

# Terms and conditions

## 1. Definitions - Interpretation of Terms

1.1 In this Agreement, unless the context otherwise requires the following words shall have the following meanings:

(i) **"Account Value"** shall mean your cash balance

(ii) **"Act of Insolvency"** shall mean:

- a. the professional Client is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- b. the professional Client makes general assignment, arrangement of composition with or for the benefit of its creditors;
- c. the professional Client has a resolution passed for its winding up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- d. the professional Client seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for all or substantially all of its assets; and
- e. any event analogous to any of the foregoing in any jurisdiction in relation to professional Client occurs.

(iii) **"Agreement"** shall mean this Agreement, including any appendix or schedule attached hereto, and any later amendment or supplement hereto made between the Parties;

(iv) **"Authorised Dealers"** shall mean any person who is authorised by the professional Client to give instructions to GMI via the Platform, or as otherwise agreed between the Parties, on behalf of the Professional Client and whose identity has been provided to GMI on the relevant authorisation form;

(v) **"Available for Trading"** shall mean:

- a. Your cash balance
- b. Plus profits on your open trades
- c. Minus losses on your open trades; and
- d. Minus the aggregate of margin required for your open trades and on any working Orders.

(vi) **"Base Currency"** shall mean USD unless otherwise specified;

(vii) **"Business Day"** means any day on which the banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in United Kingdom;

(viii) **"CFD"** shall mean a contract for difference allowing a party to take a synthetic long or short position in a security, basket of securities, index or basket of indices, the value of which is derived from the fluctuation in value of such security, basket of securities, index or basket of indices;

(ix) **"Contract"** shall mean any contract, whether oral or written, for the purchase or sale of any security, currency, commodity or other property or any derivative contract referable to any measurement or index or the entering into of any financial instrument or derivative and shall include any option, future and CFD entered into between GMI and the Professional Client whether on an exchange or otherwise;

(x) **"Electronic Notifications"** shall mean electronic notifications provided to the Professional Client at an email address designated to GMI;

(xi) **"Equivalent Margin"** shall mean in relation to any Margin comprised in the Margin Balance, such cash that is of the same issuer, nominal value, description and amount as that Margin;

(xii) **"Event of Default"** shall mean any of the following events occurring in relation to Professional Client:

- a. failure to make any payment or delivery to GMI including but not limited to payment or delivery under any Contract and payment or delivery of Margin;
- b. any breach of the Agreement which, if capable of remedy, has not been remedied within ten (10) Business Days of GMI notifying the Professional Client in writing of the breach and requesting that it be remedied;
- c. any attempt to abuse the information or facilities available on the Platform;
- d. an Act of Insolvency;
- e. any admission that it is unable to or does not intend to perform any of its obligations under the Agreement; and
- f. the occurrence of an Event of Default or Termination Event affecting all Transactions, each as defined under the ISDA Master Agreements.

(xiii) **"FCA"** shall mean the UK Financial Conduct Authority;

(xiv) **"Professional Client Account"** shall mean any account with GMI or a custodian or other account-holding institution appointed by GMI for such purpose either in the form of an omnibus account maintained for the clients of GMI or an individual account in the name of the Professional Client as agreed between the Parties and, in the absence of agreement, as selected by GMI;

(xv) **"Intellectual Property Rights"** shall mean without limitation, patent, copyright, trade secret, trademark and other proprietary rights in and to GMI's Platform and each component thereof, and to all modifications, including custom modifications, to the GMI's Platform and each component thereof, whether made by or with the assistance of any other person and any knowhow, techniques, methodologies, equipment or processes used by GMI, the look and feel of the GMI's Platform and each component thereof and all of GMI's software (front and back end) all registered trademark applications, trademarks and service marks, trade names, URL registrations and all pricing information.

(xvi) **"ISDA Master Agreement"** shall mean the ISDA Master Agreement published by the International Swaps and Derivatives Association, Inc. (2002 version) including any Transactions (as defined therein) entered into or to be entered into between GMI and Professional Client;

- (xvii) **"Liquidation Amount"** shall mean as defined in Section 7 of this Agreement;
- (xviii) **"Liquidation Date"** shall mean as defined in Section 7 of this Agreement;
- (xix) **"Margin"** shall mean any cash deposits acceptable to GMI by Professional Client in accordance with the terms of this Agreement and the Website;
- (xx) **"Margin Balance"** shall mean, at any time, the aggregate Value of all Margin that has been Transferred to GMI hereunder, together with any pending amounts not Transferred to Professional Client as interest or distributions pursuant to the terms laid out on the Website, as reduced by the Value of any Equivalent Margin that has been Transferred to the Professional Client hereunder;
- (xxi) **"Margin Delivery"** shall mean as defined in Section 4.1.1.
- (xxii) **"Margin Return"** shall mean as defined in Section 4.1.2.
- (xxiii) **"Margin Requirements"** shall mean the total amount of Margin required by GMI in respect of the Professional Client's trading activities under this Agreement for the purpose of protecting GMI against loss or risk of loss on present, future or contemplated Contracts and as set out on the Website from time to time, or as otherwise notified to the Professional Client and may be adjusted by GMI at any time;
- (xxiv) **"Obligations"** shall mean all obligations or liabilities of any kind of the Professional Client from time to time in relation to this Agreement or the ISDA Master Agreement, whether they are:
- a. to pay money or to perform (or not to perform) any other act;
  - b. Express or implied;
  - c. Present, future or contingent;
  - d. Joint or several;
  - e. Incurred as a principal or surety or in any other manner; or
  - f. Originally owing to GMI or acquired by GMI from someone else.
- (xxv) **"OTC"** shall mean any Contract which is traded pursuant to the terms of this Agreement and the ISDA Master Agreement between the Parties;
- (xxvi) **"Platform"** shall mean the online trading platform made available by GMI to the Professional Client;
- (xxvii) **"Transfer"** shall mean, in respect of cash transfers, receipt by a party in immediately available and freely convertible funds of the relevant currency. The words "Transfers" and "Transferred" shall be construed accordingly;
- (xxviii) **"Value"** shall mean, for any day, the amount of such cash notionally converted by GMI into the Base Currency; and
- (xxix) **"Website"** shall mean GMI's website, as amended from time to time, which at the time of signing this Agreement may be found on [www.GMIMarkets.co.uk](http://www.GMIMarkets.co.uk).

1.2 References to the singular shall include the plural and vice versa, and references to a person or a party shall include an individual, firm, company, corporation, unincorporated body of persons and any government entity and shall include any successors in title, permitted assignees and permitted transferees.

1.3 Headings are for ease of reference only and shall not affect the interpretation of this Agreement. References to sections and schedules are to sections and schedules of this Agreement. References to this Agreement or any other document are to that document as from time to time amended, restated or replaced.

1.4 References to any statute or statutory provision include any subordinate legislation made under it and include any provision amending it or re-enacting it.

1.5 The words “other”, “including” and “in particular” shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider interpretation is possible.

1.6 In the event of a conflict between this Agreement and the ISDA Master Agreement in relation to OTC Contract, the provisions of the ISDA Master Agreement shall prevail.

## **2 Trading Terms & Conditions**

2.1 GMI is regulated by the FCA, should any provision of this Agreement be or become in breach of the regulatory requirements imposed on GMI, this Agreement shall be deemed to be amended to the extent necessary to ensure compliance.

2.2 GMI will grant the Professional Client access to engage in online, real-time investment trading facilities via the Platform with GMI on the terms of this Agreement. All Contracts will, unless otherwise agreed, be executed using the Platform.

