

EXECUTION AND DIRECT CLIENT CLEARING SUPPLEMENT DATED AS OF 1st JULY 2022 (THE EFFECTIVE DATE)

1. Application

This **Execution and Direct Client Clearing Supplement**), hereinafter referred to as this Supplement applies where we, Banque de Luxembourg (the **Clearing Member**) are providing the Execution Services and the Direct Client Clearing Services (as defined in Article 2 hereafter) to you as direct client (the **Direct Client**) as part of a Direct Clearing Arrangement (as defined in Article 2 hereafter).

This Supplement integrates and forms part of Banque de Luxembourg's General Terms and Conditions (as defined in Article 2 hereafter) which, together with this Supplement, form the **Direct Client Clearing Arrangement**.

For anything that is not dealt with in this Supplement, the General Terms and Conditions will apply, unless agreed otherwise herein.

2. Definitions

Unless otherwise stated, capitalised terms in this Supplement will have the following meanings:

Admitted for Clearing means, in respect of a Clearing Eligible Trade, such Clearing Eligible Trade being admitted (whether automatically or otherwise) to an Agreed CCP for clearing in an Agreed CCP Service with the intention that the related Agreed Clearing Member Transaction is recorded in the Direct Client Account in relation to the Agreed CCP Service.

Affiliate means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

Agreed CCP means the CCP(s) in which the Clearing Member participates and which enables the Clearing Member to provide the Direct Client Clearing Services to the Direct Client. The list of Agreed CCPs, as may be updated from time to time, is separately communicated to the Direct Client for information purposes.

Agreed CCP Service means any central counterparty clearing service performed by an Agreed CCP. The list of Agreed CCP Services, as may be updated from time to time, is separately communicated to the Direct Client for information purposes.

Agreed Clearing Member Transaction means a transaction between the Clearing Member and an Agreed CCP that arises when a Clearing Eligible Trade is Cleared through the relevant Agreed CCP Service.

Agreed Fees means the costs and fees applicable in relation to the services provided by the Clearing Member to the Direct Client under the Direct Client Clearing Arrangement. The Agreed Fees, as may be updated from time to time, are separately communicated to the Direct Client for information purposes into the Direct Clearing Service Commercial Terms.

Applicable Law means any applicable national, federal, supranational, state, regional, provincial, local or other statute, law (including, for the sake of clarity, the Personal Data Protection Laws), ordinance, regulation, rule, code, guidance, order, published practice or concession, judgment or decision of a governmental authority or any agreement entered into with or between any governmental authority(ies).

Authorised Person means any person authorised to act for the account and on the behalf of the Direct Client to perform any act covered by the Direct Client Clearing Arrangement.

Basic Omnibus Client Account (or **NOSA**) means an omnibus account where the CCP may net the Agreed Clearing Member Transactions that are recorded in the same Basic Omnibus Client Account and the assets provided in relation to the Agreed Clearing Member Transactions recorded in the same Basic Omnibus Client Account can be used in relation to any Agreed Clearing Member Transactions (whether it relates to you or not) credited to that Basic Omnibus Client Account. The Basic Omnibus Client Account is sometimes also referred to as a net omnibus segregated account or “NOSA” in the market industry.

Business Day means any day other than a Saturday, Sunday or public holiday in the country from which the Clearing Member provides the Execution Service and the Direct Client Clearing Service to the Direct Client.

CCP means a central clearing house authorised under Article 14 of EMIR or recognised under Article 25 of EMIR.

Cleared means that a Clearing Eligible Trade has been Admitted for Clearing by the relevant Agreed CCP in accordance with the relevant Rule Set. Any reference in this Direct Client Clearing Arrangement to the time at which a Clearing Eligible Trade is "Cleared" means the time at which the Clearing Eligible Trade is considered to be cleared in accordance with the relevant Rule Set for the account of the Direct Client.

Cleared Transaction Set means all Clearing Eligible Trades in respect of which the related Agreed Clearing Member Transactions are cleared through the same Agreed CCP Service.

Clearing Arrangement means the clearing arrangement between the Clearing Member and each of the Agreed CCP, as amended from time to time, which authorises the performance of the Direct Client Clearing Services by the Clearing Member.

Clearing Eligible Trade means, with respect to an Agreed CCP and an Agreed CCP Service, a trade of a type which is capable of being Cleared by the Clearing Member on behalf of the Direct Client using such Agreed CCP Service.

Clearing Member Trigger Event means any event described under Article 12.2 hereafter.

Collateral means collectively all cash and/or financial instruments which may be pledged in favor of the Clearing Member by the Direct Client in guarantee of its financial obligations linked to the Execution Services and the Direct Client Clearing Services, and all proceeds, products or distributions of a similar nature.

Direct Clearing Arrangement means the set of contractual relationships between a CCP, a clearing member, a direct client of a clearing member that allows the clearing member to provide direct clearing services to its direct client.

