



**ORGANISED TRADING FACILITY**  
**TERMS OF BUSINESS**

**EFFECTIVE DATE: 3 JANUARY 2018**

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**Head office : 130 Wood Street - London EC2V 6DL - United Kingdom**

Louis Capital Markets UK LLP: Authorised and regulated in the United Kingdom by the FCA with Firm Reference Number 225544  
Louis Capital Markets UK LLP - Paris branch: Authorised and regulated in France as a Succursale

***This client agreement, together with the Schedules, and accompanying documents as amended from time to time, (this "Agreement") sets out the terms of the contract between you and Louis Capital Markets UK LLP with respect to the organised trading facility operated by Louis Capital Markets UK LLP. It is, therefore, very much in your interests to read it carefully. Please let us know as soon as possible if there is anything which you do not understand.***

## **1. General Information**

**Information about us:** We, Louis Capital Markets UK LLP, are authorised and regulated by the FCA with Firm Reference Number 225544. We are also authorised and regulated in France as a *Succursale* and as such we are subject to the *Règlement général – AMF* in our dealings with you in respect of conduct of business rules. Our registered office is 130 Wood Street, London EC2V 6DL.

**1.1 Capacity:** We operate the LCM OTF. We will allow you to interact with other clients of the LCM OTF with a view to entering into Transactions. We will classify you as a professional client or as an eligible counterparty for the purposes of the FCA Rules. You have the right to request a different client categorisation. If we have classified you as an eligible counterparty or you request categorisation as an eligible counterparty and we agree to such categorisation, we would no longer be required by regulatory rules to provide certain protections (as set out in Schedule 4) granted to professional clients. You may ask us to reclassify you as another client type, but if you ask us to classify you as a retail client we will not be able to provide services to you on that basis. You are responsible for keeping us informed about any change in your circumstances that could affect your client categorisation. Unless we otherwise agree in writing we shall treat you alone as our client for the purposes of the FCA Rules.

**1.2 Commencement:** This Agreement supersedes any previous agreement between you and us on the same subject matter. This Agreement shall be effective from the date we receive (including receipt by fax or e-mail) and accept a signed copy hereof. However, if you otherwise place any order with us, you will be deemed to have accepted this Agreement.

**1.3 Subject to Applicable Regulations:** This Agreement and all Transactions are subject to Applicable Regulations so that: (i) if there is any conflict between this Agreement and any Applicable Regulations, the latter will prevail; (ii) nothing in this Agreement shall exclude or restrict

any obligation which we have to you under Applicable Regulations; (iii) we may take or omit to take any action we consider necessary to ensure compliance with any Applicable Regulations; (iv) all Applicable Regulations and whatever we do or fail to do in order to comply with them will be binding on you; and (v) such actions that we take or fail to take for the purpose of compliance with any Applicable Regulations shall not render us or any of our directors, officers, employees or agents liable.

**1.4 Regulatory action:** If a regulatory body takes any action which affects a Transaction, then we may take any action which we, in our commercially reasonable discretion, consider necessary to correspond with such action or to mitigate any loss incurred as a result of such action. Any such action shall be binding on you. If a regulatory body makes an enquiry in respect of any of your Transactions, you agree to co-operate with us and to promptly supply information reasonably requested in connection with the enquiry.

**1.5 Service:** We will provide you with access to the LCM OTF and we will operate the LCM OTF in compliance with the terms of this Agreement and Applicable Regulations. By entering into this Agreement, you consent to us effecting Transactions on your behalf outside a Regulated Market or Multilateral Trading Facility.

**1.6 Charges:** You shall pay: our charges (which will be set out on our website); interest on any amount due to us at the rates then charged by us (and which are available on request); and any other value added or other applicable taxes of any of the foregoing, including any withholding tax.

**1.7 Additional costs:** You should be aware of the possibility that other taxes or costs may exist that are not paid through or imposed by us.

**1.8 Payments:** All payments to us under this Agreement shall be payable on the date we notify you that they are due and payable in a reasonably detailed invoice in such currency and to such bank account as we may specify. All such payments shall be made by you without any deduction or withholding.

**1.9 Remuneration and sharing of charges:** We may receive remuneration from, or share charges with, an Associate or other third party in connection with Transactions carried out on your behalf. Details of such remuneration or sharing arrangements will be provided to you separately on a product specific basis.

**1.10 Exercise of discretion:** We will exercise discretion:

- (a) when deciding to place or retract an order on the LCM OTF; and
- (b) when deciding not to match a specific order with other orders available on the LCM OTF at a given time provided such action is in compliance with specific instructions received from you and with the Applicable Regulations.

**1.11 Execution only:** we deal on an execution only basis and we do not advise on the merits of particular Transactions, or their taxation consequences.

**1.12 Own judgement and suitability:** In asking us to place any Transaction on the LCM OTF, you represent that you have been solely responsible for making your own independent appraisal and investigations into the risks of the Transaction. You represent that you have sufficient knowledge, market sophistication, professional advice and experience to make your own evaluation of the merits and risks of any Transaction. We give you no warranty as to the suitability of the products traded under this Agreement and assume no fiduciary duty in our relations with you.