2.3 The Professional Client will be entitled to trade any of the products supported for trading by GMI on the Platform as set out on the Website from time to time, subject to the trading limits imposed on the Professional Client by GMI from time to time, and provided that GMI or the Professional Client is not prohibited by law or regulation from doing so. GMI is not obliged to enter into a Contract with the Professional Client and if GMI declined to enter into a Contract, it shall use its reasonable endeavours to notify the Professional Client but shall not be obliged to provide a reason.

2.4 All Contracts will be entered into on an execution-only basis and GMI will not make any recommendation to the Professional Client, advise the Professional Client on the merits of any Contract or assess the suitability of any Contract for the Professional Client. GMI is entitled to assume that the Professional Client has sufficient experience and knowledge to understand the risk involved in each Contract it enters into. Notwithstanding the foregoing, GMI has provided to the Professional Client guidance on and warnings about the risks associated with the Contracts, as furthermore highlighted on the Website.



2.5 GMI has categorised the Professional Client as a professional client for the purpose of the FCA rules. You acknowledge that GMI will only accept clients that meet the criteria of Professional or Eligible Counter-Party under the COBS 3 FCA client categorization. The Professional Client may instead request categorisation as an eligible counterparty (in which case it would benefit from less protection afforded by the FCA rules). GMI may not be able or may decline to provide the Professional Client on the basis of either such categorisation.

2.6 As a Professional or Eligible Counter-Party Client, rather than a Retail client, you agree to the following loss of Regulatory Protections:

2.6.1 Lose your right to make any eligible complaints to the Financial Ombudsman Services (FOS);

2.6.2 You will be exempt from compensation protection under the FSCS scheme,

2.6.3 It will be assumed that you possess the necessary level of experience, knowledge and expertise in order to understand the inherent risks associated with these particular investments, products, services and associated transactions for which you have been classified as a Professional Client; The Markets in Financial Instruments Directive impose detailed requirements on financial promotions directed at retail clients, however promotions directed at professional clients are simply subject to the high level requirement that they are fair, clear and not misleading.

2.7 Each Contract will be executed between GMI and the Professional Client as principals.

### **3 Margin Based Trading Operations**

3.1 The Professional Client shall be required to provide and maintain Margin to support its trading operations on the Platform.

3.2 The Professional Client acknowledges and accepts that GMI operates with an automated risk monitoring and Margin call facility designed to monitor the overall Margin Requirements of the Professional Client in support of the Professional Client's trading operations. Using this automated risk monitoring and Margin call facility, GMI shall require initial and maintenance Margin of the type and amount and within the timeframes as stated from time to time on the Website. GMI reserves the right to adjust these Margin Requirements at any time. The information concerning Margin Requirements available on the Website shall be binding on the Professional Client as if it has been set out in full in this Agreement.

3.3 The Professional Client agrees that it is responsible for ensuring that sufficient Margin is maintained at all times with GMI in support of the Professional Client's trading operations. The Professional Client further agrees that GMI may, but is not obliged, to issue the Professional Client with Margin calls requesting the Transfer by the Professional Client of additional Margin in accordance with the terms laid out on the Website.

3.4 Any Margin provided by the Professional Client shall be transferred to such account of GMI designated by GMI for Margin of this type and all right, title and interest to such Margin shall be transferred to GMI and will remain the property of GMI until the earlier of:

3.4.1 The Margin Balance exceeds GMI's Margin Requirements as provided on the Website, whereby GMI can Transfer to the Professional Client Equivalent Margin to Professional Client with a Value determined in GMI's sole discretion equal to the excess or otherwise in accordance with the terms laid out on the Website; or

3.4.2 The Professional Client no longer has any outstanding Contracts and the Parties have agreed that no further trading shall take place on the Platform, provided that GMI does not have any actual or contingent claim against the Professional Client under this Agreement, the ISDA Master Agreement or otherwise, whereby GMI shall Transfer to the Professional Client an amount of Equivalent Margin with a Value equal to the Margin Balance.

3.5 The amount and timing of Transfers of interest, or distributions due to the Professional Client on the Margin Balance shall be as agreed between the Parties from time to time.

3.6 The Professional Client agrees that all right, title and interest in and to any Margin Transferred to GMI shall vest in GMI free and clear of any liens, claims, charges or encumbrances or any other interest of the Professional Client or any third person.

3.7 Nothing in this Agreement is intended to create or does create in favour of either Party any mortgage, charge, lien, pledge, encumbrance or other security interest in any cash or other property transferred by one Party to the other Party under the terms of this Agreement.

3.8 In order to ensure (i) the Professional Client's compliance with its requirements to provide and maintain Margin; and (ii) that settlement of Contracts can be effected, GMI may require that the Professional Client maintains assets or funds in one or several Professional Client Accounts, and Professional Client hereby authorises GMI to establish any such required Professional Client Account(s).

3.9 Professional Client grants permission to GMI to access the Professional Client's funds and assets in any Professional Client Account (subject to the limitations set forth herein) to the extent that the Professional Client is required to Transfer Margin to GMI in support of its trading operations, or GMI is entitled to receipt of payment or delivery from the Professional Client in respect of any Contract or otherwise under this Agreement or the ISDA Master Agreement (including any fees and expenses or other charges in connection therewith). The amount of funds and/or assets required to be maintained by the Professional Client in the Professional Client Accounts at any time shall be set out on the Website or as otherwise communicated by GMI.

## **4 Trading Account & Margining**

### **4.1 General**

4.1.1 The Professional Client shall deliver to, and maintain with GMI cash equal to or greater than the Margin Requirement (hereafter a “Margin Delivery”) as notified to the Professional Client by GMI from time to time by publication on the Website or otherwise.

4.1.2 If, at any time the Margin Balance exceeds the Margin Requirements, GMI may, at the Professional Client’s request, return Equivalent Margin equal to the excess to the Professional Client (hereafter a “Margin Return”).

4.1.3 The Professional Client shall be under an obligation to monitor and maintain its Margin Requirements with GMI at all times, nevertheless, GMI shall where reasonably practicable notify the Professional Client of any Margin Delivery on each Business Day.

4.1.4 The Professional Client may from time to time, upon consent from GMI not to be unreasonably withheld, substitute Margin with Equivalent Margin, provided that GMI received Equivalent Margin before it provides the Margin to the Professional Client.

4.1.5 GMI shall pay to the Professional Client such interest or distributions due on the Margin Balance as agreed between the Parties.

4.1.6 GMI shall calculate the Margin Requirement and the Margin Balance in good faith and in a commercially reasonable manner. All calculations and determinations by GMI shall be binding in the absence of manifest error.

## **5 GMI’S Interest In Trading Account Assets**

5.1 GMI shall have the right, title and interest in and to the cash in the Professional Client Account free and clear of any liens, claims, charges or encumbrances or any other interest of the Professional Client and any third person. Each transfer of cash from the Professional Client to GMI for the purpose of trading shall be made so as to continue or result in a valid and legally effective transfer of the Professional Client’s legal and beneficial title to GMI.

5.2 Nothing in this Agreement is intended to create or does create in favour of either Party any mortgage, charge, lien, pledge, encumbrance, or other security interest in any cash transferred by one Party to the other Party under the terms of this Agreement.

5.3 The Professional Client represents to GMI (which representation shall be deemed to be repeated on each day in which any Margin Balance is outstanding) that it is the sole owner of or otherwise has the right to transfer all cash it transfers to GMI under the Agreement, free and clear of any security interest, lien, encumbrance, or other restriction.