Direct Clearing Service Commercial Terms means the commercial terms (which include the Agreed Fees), as they may be modified from time to time, relating to the Execution Services and the Direct Client Clearing Services provided by the Clearing Member to the Direct Client.

Direct Client Clearing Services means the direct clearing services provided by the Clearing Member to the Direct Client in relation to an Agreed CCP and described under Article 6 hereafter.

Direct Client Account means an account opened (in the name of the Clearing Member for the purpose of the Direct Client Clearing Services provided to the Direct Client) with the relevant Agreed CCP with respect to an Agreed CCP Service.

EEA CCP means a CCP that is an authorised CCP for the purposes of EMIR.

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

Execution Service means the orders execution service provided by the Clearing Member to the Direct Client and described under Articles 4 and 5 hereinafter.

Excluded Transaction Type means, with respect to an Agreed CCP Service, any type of transaction specified as an Excluded Transaction Type in respect of such Agreed CCP Service, as may be updated from time to time, and which is separately communicated to the Direct Client for information purposes.

General Terms and Conditions means the general terms and conditions, as they may be modified from time to time, relating to the cash and securities accounts opened by the Direct Client with the Clearing Member and relating to the investment service(s) and other services provided by the Clearing Member to the Direct Client.

Gross Omnibus Client Account (or GOSA) means an Omnibus Client Account where the CCP will agree not to net the Agreed Clearing Member Transactions that are recorded in the same Gross Omnibus Client Account but the assets provided in relation to the Agreed Clearing Member Transactions recorded in the same Gross Omnibus Client Account can however be used in relation to any Agreed Clearing Member Transactions (whether it relates to you or not) credited to that Gross Omnibus Client Account. The Gross Omnibus Client Account is sometimes also referred to as a gross omnibus segregated account or "GOSA" in the market industry.

Individual Client Account (or ISA) means an individual account opened (in the name of the Clearing Member for the account of the Direct Client only) with an Agreed CCP with the assets and positions held by the Clearing Member which records both assets and positions that relate to the Direct Client only (where you have opted for an Individual Client Account), meaning that, in contrast to an Omnibus Client Account, the positions and assets that relate to you are segregated from those recorded in any other account.

Mandatory CCP Provisions means with respect to an Agreed CCP Service, each provision, if any, specified by an Agreed CCP in respect of an Agreed CCP Service as mandatory for inclusion in the terms of transactions or arrangement between Clearing Members of that Agreed CCP Service and their respective clients (to the extent such clients are of the same classification for the purposes of the relevant Rule Set as the Direct Client) and, in that case, which such provisions may, without limitation, be intended to be applicable and binding as between such Clearing Members and their respective clients or to create rights of the relevant Agreed CCP against such clients or liabilities of such clients to that Agreed CCP and which may be (i) published from time to time by the relevant Agreed CCP on its website in a form that is accessible without any subscription or payment of any fee and (ii) amended and supplemented from time to time by the relevant Agreed CCP.

Market means any foreign or domestic organised and regulated market, multilateral trading facility, organized trading facility or other trading venue.

MIFID means the Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU and as the same may be amended from time to time.

MIFIR means the Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012.

Non-EEA CCP means a CCP other than an EEA CCP.

Omnibus Client Account means an omnibus account opened (in the name of the Clearing Member for the account of the Direct Client and any of our other direct clients having chosen the same account structure) with an Agreed CCP with the assets and positions held by the Clearing Member which records both assets and positions that relate to the Direct Client (where you have opted for an Omnibus Client Account) and, if relevant, the assets and positions that relate to any of the other direct clients of the Clearing Member that have opted for the same Omnibus Client Account. The Omnibus Client Account can be either a Basic Omnibus Client Account (or NOSA) or a Gross Omnibus Client Account (or GOSA) as defined herein.

Order means an instruction from the Direct Client to buy or sell one or more forward financial instruments to conclude a proprietary Clearing Eligible Trade on the Relevant Market.

Personal Data Protection Laws means all applicable data protection laws, rules and regulations relating to personal data, including the EU Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 as it may be amended or replaced from time to time (including by the Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and laws implementing Regulation 2016/679), and any applicable national laws, rules and regulations implementing the foregoing.

Position means the Direct Client's commitments resulting from a Clearing Eligible Trade being executed on a Market and Cleared.

Relevant Market means the Market on which the Direct Client is operating when it sends an Order.

Rule Set means, with respect to an Agreed CCP Service, the rules, conditions, and procedures, regulations, standard terms, membership agreements, collateral addenda, notices, guidance, policies or other such documents promulgated by the Agreed CCP in respect of the relevant Agreed CCP Service as amended and supplemented from time to time.

Transfer means, in respect of a Position, to transfer Direct Client's rights, obligations and interest in or under such Position, including by way of assignment, novation or termination and replacement, and "**Transferred**" will be construed accordingly.

