

Terms of Business for Professional Clients and Eligible Counterparties

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For the attention of the Chief Operating Officer / The Compliance Officer / Company Secretary

Dear Sir/Madam

TERMS OF BUSINESS

Introduction

This document is sent to you on behalf of Nomura International plc and Nomura Bank International plc. Any capitalised terms used in this letter are as defined in the Terms of Business which follow it.

This letter and the Terms of Business are legally binding in relation to business which we do with or for you. We may from time to time provide you with a list of accounts for which we believe you to be responsible. In the absence of notification from you to the contrary, you will be taken to accept responsibility for those accounts. Part I of the Terms of Business applies to all clients and Part II applies only to Professional Clients. Part III Module A applies to all clients with or for whom we conduct business in Derivatives Contracts. Part III Module B applies to all clients for whom we provide Safe Custody Services. Part IV applies to all clients who have informed us that they are acting as agent for a third party.

Our Regulatory Position

We are authorised and regulated in respect of investment business by the Financial Services Authority ("FSA") to carry on regulated activities in the United Kingdom. There may be occasions when we deal with or for you in the wholesale market in non-investment products. These are:

- (a) sterling wholesale deposits;
- (b) foreign currency wholesale deposits;
- (c) gold and silver bullion wholesale deposits;
- (d) spot and commercial forward foreign exchange;
- (e) spot and commercial forward gold and silver bullion.

Where we do so, you should note that such business is not regulated by the FSA. Deals with or for you on the wholesale market will be undertaken in accordance with the Non-Investment Products Code ("the **NIPS Code**"). Copies of the NIPS Code are available from the Bank of England's website (www.bankofengland.co.uk) or direct from the Bank of England, Threadneedle Street, London EC2R 8AH.

We primarily act as a wholesale market broker. Typically, the role of the specialist wholesale market broking firms in the NIPS Code markets is to act as arrangers or brokers of deals. As wholesale market brokers, we bring together counterparties on mutually acceptable terms and pass names to facilitate the conclusion of a transaction. For these services, we receive brokerage fees except where otherwise agreed. There is one important exception to this rule, namely when arranging or broking firms are investing their own money. In such transactions, we will inform you that we are acting as principal or wholesale market trader. Except in these circumstances, we are not permitted to act as principal in a deal, or to act in any discretionary fund management capacity when acting as a wholesale market trader.

In providing such services, we may sometimes be called upon to give advice or express opinions, usually in response to requests from individual dealers. Although we will be mindful of the need not to reveal confidential information about the market activities of individual clients, you should be aware that there is no restriction on wholesale market brokers passing, or commenting on general information that is in the public domain. Equally, there is no responsibility upon a wholesale market broker to volunteer general information of this type. There will be situations where we may not have sufficient information to provide such advice. For instance we would not have sufficient information to be qualified to advise principals on the creditworthiness of specific counterparties and to do so is not our role.

For further information on the Firm's regulatory position, please refer to the FSA Register, where details of the Firm's authorisations and permissions are contained (www.fsa.gov.uk/register).

Your Position Under UK Regulation and Categorisation

As of 1 November 2007, the FSA Rules are updated to take account of the implementation of MiFID, a European Union Directive aimed at harmonising the rules applicable in a single European financial services market.

As part of this, we are required to categorise you in accordance with the updated FSA Rules. You have been separately notified of your categorisation as a Professional Client or an Eligible Counterparty.

We set out below the criteria for your categorisation.

A. Eligible Counterparties

We will have categorised you as an Eligible Counterparty in relation to regulated business we carry on with you where you are:

- (a) an investment firm;
- (b) a credit institution;
- (c) an insurance company;
- (d) a collective investment scheme authorised under the UCITS Directive or its management company;
- (e) a pension fund or its management company;
- (f) another financial institution authorised or regulated under European Community legislation or the national law of an EEA State;
- (g) a commodity or commodity derivatives dealer;
- (h) a local;
- (i) a national government or its corresponding office, including a public body that deals with the public debt;
- (j) a central bank;
- (k) a supranational organisation;
- (l) a professional client, and we have both agreed that you will be classified as an eligible counterparty in accordance with the FSA Rules;

and we have chosen to treat you as an Eligible Counterparty.

We will only treat you as an Eligible Counterparty for Eligible Counterparty Business (as described in the Terms of Business). In all other circumstances you will be treated as a Professional Client under FSA Rules.

Where you are an Eligible Counterparty, you will not receive the protections afforded by the FSA's Rules to a Professional Client or to a Retail Client, including provisions related to best execution, assessments of the suitability of advised services and the appropriateness of non-advised services for you, controlled content of any marketing communications sent out to you and access to the Financial Services Compensation Scheme and/or the Financial Services Ombudsman.

Where we have categorised you as an Eligible Counterparty you are entitled to request to be treated as a Professional Client or a Retail Client. It is not our policy to do business with Retail Clients.

B. Professional Clients

As mentioned above, where you would otherwise be an Eligible Counterparty, you will be treated as a Professional Client for all regulated business other than Eligible Counterparty Business we carry on with you.

We will have categorised you as a Professional Client for all regulated business we carry on with you where you are one of the following:

- (a) a credit institution;
- (b) an investment firm;
- (c) any other authorised or regulated financial institution;
- (d) an insurance company;
- (e) a collective investment scheme or its management;
- (f) a pension fund or its management company;
- (g) a commodity or commodity derivatives dealer;
- (h) a local;
- (i) any other institutional investor;
- (j) a large undertaking which meets two of the following size requirements: balance sheet total of €20,000,000; net turnover of €40,000,000; own funds of €2,000,000;
- (k) a national or regional government, a public body that manages public debt, a central bank, an international or supranational institution (such as the World Bank, the IMF, the ECP, the EIB) or another similar institutional organisation;
- (l) another institutional investor whose main activity is to invest in financial instruments or designated investments, including entities dedicated to the securitisation of assets or other financing transactions.

and we have chosen to treat you as a Professional Client.

If you have been classified as a Professional Client you are entitled to ask to be treated as a Retail Client, in which case you would be subject to additional levels of client protection under FSA Rules. However, it is not our policy to accept such requests.

For any non-advised services that we provide to you (for example, execution-only services), you can request to be treated, and we may opt to treat you, as an Eligible Counterparty. We need your express confirmation to this before we can re-categorise you in this way.

If, at any time, you consider that you may be incorrectly categorised, you must inform us as soon as possible.

Consents required

Where we are executing your orders directly we are required to obtain your consent to the following:

- the execution of your orders outside an EU regulated market or multilateral trading facility;
- the holding of financial instruments for you in a country outside the EEA which may not regulate the holding and safekeeping of financial instruments;
- not making your limit orders in respect of listed shares public to other market participants when we are not able to immediately execute them under the prevailing market conditions; and

- the provision of relevant information in an electronic format (for instance, where permissible by Applicable Regulations, e-mail and the internet), including without limitation the Terms of Business, Best Execution Policy and our costs and charges.

An explanation of what this requires of you is set out below. Please read this letter and the Terms of Business carefully and contact our Compliance Department as soon as possible if there is anything that you do not understand.

Where you are an existing client, taken on before 1 November 2007:

- we have written to you separately requesting consent to these matters;
- the Terms of Business will take effect from 1 November 2007 and you will be deemed to have agreed to the Terms of Business from that date; and
- if we do not receive consent from you to the matters described above prior to 1 November 2007, there may be some interruption in the service we provide for you until we obtain the relevant consents.

Where you are a new client, taken on after or on 1 November 2007:

- Where you are a new client, taken on after or on 1 November 2007, please provide your consent to the above matters as requested via the new account opening process; and
- You will also be deemed to have accepted the Terms of Business by transacting business with us.

If you are in any doubt about your status under the FSA Rules or our Terms of Business, please contact us before giving us any instructions.

We look forward to doing business with you.

