



RBC Capital Markets®

Eligible Counterparty Terms of Business

RBC Capital Markets

Terms of Business for Eligible Counterparties

These Terms of Business, together with any Schedules and/or Annexes, and accompanying documents as amended from time to time, (this "Agreement") set out the terms of the contract between you and us. These Terms of Business set out the terms which apply to all products offered to you and each Annex sets out any additional product specific terms. It is, therefore, very much in your interests to read them carefully. Please let us know as soon as possible if there is anything which you do not understand.

1 GENERAL INFORMATION

- 1.1 ***Information about us:*** We, RBC Capital Markets, incorporating RBC Europe Limited and the London branch of Royal Bank of Canada are hereinafter referred to as "RBCCM". RBC Europe Limited is authorised by the Prudential Regulation Authority ("PRA") and regulated by the Financial Conduct Authority ("FCA") and the PRA, the London branch of Royal Bank of Canada is authorised and regulated by the Office of the Superintendent of Financial Institutions of Canada, authorised by the PRA and subject to regulation by the FCA and limited regulation by the PRA (details about the extent of our regulation by the PRA are available from us on request). The PRA and FCA are together referred to as the "Relevant Regulators". The FCA's registered office is 12 Endeavour Square, London, E20 1JN. The PRA's address is 20 Moorgate, London EC2R 6DA. The head office of the Office of the Superintendent of Financial Institutions of Canada is 255 Albert Street, Ottawa, Ontario, K1A 0H2.
- 1.2 ***Communication with us:*** You may communicate with us in writing (including fax), by email or other electronic means, or orally (including by telephone). The language of communication shall be English, and you will receive documents and other information from us in English.
- 1.3 ***Our Services and capacity:*** You authorise us to provide you with the Services. Unless otherwise agreed, we act as principal and not as agent on your behalf. Subject to clause 1.5 below, where we conduct Eligible Counterparty Business with you we shall treat you as an "eligible counterparty" for the purposes of the FCA Rules. Where we provide you with services other than Eligible Counterparty Business, we will categorise you as a "professional client" in relation to such business and you will benefit from the regulatory protection afforded to that category of client under Applicable Regulations in relation to such business only. Where we agree to act as a general clearing member for you, the terms upon which we agree to act will be set out in a separate written agreement between you and us.

Unless agreed otherwise in writing, we will not provide you with investment advice or any other personal recommendations (as those terms are defined in MiFID2) under this Agreement.

- 1.4 ***Your capacity:*** You act as principal and not as an agent (or trustee) on behalf of someone else. If you are not acting in a principal capacity, please let us know as we have supplemental terms that are suitable for use by agents or trustees.

- 1.5 **Your investment objectives:** Unless we agree separately in writing to provide you with investment advice or personal recommendations (as those terms are defined in MiFID2), we will proceed on the basis that there are no specific or general investment objectives to which we should have regard when dealing for you.
- 1.6 **Classification:** We shall treat you as an eligible counterparty for the purposes of the FCA Rules. You have the right to request a different client categorisation as a retail or professional client, meaning that certain additional rights and protections will be afforded to you. If you request to be categorised as a professional client, we may require you to enter into an updated agreement as a condition to any such recategorisation, in order to reflect (among other things) such additional rights and protections. Similarly, if you request to be categorised as an eligible counterparty but would otherwise be categorised as a professional client, we will only categorise you as an eligible counterparty if we are satisfied in our sole discretion that you meet the relevant criteria in Article 30 of MiFID2. If at any time we are not satisfied that you meet the relevant criteria, we may not be able to provide our services to you. You agree and acknowledge that you are responsible for keeping us informed about any change that could affect your categorisation as an eligible counterparty. If you request to be categorised as a retail client, we may not be able to provide our services to you.
- 1.7 **Right to cancel:** You should note that you are not entitled to cancel this Agreement (but you can terminate it as set out in the Termination clause (12.2)).

2 SCOPE AND APPLICATION

- 2.1 **Scope of this Agreement:** This Agreement sets out the basis on which we will deal in and arrange deals in investments, enter into Transactions and provide such other services as agreed in writing from time to time. This Agreement governs each Transaction entered into or outstanding between us (or, where so agreed any two of our respective Designated Offices) on or after the execution of this Agreement. Subject to Applicable Regulations and this Agreement there shall be no restrictions on the Transactions in respect of which we may advise you or deal with you. A description of the main characteristics of the service we will provide is enclosed.
- 2.2 **Commencement:** This Agreement shall apply to all Transactions contemplated under this Agreement. Other than in relation to any separate terms agreed between us as governing a specific service (the "Specific Terms"), this Agreement supersedes any previous agreement between us in relation to any Transaction (including where relevant, your terms of business) and takes effect when you signify your acceptance of this Agreement by placing an order following receipt of this Agreement whether or not you have signed and returned this Agreement. Where the terms of this Agreement conflict with any Specific Terms, the Specific Terms will prevail. 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 other than a fraudulent misrepresentation that is not set out in this Agreement.
- 2.3 **Duty and responsibilities:** We are obliged by the Rules of the FCA to comply with certain rules of conduct. However, we assume no greater responsibility or fiduciary duty, other than that imposed by the FCA Rules or the express terms of this Agreement.
- 2.4 **Language and minimum duration:** This Agreement is supplied to you in English and we will continue to communicate with you in English for the duration of this Agreement. The minimum

duration of this Agreement shall be the earlier of settlement of the first trade in respect of which you instruct us or the occurrence of an Event of Default.

3 APPLICABLE REGULATIONS AND EXCHANGE/MARKET REQUIREMENTS

3.1 ***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 (or the terms of any Services) and any Applicable Regulations, the latter will prevail; (ii) nothing in this Agreement (or the terms of any Services) 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 Affiliated Companies, directors, officers, employees or agents liable for any losses incurred or suffered by you for the non-performance, partial performance or delay in performance of any of our obligations under this Agreement or in respect of any Services resulting from actions taken by us for the purpose of compliance with any Applicable Regulation; (vi) you agree to comply with all Applicable Regulations.