**1.13 Conflicts of interest:** Our conflicts of interest policy can be found on our website: [www.louiscapital.com](http://www.louiscapital.com).

## **2. Your Information**

**2.1 Confidentiality:** We will treat all information we hold about you or your account or Transactions as confidential, even when you are no longer a client. You agree, however, that we may disclose this information: to other companies in our group and that we and they may disclose it to those who provide services to us and/or them or those who act as our or their agents provided that each recipient is bound by the terms of this confidentiality provision; to anyone to whom we transfer or propose to transfer any of our rights or duties under this Agreement; to credit reference agencies or other organisations that help us and

others make credit decisions and reduce the incidence of fraud or in the course of carrying out identity, fraud prevention or credit control checks; to regulators and governmental agencies, in any jurisdiction, where we are required to do so by Applicable Regulations, there is a public duty to disclose or our interests require disclosure; at your request; or with your consent. In the case of a joint account, we may also disclose to any of you information obtained by us from any of you in relation to the account or your Transactions.

**2.2 Data protection:** Before providing us with any information relating to identifiable living individuals in connection with this Agreement you should ensure that those individuals are aware: of our identity; that we may use their information to administer and operate your account; that this may involve disclosure of their information as discussed in clause 2.1 above and transfer of their information to any country, including countries outside the European Economic Area which may not have strong data protection laws; and that they have rights to access, and correct, their information which they may exercise by contacting us in writing.

**2.3 Your rights:** You may have rights of access to some or all of the information we hold about you, to have inaccurate information corrected and to tell us that you do not wish to receive marketing information, under data protection law. If you wish to exercise any of these rights, please contact us in writing.

## **3. Instructions and Basis of Dealing**

**3.1 Placing of instructions:** You may give us instructions in writing, by email or other electronic means or orally (including by telephone), unless we tell you that instructions can only be given in a particular way. If you give us instructions by telephone, your conversation will be recorded. If any instructions are received by us by telephone, computer or other medium we may ask you to confirm such instructions in writing. We shall be authorised to follow instructions notwithstanding your failure to confirm them in writing. In this Agreement references to "instructions" shall be deemed to include "orders" and "indications of interest".

**3.2 Authority:** We shall be entitled to act for you upon instructions which we reasonably believe to be given by you or any person authorised on your behalf.

- 3.3 Cancellation/amendment of instructions:** Instructions may only be cancelled or amended by you with our consent.
- 3.4 Right not to accept orders:** We may, but shall not be obliged to, accept instructions to place an order or indication of interest on the LCM OTF. If we decline to place an order or indication of interest on the LCM OTF, we shall not be obliged to give a reason but we shall promptly notify you accordingly.
- 3.5 Execution of orders:** We shall use our reasonable endeavours to execute any order promptly, but in accepting your orders we do not represent or warrant that it will be possible to execute such order or that execution will be possible according to your instructions. We shall use our discretion (in line with our order execution policy and subject to any instructions that you may give us) in determining where and how to execute your orders. We shall carry out an order on your behalf only when the LCM OTF is open for dealings, and we shall deal with any instructions received outside such hours as soon as possible when the LCM OTF is next open for business. When you give us a specific instruction, our order execution policy will not apply in relation to the aspects of your order which are covered by your specific instruction. You confirm that you have read and agree to our order execution policy. We will notify you of any material changes to our order execution policy but it is your responsibility to check for any other changes to our order execution policy as published at [www.louiscapital.com](http://www.louiscapital.com). We will consider the continued placement of orders by you to constitute your continued consent to our order execution policy as in effect from time to time.
- 3.6 Crossing of orders:** We may arrange for a Transaction to be executed, either in whole or in part, by selling an investment to you from another client, or a client of an Associate of ours, or vice-versa. We shall not give you prior notice if we arrange for a Transaction to be executed in this manner.
- 3.7 Programme Trades:** Where we accept an order to effect a Programme Trade, you agree that we are not obliged to notify you whether we act as principal or agent. If you would like us to execute a Programme Trade on a market as your agent, you must give instructions to us to that effect. In such case, we shall take all reasonable steps to obtain best execution, subject always to any

specific instructions from you. If you do not instruct us to execute the Programme Trade as agent we will execute the Programme Trade as principal subject to Applicable Regulations. Upon request we will provide you with information comparing the execution of your Programme Trade with industry standard benchmarks and/or with any benchmark determined by you. We may execute an own account transaction in any investment included in a Programme Trade. Where you ask us to bid as principal on a Programme Trade that is based on market prices at a designated strike time or on an agreed benchmark, unless otherwise agreed in relation to such Programme Trade, we may at any time following your request for the bid, undertake transactions, including transactions using information provided by you, in the relevant securities or related securities which could have an impact on the strike prices achieved for you in the relevant securities. "**Programme Trade**" means a transaction or series of transactions executed in order to acquire or dispose of all or part of a basket of securities or a portfolio.