Yours faithfully



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PART I Terms applicable to all clients

1.1 Definitions

In these Terms of Business, the following words and expressions have the following meanings, unless otherwise expressly stated:

"the Act" means the Financial Services and Markets Act 2000 and references to sections of the Act include references thereto;

"Administration" means administration under Schedule B1 of the Insolvency Act 1986 and any reference to the commencement of Administration is a reference to the presentation of a notice of appointment of an Administrator under Schedule B1 of the Insolvency Act 1986;

"Applicable Regulations" means any applicable laws, charters, bylaws, rules and regulations of any jurisdiction, any order of any Court of competent jurisdiction, for the time being in force including without limitation the Act, the Criminal Justice Act 1993, the FSA Rules, the rules and regulations of the Panel on Take-Overs and Mergers, and the rules and customs of any Exchange or market and/or any Clearing House through which any transaction is executed, and including any modifications or re-enactments or re-making of such, and including any made after the date hereof;

"Asset" means currencies, Securities, Investments, deposits or financial instruments (including Derivatives Contracts) or gold or any other asset which the Firm agrees to accept from the Client;

"Associate" means any company within the Nomura Group, any appointed representative of such a company and any other person whose relationship with such a company might reasonably be expected to give rise to a community of interest between them which may involve a conflict in dealing with third parties;

"Broker" means such member of an Exchange and/or Clearing House and/or such participant in a market as is instructed by the Firm to enter into a Securities contract, foreign exchange contract, Derivatives Contract on an Exchange, and/or to clear or settle the same;

"Charges" means the sums payable to the Firm (or its agents) in respect of fees, including brokerage fees, transfer fees and registration fees, and in respect of turns, commissions or any other charges charged under these Terms of Business;

"Clearing House" means any clearing house providing settlement or clearing or similar services for an Exchange or market;

"Client" means the person with whom the Firm has entered into these Terms of Business;

"Client Contract" means a futures or option contract between the Firm and the Client which is matched by a Derivatives Contract and is identical in its terms except as to price and parties;

"Client Money Regulations" means the client money rules as set out in Chapter 4 and Chapter 7 of the FSA Rules on Client Assets;

"Client's Funds" means all funds, Margin, option premiums, interest and all other sums received from or for the Client pursuant to Part III Module A of these Terms of Business including the Client's free money;

"close out" means the entering into of a Derivatives Contract equal and opposite to a Derivatives Contract previously entered into so as to create a level position in relation to the Assets underlying the Derivatives Contracts, or in relation to the Derivatives Contracts themselves, and to fix the amount of profit or loss arising from such contracts (and with respect to the corresponding Client Contract); and the terms "closed out Contract" and "closing out" shall be construed accordingly;

"Collateral" means any Property held or controlled by or deposited with the Firm except Safe Custody Investments;

"Custody Rules" means the custody rules as set out in Chapter 2 and Chapter 6 of the FSA Rules on Client Assets;

"Derivatives Contract" means a futures or option contract or contract for differences including without limitation a contract for future delivery and/or settlement, to:

- (1) buy or sell an Asset; and/or
- (2) pay or receive a sum of money by reference to an index or formula;

"Eligible Counterparty" means a client classified as an Eligible Counterparty in accordance with the FSA Rules, as described in the letter which precedes these Terms of Business;

"Eligible Counterparty Business" means the following services and activities carried on by a firm: (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), but only to the extent that the service or activity is carried on with or for an eligible counterparty. An ancillary service is any of those services listed in Section B of Annex I to MiFID and includes custody, granting loans, investment research and underwriting;

"Exchange" means any exchange, market, association of dealers, contract market or board of trade on which Assets and/or Derivatives Contracts are bought or sold;

"Firm" means NIP or NBI as appropriate;

"FSA" means the Financial Services Authority or any regulatory authority which may succeed it as the regulator of the Firm in the U.K.;

"FSA Rules" means the rules of the FSA for the time being in force and references to particular rules include references to equivalent provisions of any rules issued by any successor regulatory authority;

"Income" means all dividends, interest, capital and other entitlements in respect of a Safe Custody Investment;

"Instructions" means any instructions given by the Client in accordance with paragraph 7 of Part I and any relevant provisions from these Terms of Business in relation to any specified transaction or Safe Custody Investment;

"Investments" means designated investments as defined by the Act, Securities, those products which fall within the Non-Investment Products Code (whether or not the business conducted would be governed by it), financial instruments as defined in the FSA Rules, and any other financial instrument including without limitation Derivatives Contracts and Client Contracts;

"LCH" means London Clearing House Limited;

"LIFFE" means the London International Financial Futures and Options Exchange (officially, Euronext.liffe);

"Loss" means any obligations, losses, penalties, actions, damages, judgments, suits, liabilities, costs, expenses or disbursements of any kind or nature whatsoever including the costs of enforcement;

"Margin" means the amount of cash (including Premiums) or other sums as may from time to time be demanded by the Firm from the Client for the purpose of protecting the Firm against any loss on present, future or contemplated Derivatives Contracts and/or Client Contracts and shall include both initial and variation margin;

"Margin Account" means an account with such bank or banks as the Firm may from time to time determine, designated in such a way as to identify the contents of such account as being money attributed to clients of the Firm held as described in Part III paragraph A4;

"Margin Securities" means such Securities and Investments as the Client may, with the agreement of the Firm, deposit with or transfer to the Firm by way of Margin;

"MiFID" means Directive 2004/39/EC and its Implementing Directive 2006/73/EC;

"NBI" means Nomura Bank International plc;

"NIP" means Nomura International plc;

"Nomura Group" means Nomura Holdings Inc. and any company controlled, directly or indirectly, by it;

"Open Contract" means a Derivatives Contract which has not been closed out;

"person" includes any person, individual, firm, partnership, association of persons and body corporate and any such persons acting jointly and the personal representatives or successors in title of any such person. Where the Client comprises two or more persons the liabilities and obligations hereunder are joint and several;

“Premium” means the premium payable under the rules of the relevant Exchange and/or Clearing House in respect of the relevant option contract or the premium payable under an OTC contract;

“Professional Client” means a client classified as a Professional Client in accordance with the FSA Rules, as described in the letter which precedes these Terms of Business;

“Property” includes property of all kinds, real and personal, including without limitation Assets, Margin, deposits, Investments, Safe Custody Investments and any other property which may be deposited with the Firm by the Client;

“Relevant Average Price” has the meaning given to it in Part II paragraph 6.2(a) of these Terms of Business;

“Safe Custody Account” means the account established by the Firm pursuant to Part III paragraph B2.2 for all Safe Custody Investments purchased by or belonging to the Client from time to time and accepted by the Firm for deposit;

“Safe Custody Investment” means financial instruments as defined in the FSA Rules, including shares, debentures, loan stock, bonds, certificates of deposit, promissory notes, warrants, units in collective investment schemes, traded options and futures and any instruments similar to any of the aforesaid or any custody asset as defined in the FSA Rules or any other safe custody asset as defined in the FSA Rules, (including any documents of title or certificates evidencing ownership to any of the same) which are the subject or the proposed subject of the services in Part III Module B of these Terms of Business;

“Safe Custody Services” means the services to be provided by the Firm to the Client as described in Part III paragraph B2 of these Terms of Business;

“Securities” means shares, debentures, government and public securities, warrants, certificates representing certain securities, units, stakeholder pension schemes and rights to or interests in any of the above;

“Strike Price” has the meaning given to it in Part II paragraph 6.2(c) of these Terms of Business;

“Sub-Custodian” means any sub-custodian appointed by the Firm pursuant to Part III paragraph B2.9;

“Taxes” means taxes, duties, imposts and fiscal charges of any nature, wherever and whenever imposed, including value added taxes and stamp and other documentary taxes;

“Terms of Business” means the documents provided to the Client including these Parts I - IV as appropriate, inclusive of Annexes and including the Schedules and any further Schedules which may from time to time be sent to the Client by the Firm, and any accompanying documents, as may be amended from time to time. In interpreting any part of these Terms of Business, the letter which precedes it shall be treated as part of these Terms of Business and both are legally binding in relation to business between the Client and the Firm;

“TIFFE” means The Tokyo International Financial Futures Exchange;

“transaction” means any transaction or arrangement in or relating to any Investment or services provided under these Terms of Business;

“VWAP” has the meaning given to it in Part II paragraph 6.2(b) of these Terms of Business;

“Winding up” of a person also includes the dissolution, liquidation, merger or consolidation of that person, or bankruptcy of a person, and any equivalent or analogous procedure under the law of any jurisdiction (and references to the commencement of any of the foregoing shall include a reference to the presentation of a petition to a court of competent jurisdiction or the passing of a valid resolution for or with a view to any of the foregoing); and

“writing” includes all documents and correspondence of all kinds including without limitation e-mail, telex, cable, facsimile transmission, or other electronic communication media apart from those solely for oral communication.

References to statutory provisions shall include any amendment, modification or re-enactment or re-making thereof and any provisions made after the date hereof.

References to paragraphs, Parts, Annexes or Modules are to paragraphs, Parts, Annexes or Modules of these Terms of Business.

Subject to the express definitions set out herein and unless the context otherwise requires, words used in these Terms of Business shall have the same meaning as in the FSA Rules. Headings are for ease of reference only and do not form part of these Terms of Business.

References herein to the masculine include the feminine and neuter and the singular includes the plural and vice versa as the context admits or requires.