3. Interpretation

- 3.1. To the extent of any inconsistency between the terms of this Supplement and the core provisions of the Direct Client Clearing Arrangement, this Supplement will prevail in respect of the Direct Client Clearing Services and the relevant Cleared Transaction Set.
- 3.2. To the extent of any inconsistency between the terms of the Direct Client Clearing Arrangement and any Mandatory CCP Provision, such Mandatory CCP Provision will prevail in respect of the Direct Client Clearing Services and the relevant Cleared Transaction Set.

4. Submission of orders

4.1. Methods of Orders submission

- 4.1.1. The Direct Client (or its Authorised Persons) may send its Orders to the Clearing Member using the transmission channels authorised by the Clearing Member and communicated to the Direct Client beforehand.
- 4.1.2. The Direct Client is aware that where it is authorised to send Orders by telephone, facsimile and/or email and other electronic means, its conversations and electronic communications are recorded and kept by the Clearing Member.
- 4.1.3. Acceptance by the Clearing Member to receive Orders through any other transmission channels will be given by separate written agreement, together as the case may be, with signature by the Indirect Client of an additional contractual agreement.
- 4.1.4. The Clearing Member reserves the right to suspend, block or authorise any method of submitting Orders at any time without prior notice.
- 4.1.5. Under no circumstances will the Clearing Member be deemed to have accepted an Order from the Direct Client if it has not acknowledged this to the Direct Client or enacted in accordance with the Order sent.

4.2. Time-stamping of Orders

- 4.2.1. The Clearing Member will record the date and time on which Orders are received. This record evidences that the Clearing Member has received the Order but does not imply that the Clearing Member has agreed to process on the terms (including deadlines) instructed by the Direct Client.
- 4.2.2. The Indirect Client's attention is specifically drawn to the possibility of delays of unforeseeable duration between the time when the Direct Client sends the Order and the time when the Clearing Member receives and submits the Order. The Clearing Member will not be held liable in this instance.

4.3. Characteristics of Orders

- 4.3.1. Any Order that the Direct Client sends to the Clearing Member must include the information needed for the Order to be properly submitted/executed: nature, direction, position type (open/close), and type of transaction concerned, quantity requested, price, maturity, currency, duration of the Order's validity, and more generally any information needed for the Order to be carried out and completed in accordance with any Applicable Law.
- 4.3.2. In the event of the Direct Client failing to provide any of the above information, the Clearing Member reserves the right to refuse to submit/execute the relevant Order or to submit/execute only a part of the Order.
- 4.3.3. The Clearing Member will not be held liable for any of the Orders not executed or partially executed because of incomplete, contradictory, unclear or late information provided by the Direct Client.

4.4. Information of the Direct Client when Orders could not be submitted

- 4.4.1. Provided that the Direct Client complies with any Applicable Law and that the Clearing Member accepts the Order, the Clearing Member will submit the Order for execution as quickly as possible.
- 4.4.2. The Direct Client acknowledges that the Order's submission for execution does not mean that it will be executed in compliance with the Direct Client's request and expectations.
- 4.4.3. Where the Order could not be submitted for execution, the Clearing Member will inform the Direct Client thereof by telephone or any other agreed method as quickly as possible. An Order that could not be submitted is deemed to have expired. It is then up to the Direct Client to issue a new Order if it so wishes.

4.5. Cancelling Orders – No amendment of Orders

- 4.5.1. The Direct Client may ask to cancel an Order prior to execution. Such a cancellation request will be considered only to the extent the cancellation is possible. The Clearing Member undertakes to do its best efforts to cancel the Order upon the Direct Client's request. However, the Clearing Member will not be held liable if the Order cannot be cancelled for any reason beyond its control.
- 4.5.2. In every case, the Order is deemed to have been cancelled only after the Clearing Member has confirmed such action to the Direct Client.
- 4.5.3. Whatever the outcome of the cancellation procedure is, the Direct Client will be liable for all losses and expenses arising out of its cancellation request.
- 4.5.4. Amending an Order will not be possible as such. Only a cancellation, to the extent possible, followed by a new Order transmission will be possible.

5. Execution of orders

- 5.1. 1 Except when the Order is a type of Orders that the Clearing Member communicated to the Direct Client beforehand as Orders that it usually does not accept for execution, the Clearing Member may accept all types of Orders authorised in accordance with the Applicable Law for their execution/transmission.
- 5.2. The Clearing Member will promptly confirm the execution of the Order to the Direct Client. Without such confirmation, the Direct Client should assume that the Order was not executed.