- 3.8 Aggregation of orders:** We may combine your order with the orders of other clients. When combining your orders with those of other clients we must reasonably believe that this is in the overall best interests of our clients.
- 3.9 Confirmations:** We shall send you confirmations at the end of the trading day for any Transactions that we have executed on your behalf on that trading day, by electronic mail to the e-mail address on record for you. It is your responsibility to inform us of any change to your e-mail address, the non-receipt of a confirmation, or whether any confirmations are incorrect before settlement. Confirmations shall, in the absence of manifest error, be conclusive and binding on you, unless we receive from you objection in writing within two Business Days of receipt by you. We will notify you if an error occurs in the confirmation.
- If we do not receive complete details of any allocations you wish us to make in respect of a Transaction, any unallocated trades will be booked to your account. We will not "warehouse" securities for you pending a future settlement date unless we specifically agree to do so.
- 3.10 Performance and settlement:** You will promptly deliver any relevant instructions, money, documents or property deliverable by you under a

Transaction in accordance with that Transaction as modified by any instructions given by us.

**3.11 Position limits:** We may require you to limit the number of open positions which you may have with us at any time and we may in our reasonable discretion close out any one or more Transactions in order to ensure that such position limits are maintained.

**3.12 Trade Reporting and Transaction Reporting:** Under Applicable Regulations, we may be obliged to make information about certain Transactions public or provide it to a competent authority or we may agree in writing with you that we should be responsible for or carry out any such reporting. You agree and acknowledge that you waive any rights of confidentiality attaching to the information which we reasonably disclose in such circumstances.

**3.13 Give-up:** In respect of every Transaction made between us and given up to be cleared by another broker or dealer as specified by you:

- (a) if such broker or dealer accepts the give-up, we shall (without prejudice to any claim we may have for commission or other payment) upon such acceptance cease to be a party to the Transaction and shall have no obligation to you for its performance;
- (b) if such other broker or dealer declines to accept the give-up, we shall be entitled at our option either to confirm the Transaction with you or to liquidate it by such sale, purchase, disposal or other Transaction or cancellation as we may in our reasonable discretion determine; and any balance resulting from such liquidation shall be promptly settled between us but without prejudicing our rights under this Agreement or otherwise.

**3.14 International Uniform Give-up Agreement:** If applicable you authorise us to enter into and execute any International Uniform Give-up Agreement on your behalf. Where you and we are party to an International Uniform Give-up Agreement, in the event of any inconsistency the provisions of such agreement shall prevail over this Agreement.

#### **4. Representations, Warranties and Covenants**

**4.1 Capacity:** If you act as an agent this clause 4 will not be applicable to you and will be substituted by term 3 of Schedule 3

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

- (a) you have all necessary authority, powers, consents, licences and authorisations and have taken all necessary action to enable you lawfully to enter into and perform your role under this Agreement and each Transaction and to grant the powers referred to in this Agreement;
- (b) the persons entering into this Agreement and each Transaction on your behalf have been duly authorised to do so;
- (c) this Agreement, each Transaction and the obligations created under them both are binding upon you and enforceable against you in accordance with their terms (subject to applicable principles of equity) and do not and will not violate the terms of any Applicable Regulation, order, charge or agreement by which you are bound;
- (d) no Event of Default has occurred and is continuing with respect to you;
- (e) you act as principal and sole beneficial owner (but not as trustee) in entering into this Agreement and each Transaction;
- (f) any information which you provide or have provided to us in respect of your financial position, domicile or other matters is accurate and not misleading in any material respect; and
- (g) you are willing and financially able to sustain a total loss of funds resulting from Transactions and trading in such Transactions is a suitable investment vehicle for you.

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

- (a) you will at all times obtain and comply with, and do all that is necessary to maintain in full force and effect, all authority, powers, consents, licences and authorisations referred to in this clause;
- (b) you will promptly notify us of the occurrence of any Event of Default with respect to yourself;
- (c) you will use all reasonable steps to comply with all Applicable Regulations in relation to this Agreement and any Transaction, so far as they are applicable to you or us;
- (d) you will not send orders or otherwise take any action that could create a false

impression of the demand or value for a security or financial instrument, or send orders which you have reason to believe are in breach of Applicable Regulations; and

- (e) upon reasonable demand, you will provide us with such information as we may reasonably require to evidence the matters referred to in this clause or to comply with any Applicable Regulations.

## 5. Events of Default

### 5.1 **Events of Default.** The following shall constitute Events of Default:

- (a) you fail to make any payment when due under this Agreement or to make or take delivery of any property when due under, or to observe or perform any other provision of this Agreement and such failure continues for one Business Day;
- (b) you commence a voluntary case or other procedure seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent), or seeking the appointment of a trustee, receiver, liquidator, conservator, administrator, custodian or other similar official (each a "Custodian") of you or any substantial part of your assets, or if you take any corporate action to authorise any of the foregoing, and in the case of a reorganisation, arrangement or composition, we do not consent to the proposals;
- (c) an involuntary case or other procedure is commenced against you seeking or proposing liquidation, reorganisation, an arrangement or composition, a freeze or moratorium, or other similar relief with respect to you or your debts under any bankruptcy, insolvency, regulatory, supervisory or similar law (including any corporate or other law with potential application to you, if insolvent) or seeking the appointment of a Custodian of you or any substantial part of your assets and such involuntary case or other procedure either (a) has not been dismissed within five days of its institution or presentation or (b) has been dismissed within such period but solely on

the grounds of an insufficiency of assets to cover the costs of such case or other procedure;