1. Application of Terms of Business

- 1.1 These Terms of Business apply as follows: Part I applies to all Clients; Part II applies only to Professional Clients; Part III applies to all Clients as relevant; and Part IV applies to Clients as defined in that part IV (who are acting as agent for a third party). In the event of any conflict between the terms of Parts I and II on the one hand and any terms in the Modules in Part III on the other, the terms in the Modules shall prevail. If the Client enters into a separate agreement with the Firm covering any of the services covered by these Terms of Business, both that agreement and these Terms of Business will apply. If there is any conflict between the two, the provisions of the separate agreement will prevail over these Terms of Business.
- 1.2 The Firm has separately notified the Client of its status as either an Eligible Counterparty or as a Professional Client. Subject to the Client's right to request a different status as referred to below, the Firm will treat the Client as such for all purposes. If the Firm has classified the Client as an Eligible Counterparty, the Firm will only treat the Client as such for Eligible Counterparty Business. For any other type of service the Firm offers the Client, the Firm will treat the Client as a Professional Client. Categorisation has taken place based on the Firm's internal client categorisation process. Different rules and different levels of protection apply to the Client depending on the Client's categorisation. If the Firm have classified the Client as a Professional Client, the Client agrees to notify the Firm immediately if the Client considers at any point that it would no longer fall within the definition of a Professional Client.
- 1.3 Where the Firm have categorised the Client as an Eligible Counterparty the Client may request to be treated as a Professional Client or a Retail Client (and benefit from the higher level of protection under applicable regulation for such clients such as certain provisions related to best execution of orders, assessments of suitability for advised services and appropriateness for non-advised services and controlled content of marketing communications). Where the Firm has categorised the Client as a Professional Client the Client has the right to request to be treated as a Retail Client (and benefit from the higher level of protection under applicable regulation for Retail Clients). Conversely, as a Professional Client the Client may also in certain circumstances request to be treated as an Eligible Counterparty. A change of classification in this way implies a greater level of sophistication on the Client's part as an investor and as a consequence the Client may lose the benefit of certain protections that would have otherwise been available to the Client.
- 1.4 Please note that it is not the Firm's policy to deal with Retail Clients and so any request to be reclassified as one is likely to be refused.
- 1.5 Professional Clients should take note of the warnings contained in the Annex to Part II about the risks associated with certain services and/or products. By agreeing to these Terms of Business the Client is also confirming that it has read and understood the information contained in the risk disclosures in the Annex to Part II and its consequences.
- 1.6 These Terms of Business supersede any previous agreement between the Firm and the Client, so far as these Terms of Business cover substantially the same subject matter, and any such agreement shall cease to have effect except to the extent of any accrued rights and liabilities there under. These Terms of Business constitute a legally binding agreement which the Client shall be deemed to have accepted by thereafter conducting business with the Firm.

- 1.7 All transactions are subject to the rules and recognised customs of the Exchange, market and/or Clearing House relevant to the transaction, and to all Applicable Regulations. To the extent there is any conflict between these Terms of Business and any of those rules, recognised customs or Applicable Regulations, the rules, recognised customs or Applicable Regulations will prevail. The Firm may take or omit to take any action it considers fit to ensure compliance with the same, and all such actions are binding on the Client.

2. Intermediaries

- 2.1 If the Client is acting on behalf of any other person when transacting business with the Firm, the Firm will treat the Client alone (and not the person on behalf of whom the Client is acting) as its Client for all purposes including for the purposes of the FSA Rules unless otherwise agreed in writing between the Firm and the Client pursuant to Part IV of these Terms of Business, and the Client will be liable for all obligations incurred. This applies even if the Client acts on behalf of a person whose identity it has disclosed to the Firm. The Client and the person on whose behalf it is acting will nonetheless remain jointly and severally liable for all obligations to the Firm. Where the Client is acting on behalf of another person when transacting business with the Firm, the Client hereby warrants that it is an authorised person, exempted person or overseas financial services institution or trustee.

3. Material Interests and Conflicts

- 3.1 The Client understands that the Firm is a member of the Nomura Group which is involved in investment banking, including corporate finance and capital markets activities, in Securities issuing, distribution, trading and research, and in investment management, including the management of collective investment schemes. The Client hereby irrevocably waives any claim it might otherwise have against the Firm or any Associate by reason of any material interest or conflict the Firm or Associate may have whether or not disclosed to the Client in these Terms of Business or elsewhere and releases the Firm or any Associate from all liability in respect thereof.
- 3.2 The relationship between the Firm and the Client is as described in these Terms of Business. The Client understands and agrees that neither that relationship nor any service the Firm provides, nor any other matter, will give rise to any fiduciary or equitable duties to on the Firm's part or on the part of any Associate which would prevent or hinder the Firm or any Associate from acting as both marketmaker and broker, principal or agent or from providing Safe Custody Services, or from providing any other services, whether as provided in these Terms of Business or otherwise, or in doing any business with or for the Client, any Associate or any other client.
- 3.3 The Firm has put in place and will maintain effective organisational and administrative arrangements (in the form of a conflicts of interest policy) with a view to taking all reasonable steps to identify, monitor and manage conflicts of interest between the Firm and its clients, and relevant third parties. The Firm's aim is to sufficiently manage such conflicts of interest in such a way as to avoid risk of material damage to the interests of the Client. Where the Firm considers on a specific occasion that it is not able to do this through organisational and administrative arrangements, it will inform the Client of the nature and/or sources of the relevant conflict of interest in order to allow it to make an informed decision whether to continue to transact business with the Firm. In other circumstances, the Firm may decline to act for the Client where the Firm is not able to manage the conflict of interest in any other way.
- 3.4 Notwithstanding paragraph 3.3, the Firm need not disclose to the Client, nor to any other client, the nature or extent of any interest the Firm or any Associate may have in any Investment or Safe Custody Investment, or Asset or Derivatives Contract, unless obliged to do so by any Applicable Regulations.
- 3.5 If the Firm accepts the Client's order the Firm may, in its absolute discretion and without prior disclosure to the Client, arrange for the order to be effected with, or through the agency of, itself or any Associate.

3.6 In the course of providing services to the Firm's clients, the Firm may pay or receive fees, commissions or other non-monetary benefits from third parties where the Firm is satisfied that the payment of the fee, commission or non-monetary benefit is designed to enhance the quality of the service we are providing the Client. A summary of the essential terms of such arrangements will be provided on a case by case basis. Additional detailed information of such amounts can be provided to the Client upon written request.

4. Client money

NIP

- 4.1 Unless NIP and the Client expressly agree to the contrary, NIP will treat any money held by it on behalf of the Client as client money in accordance with the Client Money Regulations. NIP's usual settlement procedures involve delivery against payment, and therefore, except where Safe Custody Services are provided, client money will not normally arise.
- 4.2 Where NIP carries out business on the Client's behalf but by necessity in NIP's own name, for example under a stock lending agreement, the Client Money Regulations will not apply and accordingly the Client agrees that the Client will not benefit from the protections under the Client Money Regulations in those circumstances.
- 4.3 NIP will not pay interest on any client money that it holds on behalf of the Client.
- 4.4 NIP may hold client money with NBI, a member of the Nomura Group.
- 4.5 NIP may undertake transactions for the Client that involve client money being passed to an approved bank (as defined in the Client Money Regulations), intermediate broker, settlement agent or OTC counterparty located in a jurisdiction outside the United Kingdom. In such circumstances, the legal and regulatory regime applying to the approved bank, intermediate broker, settlement agent or OTC counterparty with which the client money is held will or may be different from that of the United Kingdom. In the event of a default of the approved bank, intermediate broker, settlement agent or OTC counterparty, the Client's money may be treated differently from the position which would apply if the money were held in the United Kingdom. NIP will notify the Client if it deposits client money with a bank outside the United Kingdom which has not accepted that it has no right of set off or counterclaim against money held in a client bank account in respect of any sum owed on any other account of NIP.
- 4.6 For Safe Custody Services, any cash received or Income collected by NIP or its agent on behalf of the Client in respect of the Safe Custody Services shall be treated in accordance with the Client Money Regulations (unless otherwise agreed) and shall, subject to Part III Module B, be remitted to the Client as soon as is reasonably practicable.
- 4.7 The Client agrees that if there has been no movement on an account (other than in respect of interest or similar) for 6 years (notwithstanding any payments or receipts of charges, interest or similar items), NIP may release any amounts from that account as it sees fit provided that NIP has taken reasonable steps to notify the Client and return the balance. NIP undertakes to make good any valid claim made by the Client against any balances so released.
- 4.8 The Firm is entitled, in certain circumstances, to deposit money held on the Client's behalf into a qualifying money market fund. Units in such a fund will be held on the Client's behalf in accordance with the applicable Client Money Regulations. The Client has the right to object to this happening. If the Client does not want the Firm to deposit money held on its behalf into a qualifying money market fund, the Client must notify the Firm in writing.
- 4.9 The Client agrees that where appropriate the Firm may deposit money held on the Client's behalf in a designated client fund account.