3.2 Without prejudice to the generality of Clause 3.1:

- (a) we may refuse to enter into, execute, transmit, deal in or otherwise arrange any Transaction or otherwise impose position management controls and we may close out, terminate or reduce any position or Transaction (or require you to do any of the foregoing) for the purposes of complying with any position limits imposed by an Applicable Regulator or position management controls imposed by a Trading Venue (including, without limitation, pursuant to Applicable Regulation implementing Article 57 of MiFID2 or procedures and rules required thereby);
- (b) we may refuse to enter into, execute, transmit, deal in or otherwise arrange any Transaction where you have not provided such information (and waived or procured the waiver of any confidentiality or data protection/privacy obligations in respect of such information) as we may reasonably require:
 - (i) in order for us to comply with any Transaction Reporting Requirements or Market Transparency Requirements in respect of such Transaction; or
 - (ii) where our non-receipt of such information (including, without limitation, an applicable legal entity identifier code) would mean that we are prohibited by Applicable Regulation from entering into, executing, transmitting, dealing in or otherwise arranging (as the case may be) such Transaction (including, without limitation, pursuant to Article 13(2) of the MiFID2 RTS 22);
- (c) we may refuse to enter into, execute, transmit, deal in or otherwise arrange any of your Transactions or perform any obligation pursuant to this Agreement or Service where such action or performance:

- (i) would cause us to breach any prohibition or restriction imposed or specified by ESMA pursuant to Article 40 of MiFIR, by the EBA pursuant to Article 41 of MiFIR or by an Applicable Regulator pursuant to Article 42 of MiFIR; or
 - (ii) would be prohibited, or made impracticable to effect on reasonably commercial terms, by any suspension or removal from trading of a Financial Instrument imposed by an Applicable Regulator pursuant to Applicable Regulation (including, without limitation, pursuant to any Applicable Regulation implementing Articles 18(9), 32 or 69 of MiFID2); and
 - (d) where we have agreed with you or any other person that we are not obliged to, or shall not, make public a Transaction, but we are nonetheless required by Applicable Regulation to publish or arrange the publication of such Transaction (pursuant to a Market Transparency Requirement or otherwise) notwithstanding such agreement, then we may publish or arrange the publication of such Transaction and may delegate such publication or arrangements to any other person.
- 3.3 **Exchange/Market action:** If an Exchange/Market (or intermediate broker or agent, acting at the direction of, or as a result of action taken by, an Exchange/Market) or regulatory body takes any action which affects a Transaction, then we may take any action which we, in our reasonable discretion, consider desirable 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 an Exchange/Market or regulatory body makes an enquiry in respect of any of your Transactions, you agree to co-operate with us and to promptly supply information requested in connection with the enquiry.

4 ADVICE, SUITABILITY AND APPROPRIATENESS

- 4.1 **No advice:** Unless agreed otherwise in writing, we will not provide you with investment advice or any other personal recommendations (as those terms are defined in MiFID2) under this Agreement.
- 4.2 **Suitability:** We may provide you with information about investments and investment strategies, including RBCCM research reports and market commentaries, as well as materials prepared by third parties. Unless otherwise agreed between us in writing, you agree that none of this information is based on a consideration of your circumstances, is in any way tailored to your financial situation or is presented as suitable for you. You should not view any information that we make available to you under this Agreement as a personal recommendation. We shall not be under any obligation to provide on-going information or recommendations in relation to the management of your investments unless you have entered into a discretionary investment management agreement with us or we have agreed to maintain your portfolio under continuous review and provide specific recommendations from time to time.
- 4.3 **Own judgement and appropriateness:** We are not required to assess appropriateness for the provision of Services to you. In asking us to enter into any Transaction, 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 appropriateness of the products traded under this Agreement and assume no fiduciary duty in our relations with you.

- 4.4 **Limitations:** Where we do provide market information or recommendations, we give no representation, warranty or guarantee as to their accuracy or completeness or as to the tax consequences of any Transaction. Unless we specifically agree otherwise in writing with you, you hereby acknowledge: (i) that the provision of any such information is incidental to your dealing relationship with us and provided solely to enable you to make your own investment decisions; (ii) that the information provided to other customers may be different from information given to you due to individual analysis of fundamental and technical factors by different personnel; and (iii) that such information may not be consistent with our proprietary investments, or those of our associates, directors, employees or agents.
- 4.5 **Research and other published information:** We may from time to time send published research reports and recommendations, advertisements and other publications to you. Where such document contains a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on to any such person or category of persons. We make no representations as to the time of receipt by you of research reports or recommendations and cannot guarantee that you will receive such research reports or recommendations at the same time as other customers. Any such published research reports or recommendations may appear in one or more screen information service. We shall not be liable for any investment decision you make, based in whole or in part, on any investment research report, recommendation or other publication we send to you.
- 4.6 **Investment research:** Where we provide investment research recommendations to you either in hard copy or through our website, we shall do so in accordance with our conflicts of interest policy which inter alia, addresses how we manage conflicts of interest which might affect the impartiality of investment research.
- 4.7 **Tax advice:** We will not provide any tax advice. In addition, we shall not at any time be deemed to be under any duty to provide tax advice.
- 4.8 **Advice and execution-only arrangements:** Please note that we will not advise you about the merits of any particular Transaction and we will only accept orders from you on a non-advised, execution-only basis. As a result, we may be unable to determine whether or not you would fall within the target market for a particular product or Service, so we will not be able to assess fully your compatibility with such product or Service.
- 4.9 **Product information:** In accordance with Article 24(4) of MiFID2, guidance on the risks associated with particular investments or products can be found at <https://www.rbccm.com/en/policies-disclaimers.page>.

5 CHARGES AND PAYMENTS

- 5.1 **Charges:** You will pay our charges as agreed with you from time to time. Any alteration to charges will be notified to you at or before the time of the change. Our charges will include any applicable value added tax, withholding tax, stamp duty, stamp duty reserve tax, industry levy, brokerage fees, transfer fees, registration fees and all other liabilities, charges, costs and expenses payable in connection with transactions effected on your behalf.

We will provide you with summaries of the costs and charges that you may pay in relation to certain Services. The timing and format of these summaries may vary depending on the types of Services

that we provide to you. We will provide an itemised breakdown of any of these summaries upon your request.