- (d) you are unable to pay your debts as they fall due or are bankrupt or insolvent, as defined under any bankruptcy or insolvency law applicable to you; or any indebtedness of yours is not paid on the due date therefore, or becomes capable at any time of being declared, due and payable under agreements or instruments evidencing such indebtedness before it would otherwise have been due and payable, or any suit, action or other proceedings relating to this Agreement are commenced for any execution, any attachment or garnishment, or distress against, or an encumbrance takes possession of, the whole or any part of your property, undertaking or assets (tangible and intangible);
- (e) any representation or warranty made or given or deemed made or given by you under this Agreement proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given;
- (f) you are dissolved, or, if your capacity or existence is dependent upon a record in a formal register, the registration is removed or ends, or any procedure is commenced seeking or proposing your dissolution, removal from such a register, or the ending of such a registration;
- (g) we consider it necessary or desirable to prevent what we consider, acting reasonably, is or might be a violation of any Applicable Regulation or good standard of market practice; and
- (h) Any action is taken or event occurs which we consider, acting reasonably, might have a material adverse effect upon your ability to perform any of your obligations under this Agreement.

## 6. Netting

- 6.1 **Rights on Default.** On the occurrence of an Event of Default, we may exercise our rights under this clause, except that, if so specified by us in the Individually Agreed Terms Schedule or otherwise, in the case of the occurrence of any Event of Default specified in paragraphs (b) or (c) of the definition of Events of Default (each a "**Bankruptcy Default**"), the automatic termination provision of this clause shall apply.

- 6.2 Liquidation Date:** Subject to the following sub-clause, at any time following the occurrence of an Event of Default, we may, by notice to you, specify a date (the "**Liquidation Date**") for the termination and liquidation of Transactions in accordance with this clause.
- 6.3 Automatic termination:** Where so specified in the Individually Agreed Terms Schedule, the date of the occurrence of any Bankruptcy Default shall automatically constitute a Liquidation Date, without the need for any notice by us and the provisions of the following sub-clause shall then apply.
- 6.4 Calculation of Liquidation Amount:** Upon the occurrence of a Liquidation Date:
- (a) neither of us shall be obliged to make any further payments or deliveries under any Netting Transactions which would, but for this clause, have fallen due for performance on or after the Liquidation Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Liquidation Amount;
  - (b) we shall (on, or as soon as reasonably practicable after, the Liquidation Date) determine (discounting if appropriate), in respect of each Netting Transaction referred to in paragraph (a) the total cost, loss or, as the case may be, gain, in each case expressed in the Base Currency specified by us as such in the Individually Agreed Terms Schedule or otherwise in writing or, failing any such specification, the lawful currency of the United Kingdom (and, if appropriate, including any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position) as a result of the termination, pursuant to this Agreement, of each payment or delivery which would otherwise have been required to be made under such Netting Transaction (assuming satisfaction of each applicable condition precedent; and
  - (c) we shall treat each cost or loss to us, determined as above, as a positive amount and each gain by us, so determined, as a negative amount and aggregate all of such amounts to produce a single, net positive or negative amount, denominated in the Base Currency (the "**Liquidation Amount**").
- 6.5 Payer:** If the Liquidation Amount determined pursuant to this clause is a positive amount, you shall pay it to us and if it is a negative amount, we shall pay it to you. We shall notify you of the Liquidation Amount, and by whom it is payable, immediately after the calculation of such amount.
- 6.6 Other transactions:** Where termination and liquidation occurs in accordance with this clause, we shall also be entitled, at our discretion, to terminate and liquidate, in accordance with the provisions of this clause, any other transactions entered into between us which are then outstanding.
- 6.7 Payment:** Unless a Liquidation Date has occurred or has been effectively set, we shall not be obliged to make any payment or delivery scheduled to be made by us under a Netting Transaction for as long as an Event of Default or Potential Event of Default with respect to you has occurred and is continuing.
- 6.8 Base Currency:** For the purposes of any calculation hereunder, we may convert amounts denominated in any other currency into the Base Currency at such rate prevailing at the time of the calculation as we shall reasonably select.
- 6.9 Additional rights:** Our rights under this clause shall be in addition to, and not in limitation or exclusion of, any other rights which we may have (whether by agreement, operation of law or otherwise).
- 6.10 Application of netting to Netting Transactions:** Subject to the Individually Agreed Terms Schedule, this clause applies to each Netting Transaction entered into or outstanding between us on or after the date this Agreement takes effect.
- 6.11 Single agreement:** This Agreement, the particular terms and provisions applicable to each Netting Transaction, and all amendments to any of them shall together constitute a single agreement between us. We both acknowledge that all Netting Transactions entered into on or after the date this Agreement takes effect are entered into in reliance upon the fact that the Agreement and all such terms and provisions constitute a single agreement between us.
- 6.12 Other agreements:** Subject to sub-clause 6 of this clause, the provisions of this clause shall not

apply to any Transaction which is subject to liquidation and termination under another agreement. However, any sum resulting from a liquidation and termination under another agreement, may be set-off against the Liquidation Amount.