NBI

4.10 NBI, as an approved bank and a BCD credit institution for the purposes of the Client Money Regulations, acts as banker rather than as trustee in respect of any money held by it on the Client's behalf in an account with NBI. As a result, NBI will not hold the Client's money in accordance with the Client Money Regulations when it is held in an account with NBI. Where relevant and unless NBI and the Client expressly agree to the contrary, NBI will treat any money not held in an account with itself as client money in accordance with the Client Money Regulations, in which case the provisions of paragraphs 4.1 to 4.9 above will apply, mutatis mutandis, to NBI also.

5. Collateral

- 5.1 Unless otherwise agreed with the Client or contrary to Applicable Regulations the Firm will:
- (a) treat as Collateral all Property deposited with it by the Client together with any interest or other benefit accruing to the Property; and
 - (b) the Firm shall be entitled to deal with all Collateral as set out in this paragraph 5.
- 5.2 Where the Client deposits Collateral with the Firm, that Collateral will be charged to the Firm with full title guarantee as a continuing security for the performance of the Client's obligations to the Firm. Further, the Client agrees to execute any further documents or take any further steps as the Firm may reasonably require to protect its security interest in and/or be registered as owner or obtain legal title to the Collateral, in order to secure further the Client's obligations to the Firm or to enable the Firm to satisfy any market requirements.
- 5.3 The Client represents and warrants that it is the sole entitled beneficial owner of all Collateral deposited with the Firm or, where it is not, that it is fully empowered by the beneficial owner to grant a charge in favour of the Firm. Except as created hereby, the Client undertakes not to create or to have outstanding any security interest whatsoever over, nor to agree to assign or transfer any of the Collateral, save that any lien routinely imposed on all Securities in a clearing system in which Securities may be held shall be permitted. The Client may not withdraw or substitute any Collateral subject to the Firm's security without its consent.
- 5.4 If the Client deposits Collateral with the Firm, the Firm may, subject to the FSA Rules, deposit that Collateral with, or pledge, charge or grant a security interest over the Collateral to, a third party, in which case:
- (a) the Collateral will not be registered in the Client's name;
 - (b) that part of the proceeds of sale of the Collateral which exceeds the amount owed by the Client to NIP will be subject, on NIP's default, to the pooling rules under the Client Money Regulations. The effect of these rules is to amalgamate the money assets of all NIP's customers held by it at the time the "pooling event" (NIP's default) occurs, for subsequent distribution to its clients in proportion to their valid claims over those assets. The provisions of this sub-paragraph (b) will also apply to NBI if the collateral is not held in an account with NBI in accordance with paragraph 4.10 above.
- 5.5 The Firm may return to the Client Collateral other than the original Collateral (or the original type of Collateral) that the Client deposits with the Firm, or the cash equivalent of the Collateral.
- 5.6 The Firm may use the Collateral to settle trades for itself or clients, but will not be liable for any losses or expenses suffered or incurred by the Client as a result of such use, except where it results from the Firm's fraud, wilful default or negligence.
- 5.7 The Firm will collect on the Client's behalf all dividends, interest payments and other rights accruing in respect of the Collateral, but will not unless otherwise agreed, be under any obligation to notify the Client or take any action in relation to:

- (a) any information, notices, circulars or annual reports received concerning any meeting of holders of the collateral;
- (b) the exercise of voting, subscription, conversion or any other rights;
- (c) takeovers, other offers or capital re-organisations; or
- (d) any other corporate event.

6. Consolidation, Netting, Set Off and Other Remedies

- 6.1 The Firm shall have the right at any time without notice to combine and/or consolidate all or any of the Client's accounts maintained with the Firm or any Associate and any and all Property, Assets and Collateral contained therein in such manner as the Firm may determine.
- 6.2 If on any date sums are payable by the Client to the Firm or vice versa, or liabilities are due to the Firm by the Client or vice versa, the Firm may in its absolute discretion (but shall not be obliged to) treat each party's obligation to make any such payment or meet any such liability as satisfied and discharged, and if the amount due or liability owed by one party exceeds the amount due or liability owed by the other party, treat such obligations as replaced by an obligation upon the party by whom the larger aggregate amount payable or liability due to pay to the other party or treat as due the excess of the larger aggregate amount over the smaller aggregate amount.
- 6.3 Without prejudice and in addition to any general lien, right to set-off or other similar rights which the Firm may be entitled to exercise whether by law or otherwise over any of the Client's Property, all Property held by the Firm or its nominees for the Client or to the Client's order:
- (a) shall be subject to a general lien in the Firm's favour; and
 - (b) the Firm shall have a right of set-off against the Property
- for all the Firm's claims irrespective of maturity or currency insofar as there remain any outstanding amounts due from the Client to the Firm.
- 6.4 At any time after termination of these arrangements under Part I paragraph 15, or after the Firm has determined, at its sole discretion, that the Client has not performed, or that it may not be able or willing in the future to perform, any of its obligations to the Firm or that there has been a material adverse change in market or economic conditions or in the Client's financial condition, the Firm shall be entitled without notice to the Client:
- (a) to treat any or all outstanding transactions as having been immediately cancelled and terminated; and/or
 - (b) to close out, replace or reverse any such transaction, 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 the Firm's sole discretion, it considers necessary or appropriate to cover, reduce or eliminate the Firm's loss or liability under or in respect of any contracts, positions or commitments; and/or
 - (c) to sell or otherwise realise such of the Client's Property in the Firm's possession or control as the Firm may in its sole discretion select in order to realise funds sufficient to cover any outstanding amount; and/or
 - (d) to deduct or withhold from any amount which is received by the Firm for the account of the Client or which is payable by the Firm to the Client or, at the Firm's option, to debit to any account or accounts of the Client held with the Firm or any Associate, any amount which is owed by the Client to the Firm in the appropriate currency or, at the Firm's option, the equivalent of that amount (at current market rates as determined by the Firm at its sole discretion) in any other currency or currencies in which any balance on the relevant account or accounts may then be denominated.

7. Instructions

- 7.1 The Client authorises the Firm to rely and act on, and treat as fully authorised by and binding upon the Client, any order, instruction or communication (by whatever means transmitted and whether or not in writing) which purports to have been given and which is reasonably accepted by the Firm in good faith as having been given by the Client or on its behalf, without further enquiry on the Firm's part as to the genuineness, authority or identity of the person giving or purporting to give such instructions and regardless of the circumstances prevailing at the time. The Firm may, in accordance with Applicable Regulations, in its absolute discretion refuse to accept instructions. Without in any way limiting the Firm's absolute discretion to refuse instructions, one circumstance in which it may decide to do so is where instructions require the Firm to make any payment or incur any liability before receipt of sufficient cleared funds from the Client or require the Firm to contravene any Applicable Regulation.
- 7.2 Each instruction shall be directed to such officer(s) of the Firm as may be notified by the Firm to the Client from time to time.
- 7.3 The Firm shall not be responsible for any Loss arising as a result of (or as a result of any allegation respecting) any delay in the transmission of orders due to breakdown or failure of transmission or communication facilities or any cause beyond the Firm's control.
- 7.4 The Firm may act upon telephone instructions before receipt of any written confirmations and its records of telephone conversations shall be conclusive evidence of all such instructions.
- 7.5 The Client will be responsible for and bound by all contracts, obligations, costs and expenses entered into or assumed by the Firm on the Client's behalf in consequence of or in connection with any orders, instructions or communications as are given under this paragraph 7.
- 7.6 The Firm shall not be bound to act in accordance with the instructions of any person other than the Client and the liabilities of the Firm there under shall be fully discharged by performing such in favour of the Client, notwithstanding any instructions received from the principal of the Client and any notice received that the authority of the Client to act on behalf of its principal has been revoked or varied.
- 7.7 The Firm may communicate with the Client over the Internet or other electronic system to the extent permitted by Applicable Regulations. The Client agrees that it will lose any right to object to any error caused by or lack of security of such communication.
- 7.8 Where the Client provides instructions to the Firm or an Associate by way of an electronic order routing system, such instruction as is given will become an order when the Firm or Associate sends an acceptance of the instruction. The Client shall immediately inform the Firm or Associate as appropriate if it does not receive an acknowledgement of its instruction promptly, or if the acknowledgement received is inaccurate in any way.