- 5.2 **Payments:** All payments to us under this Agreement shall be made in same day funds in such Currency as we may from time to time specify to the bank account designated by us for such purpose. All such payments shall be made by you without any deduction or withholding.
- 5.3 **Inducements disclosures:** In respect of the Services, we may obtain from and keep or pay to third parties any profits, commissions, fees or non-monetary benefits in connection with the Services provided, where permitted by Applicable Regulation.
- 5.4 **Default interest:** If you fail to pay us any amount when it is due, we reserve the right to charge you interest (both before and after any judgment) on any such unpaid amount calculated at the rate as reasonably determined by us to be the cost of funding such overdue amount. Interest will accrue on a daily basis and will be due and payable by you as a separate debt.
- 5.5 **Currency indemnity:** If we receive or recover any amount in respect of an obligation of yours in a Currency other than that in which such amount was payable, whether pursuant to a judgment of any court or otherwise, you shall indemnify us and hold us harmless from and against any cost (including costs of conversion) and loss suffered by us as a result of receiving such amount in a Currency other than the Currency in which it was due.
- 5.6 **Taxes:** You shall at all times be fully responsible for payment of all taxes due and for the making of all related claims whether for exemption from withholding taxes or otherwise, for filing any and/or all tax returns and for providing any relevant tax authorities with all necessary information in relation to any investment business we carry on for or with you or any investments which we hold on your behalf. You should be aware of the possibility that other taxes or costs may exist that are not paid through or imposed by us.
- 5.7 **Costs resulting from use of distance means:** In addition to the costs set out above, additional costs as agreed with you from time to time will be payable by you by virtue of the fact that this contract is entered into via email, telephone or fax.
- 5.8 **Costs and charges disclosures:** We shall provide you separately with appropriate information with regard to costs and charges related to the provision of our Services, and, to the extent permitted by Applicable Regulations, you agree to a limited application of the detailed information requirements set out in Article 50 of the MiFID2 Delegated Regulation. Such information can be found at <https://www.rbccm.com/en/policies-disclaimers.page>. Upon request, we shall also provide you with an itemized breakdown of such costs and charges.

This Clause 5.8 shall not apply with respect to any costs and charges in connection with Services that relate to investment advice or Financial Instruments that embed a derivative.

6 CONFLICTS OF INTEREST

- 6.1 **Conflicts of interest policy:** RBCCM forms part of a major banking group. It is therefore possible that RBCCM or one of its subsidiaries or one of their officers, employees, representatives or agents (together “**the Bank Group**”) or another client of the Bank Group may have interests, relationships and/or arrangements that give rise to conflicts of interest in relation to business that is transacted

with you. Conflicts of interest may also arise between our different clients. We have therefore established a conflicts of interest policy, a copy of which is available on request, and implemented procedures and arrangements to identify prevent and manage such conflicts.

- 6.2 **Pre-hedging:** Unless otherwise agreed with you, we may choose to pre-hedge your orders or transactions to enable us to provide liquidity, manage our risk, execute your orders and transactions, or for other legitimate business reasons. We may trade prior to or alongside your transactions, including to execute other client transactions, hedge or source liquidity for market making purposes, manage our risk, or as part of a previously commenced trading strategy, any of which may potentially conflict with your interests. These transactions could impact the price of the underlying market and consequently the price of your Transactions. In addition, and regardless of how we choose to hedge or manage our risk, any profit or loss resulting from that activity will accrue to us, unless we agree otherwise with you. All such trading will occur in compliance with Applicable Regulations.

7 INFORMATION & DATA PROTECTION

- 7.1 **Disclosure to others:** We will treat all information we hold about you, the Client ("**Client Information**"), including any personal data we hold relating to your staff and corporate contacts, as private and confidential even when you are no longer a customer. We will not disclose any such information to others except: (i) to the extent we are required to do so by any Applicable Regulations; (ii) where there is a duty to the public to disclose it; (iii) where our interests require disclosure; or (iv) at your request or with your consent. You consent to our disclosure of Client Information to other members of the Bank Group, to companies that provide a service to us or to you, to Applicable Regulators, to stock exchanges and clearing authorities in any jurisdiction, to the operator of any system on which you have been granted access and to persons to whom we transfer our rights and obligations under this Agreement.
- 7.2 **Our use of information:** You agree that we and other companies in the Bank Group may hold and process by computer or otherwise Client Information and may use any of that information to administer and operate your account and to provide any Service to you, to monitor and analyse the conduct of your account, to assess any credit limit or other credit decision (as well as the interest rate, fees and other charges to be applied to your account), to enable us to carry out statistical and other analysis, to comply with Applicable Regulations and co-operate with Applicable Regulators and to protect our businesses against fraud and other financial crime.
- 7.3 **Marketing:** Unless you have notified us in writing to the contrary, we and the other companies in the Bank Group may analyse and use Client Information to enable us to provide you with certain information (by post, telephone, email or other medium, using the business contact details you have given us) about products and Services offered by us (or by other companies in the Bank Group or selected third parties) which we believe may be of interest to you. If you do not wish to receive marketing information, please let us know by contacting us in writing.
- 7.4 **Data protection:**
- 7.4.1 As an eligible counterparty, any personal data we hold in connection with you and your account (the "**Personal Data**") relates to your staff and corporate contacts. It may include information obtained from third parties.

- 7.4.2 In using and disclosing the Client Information as discussed above, we may transfer Personal Data to any country, including countries outside the European Economic Area which may not have data protection laws as strict as in the United Kingdom. In those cases, except where the relevant country has been determined to ensure an adequate level of data protection by the European Commission or we need to make the transfer on your behalf (to fulfil your instructions), or for public interest reasons, we will ensure that any transferred Personal Data is protected by appropriate measures in accordance with Applicable Regulations. Transferred Personal Data may nonetheless be accessed by law enforcement agencies and other authorities in these countries.
- 7.4.3 We will retain Personal Data for a period of up to seven years.
- 7.4.4 Except in limited circumstances, where we might seek the consent of the relevant individuals outside the scope of this Agreement, we do not rely on individual consent to allow us to process Personal Data as described in this clause 7. Our processing is permitted by applicable data protection law because it is (i) necessary for the purposes of our legitimate interests in pursuing the purposes described in clauses 7.2 and 7.3 (which are not overridden by prejudice to the relevant individuals' privacy); and/or, in some cases, (ii), necessary so that we can comply with Applicable Regulations.
- 7.4.5 Individuals about whom we process Personal Data may request a copy of their Personal Data. They also have the right to require us to correct their Personal Data if it is inaccurate and in some circumstances they can require us to delete, or object to or require us to restrict our processing of, their Personal Data. In particular, they can require us to cease processing their Information for marketing purposes as described in clause 7.3. We will also, on request, provide them with further details of the international transfers, and with an explanation and copies of the related safeguards, referred to in clause 7.4.2. Individuals wishing to exercise any of these rights should write to the Data Protection Officer, RBC Capital Markets at the registered address of RBCCM. We reserve the right to require appropriate proof of identity.
- 7.4.6 By entering into this Agreement you confirm that, in respect of each individual whose Personal Data you provide to us, you are able lawfully to provide that Personal Data to us and will, before doing so, ensure that they have been informed of (unless they already know) our identity, the Personal Data (or categories of Personal Data) to be disclosed and the information set out in clauses 7.1 to 7.4.5 above.