5.4 If there is an Event of Default or this Agreement terminates, GMI may set-off or otherwise apply any cash held in or payable to the Professional Client Account, including without limitation the Margin Balance, which is owed to the Professional Client against any Obligations.

3.4 Any Margin provided by the Professional Client shall be transferred to such account of GMI designated by GMI for Margin of this type and all right, title and interest to such Margin shall be transferred to GMI and will remain the property of GMI until the earlier of:

3.4.1 The Margin Balance exceeds GMI's Margin Requirements as provided on the Website, whereby GMI can Transfer to the Professional Client Equivalent Margin to Professional Client with a Value determined in GMI's sole discretion equal to the excess or otherwise in accordance with the terms laid out on the Website; or

3.4.2 The Professional Client no longer has any outstanding Contracts and the Parties have agreed that no further trading shall take place on the Platform, provided that GMI does not have any actual or contingent claim against the Professional Client under this Agreement, the ISDA Master Agreement or otherwise, whereby GMI shall Transfer to the Professional Client an amount of Equivalent Margin with a Value equal to the Margin Balance.

3.5 The amount and timing of Transfers of interest, or distributions due to the Professional Client on the Margin Balance shall be as agreed between the Parties from time to time.

3.6 The Professional Client agrees that all right, title and interest in and to any Margin Transferred to GMI shall vest in GMI free and clear of any liens, claims, charges or encumbrances or any other interest of the Professional Client or any third person.

3.7 Nothing in this Agreement is intended to create or does create in favour of either Party any mortgage, charge, lien, pledge, encumbrance or other security interest in any cash or other property transferred by one Party to the other Party under the terms of this Agreement.

3.8 In order to ensure (i) the Professional Client's compliance with its requirements to provide and maintain Margin; and (ii) that settlement of Contracts can be effected, GMI may require that the Professional Client maintains assets or funds in one or several Professional Client Accounts, and Professional Client hereby authorises GMI to establish any such required Professional Client Account(s).

3.9 Professional Client grants permission to GMI to access the Professional Client's funds and assets in any Professional Client Account (subject to the limitations set forth herein) to the extent that the Professional Client is required to Transfer Margin to GMI in support of its trading operations, or GMI is entitled to receipt of payment or delivery from the Professional Client in respect of any Contract or otherwise under this Agreement or the ISDA Master Agreement (including any fees and expenses or other charges in connection therewith). The amount of funds and/or assets required to be maintained by the Professional Client in the Professional Client Accounts at any time shall be set out on the Website or as otherwise communicated by GMI.

## **6 Client Money & Assets**

6.1 In accordance with CASS 7.2, client money rules, the Professional Client transfers full ownership ("Title Transfer of Collateral") of any cash which it provides to GMI for the purpose of securing or covering the Professional Client's obligations under this Agreement. As a result, such cash will not be held in accordance with the FCA's client money rules.

6.2 Furthermore, the Professional Client understands that the title transfer collateral agreement will only be terminated through the termination of your entire client account agreement with GMI or in the event that GMI otherwise considers and agrees to a new policy to incorporate a client request as detailed within the client money rules.

## **7 Termination & Close-Out Netting Of Contracts**

7.4 On the occurrence of an Event of Default by the Professional Client, GMI may, by notice to the Professional Client specify a date for the termination and liquidation of the Contracts (hereafter the "Liquidation Date") save that on the occurrence of an Event of Default which is an Act of Insolvency, the occurrence of the Act of Insolvency shall automatically constitute a Liquidation Date without GMI being required to give notice of such. On the Liquidation Date:

7.1.1 Neither Party shall be obliged to make any further payments or deliveries under any Contract which would, but for this Section 7, have fallen due 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 as furthermore defined below;

7.1.2 GMI shall, or as soon as reasonably practicable thereafter, determine in respect of each Contract its total loss or gain, in each case, in the base Currency (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 have been made under each Contract (having due regard to, if appropriate, such market quotations published on, or official statement processes set by, a relevant exchange or clearing organisation as may be available on, or immediately preceding, the date of calculation);

7.1.3 For the purpose of Section 7.1.2, GMI may convert amounts denominated in any currency other than the Base Currency into the Base Currency at such rate prevailing at the time of the calculation as GMI shall reasonably select;

7.1.4 GMI shall treat each cost or loss to the Professional Client as a positive amount to GMI, and each gain/ profit by the Professional Client as a negative amount to GMI. These positive and negative amounts are aggregated to produce a single net positive or negative amount, denominated in the Base Currency (hereafter the "Liquidation Amount");



7.1.5 If the Liquidation Amount is a positive amount, the Professional Client shall pay it to GMI and if it is a negative amount, GMI shall pay it to the Professional Client. GMI shall notify the Professional Client of the Liquidation Amount, and to which party it is payable, immediately after the calculation of such amount.

7.5 This Section 7 applies to each Contract entered into or outstanding between the Parties on or after the date of this Agreement

## **8 Trade Execution**

8.1 By executing this Agreement, the Professional Client agrees to GMI's Best Execution Policy as set out on its Website, and to GMI entering into Contracts outside a regulated market or multilateral trading facility (each as defined in Directive 2004/39/ EC). The Professional Client acknowledges that to the extent it provides GMI with specific instructions in relation to the execution of a Contract. GMI may not be able to comply with its Best Execution Policy.

8.2 GMI may combine instructions for Contracts with the Professional Client with instructions for Contracts with other clients. For this purpose, GMI must reasonably believe that such aggregation is in the Professional Client's best interests. However, aggregation may, on occasion, work to the Professional Client's disadvantage.

8.3 In the event of communications failure or other related problems that prohibit the normal execution of trades using the Platform, the Parties agree to accept trade execution instructions via the telephone. All telephone calls made to and by GMI will be recorded by GMI, and the Professional Client confirms that it operates a similar procedure at the premises of the Professional Client.

8.4 You represent and warrant to us that:

8.4.1 You will not submit an Order to open and you have not opened a trade with us in connection with:

- (a) a placing, issue, distribution or other analogous event; or
- (b) an offer, take-over, merger or other analogous event, in which you are involved or otherwise interested;

8.4.2 You will not submit and have not submitted an Order to open or close a trade that contravenes any primary or secondary legislation or other law against insider dealing, market manipulation, market conduct or any behaviour deemed to be market abuse under FCA's Market Abuse Regulations.

8.4.3 You will not trade with us to deliberately transfer money from one account to another by attempting to match Orders or trades with another customer through collusion;

8.4.4 You will not submit any Order that is artificial or fictitious or place an Order that is designed to give the market a false or misleading impression as to the supply or demand, value or price of an Instrument;

8.4.5 You will not act or engage in any conduct which is likely to damage the fairness, integrity, proper functioning or orderliness of the ECN;

8.5 You agree that each of the representations and warranties set out in Term 8.4 shall be deemed repeated each time you submit an Order to us or open or close a trade with us. You must advise us immediately if you cannot give such representations and warranties at any time.

8.6 If (a) you open any trade in breach of the representations and warranties given in Terms 8.4 or 8.5 above, or (b) we have reasonable grounds for suspecting that you have done so, we may in our absolute discretion and without being under any obligation to inform you of our reason for doing so, close that trade and any other trades that you may have open at that time and prevent you from opening further Orders on your Account. The following will apply to any trade(s) closed for such breach or suspected breach:

8.6.1 You shall remain liable for any loss on such trade(s); and

8.6.2 We may withhold any payment that may have otherwise been due to you in respect of a profit on such trade(s) unless and until you produce such evidence as we may reasonably require to establish that you have not committed the breach of warranty and/or misrepresentation the suspicion of which was the ground for closing your trade(s). If you do not produce such evidence within the period of six months from the date on which such trade was opened, you shall not be entitled to any profit from any such trades.