8. Limitation of Liability and Responsibility

- 8.1 Neither the Firm nor any Associate nor any of their respective officers, partners, directors or employees or agents shall be liable for any Loss arising from any act or omission in the course of or relating to the activities to which these Terms of Business apply except to the extent that such Loss is caused by negligence, wilful default or fraud on the part of the Firm or an Associate or any of their respective officers, directors or employees. The liability of the Firm, any Associate and their respective officers, partners, directors, employees or agents shall not in any circumstances exceed the amount of the market value of any Property to which the Loss relates.

- 8.2 Neither the Firm nor any Associate nor any of their respective officers, partners, directors or employees or agents shall be liable for any consequential or special loss or damage, however arising (including, without limitation, loss of profit, loss of contract, loss of goodwill or liability under any other agreements, whether or not the Firm knew or ought to have known that such consequential or special loss or damage would be likely to be suffered).
- 8.3 Neither the Firm nor any Associate provides any guarantee nor shall they or their respective officers, partners, directors, employees or agents incur any liability in respect of the acts or omissions, or level of solvency, of any Exchange, Clearing House, bank, Sub-Custodian, nominee, Broker or other third party.
- 8.4 Neither the Firm nor any Associate nor any of their respective officers, partners, directors, employees or agents shall incur any liability by reason of any delay or change in market conditions before any particular transaction is effected.
- 8.5 Neither the Firm nor any of its officers, partners, directors, employees or agents shall incur any liability for any default by any other person holding Assets, Collateral or Property provided by the Client to the Firm, unless that person is an Associate.
- 8.6 The Firm shall not be required to do anything or refrain from doing anything which would in its opinion infringe Applicable Regulations and the Firm may at any time and without notice do whatever it considers necessary to comply with Applicable Regulations and whatever the Firm does or does not do in order to comply with them will be binding on the Client.
- 8.7 Nothing in these Terms of Business shall exclude or restrict any obligation which the Firm may have to the Client under the FSA Rules or the Act in relation to the Client or any liability which the Firm may incur under the Act in respect of a breach of any such obligation. Nothing in these Terms of Business shall require the Client to indemnify or compensate the Firm to any extent prohibited by the FSA Rules.

9. Indemnity and Co-operation

- 9.1 The Client undertakes to indemnify the Firm, its Associates and their respective partners, officers, directors, employees and agents (including any Broker) against any Loss which any of them may suffer or incur directly or indirectly in connection with or as a result of anything done or omitted to be done for the purpose of carrying out any transaction for the Client's account or providing any service to the Client or otherwise acting on the Client's instructions under these Terms of Business whether suffered before or after liquidation or bankruptcy of the Client, and which are not primarily attributable to the negligence, wilful default or fraud on the part of the Firm, its Associates or any of their respective officers, directors, employees or agents.
- 9.2 If any action or proceeding is brought by or against the Firm or a Sub-Custodian or an Associate by or against a third party in relation to any activity arising out of these Terms of Business or any Investment or transaction effected on the instructions of the Client including without limitation in relation to a Client Contract or arising out of any act or omission by the Firm required or permitted hereunder, the Client agrees to co-operate with the Firm or Associate, agent or Sub-Custodian at the request of the Firm to the fullest extent possible in the defence or prosecution of such action or proceeding.

10. Confidentiality

- 10.1 Neither the Firm nor the Client may disclose any confidential information relating to each other except as follows in this paragraph 10.1. Each may disclose confidential information relating to the other where required or permitted to do so by law, Applicable Regulations, or any binding judgement or order of court, or to its professional advisers (where market practice confidentiality provisions are in place with such advisers). Further, the Firm may disclose confidential information relating to the Client where it believes it is necessary or desirable in connection with the performance or exercise of its duties or rights under these Terms of Business or the terms of any other agreement the Firm has with the Client. Further, the Firm may from time to time pass information, which may include confidential information, to its Associates. Where applicable, the Client also acknowledges Part III paragraph B7.1.

11. Data Protection

- 11.1 The Client acknowledges and accepts that the Firm may, for the purposes of the business to be transacted under or in relation to the subject matter of these Terms of Business, “process” “personal data” (as both expressions are defined by the Data Protection Act 1998) about the Client’s employees and other persons connected with the Client or acting on the Client’s behalf. Such personal data (to include but not be limited to name and contact details) may be disclosed to Associates (including Associates located outside the European Economic Area) and to professional and other advisers or agents of the Firm for the purposes of the business to be transacted with the Firm under or in relation to the subject matter of these Terms of Business.
- 11.2 Notwithstanding anything else in these Terms of Business, the Firm may be required to make a disclosure of such personal data by law (including pursuant to a subject information request under the Data Protection Act 1998) or Applicable Regulations and the Client acknowledges and accepts that such a disclosure shall not constitute a breach of any obligations of confidentiality owed to the Client.
- 11.3 The Client represents, warrants and undertakes to the Firm at the time these Terms of Business are entered into and on a continuing basis while these Terms of Business continue to apply to the business it conducts with the Firm that:
- (a) it complies, and has at all times complied, with the applicable requirements of the Data Protection Act 1984, the Data Protection Act 1998 and any equivalent applicable legislation in any other country (“**Data Protection Legislation**”) in relation to the personal data which the Client may disclose to the Firm; and
 - (b) without prejudice to the foregoing, the employees or other persons connected with the Client or acting on the Client’s behalf whose personal data is required to be processed by the Firm in the manner set out in paragraph 11.1 have, if required by the Data Protection Legislation, been informed of and/or consented to the processing of personal data (including but not limited to the transfer of such data outside the European Economic Area) and the Client will provide proof of such notification or consent, as applicable, promptly if requested to do so by the Firm.
- 11.4 The Client agrees to provide to the Firm such data as is necessary or desirable to keep the personal data relating to the employees or other persons connected with the Client or acting on the Client’s behalf accurate and up to date.
- 11.5 The Client agrees to notify the Firm immediately of any notice of non-compliance with the Data Protection Legislation received by it which may be relevant to the Firm’s processing of personal data relating to the Client hereunder.

12. Telephone Taping

- 12.1 The Firm will record telephone conversations between the Firm and the Client (and any of the Client's authorised, connected or affiliated persons) for the purposes of evidencing instructions, quality of service, ascertaining compliance with regulatory practices or procedures, where obliged by Applicable Regulations or otherwise for the Firm's internal records. Such recordings may take place without the use of a warning tone or any other further notice. They will be the Firm's sole property and accepted by the Client as evidence of orders or instructions given. The Client warrants that it has made all reasonable efforts to inform every person who may use its telecom system as set out in this paragraph that such telephone conversations will be recorded.

13. Miscellaneous

- 13.1 Where relevant, the Firm will send trade confirmations or contract notes to the Client. Except in the case of manifest error, the terms set out in any such document will take precedence over any other agreement relating to the subject matter to the extent that there is a conflict.
- 13.2 The Client agrees that it will not use the name of any member of the Nomura Group in any way without the Firm's prior written approval.
- 13.3 All payments to the Firm under these Terms of Business shall be made in same day funds in such currency as the Firm may from time to time specify to the bank account designated by the Firm for such purpose. All such payments shall be made by the Client without any deduction or withholding.
- 13.4 If the Client defaults in paying any amount when it is due, interest will be payable by the Client to the Firm on the overdue amount. The Client will pay on demand interest on any sums due hereunder from the date when the same are due until full settlement, after as well as before judgment. The interest rate shall be equal to the overnight LIBOR rate applicable to the currency of the overdue amount on the day that such amount was due plus 2%. The payment of interest by the Client shall be without prejudice to any other rights the Firm may have against the Client arising from the Client's failure to pay any amount when it is due.

14. Amendments

- 14.1 The Firm may amend these Terms of Business by sending the Client a written notice describing the relevant changes. Such changes will become effective on a date to be specified in the notice which will be at least ten business days after the notice is sent to the Client unless it is impracticable in the circumstances to do so.
- 14.2 Any other amendment which might be requested by the Client will only become effective when the Firm confirms, in writing, its agreement to it.

15. Termination

- 15.1 The Client and the Firm are each entitled to terminate these Terms of Business by giving written notice to the other party which shall take effect immediately. Notwithstanding this, where there has been no activity on the Client's accounts for 18 months then, unless the Firm decides otherwise in its discretion, the Client's accounts will be deemed automatically to be closed and no instructions except liquidation will be accepted by the Firm.
- 15.2 No penalty will become due from either the Firm or the Client in respect of the termination of these arrangements.
- 15.3 Subject to paragraph 6.4 above, the termination of these arrangements in accordance with this paragraph 15 will not affect any outstanding orders or transactions or any legal rights or obligations which may already have arisen. Any transactions in progress at the date of termination will be completed by the Firm as soon as practicable. Further, the termination of these arrangements in accordance with this paragraph 15 shall not affect any warranties given by the Client under these Terms of Business, which shall survive such termination.