8 INSTRUCTIONS AND BASIS OF DEALING

- 8.1 ***Placing of instructions:*** You may give us instructions in writing (including fax), 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. We will not be liable for any action we take in good faith, pursuant to receipt of instructions from you, nor will we be responsible for verifying the accuracy of instructions received from you. If you give 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. Instructions for the simultaneous sale and purchase of a security on behalf of the same beneficial owner may not be given under this Agreement. In this Agreement "instructions" and "orders" have the same meaning.

- 8.2 **Authority:** We shall be entitled to act for you upon instructions given or purporting to be given by you or any person authorised on your behalf without further enquiry as to the genuineness, authority or identity of the person giving or purporting to give such instructions.
- 8.3 **Cancellation of instructions:** We will only cancel your instructions upon your request if we have not acted upon those instructions. We may cancel your instructions where required in accordance with Applicable Regulations or otherwise where required by an Applicable Regulator.
- 8.4 **Right not to accept orders:** We may, but shall not be obliged to, accept instructions to enter into a Transaction. If we decline to enter into a proposed Transaction, we shall not be obliged to give a reason. We shall promptly notify you accordingly.
- 8.5 **Confirmations:** We shall send you confirmations of the details of the Transactions at the end of the trading day for any Transactions that we have executed on your behalf on that trading day, by electronic mail or fax to the e-mail address or fax number 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 one Business Day of despatch to you or we notify you of an error in the confirmation within the same period.
- 8.6 **Performance and settlement:** You will promptly deliver any instructions, money, documents or property deliverable by you under a Transaction in accordance with that Transaction as modified by any instructions given by us for the purpose of enabling us to perform our obligations under the relevant matching transaction on an Exchange/Market or with an intermediate broker. All market transactions should be settled or delivered in accordance with the relevant market rules. You acknowledge that markets have cut-off times, and that we may not always be able to settle a Transaction on the due date for settlement.
- 8.7 **Amendments:** Once given, instructions may only be withdrawn or amended with our consent.
- 8.8 **Intermediate brokers and other agents:** We may, at our entire discretion, arrange for any Transaction to be effected with or through the agency of an intermediate broker, who may be an associate of ours, and may not be in the United Kingdom. Neither we nor our respective directors, officers, employees or agents will be liable to you for any act or omission of an intermediate broker or agent. No responsibility will be accepted for intermediate brokers or agents selected by you.
- 8.9 **Trading and position limits:** In relation to the Services that we provide to you under this Agreement, we may set out and communicate to you appropriate trading and position limits to mitigate and manage regulatory requirements as well as our own counterparty, liquidity, operational and other risks. We will monitor your positions against such limits as close to real-time as possible. We may also require you to limit the number of open positions which you may have with us at any time, with failure to comply potentially resulting in our taking action to ensure such positions are maintained, including (but not limited to) closing out positions.
- 8.10 **Market abuse and conduct:** You shall observe the standard of behaviour reasonably expected of persons in your position in relation to any relevant market and not take any step which would cause us to fail to observe the standard of behaviour reasonably expected of persons in our position.

9 TRANSACTION REPORTING, MARKET TRANSPARENCY AND POSITION REPORTING

- 9.1 **General:** Under Applicable Regulations, we may be obliged to make information about certain Transactions public. You agree and acknowledge that any and all proprietary rights in such Transaction information are owned by us and you waive any duty of confidentiality attaching to the information which we reasonably disclose.
- 9.2 **Transaction reporting:** We may from time to time be required to report details of your Transactions and details about you to an Applicable Regulator pursuant to Applicable Regulation (including, without limitation, pursuant to Article 26 MiFIR) (a "Transaction Reporting Requirement").
- 9.3 **Market transparency:** We may from time to time be required:
- (a) to provide information relating to your Transactions and details about you to an Execution Venue pursuant either to Applicable Regulation or pursuant to the rules or procedures of, or any other contractual or other arrangement with, the applicable Execution Venue, to enable such Execution Venue to comply with its requirements to make public transaction details pursuant to Applicable Regulations (including, without limitation, pursuant to Titles II and III of MiFIR);
 - (b) where we are acting as an Execution Venue, to make public transaction information relating to your Transactions and details about you pursuant to Applicable Regulations (including, without limitation, pursuant to Titles II and III of MiFIR); and
 - (c) where we are acting as a Systematic Internaliser for Financial Instruments traded on a Trading Venue, to make public quotes in respect of such Financial Instruments (including, without limitation, in response to requests for quotes from you) (including, without limitation, pursuant to Title III of MiFIR),
- each a "**Market Transparency Requirement**".
- 9.4 **Position reporting:** Where we are trading in commodity derivatives, emission allowances or derivatives thereof, we may from time to time be required:
- (a) where such trades are conducted on a Trading Venue, to provide information relating to the positions in such Financial Instruments of you (and of your own clients, and clients thereof, until the end client is reached) (together, "Members of the Client Chain") and details about each Member of the Client Chain), to an Execution Venue pursuant either to Applicable Regulation or pursuant to the rules or procedures of, or any other contractual or other arrangement with, the applicable Execution Venue to enable such Execution Venue to comply with its requirements to make public transaction details pursuant to Applicable Regulation; and
 - (b) where such trades are conducted outside a Trading Venue, to report information relating to Members of the Client Chain and their positions to an Applicable Regulator pursuant to Applicable Regulation (including, without limitation, pursuant to Applicable Regulations implementing Article 58 MiFID2),

together the "**Position Reporting Requirements**".