8.7 You acknowledge that the trades in which you deal with us are speculative instruments and you agree that you will not submit any Orders to us nor open any trades with us in connection with any corporate finance style activity.

8.8 We may, and in some cases we are obliged to, report to the FCA or other relevant regulatory authority details of any Order submitted by you or trade entered into by you.

## **9 Post Trade**

9.1 The Professional Client will be responsible for the due performance of its Obligations under each Contract, and will promptly deliver to GMI any instructions, money, documents, or property required to meet its obligations under each Contract.

9.2 The Professional Client shall be accountable for any losses, costs and expenses suffered by GMI as a result of failure to satisfy its Obligations including the cost if a buy in and any financial consequences of GMI failing to satisfy a back-to-back Contract.

9.3 GMI shall provide statements to the Professional Client via the Platform and or by email which shall be sufficiently detailed so as to enable the Professional Client to complete a reconciliation of all Contracts executed, all outstanding open Contract positions, and the amount and composition of the Margin Balance and the Professional Client Account. GMI will supply information about the status of the Professional Client's order on request.

9.4 GMI may be obliged to make information about certain Contracts public.

## **10 Statements**

10.1 GMI shall provide statements to the Professional Client via the Platform and/or by email which shall be sufficiently detailed so as to enable the Professional Client to complete a reconciliation of all Contracts executed, all outstanding open Contract positions and maturing positions, the amount and composition of the Margin Balance and individual credit and debit entries as well as the balances of Professional Client in any Professional Client Account.

10.2 Should GMI maintain one or several Professional Client Accounts in respect of cash belonging to one or several clients of the Professional Client, separate statements shall be provided in respect of each such account.

## **11 Dees, Commissions & Other Charges**

11.1 GMI shall charge the Professional Client in relation to each Contract any relevant transaction, exchange and other trade or non-trade related fees, commissions and other applicable charges from time to time as agreed in writing between the Parties.

11.2 Subject to the following paragraph, GMI may vary such fees, commissions and other charges without notice to the Professional Client if the variation is to the Professional Client's advantage, or the grounds for the variation is due to external circumstances beyond GMI's control. Such circumstances include, but are not limited to:

11.2.1 Changes in the relationship with GMI's counterparties, which affect GMI's fee structures; and

11.2.2 Changes in the commissions and charges from exchanges, clearing houses, information providers or other third party providers which may be passed on to the Professional Client by GMI.

11.3 GMI may vary such fees, commissions and other charges upon five (5) Business Days' notice if:

11.3.2.1.1 Market conditions, including competitive behaviour, call for changes to GMI's conditions or GMI, for commercial reasons, wishes to change its general cost and pricing structure; or

11.3.2.1.2 The circumstances applicable to the Professional Client, based on which GMI imposed individual conditions, have changed.

11.4 In addition, the Professional Client shall be obliged to pay all applicable value added tax (hereafter "VAT") and other taxes, storage and delivery charges, exchange and clearing house fees, and all other costs, fees and expenses incurred by GMI in connection with any Contract and/or in connection with maintaining the Professional Client relationship.

11.5 GMI shall provide to the Professional Client an invoice setting out the amounts due under this Section 11 at such intervals as GMI and the Professional Client may agree from time to time, and the Professional Client authorises GMI to deduct such charges from any cash in the Professional Client Account at the due date for payment unless the Professional Client provides for payment by other means before such date.

## **12 Interest**

12.1 If there is a positive Available for Trading on the Professional Client Account GMI will pay interest to the Professional Client on the full amount of that Available for Trading or Account Value as agreed between the Parties or at the rate agreed between the Parties or the rate provided on the Website.

12.2 If there is a negative Available for Trading on the Professional Client Account, the Professional Client must pay interest to GMI on the full amount of that Available for Trading at the rate as agreed between the Parties or the rate provided on the Website.

12.3 GMI may vary such interest rates without notice when changes are to the Professional Client's advantage, or the grounds for changes are due to external circumstances beyond GMI's control. Such circumstances may include but not limited to:

12.3.1 Changes in the monetary or credit policies domestically or abroad which may have an impact on GMI; and

12.3.2 Changes in GMI's fee structure with its counterparties.

12.4 GMI may vary such interest rates with one (1) months' notice if:

12.4.1 Market conditions, including competitive behaviour, call for changes to the terms of this Agreement; or

12.4.2 GMI for commercial reasons wishes to change its general cost and pricing structure; or

12.4.3 The circumstances applicable to the Professional Client, based on which the Professional Client imposed individual conditions were provided, have changed.

12.5 Interest will be calculated daily on a money market basis (i.e. Actual/360 or Actual/365 for GBP) and settled at the end of each calendar month.

## **13 Access Password Protection**

13.1 Instructions to enter into a Contract may only be given by an Authorised Dealer using the access password which GMI has provided for such purpose.

13.2 GMI shall be entitled to act on any instruction it receives which purports to have been given by such an Authorised Dealer and has been given under such an access password without further enquiry.

13.3 The Professional Client and its Authorised Dealer(s) are obliged to keep the access passwords confidential and ensure that third parties do not obtain access to the Professional Client's online trading facilities, including but not limited to the Platform.

13.4 GMI shall not be liable to the Professional Client for Contracts executed pursuant to an instruction from an Authorised Dealer or by means of the Professional Client's access password even if such use is unauthorised or wrongful.

13.5 The Professional Client shall inform GMI immediately of any unauthorised access to the Platform or any unauthorised instruction.

## **14 Misuse of Trading Facilities**

14.1 GMI aims to provide highly efficient trading liquidity for the majority of the financial instruments supported on the Platform. Due to the highly automated nature of the delivery of the information made available on the Platform, the Professional Client acknowledges that the occurrence of price misquotation is likely to arise from time to time.

14.2 In such circumstances, without prejudice to any rights the Professional Client may have under English law or otherwise, GMI shall not be bound by any Contract which purports to have been made (whether or not confirmed by GMI) at a price which:

14.2.1 GMI is able to substantiate to the Professional Client was manifestly incorrect at the time of the transaction; or

14.2.2 Was, or ought to have reasonably been known by the Professional Client to be incorrect at the time of the transaction. In such situation, GMI may at its sole discretion either cancel the trade or correct the price at which the trade was done (by correcting either the price at which GMI hedged the trade or alternatively to the historic market price).



14.3 Trades and trading strategies executed by the Professional Client or client of the Professional Client aimed at exploiting such misquotations or generally deemed to be in bad faith on the part of the Professional Client itself or any beneficiary to the trade (commonly known as “sniping”) will not be accepted by GMI. In the event that GMI determines, at its sole discretion and in good faith, that the Professional Client or any of its Authorised Dealer(s) or its clients is/are taking advantage of or attempting to take advantage of such misquotation or is/are perpetrating other acts of

14.3.2 Terminate the entire trading relationship with the Professional Client forthwith by giving written notice; and/ or

14.3.3 Restrict the Professional Client’s access to the information made available on the Platform; and/ or

14.3.4 Adjust the price spreads available to the Professional Client; and/ or

14.3.5 Retrieve from the Professional Client’s funds or assets held on any Professional Client Account any historic trading profits (as determined by GMI) that have been gained by the Professional Client, its Authorised Dealer(s) or its clients through such abuse; and/ or

14.3.6 Upon written notice close an account maintained on behalf of a client of the Professional Client and instructs the Professional Client that the Authorised Dealer(s) of such client of the Professional Client is/ are excluded from further use of trading facilities with GMI.