## 7. Rights on Default

**7.1 Default:** On an Event of Default, or at any time after we have reasonably determined, that you have not performed (or we reasonably believe that you will not be able or willing in the future to perform) any of your obligations to us, in addition to any rights under the Netting Clause we shall be entitled without prior notice to you and without prejudice to any other right or remedy that we or any other client may have against you:

- (a) to terminate your use of the LCM OTF;
- (b) to suspend, or restrict your right to place orders, to receive information from us or otherwise access the LCM OTF;
- (c) to cancel all and any orders placed by you on the LCM OTF;
- (d) to close out, terminate, void or reverse all (or any part of) any Transaction to which you are a party;
- (e) to exercise any other right or remedy available to us in accordance with the rules of the LCM OTF; and/or
- (f) to take such other action as we may, in our absolute discretion, consider necessary, desirable or expedient to protect our interests or the interests of any other client or the integrity of the LCM OTF.

**7.2** In the event of us exercising our powers under clause 7.1 any client who is counterparty ("**Non Defaulter**") in relation to any such Transaction ("**Failed Transaction**") (provided that such counterparty is not itself in default under the terms of its agreement with us) shall (subject to applicable law) be entitled to claim against you for any cost, loss, liability or expense suffered or incurred by the Non Defaulter arising from your failure or refusal to comply with your obligations under this Agreement. We may, at the request of the Non Defaulter, disclose your identity to the Non Defaulter (or its agent) and provide the Non Defaulter with such information as it may reasonably require to assist the Non Defaulter in bringing a claim against you.

**7.3** To avoid any misunderstanding, a new off-setting transaction ("**Reverse Transaction**") can only

relate to the failed element of a Failed Transaction so that in the event of a partial settlement only that number, quantity or amount of the instrument to be delivered or money to be paid by you can be the subject of a Reverse Transaction.

**7.4** Neither we nor any other client shall have any liability whatsoever to you or any other client for any loss, cost, liability or expense (including without limitation any loss of profit or gain incurred or suffered by you or any other client) in consequence of our exercise or failure to exercise any right or remedy conferred by this clause 7.

## 8. Termination without Default

**8.1 Termination:** Unless required by Applicable Regulations, either party may terminate this Agreement (and the relationship between us) by giving written notice of termination to the other. We may terminate this Agreement immediately if you fail to observe or perform any provision of this Agreement or in the event of your insolvency.

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

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

**8.2 Existing rights:** Termination shall not affect then outstanding rights and obligations (including, but not limited, the indemnities, limitations and liabilities set out in clause 9, the miscellaneous provisions in clause 10 and the governing law provisions in clause 11) and Transactions which shall continue to be governed by this Agreement and the particular clauses agreed between us in relation to such Transactions until all obligations have been fully performed.

## 9. Exclusions, Limitations and Indemnity

**9.1 General Exclusion:** Neither we nor our directors, officers, employees, or agents shall be liable for any losses, damages, costs or expenses, whether arising out of negligence, breach of contract, misrepresentation or otherwise, incurred or suffered by you under this Agreement (including any Transaction or where we have declined to

enter into a proposed Transaction) unless such loss is a reasonably foreseeable consequence or arises directly from our or their respective negligence, wilful default or fraud. In no circumstance, shall we have liability for losses suffered by you or any third party for any special or consequential damage, loss of profits, loss of goodwill or loss of business opportunity arising under or in connection with this Agreement, whether arising out of negligence, breach of contract, misrepresentation or otherwise. Nothing in this Agreement will limit our liability for death or personal injury resulting from our negligence.

**9.2 Tax implications:** Without limitation, we do not accept liability for any adverse tax implications of any Transaction whatsoever.

**9.3 Changes in the market:** Without limitation, we do not accept any liability by reason of any delay or change in market conditions before any particular Transaction is effected.

**9.4 Limitation of Liability:** We shall not be liable to you for any partial or non-performance of our obligations hereunder by reason of any cause beyond our reasonable control, including without limitation any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, act of terrorism, act of God, acts and regulations of any governmental or supra national bodies or authorities or the failure by the relevant intermediate broker or agent, agent or principal of our custodian, sub-custodian, dealer, clearing house or regulatory or self-regulatory organisation, for any reason, to perform its obligations. Nothing in this Agreement will exclude or restrict any duty or liability we may have to you under the regulatory system (as defined in the FCA Rules), which may not be excluded or restricted thereunder.

**9.5 Responsibility for orders:** You will be responsible for all orders entered on your behalf via the Electronic Services and you will be fully liable to us for the settlement of any Transaction arising from it except where such orders were entered by us through negligence, wilful misconduct or fraud.

**9.6 Entire Agreement:** You acknowledge that you have not relied on or been induced to enter into this Agreement by a representation other than those expressly set out in this Agreement. We will not be liable to you (in equity, contract or tort

under the Misrepresentation Act 1967) for a representation that is not set out in this Agreement and that is not fraudulent.