- 9.5 **Counterparty Data:** We may from time to time require you to provide such information (and updates to such information as may have already been provided) relating to you and your agents, employees, underlying principals or others and (in respect of Position Reporting Requirements) any other Members of the Client Chain as we may reasonably require in order to comply with any Market Transparency Requirements, Position Reporting Requirements or Transaction Reporting Requirements as we may reasonably believe may arise in respect of your Transactions or the Services provided or expected to be provided to you ("**Counterparty Data**").
- 9.6 **Provision of Counterparty Data:** You:
- (a) agree to deliver to us such Counterparty Data as requested by us in time for us to comply with our Transaction Reporting Requirements, Position Reporting Requirements or Market Transparency Requirements, as applicable;
 - (b) represent to us that such Counterparty Data as you deliver is, at the time of delivery, true, accurate and complete in every material respect;
 - (c) acknowledge and agree that we may rely on the Counterparty Data without investigation, unless and until you inform us otherwise; and
 - (d) undertake to provide us, on reasonable notice, with any material changes or updates to the Counterparty Data.
- 9.7 **Reception and transmission of orders:** Where you receive and transmit an order relating to a Financial Instrument to us, we shall be under no obligation (unless expressly agreed otherwise) to report the transaction resulting from the order concerned or transmit the order details to another investment firm in accordance with Article 4 of MiFID2 RTS 22.
- 9.8 **Systematic Internaliser Confirmation:** We and you shall, before concluding outside the rules of a Trading Venue any Transaction in a Financial Instrument between you and us (whether acting as, or on behalf of, the buyer or seller thereof), confirm to each other whether each is a Systematic Internaliser in respect of the relevant Financial Instrument. When required by Applicable Regulation, we shall provide details of our policies in respect of transacting as a Systematic Internaliser at <https://www.rbccm.com/en/policies-disclaimers.page>.
- 9.9 **Foreign exchange transactions:** For the avoidance of doubt, where we undertake foreign exchange transactions with you which have a settlement date greater than the trade date plus two days, then such transaction may be subject to certain post-trade transparency reporting requirements. Where you believe that such transaction should not be subject to such post-trade transparency reporting requirements for any reason, then you must advise us at the time of execution in order that such transaction can be correctly classified as such.

10 BANKS

- 10.1 **Approved bank:** As an approved bank for the purposes of the Client Money Rules, we act as banker rather than as trustee in respect of any money we hold on your behalf in an account with ourselves, and hold such monies on a full ownership basis. As a result, we will not hold your money in accordance with the Client Money Rules. In particular, we shall not segregate your money from

ours and we shall not be liable to account to you for any profits made by our use as banker of such funds. You have the option to request that such monies are held within the scope of the Client Money Rules; however we are not obliged to agree to such a request. You also acknowledge that, where we become subject to insolvency proceedings, CASS 7A of the FCA's Client Assets Sourcebook (the "Client Money Distribution Rules") will not apply to the money we hold for you and so you will not be entitled to share in any distribution under the Client Money Distribution Rules.

If there are circumstances in which we cease to hold money for you as banker, and will instead hold money for you as trustee under the Client Money Rules, we will provide additional information explaining such circumstances, and will provide additional terms regarding the holding of money under the Client Money Rules which you acknowledge and agree will form part of the Agreement.

Additionally, you agree that money will not be treated as client money in respect of any delivery versus payment transactions where we settle through (in our capacity as a direct member or participant or where we are sponsored by such a direct member or participant) a system commercially available to firms that are members or participants, a purpose of which is to facilitate the settlement of transactions using money and/or assets held on one or more settlement accounts, if:

- (a) in respect of a purchase, we intend the money from you to be due to us within one business day following the fulfilment of our delivery obligation to you; or
- (b) in respect of a sale, we intend the money in question to be due to you within one business day following the fulfilment of your delivery obligation to us,

(the "**DVP exemption**"), provided that we will stop using the DVP exemption in respect of any particular transaction if the relevant payment or delivery by us to you has not occurred by the close of business on the third business day following the date on which we make use of the DVP exemption in respect of that transaction.

10.2 **Interest:** Unless otherwise agreed in writing, we shall not pay you interest, nor account to you for profits earned, on any funds held in accounts with us.

10.3 **Definition:** In this Agreement, Client Money Rules means the provisions of the FCA's Client Assets Sourcebook relating to client money.

11 REPRESENTATIONS, WARRANTIES AND COVENANTS

11.1 **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 this Agreement and such Transaction and to grant the security interests and 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 regulation, order, charge or agreement by which you are bound;
- (d) no Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination or any combination of the above) an Event of Default (a Potential Event of Default) has occurred and is continuing with respect to you or any Credit Support Provider;
- (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;
- (g) you are willing and financially able to sustain a total loss of funds resulting from Transactions and trading of such Transactions is a suitable investment vehicle for you;
- (h) except as otherwise agreed by us, you are the sole beneficial owner of all margin you transfer under this Agreement, free and clear of any security interest whatsoever other than a lien routinely imposed on all securities in a clearing system in which such securities may be held; and
- (i) unless otherwise agreed with us, you do not and will not use the contractual relationship between you and us established pursuant to this Agreement as a basis for providing Clearing Services in respect of derivative contracts to any of your clients as part of an indirect clearing arrangement in relation to any CCP established in the EU.

11.2 Covenants: You covenant to us that:

- (a) you will not send orders or otherwise take any action that could create a false impression of the demand or value for a security/financial instrument, or send orders which you have reason to believe are in breach of Applicable Regulations. You shall observe the standard of behaviour reasonably expected of persons in your position and not take any step which would cause us to fail to observe the standard of behaviour reasonably expected of persons in our position; and
- (b) upon 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.

12 EVENTS OF DEFAULT, TERMINATION OF AGREEMENT, AND NETTING

12.1 Events of Default: If at any time:

- (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 after we give you notice of non-performance;

- (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;
- (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;
- (d) you or any Credit Support Provider (or any Custodian acting on behalf of either of you) disaffirm, disclaim or repudiate any obligation under this Agreement or any guarantee, hypothecation agreement, margin or security agreement or document, or any other document containing an obligation of a third party ("Credit Support Provider"), or of you, in favour of us supporting any of your obligations under this Agreement (individually a "Credit Support Document");
- (e) any representation or warranty made or given or deemed made or given by you under this Agreement or any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given;
- (f) (i) any Credit Support Provider fails to comply with or perform any agreement or obligation to be complied with or performed by you or it in accordance with the applicable Credit Support Document; (ii) any Credit Support Document expires or ceases to be in full force and effect prior to the satisfaction of all your obligations under this Agreement, unless otherwise agreed in writing by us; (iii) any representation or warranty made or given or deemed made or given by any Credit Support Provider pursuant to any Credit Support Document proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given or (iv) any event referred to in paragraphs (b) to (d) or (g) of this sub-clause occurs in respect of any Credit Support Provider;
- (g) 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 procedures are commenced seeking or proposing your dissolution, removal from such a register, or the ending of such a registration;
- (h) where you or your Credit Support Provider is a partnership, any of the events referred to in paragraphs (b) to (d) or (g) of this sub-clause occurs in respect of one or more of your or its partners;

- (i) we consider it necessary or desirable to prevent what we consider is or might be a violation of any Applicable Regulation or good standard of market practice;
- (j) we consider it necessary or desirable for our own protection or any action is taken or event occurs which we consider might have a material adverse effect upon your ability to perform any of your obligations under this Agreement; or
- (k) any event of default (however described) occurs in relation to you under any other agreement which you are a party to

then we may exercise our rights under clause 12.2 below, except that, if so specified by us in writing in the case of the occurrence of any Event of Default specified in paragraphs (b) or (c) of this sub-clause (each a "Bankruptcy Default"), the provisions of clause 12.3 shall apply.