- 5.3. The Clearing Member reserves the right not to proceed with an Order received from the Direct Client for any reason whatsoever. In this event, the Clearing Member will notify the Direct Client regarding its refusal as soon as possible. Except in the event of gross negligence, fraud or wilful misconduct of the Clearing Member, any risks and expenses incurred by refusing or not proceeding with an Order for any reason whatsoever will be borne by the Direct Client. No provision hereunder or otherwise will be read as obliging the Clearing Member to execute an Order received.
- 5.4. The Direct Client may not hold the Clearing Member liable for any loss, damage or similar claim of any kind resulting from the Clearing Member not accepting an Order or from the Clearing Member not proceeding with an Order for any reason whatsoever, whether the Clearing Member has notified the Direct Client or not.
- 5.5. The Clearing Member will not be held liable to the Direct Client for any delay or inaccuracy in the submission or execution of the Order for any reason beyond its control such as a breakdown in communication or information systems, or any improper functioning of the Market concerned.
- 5.6. The Clearing Member ensures the submission or execution of the Order in accordance with any Applicable Law and in accordance with its best execution policy, if Market conditions allows so and if the relevant Order complies with all the provisions of the Applicable Law.
- 5.7. Best execution/best selection policy

The Clearing Member and the executing brokers appointed by it will take all sufficient measures during the execution of the Orders to obtain the best possible result for the Direct Client.

In this regard, the Clearing Member has defined and implemented a best selection/best execution policy enabling it to comply with this requirement, in particular to select its executing brokers to whom Orders will be sent for execution, and in the event that the Clearing Member itself will execute the Orders sent by the Direct Client, in order to obtain the best possible result for the Direct Client in accordance with the provisions of the Applicable Law.

The Direct Client acknowledges having received adequate information on the best selection/best execution policy implemented by the Clearing Member, agrees to the terms of this policy, and recognises that the commitment to take all reasonable measures to achieve the best execution/selection possible does not mean that the Clearing Member is bound by a performance obligation (*obligation de résultat*).

5.8. Specific instructions

When the Direct Client gives a specific instruction to the Clearing Member for the execution of an Order, the Clearing Member will execute the Order in accordance with the elements covered by the specific instruction given by the Direct Client.

The Direct Client acknowledges and agrees that when a specific instruction is given, the Clearing Member will not take the steps that it has designated and implemented in its best execution policy to obtain the best possible result for the execution of the Order. In such case, the Direct Client discharges the Clearing Member from its obligations arising from its best execution policy.

If the specific instruction concerns only a part of the Order, the Clearing Member remains bound by its obligations arising from its best execution policy for the part of the Order not covered by the specific instruction.

- 5.9. The Direct Client acknowledges that its Orders are submitted and executed in accordance with the Applicable Law of the Markets in which it operates.

5.10. Places of execution

The Direct Client expressly agrees that its Orders admitted for trading on a Regulated Market, Multilateral Trading Facility or Organised Trading Facility may be executed inside (but may, as the case may be, also be executed outside) such Regulated Market, Multilateral Trading Facility or Organised Trading Facility, in compliance with the terms of the best execution/ best selection policy.

In this respect, it should be noted that in accordance with the Applicable Law:

A "**Regulated Market**" is a multilateral system operated and/or managed by a market operator that ensures or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments - in the system and in accordance with its non-discretionary rules - in a way that results in a contract, in respect of the financial Instruments admitted to trading under its rules and/or systems, and which is authorised and functions regularly and in accordance with Title III of MIFID.

A "**Multilateral Trading Facility**" or "**MTF**" is a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract in accordance with Title II of MIFID.

An "**Organised Trading Facility**" or "**OTF**" is a multilateral system which is not a Regulated Market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with Title II of MIFID.

5.11. Limit Orders

The Direct Client is informed and agrees that any limit Order on financial instruments admitted for trading on a Regulated Market other than an Order of an unusually large size, and which is not part of an immediate execution in accordance with prevailing Market conditions, may be immediately made public by the Clearing Member or the executing broker appointed by it in a form easily accessible to other market participants. This would be to facilitate the earliest possible execution, unless the Direct Client gives explicit instructions to the contrary to the Clearing Member.

In accordance with the Applicable Law, the Clearing Member is authorised to aggregate an Order from the Direct Client with other orders from its other clients without giving prior notice to the Direct Client since the Clearing Member considers it unlikely that such aggregation will work to the disadvantage of any of its clients whose Orders are aggregated. The Direct Client is nonetheless informed that such an aggregation of Orders may, in certain circumstances, have an adverse effect for the Direct Client in relation to the execution of a particular Order.

6. Scope of the Direct Client Clearing Services

- 6.1. Once executed on the relevant Market, the Clearing Member will offer the Direct Client Clearing Services in relation to any Clearing Eligible Trade.
- 6.2. For the avoidance of doubt, the Clearing Member will not provide the Direct Client Clearing Services to the Direct Client when the Order is executed by a third party unless the executing broker(s) is (are) appointed by the Clearing Member.
- 6.3. The Clearing Member will not offer Clearing Services to any clients of the Direct Client.

7. Description of the Direct Client Clearing Services and clearing model

- 7.1. Upon such Clearing Eligible Trade being Cleared through an Agreed CCP Service, an Agreed Clearing Member Transaction will arise between the relevant Agreed CCP and the Clearing Member.
- 7.2. The Direct Client acknowledges and agrees that the Agreed Clearing Member Transaction will be carried out by the Clearing Member on behalf of the Direct Client with the Agreed CCP.