- 15.4 On termination by either the Firm or the Client, the Firm will:
- (a) be entitled to receive from the Client all Charges, costs, expenses and liabilities accrued or incurred under these Terms of Business up to the date of termination including, where termination is by the Client or as a result of the Client's default (whether actual or anticipated), any additional expenses or losses incurred in terminating these arrangements;
 - (b) as soon as reasonably practicable, subject to (a) above and the other provisions of these Terms of Business, deliver or cause to be delivered the Client's Investments to the Client or to its order; and
 - (c) subject to (a) above, refund any Charges the Client has paid in advance.
- 15.5 If the Client is an individual, the Client's death will not automatically terminate these Terms of Business, which will be binding on the Client's personal representatives.

16. Validity of Provisions and Remedies

- 16.1 Each provision of these Terms of Business is severable and if any provision is or becomes invalid or contravenes Applicable Regulations the remaining provisions will not be affected.
- 16.2 These Terms of Business apply to all business between the Firm and the Client described in these Terms of Business. They apply to the exclusion of any other terms which might apply by virtue of any course of dealing. The Client acknowledges that in accepting these Terms of Business it has not relied upon, and the Firm, its Associates, directors, partners, employees, officers and agents have not made, any statements, representations, promises or undertakings whatsoever that are not expressly contained in these Terms of Business.
- 16.3 These Terms of Business shall remain in effect notwithstanding any amalgamation or merger that may be effected by the Firm with any other company, and, notwithstanding the sale and/or transfer of the whole or any of the Firm's undertaking and assets to another company, these Terms of Business shall remain valid and effectual in all respects and may be assigned to, and enforced by, any such company as if such company had been named herein instead of the Firm. These Terms of Business shall be for the benefit of and binding upon the Firm's and the Client's successors and assigns.
- 16.4 The Firm's rights, remedies, powers and privileges under these Terms of Business are cumulative and are not exclusive of any rights, remedies, powers or privileges provided by law or by any other agreement.
- 16.5 No waiver by the Firm of any breach of any obligation arising under these Terms of Business shall constitute a waiver of any other breach and no failure to exercise or partial exercise by the Firm of any remedy shall constitute a waiver of the right subsequently to exercise that or any other remedy.
- 16.6 Subject to Part IV, the Client's rights under these Terms of Business and/or any transaction entered into under them are not capable of assignment and the Client's obligations shall not, without the Firm's consent, be capable of performance by anybody else.

17. Force Majeure

- 17.1 In the event of any failure, interruption or delay in performance of the Firm's obligations resulting from acts, events or circumstances not reasonably within the Firm's or any Associate's control, including but not limited to industrial disputes, acts or regulations of any governmental or supranational bodies or authorities or Securities exchanges or the breakdown, failure or malfunction of any telecommunications or computer service, neither the Firm nor any Associate shall be liable or have any responsibility of any kind for loss or damage thereby incurred or suffered by the Client.

18. Events beyond the Firm's control

18.1 The Firm shall not be obliged to take or refrain from taking any action which it becomes beyond the Firm's power to take or refrain from taking wholly or partly as a result of an event or state of affairs (including any change in the law or Applicable Regulations or any official directive or policy whether in the United Kingdom or elsewhere) which it was beyond the Firm's control to prevent and the effect of which it is beyond the Firm's power to avoid.

19. Third party rights

19.1 Unless otherwise agreed in writing, a person who is not a party to these Terms of Business has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms of Business except where such right or remedy may exist apart from that Act. This paragraph does not apply to any Associate of the Firm or any of the Firm's or its Associate's directors, partners, officers, employees or agents.

20. Governing Law and Jurisdiction

20.1 These Terms of Business are governed by and shall be construed in accordance with English law.

20.2 Each of the Firm and the Client irrevocably agrees that (subject in relation to LIFFE to paragraph 6 of the LIFFE Schedule to Part III Module A relating to transactions on LIFFE), the courts of England are to have jurisdiction to settle any disputes which may arise out of these Terms of Business and that accordingly any proceedings arising out of these Terms of Business may be brought in such courts. The Firm and the Client each irrevocably submit to the jurisdiction of such courts and waive any objection to proceedings in any such court on the ground of venue or on the ground that the proceedings have been brought in an inconvenient forum. The Client's submission is made for the Firm's benefit and shall not limit the Firm's right to take proceedings in any other court of competent jurisdiction nor shall the taking of proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

20.3 To the extent that the Client may be entitled in any jurisdiction to claim for itself, or for its Property, immunity in respect of its obligations under these Terms of Business from service of process, jurisdiction, suit, judgment, execution, attachment (whether before judgment, in aid of execution or otherwise) or legal process or to the extent that in any such jurisdiction there may be attributed to the Client or to its Property such immunity (whether or not claimed), the Client hereby waives such immunity to the fullest extent permitted by the laws of such jurisdiction.

21. Agent for Service of Process

21.1 The Client agrees that if it is not resident in England it shall at all times maintain an agent for service of process in England and that any writ, judgment or other notice of legal process shall be sufficiently served on the Client if delivered to such agent at its address for the time being. The Client agrees to provide written details of such agent upon demand. Nothing contained herein shall restrict the authority of the Firm to serve notice by any means allowed by the appropriate law.

22. Australia

22.1 The Firm does not hold an Australian financial services licence. The Firm is exempt from the requirement to hold an Australian financial services licence in respect of the financial services it provides to the Client. The Firm is authorised and regulated by the FSA under UK laws, which differ from Australian laws.

PART II Provisions applicable to Professional Clients

1. General Information

- 1.1 This Part II forms part of these Terms of Business and the defined terms defined in Part I have the same meaning in this Part II.

2. Services to be provided and Application of Terms

- 2.1 This Part II applies to Clients who are Professional Clients in respect of any services provided by the Firm.
- 2.2 To the extent that the Firm provides the Client with any of the services described in Modules A and B of Part III, the relevant Module sets out the additional terms and conditions that apply to those services in particular.
- 2.3 This Part II also sets out particular terms and conditions in addition to those in Part I on which the Firm will provide the Client with dealing services and, if so agreed, general investment advisory services, together with related research, in respect of Investments.
- 2.4 In addition to those services mentioned in paragraph 2.3 above, the Firm may provide other, additional, services to the Client as part of a wider service offering.
- 2.5 The Firm may take such additional action not specifically provided for in these Terms of Business which it reasonably considers is necessary or desirable for the provision of its services to the Client or to comply with any Applicable Regulations. All such actions will be binding on the Client.
- 2.6 Subject to the provision of these Terms of Business and to any Applicable Regulations, there shall be no restrictions on the types of Investments in which the Client wishes to invest and the markets on which the Client wishes transactions to be executed.

3. Delegation

- 3.1 Subject to the provisions at Part III B2.9, the Firm may employ agents, including Associates it selects on terms it thinks appropriate and may sign and perform (in any capacity) any agreement it thinks fit with an intermediate broker.

4. Provision of Advice

- 4.1 In general, the Firm does not give advice to its clients. In limited circumstances, however, the firm may do so. In those circumstances, the provision of advice will be agreed by the Firm beforehand and paragraphs 4.5 to 4.7 will apply.
- 4.2 The Firm will undertake transactions with the Client solely on an execution-only basis. Where the Firm is required to do so by Applicable Regulations, the Firm will assess whether the proposed service is appropriate for the Client. The Client will take all trading decisions in reliance on its own judgement and not in reliance upon the Firm. The Firm will not, unless it otherwise informs the Client, or unless the Client requests it to provide advice or a recommendation on a transaction, advise the Client on the merits or suitability of any transaction or trading strategy or otherwise provide the Client with investment advice or personal recommendations. Views expressed to the Client (whether orally or in writing) on trading ideas, trading suggestions, market colour, economic climate, generic advice, research or other such information communicated or otherwise made available to the Client are provided merely for the Client's information and are incidental to the provision of other services by the Firm to the Client. These views are not based on an assessment of the Client's individual circumstances, nor can they be relied upon as an assessment of the suitability of a transaction for the Client.