12.2 **Termination on notice:** Subject to clause 12.3 below, at any time following the occurrence of an Event of Default, we may, by notice to you, specify a day (the "**Liquidation Date**") for the termination and liquidation of Transactions in accordance with the provisions of clause 11.4 below.

12.3 **Automatic termination:** Unless we specify otherwise, the date of the occurrence of any Bankruptcy Default shall automatically constitute a Liquidation Date ("**Automatic Termination**"), without the need for any notice by us and the provisions of clause 12.4 shall then apply.

12.4 **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 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 Transaction referred to in paragraph (a) of this sub-clause, its total cost, loss or, as the case may be, gain, in each case expressed in the Currency specified by us as such in writing or, failing any such specification, the lawful Currency of the United Kingdom (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 be made under such Transaction (assuming satisfaction of each applicable condition precedent and having due regard, if appropriate, to such market quotations published on, or official settlement prices set by the relevant Exchange/Market as may be available on, or immediately preceding, the date of calculation); 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**").

- 12.5 **Payer:** If the Liquidation Amount determined pursuant to clause 12.4 above 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.
- 12.6 **Other transactions:** Where termination and liquidation occurs in accordance with clause 12.4 above, we shall also be entitled, at our discretion, to terminate and liquidate, in accordance with the provisions of clause 12.4 above, any other transactions entered into between us which are then outstanding.
- 12.7 **Payment:** The Liquidation Amount shall be paid in the Base Currency by the close of business on the Business Day following the completion of the termination and liquidation under clause 12.4 above (converted as required by Applicable Regulations into any other Currency, any costs of such conversion to be borne by you, and (if applicable) deducted from any payment to you). Any Liquidation Amount not paid on the due date shall be treated as an unpaid amount and bear interest, at the rate as reasonably determined by us to be the cost of funding such overdue amount. Interest will accrue on a daily basis and will be due and payable by you as a separate debt.
- 12.8 **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.
- 12.9 **Payments:** Unless a Liquidation Date has occurred or has been effectively set, we shall not be obliged to make any payment or delivery scheduled to be made by us under a Transaction for as long as an Event of Default or a Potential Event of Default with respect to you has occurred and is continuing.
- 12.10 **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).
- 12.11 **Application of netting to Transactions:** This clause applies to each Transaction entered into or outstanding between us on or after the date this Agreement takes effect.
- 12.12 **Single agreement:** This Agreement, the particular terms applicable to each Transaction, and all amendments to any of them shall together constitute a single agreement between us. We both acknowledge that all Exchange/Market 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 constitute a single agreement between us.
- 12.13 **Other agreements:** Subject to clause 12.6 above, 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.
- 12.14 **Closing out:** Unless otherwise agreed in writing between us, or the Rules of any relevant Exchange/Market provide otherwise, if we enter into any Transaction with you in order to close out any existing Transaction between us then our respective obligations under both such Transactions

shall automatically and immediately be terminated upon entering in to the second Transaction, except for any settlement payment due from one of us to the other in respect of such close-out.

13 DEFAULT AND TERMINATION OF AGREEMENT

13.1 **Rights on default:** On an Event of Default or at any time after we have determined, in our absolute discretion, 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 our rights under clause 12, we shall be entitled without prior notice to you:

- (i) instead of returning to you investments equivalent to those credited to your account, to pay to you the fair market value of such investments at the time we exercise such right, and/or
- (ii) to sell such of your investments as are in our possession or in the possession of any nominee or third party appointed under or pursuant to this Agreement, in each case as we may in our absolute discretion select and upon such terms as we may in our absolute discretion think fit (without being responsible for any loss or diminution in price) in order to realise funds sufficient to cover any amount due by you hereunder, and/or
- (iii) to close out, replace or reverse any transaction, buy, sell, borrow or lend or enter into any other transaction or take, or refrain from taking, such other action at such time or times and in such manner as, at our sole discretion, we consider necessary or appropriate to cover, reduce or eliminate our loss or liability under or in respect of any of your contracts, positions or commitments; and/or
- (iv) to treat any or all Transactions then outstanding as having been repudiated by you, in which event our obligations under such Transaction or Transactions shall thereupon be cancelled and terminated.

13.2 **Termination:** Unless required by Applicable Regulations, either party may terminate this Agreement (and the relationship between us) by giving ten days written notice of termination on 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; and
- (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.

13.3 **Existing rights:** Termination shall not affect the outstanding rights and obligations (in particular relating to the Indemnities, Limitation of Liability, Governing Law and the Miscellaneous clauses) 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.

14 EXCLUSIONS, LIMITATIONS AND INDEMNITY

- 14.1 **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 from 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 gross negligence, wilful default or fraud. In no circumstance, shall our liability include losses suffered by you or any third party for any special damage, or loss of profits or 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.
- 14.2 **Tax implications:** Without limitation, we do not accept liability for any adverse tax implications of any Transaction whatsoever.
- 14.3 **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.
- 14.4 **Force majeure:** In this Agreement "force majeure" shall mean any cause preventing either party from performing any or all of its obligations which arise from or are attributable to either acts, events or omissions or accidents beyond the reasonable control of the party so prevented, including but without limitation any breakdown, malfunction or failure of transmission, act of God, war, terrorism, emergency (as defined in the Civil Contingencies Act 2004), malicious damage, civil commotion, communication or computer failures, industrial action, acts and regulations of any governmental or supranational bodies or authorities or the failure of any relevant intermediate broker, agent or principal of ourselves, custodian, sub-custodian, dealer, Exchange/Market, clearing house or regulatory or self-regulatory organisation. 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 Rules of the Relevant Regulator), which may not be excluded or restricted thereunder.