- 7.3. As a result, when an Agreed Clearing Member Transaction arises as a result of a Clearing Eligible Trade being accepted for Clearing in any way whatsoever, the Direct Client will be irrevocably bound and liable towards the Clearing Member for all obligations and commitments which the Clearing Member has taken, acting in its own name but on behalf of the Direct Client under each Agreed Clearing Member Transaction (including, without limitation, in relation to margin and collateral), whether or not the Clearing Member has confirmed the details of the Clearing Eligible Trade being Cleared beforehand.

8. Direct Client accounts

- 8.1. Direct Client Accounts for the purposes of the Direct Client Clearing Services in relation to EEA CCPs.
- 8.1.1. Pursuant to EMIR, the Clearing Member is under the obligation to allow the Direct Client to either use an Omnibus Client Account or an Individual Client Account (as further described pursuant to the information provided to the Direct Client as part of the obligations of the Clearing Member referred to under Article 19.1 of the Supplement.
- 8.1.2. While only one type of Omnibus Client Account (and one type of Individual Client Account) is required with regard to Direct Client Clearing Services under EMIR, the Clearing Member offers the Direct Client (and this offer is based on the account structures offered by the CCPs used by the Clearing Member) the choice between two types of Omnibus Client Account: (i) Basic Omnibus Client Account (NOSA) or (ii) Gross Omnibus Client Account (GOSA).
- 8.1.3. As at the date of the Direct Client Clearing Arrangement, the Clearing Member uses, by default, a NOSA in relation to any Agreed Clearing Member Transaction but leaves to the Direct Client the choice to designate its preferred option.
- 8.1.4. In the absence of designation of the type of Direct Client Account by the Direct Client within 10 (ten) Business Days after this Supplement is made available to the Direct Client, the Clearing Member will continue to use a NOSA structure for the Direct Client until further notice.
- 8.1.5. The Direct Client may request the Clearing Member in writing either (a) within the 10 (ten) Business Days period referred above or (b) at any time later on, to choose a different type of Direct Client Account.
- 8.1.6. In case the Direct Client chooses for a different type of Indirect Client Account (ie for a GOSA or an ISA), the Direct Client's attention is particularly drawn on a prior implementation phase required for the setting-up of a GOSA or an ISA and for organising the necessary operational and information flows, which the Direct Client hereby acknowledges and agrees.
- 8.1.7. The Clearing Member will inform the Direct Client once the prior implementation phase has been terminated confirming that the GOSA or the ISA is operational for use.
- 8.1.8. For the avoidance of doubt, until the Clearing Member confirms that the prior implementation phase is terminated and the GOSA or the ISA is operational for use, the assets and positions that relate to the Direct Client for any Clearing Eligible Trade Cleared or to be Cleared before the termination of the prior implementation phase will be recorded in the NOSA.
- 8.1.9. Pursuant to, and subject to, the procedures established by the Agreed CCP, the Clearing Member will request the Agreed CCP to transfer, once the GOSA or the ISA is operational for use, the Direct Client's positions and assets referred to in Article 8.1.8 above, from the NOSA to the GOSA or ISA as the case may be. Such transfer will be proceeded, or cause to be proceeded, on a best efforts' basis. Regardless the outcome of the request for transfer, the Clearing Member will not be held liable for any refusal, delay or impossibility to transfer the Direct Client's positions from one account structure to another.
- 8.1.10. 8.1.10 The Clearing Member will request the relevant Agreed CCP to open and maintain the type of Direct Client Account designated by the Direct Client (NOSA, GOSA or ISA).
- 8.2. At this stage, the Clearing Member does not provide and does not contemplate providing Indirect Client Clearing Services in relation to non-EEA CCPs.

- 8.3. The Direct Client will keep confidential any information it may acquire regarding the business and affairs of the Clearing Member as a result of the Direct Client Clearing Services.