## **15 Platform**

15.1 The Platform and its content are provided “as is”. The Professional Client uses the Platform at its own risk and GMI shall not be liable for any use of the Platform. GMI disclaims all express and implied terms as to satisfactory quality and fitness for purpose of the Platform to the fullest extent permitted by applicable law.

15.2 GMI disclaims any obligation to keep the information on the Platform up to date or free from errors or viruses or to maintain uninterrupted service or access.

15.3 The Professional Client acknowledges that electronic access to systems may not be secure. GMI disclaims all liability for any security breach other than one resulting from its gross negligence, wilful default or fraud.

15.4 GMI may at any time and with reasonable notice:

15.4.1 Restrict or suspend the Professional Client’s access to the Platform; and

15.4.2 Modify the Platform and its content.

15.5 The Professional Client is responsible for providing the facilities to enable it to use the Platform. The Professional Client will ensure that the facilities are suitable for use with the Platform and maintained in good order. The Professional Client will carry out virus checks on a regular basis and will not knowingly or negligently introduce or permit, and will use reasonable measures to prevent, the introduction of, any viruses into the Platform.

15.6 In the event that the Professional Client receives or accesses any data or information other than that which it is entitled to receive or access pursuant to the Agreement, it will immediately notify GMI and will not use such data or information in any way.

15.7 All rights in patents, copyrights, design rights, trademarks and any other intellectual property rights (whether registered or unregistered) relating to the Platform remain vested in GMI or its licensors.

## **16 Data Protection**

16.1 The term “Data Protection Legislation” shall, for the purposes of this Agreement mean the Data Protection Act 1998 (the “DPA”), the EU Data Protection Directive (95/46/EC) and all legislation implementing that directive, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all other applicable laws and regulations whatsoever relating, from time to time, to the processing of personal data and privacy. The terms, “data controller”, “data processor” and “personal data” shall each have the meaning ascribed to that term in the DPA.

16.2 We are registered with the Information Commissioner’s Office as a data controller. In the case where we act as a data controller of your personal data, we shall comply with our obligations under the Data Protection Legislation in relation to all personal data that is processed by us in the course of providing the services to you and performing our obligations under this Agreement and administering the relationship between you and us. You will provide us with reasonable assistance in connection with our compliance with the Data Protection Legislation. You acknowledge and agree that if in, providing the services to you and performing our obligations under this Agreement and administering the relationship between you and us, we act as a data controller of your personal data, we may transfer your personal data to countries outside of the European Economic Area.

16.3 To the extent we act as a data processor of your personal data:

16.3.1 We will process such personal data only in accordance with your instructions from time to time, and you hereby instruct us to take such steps in the processing of such personal data on your behalf as are reasonably necessary for providing the services to you and performing our obligations under this Agreement, and administering the relationship between you and us;

16.3.2 We will take such technical and organisational measures against unauthorised or unlawful processing of such data and information and against accidental loss or destruction of, or damage to, such data and information as are appropriate to you as data controller;

16.3.3 You acknowledge that we are reliant on you alone for direction as to the extent we are entitled to use and process your personal data. Consequently, we shall be entitled to relief from liability in circumstances where a data subject makes a claim or complaint in respect of our actions to the extent that such actions directly result from instructions received from you; and

16.3.4 You will, as data controller of your personal data, comply with your obligation under all applicable Data Protection Legislation in relation to such personal data that is processed by you in the course of performing your obligations under this Agreement, including in respect of all instructions you give us in relation to the processing of such personnel data on your behalf.

16.4 Our Privacy Policy sets out the terms on which we process any personal data we collect from you, or that you provide to us, and our Cookie Policy provides information on the cookies we use and the purposes for which we use them. Our Privacy Policy and Cookie Policy are available on our Website. By using our Website you consent to such processing of personal data and use of cookies, and you warrant that all data provided by you is accurate.

16.5 You authorise us or our Associated Companies to contact you by email, telephone or post in order to discuss any aspect of our business or of our Associated Companies' business. If you do not wish us or our Associated Companies to so contact you for any direct marketing activities, you must inform us (or the relevant Associated Company) in writing either by email or post. Our email address and postal address (which is also our registered address) is at the front of this Agreement.

16.6 Due to legislation surrounding data protection (GDPR) introduced in early 2018, GMI therefore has to notify you that your data may be accessed overseas by our technical support team, developers and finance team. If you do not consent to this please notify Customer Services.

16.7 Information GMI holds for you will be kept for a minimum of 5 years after the business relationship ends.

16.8 In completing, signing and submitting this application form, you consent to GMI to contact you about other products, services and offers we you may be interested in. If you do not wish to be contacted about such information, please tick the following box

16.9 In completing, signing and submitting this application form, you consent to GMI to share your personal information to affiliates for the purpose of contacting you by email, telephone or post to provide you with information about products, services and offers they think you may be interested in. If you would not like GMI to share your information for this purpose, please tick the following box:

16.10 By signing and submitting this application form, you confirm the information you have provided is true to the best of your knowledge and belief and agreed to promptly notify GMI in writing if any of the information you have provided materially changes or cease to be true and accurate.

16.11 If you have any complaints regarding how your data is being held by GMI, you can submit a complaint to the ICO <https://ico.org.uk/for-the-public/>

## **17 Liability**

17.1 GMI shall not be liable for any losses, damages, costs or expenses arising out of or in connection with:

17.1.2 The terms of this Agreement or an ISDA Master Agreement between the Parties;

17.1.3 A breach of any of the representations or warranties set out in this Agreement;  
and/ or

17.1.4 The provision or use of the Platform in each case whether arising out of gross negligence, breach of the Agreement, misrepresentation or otherwise, incurred or suffered by the Professional Client unless such loss is a reasonably foreseeable consequence or arises directly from GMI's gross negligence, wilful default or fraud.

17.2 GMI shall not in any circumstance be liable for any indirect or consequential loss. Nor shall GMI be liable for any loss of profits, loss of goodwill or loss of business opportunity.

17.3 GMI shall not be liable for, and gives no representation in connection with, the performance or profitability of the Contracts which the Professional Client enters into.

17.4 The Professional Client indemnifies and holds harmless GMI for any all losses, damages, costs, expenses, liabilities and claims (including any reasonable legal costs and expenses relating to investigation or defending any such claims) which GMI may suffer or incur as a result of performing its obligations under the Agreement.

17.5 Nothing in this Agreement shall exclude or restrict any liability which GMI cannot lawfully limit.

## **18 Force Majeure**

18.1 Neither Party shall be liable to the other Party for any failure, hindrance or delay in performing its obligations under this Agreement where such failure, hindrance or delay arises directly or indirectly from circumstances outside the Parties' control. Such force majeure events shall include, without limitation, any technical difficulties such as telecommunications or computer failures or disruptions, non-availability of the Parties' websites, failure of any exchange, clearing house or settlement system, declared or imminent war, terrorism, civil unrest, catastrophes of nature, strikes, lock-outs, boycotts or blockades including cases where only part of the Parties' functions are affected by such events.

## **19 Proprietary Rights**

19.1 GMI remains the only owner of any of its data, information or files that the Professional Client could have access to in accordance with this Agreement.

19.2 GMI owns any and all Intellectual Property Rights regarding the Platform(s). Any Intellectual Property Rights which are not owed by GMI, but by a third party provider, GMI warrants that it has obtained the third party's consent for its use. The Platform(s) remain the property of GMI at all times. Furthermore, the Professional Client does not obtain access to the source code of the Platform(s). The Professional Client is under an obligation not to change or further develop the Platform(s) in any way, unless expressly agreed in writing between the Parties.