- 4.3 The Firm will not owe the Client any duty to furnish advice or recommendations regarding transactions, proposed transactions or the tax consequences thereof. The Firm does not provide independent advice. Any trading recommendation, market or other information communicated to the Client is incidental to the provision of services by the Firm under these Terms of Business and the Firm gives no representation, warranty or guarantee as to its accuracy or completeness. The Client acknowledges that market information provided may be based upon information which is incomplete and unverified. Further, the Client acknowledges that the information provided to the Client at any given time may be different from information provided to other clients of the Firm due to individual analysis of fundamental and technical factors by different personnel associated with the Firm and that such information may not be consistent with the Investments of the Firm, any of its affiliated companies, directors, employees or agents.
- 4.4 The Firm will not act as discretionary manager and is not responsible for advising on a continuing basis on the composition of an account or portfolio or for advising on the taxation consequences of any investment business or Investment.
- 4.5 If the Firm informs the Client that the Firm will advise the Client or give a recommendation on a particular transaction or if the Client requests that the Firm do so and the Firm accepts this, the Firm will take reasonable steps to assess whether the advice or recommendation is suitable for the Client based on information provided by the Client on its investment objectives, financial status and its knowledge and experience in the relevant investment field. As a Professional Client, the Firm is entitled to assume that the Client has the requisite knowledge and experience in the relevant investment field. If the Client does not consider this to be the case, the Client must make the Firm aware of this prior to the provision of one of the services mentioned above by the Firm to the Client and provide the Firm with any available information as to the level of the Client's knowledge and experience.
- 4.6 When the Firm agrees to provide advice or give a recommendation on a particular transaction or Investment, the Client agrees to provide the Firm with information regarding the Client's: (i) investment objectives; (ii) financial status (in other words, evidence that the Client would be able financially to bear any investment risks which may be related to the Client's investment objectives); and (iii) knowledge and experience in the relevant investment field so as to enable the Firm to assess whether the product or service is suitable for the Client. The Client will be responsible for ensuring that such information is kept up to date.
- 4.7 Where the Firm makes a personal recommendation to the Client, unless the Firm expressly states otherwise at the time the recommendation is made, it is valid only at the time it is made and must not be relied on at any time after the Firm makes it.

5. Research and publications

- 5.1 The Client agrees and acknowledges that:
- (a) unless otherwise agreed, the Firm is under no obligation to provide the Client with research publications or recommendations;
 - (b) the Firm publishes its research using a number of methods including its own internet based Research Channel, Bloomberg and other electronic means. It will also in certain circumstances, distribute hard copies of the research by post. The particular methods of publication will differ in delivery time and may be limited or determined by the relevant legal or regulatory requirements;
 - (c) it is the Firm's intention to distribute research to both the Client and the Firm simultaneously. However, this may not happen precisely in practice sometimes because of the method of research distribution chosen by the Client; and
 - (d) the Firm is not under any obligation to take account of any research publication or recommendation, or the material on which it is based, when effecting any transaction with or for the Client or otherwise dealing with or for the Client under these Terms of Business.

- 5.2 The Firm may, in accordance with Applicable Regulations, on occasions communicate to the Client advertisements, research, recommendations or other publications which constitute financial promotions within the meaning of the Act. Where any such document contains a restriction on the person or category of persons for whom that document is intended or to whom it should be distributed, the Client agrees that it will not pass on any such document to any other persons or category of persons.

6. Dealing

6.1 Best execution

When executing orders on the Client's behalf or when placing orders with, or passing orders to, other entities for execution, the Firm will comply with its Best Execution Policy as amended from time to time. The Firm will execute the Client's orders in accordance with that policy (as amended from time to time). The Firm has separately provided the Client with a summary of its Best Execution Policy. The summary of the latest version of the Best Execution Policy is available at <http://www.nomura.com/mifid> or from the Client's relationship manager.

6.2 Targeted and guaranteed trades

Unless otherwise agreed at the time of trading:

- (a) in the case of transactions identified as "targeted Volume Weighted Average Price", "targeted VWAP" or "careful discretion" orders or by expressions generally understood in the market as having a similar meaning, the prices at which transactions are executed for the Client may be determined by reference to the average price at which the relevant Securities have been traded or are treated as having been traded during a particular period, as adjusted to account for the volume of Securities traded or treated as having been traded at those prices (a Relevant Average Price);
- (b) in the case of transactions identified as "guaranteed Volume Weighted Average Price" or "guaranteed VWAP" orders, the prices at which transactions are executed for the Client will be the 'VWAP' figures for the relevant period for the relevant Securities displayed by Bloomberg, Reuters or such other pricing source as the Firm in its discretion may decide (the VWAP);
- (c) in the case of transactions identified to indicate that they are guaranteed price trades, the prices at which transactions are executed for the Client may be determined by reference to some other measure as ordered by the client (the Strike Price) such as the price of a security at a particular point in time (e.g. guaranteed close or mid market prices at the strike time etc).

6.3 The Client acknowledges and agrees that:

- (a) the Firm may only be willing to enter into transactions of the type referred to in paragraph 6.2 above if it is able to execute hedging transactions in order to manage its risk position. Accordingly, the Client agrees that the Firm may itself take positions in the relevant Securities or derivatives thereof and agrees that any profits or losses generated by such positions may be retained by the Firm without disclosure to the Client;
- (b) the Relevant Average Price may be determined by reference to one or more prices at which each relevant security is recorded by the Firm as having been traded during the relevant period, with the times at which the relevant prices are taken and the number of prices taken being at the sole discretion of the Firm. In these cases, the Firm may in exercising its discretion put its own interests and/or the interests of other customers before the interests of the Client. For example, the Firm may choose prices at times at which it is best able to execute hedging transactions in order to manage its own risk position;
- (c) the Firm's participation in the market in the relevant Securities for which a Relevant Average Price, VWAP or Strike Price is determined may have an adverse (as regards the Client's position) impact on the price of those Securities.

6.4 To the extent that the Client may otherwise have a claim against the Firm or an Associate arising out of or in respect of paragraph 6.3 above, the Client hereby irrevocably waives such claim and releases the Firm and any Associate from all liability in respect thereof.

7. Charges

- 7.1 The Client shall pay Charges to the Firm calculated on such basis and at such intervals as may be agreed between them or, in default of any such agreement, on such basis and at such intervals as the Firm considers reasonable, together with any applicable value added tax.
- 7.2 The Client will be responsible for payment of any Taxes, Charges and all other liabilities, costs and expenses payable or incurred by the Firm in connection with its services to the Client.
- 7.3 Any Charges due and payable to the Firm for its own account (or to allow it to pay the charges due to agents used by it) plus any applicable Taxes may be deducted from any money including in a Margin Account held by the Firm on the Client's behalf or, at the Firm's discretion, shall be paid by the Client as stated in the relevant contract note or advice note or at settlement.
- 7.4 The Firm may pay or receive other fees, commissions, or other non-monetary benefits, in accordance with Part I paragraph 3.6. The Firm may, accordingly, also share its Charges with, or receive remuneration from, another person.
- 7.5 The Firm may seek advice from legal or other professional advisers of its own choosing in connection with any action to be taken by the Firm in relation to business it is conducting with or for the Client or services it is providing to the Client. Reasonable remuneration for such advice shall be for the account of the Client where the appointment of the adviser is considered by the Firm to be reasonably necessary:
- (a) for the protection of the Client's interests or enforcing the Client's rights in relation to the Client's Investments; or
 - (b) for the protection or enforcement of the Firm's rights under these Terms of Business due to circumstances arising which are beyond the reasonable control of the Firm; or
 - (c) in any case where the adviser is appointed with the prior approval of the Client
- 7.6 The Firm may charge additional amounts for trades on the London Stock Exchange's Electronic Trading System for longer than the standard settlement period. Details of these charges may be obtained from the Firm on request.

8. Communication

- 8.1 Instructions will be given as set out in Part I, paragraph 7. All contract notes, advice notes, periodic statements or similar communications (other than demand for Margin) will be despatched or transmitted to the Client at its address, or to its contact details including without limitation a website, shown in the Firm's records for this purpose and shall be conclusive and binding on the Client unless objection in writing is received by the Firm within two business days of the date thereof. In proving delivery, it shall be sufficient for the Firm to prove that the communication was correctly addressed and posted or delivered or that it was transmitted to the correct facsimile number or e-mail address or on a website, whichever method or methods of delivery have been agreed with the Client. Demands for Margin will be deemed conclusively correct and final if not objected to by the Client within 24 hours of delivery. None of these provisions, however, will prevent the Firm upon discovery of any error or omission, from correcting it and the Client agrees that any such error or omission, whether resulting in profit or in loss, will be corrected and the Client will be credited or debited so that it is in the same position it would have been in if the error or omission had not occurred.

8.2 Subject to the provisions in these Terms of Business regarding the giving of instructions and subject to paragraph 8.1 above, all other notices, letters and other written communications will be sent by the Client to the Firm's registered office and by the Firm to the Client's registered office. Any such notice will be deemed to be given as follows:

- (a) if in writing, when in the ordinary course of business they would have been received; and
- (b) if by facsimile or e-mail, when received.

A notice given in accordance with this paragraph 8.2 but received on a non-working day or after business hours in the place of receipt will only be deemed to be given at opening of business on the next working day in that place.