If either Party is prevented from performing any of its obligations under this Agreement by force majeure, the party shall serve notice in writing on the other party specifying the nature and extent of the circumstances. There will be no obligation to perform any of our obligations under this Agreement on the occurrence of a force majeure event or while a force majeure event is continuing. The party claiming force majeure shall use all reasonable endeavours to bring the force majeure event to a close or to find a solution by which the Agreement may be performed despite the continuance of a force majeure circumstance and/or it shall take all reasonable steps to resume performance as soon as is reasonably possible following the cessation of a force majeure event. In any event the party claiming force majeure shall not be liable to you for any delayed, partial or non-performance of its obligations hereunder by reason of force majeure.

- 14.5 **Indemnity:** You shall pay to us such sums as we may from time to time require in or towards satisfaction of any debit balance on any of your accounts with us and, on a full indemnity basis, 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 any matching Transaction on an Exchange/Market or with an intermediate broker 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.

15 MISCELLANEOUS

15.1 **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. Unless otherwise agreed, an amendment will not affect any outstanding order or Transaction or any legal rights or obligations which may already have arisen.

15.2 **Notices:** Unless otherwise agreed, all notices, instructions and other communications to be given by one of us to the other under this Agreement shall be given to the address or fax number of our respective registered office;

(a) Any notice, instruction or other communication shall, be deemed to take effect in the case of fax, on dispatch and, in the case of airmail or first class pre-paid post, five Business Days after dispatch. Notices, instructions and other communications made pursuant to this Agreement or any Transaction shall not be effective if given by electronic mail.

(b) Each notice, instruction or other communication to you (except confirmations of trade, statements of account, and margin calls) shall be conclusive unless written notice of objection is received by us within five Business Days of the date on which such document was deemed to have been received.

You will notify us in writing of any change of your address in accordance with this clause.

15.3 **Investor protection schemes:** We are a member of the Financial Services Compensation Scheme (the "Scheme") in the United Kingdom. The Scheme is only available to certain types of claimants and claims. Payments to eligible claimants under the Scheme will vary depending on the type of protected claim (e.g. deposits or investments) the claimants hold with respect to the relevant institution. Payments under the Scheme in respect of investments are 100% of a claim up to a maximum payment to any eligible investor of GBP 85,000. Further information about compensation arrangements is available from the Financial Services Compensation Scheme. Further details of the Scheme are available on request or at the Scheme's official website at www.fscs.org.uk.

15.4 **Complaints procedure:** We have internal procedures for handling complaints fairly and promptly. You may submit a complaint to us, for example by letter, telephone, e-mail, or in person. Please contact us if you would like further details regarding our complaints procedures.

15.5 **Assignment:** 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.

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

- 15.7 **Joint and several liability:** If you are a partnership, or otherwise comprise more than one person, your liability under this Agreement shall be joint and several. In the event of the death, bankruptcy, winding-up or dissolution of any one or more of such persons, then (but without prejudice to the above or our rights in respect of such person and his successors) the obligations and rights of all other such persons under this Agreement shall continue in full force and effect.
- 15.8 **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.
- 15.9 **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.
- 15.10 **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.
- 15.11 **Electronic signatures:** Subject to Applicable Regulations, any communication between us using electronic signatures shall be binding as if it were in writing.
- 15.12 **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. A copy of the recording will be available on request for a period of five years and, where requested by the FCA or other relevant regulatory authority, for a period of up to seven years.
- 15.13 **Electronic communications:** We will keep records of electronic communications between you and us. Orders or instructions given to you via e-mail or other electronic means will constitute evidence of the orders or instructions given. A copy of the record will be available on request for a period of five years and, where requested by the FCA or other relevant regulatory authority, for a period of up to seven years.
- 15.14 **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.

- 15.15 **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.
- 15.16 **Durable medium:** we may be required from time to time, to provide you with certain information in a "durable medium", pursuant to Applicable Regulations. Such information may include information relating to us and our Services, the nature and risks of certain financial instruments, safeguarding of financial instruments and holding of client money, costs and associated charges and our Best Execution Policy. You specifically consent to the provision by us of such information where not personally addressed to you and (where permitted by Applicable Regulation) by means of a website.
- 15.17 **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 to enforce any of this Agreement.
- 15.18 **Co-operation for proceedings:** If any action or proceeding is brought by or against us in relation to this Agreement or arising out of any act or omission by us required or permitted under this Agreement, you agree to co-operate with us to the fullest extent possible in the defence or prosecution of such action or proceeding.

16 GOVERNING LAW AND JURISDICTION

- 16.1 **Governing law:** A Transaction which is subject to the Rules of an Exchange/Market shall be governed by the law applicable to it under those Rules. Subject thereto, this Agreement shall be governed by and construed in accordance with English law.

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

- 16.2 **Jurisdiction:** Each of the parties irrevocably;
- (a) agrees for our benefit 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.
- 16.3 **Waiver of immunity and consent to enforcement:** You irrevocably waive to the fullest extent permitted by Applicable Regulations, 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.

- 16.4 **Service of process:** If you are situated outside England and Wales, the process by which any Proceedings in England are begun may be served on you by being delivered to your registered office or any other address that you have notified to us in writing. This does not affect our right to serve process in another manner permitted by law.

17 INTERPRETATION

- 17.1 **Interpretation:** In this Agreement:

"Affiliated Company" means: (in relation to a person) an undertaking in the same group as that person;

"Applicable Regulations" means:

(i) Rules of the Relevant Regulators or any other rules of a relevant regulatory authority; (ii) the Rules of the relevant Exchange/Market; and (iii) all other Applicable Regulations, rules and regulations as in force from time to time, as applicable to this Agreement;

"Applicable Regulator" means each of the FCA, PRA, ESMA or any other relevant regulatory authority regulating us in any jurisdiction (whether in the UK, EU, EEA or Third Country or transnational), including any successor or replacement authorities;

"Associate" means: (in relation to a person ("A")):

- (a) an Affiliated Company of A;
- (b) an appointed representative of A or of any Affiliated Company of A;
- (c) any other person whose business or domestic relationship with A or his Associate might reasonably be expected to give rise to a community of interest between them which may involve a conflict of interest in dealings with third parties;