19.3 The Professional Client is under an obligation not to sell, lease or to transfer any software covered by this Agreement to any third party and is furthermore not entitled to transfer the rights and obligations in accordance with this Agreement to any third party.

## **20 Confidentiality**

20.1 The Professional Client accepts that GMI may share information about the Professional Client with other entities within the GMI's group for the purpose of enabling such other entities to provide the services offered to the Professional Client under this Agreement. Such other entities shall be subject to the same regulatory requirements for treating confidential client information as GMI.

20.2 Neither Party shall other than as stipulated above disclose to any person (unless required to do so by any applicable law or by any regulatory or supervisory authority or by any other person entitled by law to require disclosure) any information relating to the business, investments, finances, customers, design features, documents or other matters of a confidential nature of the other Party of which it may come in the possession of, and each Party shall use all reasonable endeavours to prevent any such disclosure by any third party.



20.3 This shall not apply to any information which has been independently developed by the relevant Party or which is or becomes publicly available or which falls into the public domain through no fault of the relevant Party or comes in the relevant Party's possession by other means.

## **21 Conflicts of interest & Inducements**

21.1 GMI is required to maintain a conflicts of interest policy in which it identifies circumstances that may give rise to conflicts of interest, and the methods by which GMI manages such conflicts. Where the arrangements used to manage conflicts are not sufficient to ensure, with reasonable confidence, that the risk of damage to the Professional Client will be prevented. GMI is required to disclose the nature and source of the relevant conflict. A copy of GMI's conflict of Interest policy is available upon request.

21.2 GMI is also required to disclose information to the Professional Client about any arrangements it has which involve it paying or providing certain fees, commissions or benefits to, or receiving them from a third party.

## **22 Representations & Warranties**

22.1 The Professional Client makes the following representations and warranties, which representations and warranties will be deemed to be repeated by the Professional Client on each date on which a Contract is entered into:

22.1.2 It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;

22.1.3 It has all necessary authority, powers, consents, licences and authorisations and has taken all necessary action to enable it to enter into this

22.1.4 Agreement and such Contract and to grant the security interests referred to in this Agreement;

22.1.5 The persons entering into the Agreement and each Contract on its behalf have been duly authorised to do so;

22.1.6 This Agreement, each Contract and the Obligations under both of them are binding upon the Professional Client and enforceable against it in accordance with their terms and do not and will not violate the terms of any regulation, order, charge or agreement by which the Professional Client is bound;

22.1.7 No Event of Default or any event which may become (with the passage of time, the giving of notice or the making of any determination) an Event of Default has occurred or is continuing;

22.1.8 The Professional Client acts as principal (and not as agent of any person or entity) and sole beneficial owner in entering into this Agreement and each Contract;

22.1.9 Any information it has provided to GMI is, at the date of such information, true, accurate and complete in every material respect; and

22.1.10 The Professional Client is the sole beneficial owner of all Margin, free and clear of any security interest whatsoever.

## **23 Regulatory Compliance**

23.1 GMI is regulated by the UK Financial Conduct Authority. Should any provision of this Agreement be or become in breach of the regulatory requirements imposed on GMI, this Agreement shall be deemed to be amended to such extent so as to ensure compliance.

## **24 Investor Protection**

24.1 GMI does not undertake any obligation to provide individual advice, information or recommendation in respect of financial products not regulated by any applicable law.

24.2 The Professional Client should address any complaints about the services provided under this Agreement in writing to GMI Compliance at the address at the beginning of this Agreement. A copy of GMI's compliant handling policy is available upon request. The client does not have the right to access the Financial Ombudsman Service, due to their classification.

24.3 GMI is a member of the Financial Services Compensation Scheme. The Professional Client may be entitled to compensation if it cannot satisfy its obligations under the Agreement. This depends on the circumstances of the claim as the above mentioned scheme only provides compensation to certain types of claim and claimants and there are limits on the amount of compensation that can be provided. Further details can be obtained from GMI's Compliance Department or at [www.fscs.org.uk](http://www.fscs.org.uk).

## **25 Miscellaneous**

25.1 Any provision of this Agreement may be supplemented or amended by written agreement between the Parties, save that GMI may amend the Agreement by giving not less than five (5) Business Days' notice to the Professional Client where GMI reasonably considers such amendment is necessary for the purpose of complying with any applicable legal or regulatory requirements.

25.2 If any term of this Agreement is found to be illegal, invalid or unenforceable under any applicable law, such term shall, insofar as it is severable from the remaining terms, be deemed omitted from this Agreement and shall in no way affect the legality, validity or enforceability of the remaining terms.

25.3 This Agreement may be executed in any number of counterparts, each of which is an original but such counterparts shall, together, constitute one instrument.

25.4 No person who is not a Party to this Agreement may enforce any term of this Agreement. The Parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

## **26 Termination**

26.1 This Agreement comes into effect on the date on which it is executed by the Professional Client or, if earlier, the first date on which the Professional Client enters into a Contract after the date on which GMI provides the Agreement to Professional Client.

This Agreement shall terminate on:

26.1.2 An Event of Default; or

26.1.3 By agreement between the Parties should there be no outstanding Contracts and the Parties agree that no further trading will take place on the Platform.

26.2 Notwithstanding anything to the contrary in this Agreement, Sections 1, 7, 15, 16, 17, 18, 19, 21, 24, 25, 26, and such other sections that remain relevant shall continue to apply after termination of this Agreement until they cease to be relevant.

26.3 In the case of Section 25.1.2 above, provided that GMI does not have any actual or contingent claim against the Professional Global Market Index Ltd. Authorised and Regulated by the Financial Conduct Authority. FRN 677530 Registered in England and Wales. Registered office at 125 Old Broad Street, London EC2N 1AR. Company number 07736428. Client under this Agreement, the ISDA Master Agreement or otherwise, GMI shall return to the Professional Client cash equal to the value of the cash in the Professional Client Account.

## **27 Governing Law & Choice Of Jurisdiction**

27.1 This Agreement shall be governed by and interpreted in accordance with the laws of England and Wales.

27.2 The Parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.

## SCHEDULE 1 – EMIR PORTFOLIO RECONCILIATION AND DISPUTE RESOLUTION

This Schedule 1 forms part of and supplements our Professional Client Trading Agreement (herein “Agreement”). You are deemed to agree to these terms if you enter into an OTC Derivatives Transaction with GMI.

### 1 Definitions

“**Business Day**” means a day on which banks and foreign exchange markets settle payments and are open for general business in London.

“**Data Delivery Date**” means each date specified by us and notified to you.

“**Data Reconciliation**” means a comparison made by you of the Portfolio Data provided by us against your own books and records of all outstanding Relevant Transactions between us, in order to identify promptly any discrepancies.

“**Dispute**” means any dispute between us, in respect of which you have provided us with a notice specifying the details of the dispute, or in respect of which we have provided you with such notice.

“**Dispute Resolution Risk Mitigation Techniques**” means the dispute resolution risk mitigation techniques for OTC derivative transactions set out in Article 11(1)(b) of EMIR, as supplemented by Article 15 of Chapter VIII of the Commission Delegated Regulation (EU) No. 149/2013 of 19 December 2012.

“**EMIR**” means Regulation (EU) No. 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories dated 4 July 2012.

“**Portfolio Data**” means information in respect of transactions between us in a form and standard that is capable of being reconciled.