9. Margin and Collateral

- 9.1. By either (i) a separate pledge agreement duly signed by the Direct Client or (ii) specific provisions included in a service agreement or other contractual arrangement duly executed between the Indirect Client and the Direct Client, governed by the Luxembourg act dated 5 August 2005 on financial collateral arrangements, as amended (*loi modifiée du 5 août 2005 sur les contrats de garantie financière*), the Direct Client agreed to pledge all its assets deposited or to be deposited with the Clearing Member as guarantee for all present and future commitments, liabilities whatsoever, that the Direct Client owes and will owe to the Clearing Member.
- 9.2. To cover its financial obligations arising from the Execution Services and the Direct Client Clearing Services, the Direct Client undertakes to deposit with the Clearing Member all Collateral required, the currency, amount, nature and quantity of which will be determined on a discretionary basis by the Clearing Member in accordance with the Clearing Member's procedures in force at the date the guarantee is requested. Notwithstanding the foregoing, the Direct Client is already authorised to deposit all required Collateral in eligible cash.
- 9.3. Any amount of Collateral owed by the Direct Client must be deposited on the same day it is called on a dedicated sub-account opened in the name of the Direct Client with the Clearing Member for this purpose. The Direct Client is not authorised to withdraw or to send any instruction to debit any amount of Collateral from this dedicated sub-account until any or all the Direct Client's financial obligations arising from the Execution Services and the Direct Client Clearing Services are discharged in full.
- 9.4. The Direct Client authorises the Clearing Member to withdraw from any other accounts that the Direct Client holds with the Clearing Member, the amount of requested Collateral in order to credit the said dedicated sub-account. The Direct Client undertakes to ensure that the accounts from which Collateral is transferred hold at least the minimum Collateral required at any time to credit the said dedicated sub-account.
- 9.5. In accordance with any Applicable Laws, at any time when an Agreed CCP or a Market so decides, or for any reason deemed necessary or appropriate, the Clearing Member may at any time issue any additional Collateral call to the Direct Client, by any means, even on an intra-day basis.
- 9.6. The Clearing Member and the Direct Client intend that such arrangements in relation to Collateral will constitute security financial collateral arrangement, as such term is used in the EU Financial Collateral Directive (2002/47/EC) and, subject to the provisions of the Direct Client Clearing Arrangement, the Direct Client will keep the full ownership of the Collateral when the security right is established.
- 9.7. Notwithstanding the above, the Direct Client agrees that the Clearing Member may use any Collateral provided by the Direct Client under the Direct Client Clearing Arrangement in order to allow the Clearing Member to satisfy the Clearing Member's obligations to provide Collateral (the **Used Collateral**) to the relevant Agreed CCP in connection with the Agreed Clearing Member Transaction(s). Where the Clearing Member exercises such right of use of collateral, all right, title and interest in and to such collateral will vest in the Clearing Member free and clear of any liens, claims, charges or encumbrances or any other interest of the Direct Client or of any third person (other than a lien routinely imposed on all securities in a relevant clearance system).
- 9.8. The Direct Client will have a right against the Clearing Member for the delivery of equivalent property, cash, or securities of the same type, nominal value, description and amount as the Used Collateral (**Equivalent Used Collateral**).

- 9.9. Without prejudice to the generality of the provisions of the Direct Client Clearing Arrangement relating to the Clearing Member's rights to make margin calls on the Direct Client and the rights and consequences arising upon the occurrence of an Event of Default, the Clearing Member and the Direct Client agree that the Clearing Member may, in its sole and absolute discretion, make a separate margin call on the Direct Client in relation to each Agreed CCP Service and/or the Clearing Member may make aggregated margin calls in relation to two or more Agreed CCP Services.

10. Limits

- 10.1. The Direct Client acknowledges that the Clearing Member may (i) set any limits that it deems necessary; (ii) require the Direct Client to reduce the size of its open Positions; (iii) close out or liquidate Direct Client's Positions overriding the limits, in the Direct Client's interests and/or its own interests. The Clearing Member will inform the Direct Client of any limits applicable and provide any relevant information upon request.
- 10.2. The Direct Client will remain liable for all expenses, costs, penalties or other amounts that may arise from implementing such limits, reducing its Positions or closing them out at the initiative of the Clearing Member for any reason whatsoever.

11. Agreements and Representations

- 11.1. When entering into the Direct Client Clearing Arrangement and on a continuous basis, each of the Clearing Member and the Direct Client represents and warrants:
- 11.1.1. that it is validly organised and that it conducts its business in compliance with the Applicable Law and its articles of incorporation (or other constitutive documents) which are applicable to it;
 - 11.1.2. that it has the full authority and capacity to enter into the Direct Client Clearing Arrangement relating to it, and that the Direct Client Clearing Arrangement has been duly authorised by any internal procedure or any other competent internal authority; and
 - 11.1.3. that the entry into and performance of the Direct Client Clearing Arrangement and each Agreed Clearing Member Transaction relating to it do not contravene any provision of the Applicable Law or its articles of incorporation (or other constitutive documents) applicable to it.
- 11.2. When entering into the Direct Client Clearing Arrangement, the Direct Client:
- 11.2.1. acknowledges and agrees that it has received all necessary information from the Clearing Member it considers necessary in relation to (i) the Omnibus Client Account and the Individual Client Account and (ii) the different levels of risk and segregation with each type of account (a) the risks associated to a default of the Clearing Member, and (b) the risks associated to the level of segregation of the Direct Client Account chosen by the Direct Client;
 - 11.2.2. represents and warrants that it understands the Direct Clearing Service Commercial Terms;
 - 11.2.3. represents and warrants that it understands the risks associated with the type of Direct Client Account it has chosen and in the event of default of the Clearing Member linked to the level of segregation of the Direct Client Account;
 - 11.2.4. represents and warrants that, in performing its obligations under or pursuant to this Direct Client Clearing Arrangement, it will not breach, or cause the Clearing Member to breach, the provisions of sanctions enforced or administered by the United States government (including the U.S. Department of Treasury's Office of Foreign Assets Control), the United Nations, the European Union and the United Kingdom (together **sanctions laws**) and restrictions based on United States, European Union, UK Treasury, United Nations or other relevant government lists as may be published from time to time (**Government List Restrictions**) and equivalent legislation, regulation and guidance put in place by other relevant sanctions authorities, governments and supranational organisations that may be in force from time to time;