"Business Day" means a day (other than a Saturday or Sunday) on which:

(i) in relation to a date for the payment of any sum denominated in (a) any Currency (other than euro), banks generally are open for business in the principal financial centre of the country of such Currency; or (b) euros, settlement of payments denominated in euros is generally possible in London or any other financial centre in Europe selected by us in writing; and (ii) in relation to a date for the delivery of any property, property of such type is capable of being delivered in satisfaction of obligations incurred in the market in which the obligation to deliver such first

property was incurred; and (iii) for all other purposes, is not a bank holiday or public holiday in London;

"**CCP**" means a central counterparty or clearing house;

"**Clearing Services**" means Services relating to the clearing of Financial Instruments provided by us in the capacity of general clearing member;

"**Client**" means the body corporate with whom RBCCM has entered into these Terms of Business;

"**Currency**" shall be construed so as to include any unit of account;

"**DEA Activities**" means any activity undertaken by or on behalf of you, a delegate or any employee, officer or agent of the foregoing through or in connection with the DEA Services;

"**DEA Services**" means the provision of access to a Trading Venue through direct market access facilities (or other electronic access facilities) provided or sponsored by us;

"**Designated Office**" means, in relation to either of us, the office from or to which this Agreement is addressed, and any other office(s) agreed by us both in writing, to be our respective Designated Office(s) for the purposes of this Agreement;

"**EBA**" means the European Banking Authority;

"**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.;

"**Eligible Counterparty Business**" means the following services and activities: (a) dealing on own account, execution of orders on behalf of clients or reception and transmission of orders or (b) any Ancillary Service directly related to a service or activity referred to in (a);

"**ESMA**" means the European Securities and Markets Authority;

"**Event of Default**" means any of the events of default as listed in Clause 12 in these Terms of Business;

"**Exchange**" means any of the following exchanges: LIFFE, Eurex, LME, ICE Futures, Euronext or any other exchange on which we agree to enter into Transactions with you;

"**Execution Venue**" means a Trading Venue (or its operator), a Systematic Internaliser or a market maker or liquidity provider (within the meaning contemplated at Article 1 of MiFID2 RTS 27);

"**Financial Instruments**" has the meaning given to it in MiFID2;

"**MAR**" means Regulation (EU) 596/2014 on market abuse;

"**Market**" means any multilateral trading facility, automated trading facility, organised trading facility or systematic internaliser whether regulated or unregulated;

"**MiFID2**" means Directive 2014/65/EU on markets in financial instruments;

"**MiFID2 Delegated Regulation**" means the Commission Delegated Regulation (EU) 2017/565 supplementing MiFID2 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive;

"**MiFID2 RTS 6**" means the Commission Delegated Regulation (EU) 2017/589 supplementing MiFID2 with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading;

"**MiFID2 RTS 22**" means the Commission Delegated Regulation (EU) 2017/590 supplementing MiFIR with regard to regulatory technical standards for the reporting of transactions to competent authorities;

"**MiFID2 RTS 27**" means the Commission Delegated Regulation (EU) 2017/575 supplementing MiFID2 with regard to regulatory technical standards concerning the data to be published by execution venues on the quality of execution of transactions;

"**MiFIR**" means Regulation (EU) 600/2014 on markets in financial instruments;

"**Multilateral Trading Facility**" or "**MTF**" has the meaning given to it in Article 4(22) of MiFID2;

"**Non-complex Financial Instrument**" means a financial instrument which is considered to be non-complex for the purposes of Article 25(4)(a) of MiFID2 in accordance with Article 57 of the MiFID2 Delegated Regulation.

"**Organised Trading Facility**" or "**OTF**" has the meaning given to it in Article 4(23) of MiFID2;

"**Regulated Market**" has the meaning given to it in Article 4(1)(21) of MiFID2;

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

"**Service(s)**" means the services provided to you by us under this Agreement (or any supplementary agreement), as requested by you from time to time, including, without limitation, brokerage and execution services, custody services, research services, the Electronic Services, the DEA Services and any other service agreed between us;

"**System**" means all computer hardware and software, equipment, network facilities and other resources and facilities needed to enable you to use an Electronic Service;

"**Systematic Internaliser**" has the meaning given to it in article 4(20) of MiFID2;

"**Third Country**" means a jurisdiction which is not a member state of the European Economic Area;

"**Trading Venue**" means a Regulated Market, an MTF or an OTF; and

"**Transaction**" means:

- (i) a contract made on an Exchange/Market or pursuant to the Rules of an Exchange/Market;
- (ii) a contract which is subject to the Rules of an Exchange/Market;

(iii) a contract which would (but for its term to maturity only) be a contract made on, or subject to the Rules of an Exchange/Market and which, at the appropriate time, is to be submitted for clearing as a contract made on, or subject to the Rules of an Exchange/Market; in any of cases (i), (ii) and (iii) being a future, option, contract for differences, spot or forward contract of any kind in relation to any commodity, metal, financial instrument (including any security), Currency, interest rate, index or any combination thereof;

(iv) a transaction which is matched with any transaction within paragraph (i), (ii) or (iii) of this definition;

(v) any transaction the terms of which contemplate the delivery of any base metal, precious metal or other physical commodity; or

(vi) any other transaction which we both agree in writing shall be a Transaction.

17.2 **General interpretation:** A reference in this Agreement to a "clause" or "Annex" or "Schedule" shall be construed as a reference to, respectively, a clause or Annex 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. References to persons include bodies corporate, unincorporated associations and partnerships/persons, firms, companies, corporations, governments, states or agencies of a state or any associations or partnerships (whether or not having separate legal personality) of two or more of the foregoing. 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 Rules of the Relevant Regulators have the same meaning in this Agreement unless expressly defined in this Agreement.

17.3 **Schedules/Annexes:** The clauses contained in the attached Schedule(s) or Annex(es) (as amended from time to time) shall apply. We may from time to time send to you further Schedules or Annexes in respect of Exchange/Markets or Transactions. In the event of any conflict between the clauses of any Schedule or Annex and these Terms of Business, the clauses of the relevant Schedule or Annex shall prevail. The fact that a clause is specifically included in a Schedule or Annex in respect of one Exchange/Market or Transaction shall not preclude a similar clause being expressed or implied in relation to any other Exchange/Market or Transaction. So far as applicable, paragraph 1 of Part 1 of the LIFFE Schedule shall be construed as also applying to and having effect in relation to all other Exchange/Markets.

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