“**Portfolio Reconciliation Risk Mitigation Techniques**” means the portfolio reconciliation risk mitigation techniques for over-the-counter (“OTC”) derivative transactions, as set out in Article 11(1)(b) of EMIR, as supplemented by Article 13 of Chapter VIII of the Commission Delegated Regulation (EU) No. 149/2013 of 19 December 2012.

“**PR Due Date**” means each date specified as such by us and notified to you.

**“Relevant Transaction”** means any “OTC Derivative” or “OTC Derivative Contract”, as defined in Article 2(7) of EMIR between you and us, which is subject to the Portfolio Reconciliation Risk Mitigation Techniques and/or the Dispute Resolution Risk Mitigation Techniques.

**“You”** means the Professional Client.

## **2. EMIR Obligations In Respect Of Portfolio Reconciliation And Dispute Resolution**

2.1. EMIR imposes obligations in respect of Portfolio Reconciliation and Dispute Resolution, with regard to all OTC derivatives transactions. These obligations came into effect on 15 September 2013 and require all EMIR counterparties to agree in writing to the terms of portfolio reconciliation and dispute resolution.

2.2 These provisions are supplemental to the Agreement. In the event of any conflict between these EMIR Portfolio Reconciliation and Dispute Resolution Schedule and the Agreement, the Agreement shall prevail.

## **3. Professional Client Classification**

3.1 You are obliged to inform us of your classification as a Financial Counterparty or Non-Financial Counterparty under EMIR. It is your responsibility to ensure that the classification information is accurate. We are entitled to rely on this classification information and shall assume that it is accurate. Should your classification change, you are obliged to inform us immediately.

## **4. Portfolio Reconciliation**

4.1. We each agree to reconcile portfolios as required by the Portfolio Reconciliation Risk Mitigation Techniques, using the following process.

4.1.1. We shall provide you with access to on-line statements containing Portfolio Data;

4.1.2. On each PR Due Date, you will perform a Data Reconciliation;

4.1.3. if you identify one or more discrepancies which you determine, acting reasonably and in good faith, are material to the rights and obligations of the parties in respect of one or more Relevant Transaction(s), you will notify us in writing as soon as reasonably practicable and we shall consult with each other in an attempt to resolve such discrepancies as soon as possible, for as long as such discrepancies remain outstanding; and



4.1.4 If you do not notify us that the Portfolio Data contains discrepancies by 4pm London time on the 1st Business Day following the later of the PR Due Date and the date on which we provided you with access to the on-line statements containing such Portfolio Data, you will be deemed to have affirmed such Portfolio Data.

## **5. Dispute Resolution**

5.1 In the event that you identify a Dispute, you will need to provide us with a written notice specifying the details of the Dispute. Such notice should be delivered for the attention of Client Services and both parties will use reasonable efforts to resolve such Dispute within five (5) Business Days. In the event that the Dispute remains outstanding, the Dispute will be referred to our Compliance Department who will take such action as is necessary to ensure that such Dispute is resolved. If the Dispute remains outstanding after ten (10) Business Days, we shall refer the Dispute to our senior management.

5.2 In the event that we identify a Dispute, we shall provide you with a written notice specifying the details of the Dispute. You will inform us of the contact details of the person to whom the notice should be addressed. Both parties will use reasonable efforts to resolve such dispute within five (5) Business Days. In the event that the Dispute remains outstanding, you will refer the dispute to the relevant department in your organisation who will take such action as is necessary to ensure that such Dispute is resolved. If the Dispute remains outstanding after ten (10) Business Days, you will refer the Dispute to your senior management.

## **6. Governing Law & Jurisdiction**

6.1 Subject to any provision to the contrary in these EMIR Portfolio Reconciliation and Dispute Resolution Schedule, these EMIR Portfolio Reconciliation and Dispute Resolution Schedule shall be governed by the laws of England and Wales and the parties hereby submit to the jurisdiction of such courts.

## SCHEDULE 2 – EMIR DELEGATED REPORTING TERMS OF BUSINESS – EEA INSTITUTIONAL CLIENT ONLY

Response Required. This Schedule 2 forms part of and supplements our Professional Client Trading Agreement (herein “Agreement”). You are deemed to agree to these terms if you request to use GMI Delegate Reporting Services. You have the obligation to ensure that you fall under the right EMIR classification, as different regulatory obligations will apply, depending upon your classification. Should your classification change, you must inform us immediately.

### 1. Definitions & Interpretation

“**Agreement**” shall mean our Professional Client Trading Agreement, including any appendix or schedule attached hereto, and any later amendment or supplement hereto made between the Parties, which set out the basis on which the Reporting Delegate provides derivatives services to the Client.

“**Client**” means a client of the Reporting Delegate, who wishes to use the Delegate Reporting Services.

“**Common Data**” means, with respect to a Relevant Transaction, the information in Table 2 (Common Data) of the Reporting Annexes, as determined by the Reporting Delegate in its sole and absolute discretion.

“**Counterparty Data**” means, with respect to a Relevant Transaction and a party, the information required to complete the fields set out in Table 1 (Counterparty Data) of the Reporting Annexes.

“**CCP**” means any central counterparty authorised under Article 14 of EMIR or recognised under Article 25 of EMIR.

“**Delegate Reporting Services**” means the services to be provided by the Reporting Delegate as described in these Delegated Reporting Terms of Business.

“**Delegated Reporting Terms of Business**” means these terms and conditions of business for EMIR delegated reporting.

“**EMIR**” means European Market Infrastructure Regulation No 648/2012 of the European Parliament and of the Council of 4 July 2012 on Over the Counter (OTC) derivatives, central counterparties and trade repositories as amended and/or supplemented from time to time.

“**ESMA**” means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council.

**“Force Majeure Event”** means any event which occurs due to reasons outside of the Reporting Delegate’s control and which cannot be overcome by reasonable diligence and/or without unreasonable expense solely by the Reporting Delegate. Such events include, but are not limited to, any natural systems, facilities, technological, political or other cause; and whether or not such events occur in respect of a Relevant Trade Repository, Third Party Service Provider, Reporting Delegate Affiliate, Reporting Delegate, a third party or otherwise.

**“Losses”** means all losses, liabilities, costs, expenses, taxes, levies, damages, fines, penalties or other liabilities (including legal and other professional fees).

**“Relevant Data”** means in respect of each Relevant Transaction and unless otherwise agreed between the parties in writing, the Counterparty Data and the Common Data.

**“Relevant Transaction”** means (unless the Client and the Reporting Delegate agree otherwise in writing) each transaction:

- i) to which the Client is a party;
- ii) that the Reporting Delegate has determined in its sole and absolute discretion is subject to the Reporting Obligation;
- iii) that is entered into between the Client, as principal and the Reporting Delegate; and
- iv) that is subject to the Delegate Reporting Services, in accordance with these Terms of Business.

**“Report”** means a report made by the Reporting Delegate to a Trade Repository, pursuant to the provisions of these Delegated Reporting Terms of Business.

**“Reporting Annexes”** means:

- i) the Annex to the Commission Delegated Regulation of 19 December 2012 No. 148/2013; and
- ii) the Annex to the Commission Implementing Regulation of 19 December 2012, No. 1247/2012.

**“Reporting Deadline”** means the deadline for reporting the Relevant Transaction as specified in Article 9 of EMIR and as determined by the Reporting Delegate in its sole and absolute discretion.

**“Reporting Delegate”** means Global Market Index Limited.

**“Reporting Delegate Affiliate”** means each entity as may be agreed between the Client and the Reporting Delegate in writing from time to time.