**9.7 Indemnity:** You shall pay to us, on a full indemnity basis, such sums as we may from time to time require in or towards satisfaction of any losses, liabilities, costs or expenses (including legal fees), taxes, imposts and levies which we may incur or be subjected to with respect to any of your accounts or any Transaction or as a result of any misrepresentation by you or any violation by you of your obligations under this Agreement (including any Transaction) or by the enforcement of our rights, provided always that none of the foregoing occurred due to our gross negligence, wilful misconduct or fraud.

## 10. Miscellaneous

**Bribery:** We will not tolerate bribery of any sort, either in the form of offering an illegal inducement to others or being in receipt of same. If we become aware of any such activity that:

- has taken place; or
- is currently taking place; or
- is likely to take place in the future,

either within and affecting us or any other organisation of which we become aware, then the appropriate authorities will be notified immediately. We will forego business rather than pay bribes and will support employees when faced with losing business owing to refusal to pay bribes.

**10.1 Amendments:** We have the right to amend the terms of this Agreement. If we make any material change to this Agreement, we will give at least ten business days' written notice to you. Such amendment will become effective on the date specified in the notice. Any other amendment must be agreed in writing between us. Unless otherwise agreed by us, an amendment will not affect any outstanding order or Transaction or any legal rights or obligations which may already have arisen.

**10.2 Notices:** Unless otherwise agreed, all notices, instructions and other communications to be given by us under this Agreement shall be given to the address or fax number provided by you to us. Likewise, all notices, instructions and other communications to be given by you under this Agreement shall be given to the address or fax number (in the Individually Agreed Terms

Schedule) and/or by notice in writing by either party. You will notify us of any change of your address in accordance with this clause.

**10.3 Electronic Communications:** Subject to Applicable Regulations, any communication between us using electronic signatures shall be binding as if it were in writing. Orders or instructions given to you via e-mail or other electronic means will constitute evidence of the orders or instructions given. You acknowledge that the use of telephone, email or other electronic means entails a considerable element of risk and we shall not be responsible for any consequences/damages resulting from such use of communication.

**10.4 Recording of calls:** We may record telephone conversations without use of a warning tone to ensure that the material terms of the Transaction, and any other material information relating to the Transaction is promptly and accurately recorded. Such records will be our sole property and accepted by you as evidence of the orders or instructions given.

**10.5 Our records:** Our records, unless shown to be wrong, will be evidence of your dealings with us in connection with our services. You will not object to the admission of our records as evidence in any legal proceedings because such records are not originals, are not in writing or are documents produced by a computer. You will not rely on us to comply with your record keeping obligations, although records may be made available to you on request at our absolute discretion.

**10.6 Your records:** You agree to keep adequate records in accordance with Applicable Regulations to demonstrate the nature of orders submitted and the time at which such orders are submitted.

**10.7 Voice orders:** For the purposes of any relevant record keeping and reporting obligations, unless we otherwise expressly agree with you, where we have a telephone conversation with you during which we discuss the details of an order relating to any financial instrument:

- (a) the time that we receive any relevant order will be the time (measured to the second) that is expressly agreed with you during the telephone conversation.
- (b) in the event that we do not expressly agree a time with you, then no actionable order will have been transmitted by you to us until:

(c) if the arrangement between us is that we confirm the details of such orders back to you by electronic message, the precise moment that the details of the order have been so confirmed by us;

(d) if the arrangement between us is such that we do not confirm the details of such orders back to you by electronic message, the precise moment that such a telephone conversation ends; and

which in either case shall constitute the time of the order (measured to the second) as determined by us and notified to you on request.

**10.8 Third Party Rights:** This Agreement shall be for the benefit of and binding upon us both and our respective successors and assigns. You shall not assign, charge or otherwise transfer or purport to assign, charge or otherwise transfer your rights or obligations under this Agreement or any interest in this Agreement, without our prior written consent, and any purported assignment, charge or transfer in violation of this clause shall be void. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999. Furthermore, nothing in this Agreement or enclosed schedules shall be deemed to create a partnership or joint venture between the parties.

**10.9 Time of essence:** Time shall be of the essence in respect of all obligations of both parties under this Agreement (including any Transaction).

**10.10 Rights and remedies:** The rights and remedies provided under this Agreement are cumulative and not exclusive of those provided by law. We shall be under no obligation to exercise any right or remedy either at all or in a manner or at a time beneficial to you. No failure by us to exercise or delay by us in exercising any of our rights under this Agreement (including any Transaction) or otherwise shall operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy shall prevent further exercise of that right or remedy or the exercise of another right or remedy.

**10.11 Set-off:** Without prejudice to any other rights to which we may be entitled, we may at any time and without notice to you set off any amount (whether actual or contingent, present or future) owed by you to us against any amount (whether actual or contingent, present or future) owed by us to you. For these purposes, we may ascribe a

commercially reasonable value to any amount which is contingent or which for any other reason is unascertained.

**10.12 Partial invalidity:** If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired.

## 11. Governing Law and Jurisdiction

**11.1 Governing law:** This Agreement and all non-contractual obligations and other matters arising from it or in connection with it shall be governed by and construed in accordance with English law.