- 11.2.5. undertakes to fully cooperate with and assist the Clearing Member in complying with all relevant Applicable Laws and will make available to the Clearing Member such documents, books and records as the Clearing Member considers necessary to effect such compliance; and
 - 11.2.6. represents and warrants that it will not offer direct or indirect clearing services to any of its clients.
- 11.3. When entering into the Direct Client Clearing Arrangement and at all times until the termination of the Direct Client Clearing Arrangement:
- 11.3.1. the Clearing Member agrees that it will honour all obligations to the Agreed CCP, with regard to the Agreed Clearing Member Transactions related to the Clearing Eligible Trade covered by the Direct Client Clearing Arrangement and, in particular, that it will make all payment and deliveries towards the CCP under such Agreed Clearing Member Transactions; and
 - 11.3.2. the Clearing Member agrees that it will at all times keep separate records and accounts that enable it to distinguish between its own assets and positions and those held for the account of the Direct Client.

12. Default – close out netting

12.1. Event of Default of the Direct Client

The occurrence at any time with respect to the Direct Client of any of the following events constitutes an event of default (an **Event of Default**) with respect to the Direct Client:

- 12.1.1. the Direct Client fails to fulfill any payment or settlement/delivery obligation when due under the Direct Client Clearing Arrangement;
- 12.1.2. any one of the representations made by the Direct Client in relation to the Direct Client Clearing Arrangement is found to have been inaccurate at the time it was made or repeated, or ceases to be accurate in relation to any material element;
- 12.1.3. the Direct Client exceeds any limits of any kind whatsoever set in relation to the Direct Client, any Market and/or the Agreed CCP;
- 12.1.4. the Direct Client fails to respect any obligation under the Direct Client Clearing Arrangement;
- 12.1.5. the Direct Client may be involved or is suspected to be involved in abnormal or irregular operations of any kind, which, at the Clearing Member's sole discretion, may expose the Clearing Member to any reputational, financial, legal, compliance and whatsoever risks and/or may have a negative impact or jeopardize the normal course of relationships between the Clearing Member and the Direct Client. This includes, for example, without being limited thereto, any administrative, civil or penal proceedings, suspicious activities reports, anti-money laundering and terrorism financing proceedings;
- 12.1.6. any event or circumstance occurs which, in the sole opinion of the Clearing Member, is likely to materially or adversely affect the relationship between the Clearing Member and the Direct Client and/or the ability of the Direct Client to perform all or any of its obligations under this Direct Client Clearing Arrangement;
- 12.1.7. any steps are taken against the Direct Client under any applicable bankruptcy or insolvency regulations, in order to initiate its administration, bankruptcy, dissolution or liquidation, regardless of whether taken upon the Direct Client's or a third party's initiative;
- 12.1.8. a temporary administrator or *ad hoc* agent is appointed to manage or administer the Direct Client;
- 12.1.9. the Direct Client ceases to operate under a going concern, or undergoes a merger or a demerger, and the Clearing Member upon its sole discretion reasonably believes that as a result it is no longer able to provide the Direct Clearing Service on satisfactory terms;

- 12.1.10. it becomes unlawful under any Applicable Law on any day, or it would be unlawful if the relevant payment, delivery or compliance were required on that day to make or to receive as the case may be, a payment or delivery under the Direct Client Clearing Arrangement, or to comply with any other material provision of the Direct Client Clearing Arrangement;
- 12.1.11. an event occurs that renders null and void any Collateral that the Direct Client has pledged in favor/transferred to the Clearing Member to cover its financial obligations linked to the Execution Services and Direct Clearing Services; and
- 12.1.12. the Direct Client or any supervisory or regulatory body to which it is subject suspends the Direct Client's usual business.

12.2. Consequences of an Event of Default

If an Event of Default occurs and is then continuing, and without prejudice to any Applicable Law, the Clearing Member is entitled, at its sole discretion, without any notification of the default, without issuing any margin call or giving any other prior indication or formal notice, exercise one or more of the following rights:

- 12.2.1. cancel any Order not yet submitted or not yet executed on behalf of the Direct Client;
- 12.2.2. terminate and liquidate any or all of the Direct Client's Positions (*the **Terminated Positions***) by any means, at the Direct Client's sole cost and risks;
- 12.2.3. accelerate any payment obligation of the Direct Client owed to the Clearing Member;
- 12.2.4. net any amount owed by the Direct Client using any Collateral pledged;
- 12.2.5. discharge all Direct Client's obligations using any Collateral that the Direct Client has pledged/transferred unless otherwise stipulated or agreed between the Direct Client and the Clearing Member;
- 12.2.6. require the immediate payment of any amount still owed by the Direct Client after its Collateral has been netted as described above;
- 12.2.7. after an Event of Default has occurred, whether the Clearing Member knew it or not, under no circumstances will the following be interpreted as the Clearing Member having waived the rights held under the terms of this clause: (i) the Clearing Member's acceptance of one or more Orders sent by the Direct Client or (ii) an Agreed Clearing Member Transaction arising as a result of the Clearing Member accepting a Clearing Eligible Trade for clearing.