9. Settlement

9.1 The Firm is not obliged to settle any transaction, whether it is acting as principal or as agent, or account to the Client unless and until the Firm (or its settlement agent) has received all necessary documents or cleared funds from the Client.

9.2 Where the Firm undertakes transactions for the Client, delivery or payment by the other party to the transaction is entirely at the Client's risk, and the Firm's obligation to deliver Investments to the Client or to the Client's account or to account to the Client for the proceeds of the disposal of Investments will be conditional on prior receipt by the Firm of appropriate documents or cleared funds from the other party or parties to the transaction.

9.3 If the Firm is not in possession of an Investment at the time the Client instructs the Firm to sell it on the Client's behalf, the Client undertakes to deliver that Investment to the Firm prior to the settlement date. In the event of non-delivery of an Investment, the Client irrevocably authorises the Firm to purchase an equivalent Investment to cover the Client's position and to charge any loss resulting to the Client's account. The Client undertakes, before the maturity of any contract in which it has a short position, to provide the Firm with all the necessary delivery documents, and if it fails to do so the Firm may, without demand or notice, cover the position in the manner it considers most appropriate.

9.4 Unless the Firm expressly agrees to the contrary, all amounts of every kind which are payable by the Firm to the Client and by the Client to the Firm will be payable on a delivery against payment basis. However, the Firm may at its discretion effect the settlement of any transactions with the Client on a "net" basis.

9.5 In the case of Securities which have already been committed to a takeover offer, settlement may be delayed if the transaction can only be completed with Securities issued by the offeror.

10. Order Handling

10.1 Aggregation of orders

The Firm may combine the Client's orders with its own orders or with those it executes on behalf of an Associate or with orders from another client of the Firm where it is likely that the aggregation will not work to the disadvantage of each of the clients concerned. This may on some occasions operate to the Client's disadvantage.

10.2 Priority of orders

Where the Firm accepts an order from the Client, the Firm may nevertheless execute a transaction for itself or for one or more Associates in the Investment concerned or any related Investment while the Client's order remains unexecuted, subject to dealing with all orders fairly, in due turn and in accordance with Applicable Regulations.

10.3 Limit orders

The Firm has separately sought the Client's express instructions not to make public any limit order it may place with the Firm in respect of shares traded on a regulated market where that order cannot immediately be executed under prevailing market conditions.

11. Reporting

11.1 Unless it would duplicate a confirmation or statement to be provided by someone else, the Firm will, in accordance with Applicable Regulations, promptly despatch to the Client (or agent nominated by the Client) written confirmations when required. The Firm may also, where required by Applicable Regulations, despatch periodic statements.

12. Representations, Warranties and Undertakings

12.1 The Client represents, warrants and undertakes to the Firm at the time these Terms of Business are entered into and on a continuing basis while these Terms of Business continue to apply to the business it conducts with the Firm that:

- (a) it is duly organised and validly existing under the laws of its jurisdiction of establishment and has and will have full power and capacity (including, where it is acting as trustee of a trust, full power and capacity under the relevant trust deed), and has taken and will have taken all necessary corporate and other action to authorise it, to enter into these Terms of Business and the transactions contemplated under them and to perform its obligations under those transactions and these Terms of Business;
- (b) it has obtained or, if not yet required, will obtain and will continue to maintain in effect all necessary authorisations and consents and approvals of any governmental or regulatory body or authority or Exchange or Clearing House for it to use the services and enter into the transactions contemplated by these Terms of Business, and to perform its obligations under those transactions and these Terms of Business;
- (c) the Client will comply with the terms of any authorisations, consents and approvals as referred to at (b) and with all Applicable Regulations and directives of such bodies or authorities;
- (d) the Client will upon demand deliver to the Firm copies of all authorisations, consents and approvals as are referred to in (b) above and such evidence of compliance with them and any such law, regulations and directives as the Firm may require;
- (e) the Client shall:
 - (i) provide to the Firm upon demand all such information as may be required to be filed or disclosed pursuant to the bylaws and rules of any Exchange, Clearing House or other regulatory authority (including FSA) or any Applicable Regulations, in each case regarding the Client, any Investment or any transaction or these Terms of Business.
 - (ii) file such reports, letters and other communications as may be required from time to time (and within any applicable time periods) by any governmental or other regulatory body or authority or any Exchange or Clearing House regarding the Client, any Investment or transaction or these Terms of Business.
 - (iii) send a copy of all such reports referred to in sub-paragraph (ii) above to the Firm promptly upon such filing, and the Firm may forward a copy of the same to any relevant Broker.
- (f) by entering into and performing the transactions contemplated by these Terms of Business it will not violate any Applicable Regulations or any agreement or instrument by which it is bound;

- (g) unless the Firm and the Client have agreed otherwise, the Client is and will remain (except where the Client is acting as a trustee) the beneficial owner of all Property held on the Client's behalf under these Terms of Business and all such Property is and will remain free from any lien, claim, charge or encumbrance;
- (h) unless the Firm and the Client have agreed otherwise, at the time of transfer by the Client of any Property under any transaction contemplated by these Terms of Business, it will have full and unqualified right to make such transfer and upon such transfer the transferee will receive all right, title and interest in and to those Investments free from any lien, claim, charge or encumbrance;
- (i) any information given by the Client to the Firm (including without limitation the answers to any questionnaire completed by the Client giving details of its financial position) is complete, accurate and not misleading in any material respect; and
- (j) the Client will observe the standard of behaviour reasonably expected of persons in the Client's position and not take any step which would cause the Firm to fail to observe the standard of behaviour reasonably expected of persons in the Firm's position.

13. Withholding taxes

- 13.1 All sums payable by the Client are exclusive of all applicable Taxes which are payable by the Client at the same time as the sums to which they relate. The Firm may deduct or withhold all forms of Taxes from any payment if obliged to do so under any Applicable Regulations. In accounting for tax, or making deductions or withholding of Taxes, the Firm may estimate the amounts concerned. Any excess of such estimated amounts over the final confirmed liability shall be credited or sent to the Client and any shortfall shall be paid to the Firm as soon as reasonably practicable.

14. Complaints and Compensation

- 14.1 Any complaints by the Client should be addressed to the Firm's compliance officer.
- 14.2 If the Firm is unable to meet any of its liabilities to the Client, the Client may be eligible for compensation for its loss under the Financial Services Compensation Scheme. Further details are available on request.

15. Joint Customers, Clients and Trustees

- 15.1 Where the Client is more than one person:
- (a) any instruction, notice, demand, acknowledgement or request to be given by or to the Client under these Terms of Business may be given by or to any one of the persons constituting the Client. The Firm need not enquire as to the authority of that person. That person may give the Firm an effective and final discharge in respect of any of the Firm's obligations;
 - (b) the liabilities of each person constituting the Client under or in connection with these Terms of Business are joint and several; and
 - (c) on the death of any one of the persons constituting the Client, the Firm may treat the survivor(s) as the only person(s) entitled to the Client's Property and Part I paragraph 15.5 shall not apply.
- 15.2 Where the Client is one or more trustees, it:
- (a) shall notify the Firm in writing of any changes in trustee(s) of the relevant trust; and
 - (b) confirm that, on the basis of competent legal advice, all persons constituting the Client are satisfied that each of them has and will continue to have all the necessary powers to enter into these Terms of Business, and the Investments and transactions in respect of which such instructions are given.

16. General

- 16.1 Time shall be of the essence in relation to all matters hereunder or pursuant hereto.

Annex

Product and Services

Risk Disclosures for Professional Clients

Under MiFID you have been categorised as a Professional Client for the purposes of all services which we provide to you in relation to the following products:

- transferable securities
- money market instruments
- options, futures, swaps, forward rate agreements and any other derivatives contracts relating to:
 - commodities, whether cash and/or physical settled and whether or not traded on a regulated market and/or MTF
 - climatic variables, freight rates, commission allowances or inflation rates or other official economic statistics
- derivative instruments for the transfer of credit risk
- financial contracts for differences
- other derivative contracts and Investments

In deciding to deal with us in such products generally, and in any particular case, you will have already assessed the risks involved in those products and in any related services and strategies which, in any particular case, may (as relevant) include any of, or a combination of any of, the following:

- credit risk
- market risk
- liquidity risk
- interest rate risk
- FX risk
- business, operational and insolvency risk
- the risks of OTC, as opposed to on-exchange, trading, in terms of issues like the clearing house 'guarantee', transparency of prices and ability to close out positions
- contingent liability risk
- regulatory and legal risk

In relation to any particular product or service there may be particular risks which are drawn to your attention in the relevant terms sheet, offering memorandum or prospectus or otherwise.