likely to be the most important factors. However, we may, at our absolute discretion, decide that other factors listed above are more important and act accordingly.

3.4 It is important to note that whilst we will take all reasonable steps to satisfy we have processes in place to deliver Best Execution for you we cannot guarantee that we will be able to provide Best Execution for each and every Order.

### 4. Specific Instructions

Where you accompany your Order with specific instructions as to the manner of execution or a particular aspect of such Order, and we comply with those specific instructions, we will be deemed to have provided you with Best Execution even if such instructions prevent us from taking the steps which are designed to obtain the best possible results for execution of that Order.

### 5. Execution Venues

5.1 In the absence of any specific instructions we will direct your Orders to the venue we believe will provide the best possible result. This may be any one of:

- (a) regulated markets;
- (b) liquidity providers or market makers;
- (c) third party brokers;
- (d) multilateral trading facilities (systems operated by an investment firm that bring together multiple third party buying and selling interests in financial instruments); and
- (e) systematic internalisers ("SIs") (these are investment firms that on an organized and frequent and systematic basis deal on their own account by executing client orders outside a regulated market or a multilateral trading facility).

5.2 In meeting our obligation to obtain the best possible result when executing your Orders we place significant reliance on the venues, listed below by asset class, to provide us with the best possible result on a consistent basis. We are not required to use these venues on every occasion and consequently we may use other venues approved by us. Details of these other venues are available on request.

#### 5.3 Equity Investments

- (a) Credit Suisse AG Zurich ("CSZ")
- (b) Credit Suisse Securities (Europe) Limited ("CSSEL")
- (c) Third Party Brokers

We may use CSZ and CSSEL to execute your Orders in equities through exchanges of which they are a member (via direct market access) or leave your Orders with a CSZ or CSSEL sales trader to manage, or execute Orders directly with their trading desk. They may also act as a SI in relation to Client Orders. Where Credit Suisse is not a member of an exchange that we wish to execute on, it may route your Order to an Associate or to a third party broker.

#### 5.4 Fixed Income Investments

- (a) CSZ
- (b) CSSEL
- (c) Third Party Brokers

Fixed income investments are traded on an over-the-counter basis and not on regulated markets. We will endeavour where possible to obtain competing quotes from our approved dealers and deal on the best price. It should be noted that with less liquid instruments there may be only one liquidity provider and therefore only one available price to deal on.

#### 5.5 Foreign Exchange

- (a) Credit Suisse AG, Guernsey Branch

We are part of the Credit Suisse Group AG, which is a significant participant in the global foreign exchange markets. Foreign exchange is traded on an over-the-counter basis and not on a regulated market. It is one of the most liquid markets with prices in currency crosses constantly changing. Given the dynamics of the market it is not feasible to obtain competing quotes from dealers prior to execution. We believe that by executing your Orders internally Best Execution may be achieved.

#### 5.6 Fund Investments

Generally the Collective Investment Scheme itself is the only venue in which to transact in a particular Fund. An individual Fund will state in its prospectus the manner in which subscriptions and/or redemptions can be purchased/made. This information should include how frequently liquidity will be provided, the time frames for the calculation of the net asset value and receiving orders. Your Orders will either be executed directly with the Fund in question or passed to CSZ or Euroclear for centralised execution with the relevant Fund.

#### 5.7 Derivative Contracts

- (a) CSZ
- (b) CSSEL
- (c) Third Party Brokers

Your Orders in derivative contracts may be routed to CSZ or CSSEL who execute on our behalf. CSZ or CSSEL may execute your Orders in derivative contracts through exchanges of which they are a member (via direct market access) or execute your Orders directly with their trading desks. Where Credit Suisse is not a member of an exchange it may route your Orders to an Associate or to a third party.

# Section E

## Summary Conflicts Policy

The summary of our Global Conflicts Policy below outlines how we will manage actual and potential conflicts of interest that may arise through the provision of services to you.

### 1 Introduction

Credit Suisse Group has adopted a Global Policy ("Policy") to address actions or transactions with the Credit Suisse Group that may give rise to actual or potential conflicts of interest ("Conflicts"). This policy aims to uphold Credit Suisse Group's reputation for integrity and fair dealing, meet regulatory expectations and maintain the trust and confidence of our clients and counterparties. The Policy makes up one part of our ongoing commitment to adhere to the highest standards of ethical conduct in relation to our treatment of our clients and Conflict management. This document aims to summarize the key aspects of that Policy.

### 2 The Policy

Our Policy is to manage, and where necessary prohibit, any action or transaction that may pose a Conflict between our, or our employees', interests and those of our clients.

### 3 Rationale

Like every global financial services provider that engages in a wide range of businesses and activities, we face potential Conflicts on a regular basis. We strive to manage them in a manner consistent with the highest standards of integrity and fair dealing. In order to ensure that these standards are met we continually and proactively seek to identify and manage Conflicts to avoid both the appearance of, as well as actual, impropriety.

### 4 Identification of Conflicts

4.1 Conflicts are unavoidable in an integrated global financial services operation. We undertake a number of activities and provide a number of services where there is a risk that the interests of one or more clients could be compromised. These include:

- (A) trading on behalf of clients;
- (B) trading for our own account;
- (C) managing portfolios of investments;
- (D) providing investment advice;
- (E) underwriting and/or placing of securities;
- (F) publishing investment research.

4.2 While it is not practical to define precisely or create an exhaustive list of all relevant Conflicts that may arise in our businesses, there are several identifiable categories of Conflicts:

#### (A) Client-Bank Conflicts

Potential Conflicts may exist between client interests and the interests of a particular business unit or the Credit Suisse Group generally. These types of Conflicts include situations where we may be unfairly advantaged at the expense of a client.

#### (B) Client-Client Conflicts

Potential Conflicts may also exist between different clients or different types of clients. In these situations, one client may receive preferential treatment which could negatively impact another client.

#### (C) Employee-Client Conflicts

Potential Conflicts may also exist between the interests of an employee and the interest of clients. In these situations, employees' interests may not be aligned with the best interests of clients.

### 5 Conflicts Management

5.1 We employ a number of techniques to manage and mitigate conflicts of interest including:

- (A) using physical and electronic information barriers to stop and control the flow of information between certain parts of the business;
- (B) monitoring to ensure proper functioning of the information barriers;
- (C) a Reputational Risk Review Process for the escalation of Conflicts that fall outside of established Conflicts-resolution procedures; and
- (D) provision of internal guidance and training to relevant employees to raise their awareness of Conflicts and how to deal with Conflicts when they arise.

5.2 In addition, there are various other policies and processes in place that address Conflicts, at all levels within the Credit Suisse Group. These include, for example, Personal Account Trading, Outside Business Interests, Gifts and Entertainment, New Issues Allocation and the Independence of Financial Research.

### 6 Use of Disclosure

Where we have used all reasonable efforts to manage a Conflict but those efforts are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of a client will be prevented, we will consider whether disclosure is appropriate or whether, bearing in mind the risks involved, we should refrain from acting for one or more of our clients.



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