**11.2 Law applicable to relationship prior to the conclusion of the Agreement:** The law applicable to the relationship between us prior to the conclusion of this Agreement is English law.

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

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

**11.4 Waiver of immunity and consent to enforcement:** You irrevocably waive to the fullest extent permitted by applicable law, with respect to yourself and your revenue and assets (irrespective of their use or intended use) all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any courts, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which you or your revenues or

assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agree that you will not claim any immunity in any Proceedings. You consent generally in respect of any Proceedings to the giving of any relief or the issue of any process in connection with such Proceedings, including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such Proceedings.

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

## 12. Interpretation

**12.1 Interpretation:** In this Agreement:

"**Applicable Regulations**" means:

- (a) FCA Rules or any other rules of a relevant regulatory authority;
- (b) the Rules of the LCM OTF; and
- (c) all other applicable laws, rules and regulations as in force from time to time;

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

"**Base Currency**" means United States Dollars or as otherwise determined in our reasonable discretion;

"**Business Day**" means a day which is not a Saturday, a Sunday, or a UK public holiday and upon which banks are generally open for business in London;

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

"**Equity Security**" means any security which is a share in a company, or a security equivalent to a

share in a company, a partnership or other entity, provided that it is negotiable on the capital markets and includes a depository receipt in respect of a share.

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

**"FCA"** means the United Kingdom's Financial Conduct Authority and any replacement authority from time to time;

**"FCA Rules"** means the contents of the handbook of the rules and guidance issued by the FCA from time to time and all related rules, guidance or opinions;

**"Fixed Income Security"** means any bonds or other forms of securitised debt, including depository receipts in respect of such securities provided it is negotiable on the capital markets;

**"LCM OTF"** means the organised trading facility that we operate;

**"Netting Transaction"** means a Transaction which is intended to be subject to the clause entitled "Netting" and for such purposes is identified as a "Netting Transaction" by its own terms;

**"Regulated Market"** has the meaning given in the FCA Rules;

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

**"Trading Venue"** has the meaning given in the FCA Rules;

**"Transaction"** means any transaction subject to this Agreement;

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

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

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

## Schedule 1 – Individually Agreed Terms Schedule

### 1. Address for Notices

Our respective details for notices are as follows:

#### Our Details

Name	Louis Capital Markets UK LLP
Address	4th Floor 130 Wood street London EC2V 6DL
Telephone No	+44 (0)20 7936 1700
Fax No	+44 (0)20 7936 1728
Contact Name	Jason Rendall

#### Your Details

Name	_____
Address	_____
Telephone No	_____
Fax No	_____
Contact Name	_____

2. If your address in clause 1 above is not located in England and Wales, please provide for the purposes of clause 11.5 an address for service of process.

## Schedule 2 – Acknowledgements Schedule

If there is anything you wish to query, please contact us as soon as possible.

**You should complete this Schedule. Please sign this Schedule and return one signed copy to us.**

### Agreement (all customers)

- a) I/We have read, understood and agree to the clauses set out in this Agreement. Where I/we sign in a representative capacity, I/we confirm that I/we have full power and authority to enter into this Agreement and:
- b) consent to your order execution policy; and
- c) agree and acknowledge that I/we shall be treated as a professional client/eligible counterparty.

Signature

Name of company \_\_\_\_\_  
Name of signatory \_\_\_\_\_  
Position \_\_\_\_\_  
Date \_\_\_\_\_

## Schedule 3 – Agency Module

### 1. Application and scope

**1.1 Scope of these terms:** These terms set out the basis on which we will provide the services referred to in the Agreement to you where you are acting as agent for each Counterparty. Where you are acting for your own account the supplemental terms set out in this Schedule shall not apply. These terms are supplemental to the Agreement and in the event of a conflict between these terms and the Agreement, these terms will prevail. For the avoidance of doubt, the “you” in these terms refer to you as agent acting for a Counterparty.

**1.2 Notification:** You will notify us before placing any order on behalf of a Counterparty that you are acting as agent for that Counterparty and inform us of the identity, address and any other details which we require in respect of each Counterparty to enable us to form a credit and counterparty risk assessment in respect of any Transaction.

**1.3 Instructions:** You may give us oral and written instructions and orders. We shall not accept nor act upon any instructions received by anyone other than persons duly authorised by you (“Authorised Persons”). Authorised Persons shall be those identified by you to us in writing from time to time. If we refuse to act on any instruction or order, we shall notify you as soon as practicable of our refusal. We shall be entitled to act for you upon instructions which we reasonably believe to be given by you or any person authorised on your behalf.

**1.4 Capacity:** Each Transaction will be entered into by you as agent for and on behalf of the Counterparty specified by you (whether by code name or otherwise) in accordance with term 1.5 below. Unless we agree otherwise in writing, we shall treat you alone as our client and we shall not treat any Counterparty as our client for the purposes of the FCA Rules.

**1.5 Nature of Counterparties:** You represent, warrant and undertake on your own behalf and as agent for the Counterparties that no Counterparty will be a state or a separate entity within the meaning of the State Immunity Act 1978 and that a Counterparty shall, at the time an instruction is given in respect of it, have the characteristics and

conform to any criteria agreed between us from time to time.