**“Reporting Obligations”** means the obligation which is set out in Article 9 of EMIR, being the obligations to report details of derivative contracts that are concluded, modified or terminated to a Trade Repository or ESMA.

**“Third Party Service Provider”** means a third party including, without limitation, a CCP, appointed by the Reporting Delegate to submit Relevant Data by the Reporting Deadline to a Trade Repository.

**“Trade Repository”** means any entity registered as a trade repository in accordance with Article 55 of EMIR or recognised as a trade repository in accordance with Article 77 of EMIR.

## **2. Terms Of Business**

2.1 These Terms of Business are supplemental to the Agreement. In the event of any conflict between the provisions of these Delegated Reporting Terms of Business and the Agreement, the provisions of these Delegated Reporting Terms of Business shall prevail.

2.2 The Application Form duly completed by the Client, together with the Delegated Reporting Terms of Business, form a contract between the Client and the Reporting Delegate for the Delegate Reporting Services.

## **3. Client Classification**

You are obliged to inform us of your classification as a Financial Counterparty or Non-Financial Counterparty under EMIR. It is your responsibility to ensure that the classification information is accurate. We are entitled to rely on this classification information and shall assume that it is accurate. Should your classification change, you are obliged to inform us immediately.

## **4. Delegated Reporting**

4.1 The Reporting Delegate will provide the Delegated Reporting Services to its Clients who trade directly with the Reporting Delegate, under the Agreement.

4.2 By signing this Schedule 2, the Client appoints the Reporting Delegate to provide the Delegated Reporting Services in accordance with these Delegated Reporting Terms of Business.

4.3 The Reporting Delegate shall not be obliged to report any Relevant Transactions for the Client, unless the Client has been approved as a client and received notification of such approval by the Reporting Delegate.

4.4 The Reporting Delegate shall send a transaction report of relevant transactions to its designated Trade Repository. The Reporting Delegate reserves the right to change their Trade Repository without prior notice to the Client.

4.5 The Client represents to the Reporting Delegate that the information it delivers to it is, at the time of delivery, true, accurate and complete in every material respect. The Client further acknowledges that the Reporting Delegate may rely on the Counterparty Data without investigation.

4.6 It is at the Reporting Delegate's sole discretion to decide not to submit a transaction report in respect of any Relevant Transactions if it considers that it does not have sufficient information to do so.

4.7 The Client will submit all Relevant Data by the Reporting Deadline and the client will not report or arrange the reporting of the Relevant Data to a Trade Repository.

4.8 Although the Reporting Delegate will provide the Delegated Reporting Services to the Client, the Client remains legally responsible for the reporting of its Relevant Transactions. Although the client will not report or arrange the reporting of the Relevant Data to a Trade Repository, the Client is encouraged to request the Trade Repository for access to view all Relevant Transactions reported by the Reporting Delegate immediately, if it believes that there are any inaccuracies in the Report or Reports.

## **5. Correction Of Errors**

5.1 The Client acknowledges and agrees that the Reporting Delegate is not obliged to discover errors in, or check the accuracy, authenticity or completeness, of any Relevant Data, whether that information derives from the Client or any other person (including without limitation any trading venue, CCP or similar financial market infrastructure, but excluding the Reporting Delegate and each Reporting Delegate Affiliate).

5.2 Subject to Section 5.1 immediately above, if either the Client or the Reporting Delegate becomes aware of a material error in any Relevant Data reported to a Trade Repository in accordance with these Delegated Reporting Terms of Business, it will notify the other party as soon as reasonably practicable and in accordance with the process and procedures notified by the Reporting Delegate to the Client from time to time. In this case, both parties will use reasonable efforts, acting in good faith and a commercially reasonable manner, to resolve such error.



5.3 The Client agrees to notify the Reporting Delegate immediately upon becoming aware that any information which the Client has provided to the Reporting Delegate (including any Relevant Data which the Reporting Delegate has reported to a Relevant Trade Repository) has (or has become) incomplete, inaccurate, misleading or not compliant with any requirements under EMIR. Upon such notification, both parties will use reasonable efforts, acting in good faith and in a commercially reasonable manner, to resolve such issue.

## **6. Costs & Expenses**

The Client will reimburse the Reporting Delegate on demand for any costs or expenses reasonably incurred by the Reporting Delegate as a result of the Reporting Delegate needing to supplement, update or amend any Report as a result of any failure by the Client to provide any of the Counterparty Data by the time specified by the Reporting Delegate, or as a result of any breach of, or failure to comply with, the terms of these Delegated Reporting Terms of Business by the Client.

## **7. Third Parties**

7.1 The parties agree that the Reporting Delegate may use the services of one or more Third Party Service Providers to facilitate the submission of Relevant Data or other information by the Reporting Delegate, as required under these Delegated Reporting Terms of Business. This will include, but is not limited to, any platform, system, interface or other technology developed by a Third Party Service Provider for such purpose.

7.2 Where the Reporting Delegate appoints a Third Party Service Provider, it will inform the Client of such appointment as soon as reasonably practicable. Accordingly, the Reporting Delegate hereby notifies the Client that it has appointed CFH Clearing Limited as a Third Party Service Provider.

7.3 The Reporting Delegate will exercise all reasonable care and skill in the selection and appointment of a Third Party Service Provider. However, it will not be liable for any acts or omissions by that Third Party Service Provider and shall not be liable for any loss incurred by the Client as a result of such appointment.

## **8. Force Majeure**

If the Reporting Delegate is prevented, hindered or delayed from or in performing any of its obligations under this Agreement as a result of a Force Majeure Event, such obligation(s) shall be suspended for so long as that Force Majeure Event continues. Trades not reported during such a suspension will be reported as soon as practicable upon resumption of the Delegate Reporting Services.

## **9. Confidentiality**

9.1 Notwithstanding any other provision of these Delegated Reporting Terms of Business, or any provision in the Agreement, the Client hereby consents to the disclosure of such information as may be required in order to carry out the Delegated Reporting Services.

9.2 The Client acknowledges that disclosures made pursuant hereto may include, without limitation, the disclosure of trade information including a party's identity (by name, address, corporate affiliation, identifier or otherwise) to any Trade Repository or one or more systems or services operated by any such trade repository and any relevant regulators (including without limitation, ESMA and national regulators in the European Union) under EMIR and its delegated and implementing regulations and that such disclosures could result in certain anonymous transaction and pricing data becoming available to the public. The Client further acknowledges that, for purposes of complying with regulatory reporting obligations, a party may use a third party service provider to transfer trade information into a Trade Repository and that a Trade Repository may engage the services of a global trade repository regulated by one or more governmental regulators. The Client also acknowledges that disclosures made pursuant hereto may be made to recipients in a jurisdiction other than that of the disclosing party or a jurisdiction that may not necessarily provide an equivalent or adequate level of protection for data as the counterparty's home jurisdiction.

## **10. Indemnity**

The Client shall indemnify the Reporting Delegate, any affiliate of the Reporting Delegate and each of the Reporting Delegate's directors, officers, employees, contractors and agents, including any Third Party Service Provider, from and against all Losses which the Reporting Delegate may incur or be subjected to in carrying out the Delegated Reporting Services.

## **11. Termination**

Either the Client or the Reporting Delegate may terminate the Delegate Reporting Services by giving written notice to the other party of not less than thirty (30) days.

## **12. Governing Law & Jurisdiction**

Subject to any provision to the contrary in these Delegated Reporting Terms of Business, or in the Agreement, these Delegated Reporting Terms of Business shall be governed by the laws of England and Wales and the parties hereby submit to the jurisdiction of such courts.