**1.6 Counterparty accounts:** We shall, in respect of each Counterparty, establish and maintain one or more separate sub-accounts (each a “Counterparty Account”). You undertake, as agent for the relevant Counterparty and on your own behalf, in respect of each instruction given, to specify within one Business Day of giving an instruction (or such other time as we may reasonably specify) the Counterparty Account to which the relevant instruction relates. Until you specify a specific Counterparty Account you shall be directly liable, as principal, in respect of the relevant Transaction. You further undertake, as agent for each Counterparty and on your own behalf, to notify us immediately if any two or more Counterparty Accounts relate to the same Counterparty.

**1.7 Separate administration:** We shall, subject to these terms, administer Counterparty Accounts which we reasonably believe relate to different Counterparties separately. We shall not exercise any power to consolidate accounts or set off amounts owing between Counterparty Accounts relating to different Counterparties.

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

### 2. Advice

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

### 3. Representations, Warranties and Covenants

**3.1 The Agreement:** The representations and undertakings in clause 4 of the Agreement shall not apply to you.

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

- (a) you and the Counterparty each have all necessary authority, powers, consents, licences and authorisations and have taken all necessary action to enable you lawfully to enter into and perform these terms, the Agreement and each Transaction;
- (b) the person(s) entering into these terms, the Agreement and each Transaction have been duly authorised to do so;
- (c) these terms, the Agreement, each Transaction and the obligations created under each of them are binding upon, and are enforceable against, you and/or the Counterparty (as applicable) in accordance with their terms (subject to applicable principles of equity) and do not and will not violate the terms of any regulation, order, charge or agreement by which you or the Counterparty is bound;
- (d) no Event of Default or Potential Event of Default has occurred and is continuing with respect to you or the Counterparty;
- (e) each of you and the Counterparty is permitted under its constitution and any applicable law or regulation and is financially able to sustain any loss which may result from Transactions, and that entering into Transactions is a suitable investment vehicle for the Counterparty;
- (f) the relevant Counterparty owns, with full title guarantee, all investments, or collateral deposited with, transferred to us or charged in our favour, by you acting as agent for the Counterparty and such investments, or collateral are free from any prior mortgage, charge, lien or other encumbrance whatsoever and neither you acting as agent for the relevant Counterparty, nor the Counterparty itself, will further pledge or charge such investments, or collateral or grant any lien over them while it is pledged or charged to us except with our prior written consent; and
- (g) any information which you provide or have provided to us in respect of your or the

Counterparty's financial position, domicile, or other matters is accurate and not misleading in any material respect.

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

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

are found to be incorrect or misleading in any material respect.

#### 4. **Anti-Money laundering**

4.1 **Anti-money laundering:** You represent, warrant and undertake that you are now and will be at all material times in the future in compliance with all Applicable Regulations concerning anti money-laundering. We are required to follow the Applicable Regulations concerning anti money-laundering relating to the identification of the Counterparty unless clause 4.2 applies, and if satisfactory evidence of identity has not been obtained by us within a reasonable time period, we reserve the right to cease to deal with you.

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

#### 5. **Discharge**

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

#### 6. **Netting**

6.1 **Events of Default:** References to "you" in clause 6 of the Agreement shall be deemed to be references to you acting on your own behalf and to each Counterparty. If any Event of Default occurs in respect of you or a Counterparty we shall be entitled to exercise our rights under clause 6 of the Agreement in accordance with the following sentences of this term. In respect of an Event of Default which occurs in respect of you (as opposed to any Counterparty), our rights under clause 6 of the Agreement shall apply separately in respect of each Counterparty Account. If an Event of Default occurs in respect of a Counterparty, our rights under the clause 6 of the Agreement shall be limited to the relevant Counterparty Account(s).

#### 7. **Indemnity**

7.1 **Indemnification:** In the event that you were negligent, fraudulent or committed an act of wilful misconduct, you shall, notwithstanding that you may act as agent, indemnify us in respect of any liabilities, costs, damages and losses incurred in relation to any Transaction effected by you as agent on behalf of any Counterparty.

#### 8. **Interpretation**

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

## Schedule 4 - Classification as an eligible Counterparty

In being classified as an “eligible counterparty” rather than a “professional client” under the FCA Rules, the protections that you will forego will include the following:

- We are not obliged to warn you of the nature of any risks involved in investments that we may advertise or recommend to you.
- You will not have the protections afforded by the FCA’s suitability rules, which means that we are reliant upon you to determine whether or not an investment that we recommend to you is suitable for your needs.
- We are under no obligation to set out in writing the basis on which the services we will provide to you will be affected.
- We are not required to inform you of the charges applicable in relation to the services that we will provide, however we will continue to charge you in accordance with the scale already agreed unless we advise you to the contrary
- We do not have to provide you with “best execution” although, wherever it is possible, we shall endeavour to do so.
- You should also be aware that your rights to sue Louis Capital Markets UK LLP for damages will be restricted as you will only be able to sue for breaches of obligation which do not include the customer protections noted above.