12.3. Clearing Member Trigger Event

The occurrence at any time with respect to the Clearing Member of any of the following events constitutes a clearing member trigger event (a **Clearing Member Trigger Event**) with respect to the Clearing Member:

- 12.3.1. any steps are taken against the Clearing Member under any applicable bankruptcy or insolvency regulations, in order to initiate its administration, bankruptcy, dissolution or liquidation, regardless of whether taken upon the Clearing Member's or a third party's initiative;
- 12.3.2. the Clearing Member fails, on a continuing basis, to comply with any obligation applicable to the Clearing Member with respect to an Agreed Clearing Member Transaction under the applicable Rule Set;
- 12.3.3. a temporary administrator or *ad hoc* agent is appointed to manage or administer the Clearing Member; or
- 12.3.4. the Clearing Member or any supervisory or regulatory body to which it is subject suspends the Clearing Member's usual business.

12.4. Consequences of a Clearing Member Trigger Event

12.4.1. If a Clearing Member Trigger Event occurs and is then continuing, the Direct Client may notify the Clearing Member of its decision to terminate and liquidate any or all of its outstanding Positions (the **Terminated Positions**), designating a day not earlier than the day such notice is effective as an early termination date in respect of the Terminated Positions (an **Early Termination Date**). The Clearing Member will establish the Early Termination Amount in accordance with Article 12.6 below.

12.4.2. Transfer following a Clearing Member Trigger Event

The Direct Client may have the right pursuant to, and subject to, the procedures established by the Agreed CCP, to obtain communication of the default of the Clearing Member and information on the expected period of time to liquidate the assets and positions of all direct clients of the Clearing Member; and

if the Direct Client Account is a GOSA or an ISA, the Direct Client may have the right pursuant to, and subject to, the procedures established by the Agreed CPP, (i) to have the assets and positions held by the Clearing Member for the account of the Direct Client transferred to another client or to another clearing member; or (ii) to have the proceeds from the liquidation of the assets and positions of the Direct Client paid directly to the Direct Client.

12.5. Automatic termination of Positions

Without prejudice to the above provisions, when a matching Agreed Clearing Member Transaction has been terminated for any reason whatsoever, the Direct Client's Position which gave rise to the matching Agreed Clearing Member Transaction so terminated and liquidated will, as a result, be (i) automatically terminated and liquidated, (ii) the termination date of the Agreed Clearing Member Transaction will be the early termination of the Direct Client's Position and (iii) this will result in an Early Termination Amount owing between the Direct Client and the Clearing Member determined in accordance with the process set out in Article 12.6 below.

However, the Direct Client's claims against the Clearing Member are limited recourse so that the Direct Client will only receive amounts from the Clearing Member in relation to the Terminated Position(s) if the Clearing Member receives equivalent amounts from the Agreed CCP in relation to relevant Agreed Clearing Member Transactions.

12.6. Calculation of the Early Termination Amount

Without prejudice to any Applicable Law, following the early termination and liquidation of the Terminated Positions pursuant to Articles 12.2 (Consequences of an Event of Default), 12.4 (Consequences of a Clearing Member Trigger Event) or Article 12.5 (Automatic termination of Positions), and after having offset all positive and negative amounts (referred to as the "**Close-out netting**"), the Clearing Member will establish the amount referred to as the "**Early Termination Amount**" considering (i) any amount owed by the Direct Client, (ii) any amount still owed by the Direct Client after its Collateral has been netted as described above, and (iii) if relevant, a net liquidation balance of Direct Client's Terminated Positions based on the official prices quoted by the Market on the calculation date, or if no such official prices may be reasonably relied on, the gains of the Clearing Member (expressed as a negative amount) or the loss of the Clearing Member (expressed as a positive amount) resulting for such party from the termination and liquidation of the Direct Client's Terminated Positions.

Except in cases of gross negligence (*faute lourde*), fraud (*fraude*) or willful misconduct (*faute dolosive*) by the Clearing Member, the Direct Client waives any right to claim for any prejudice that may arise from the application of this clause, the Clearing Member being deemed to have calculated the Early Termination Amount under normal market conditions.

While the Clearing Member establishes the Early Termination Amount, neither the Direct Client nor the Clearing Member needs to make any further payments or deliveries to each other with respect to the Terminated Positions under this Direct Client Clearing Agreement. Instead, the amount, if any, payable in respect of the Terminated Positions is the Early Termination Amount as determined pursuant to this clause.

However, the exercise of any rights by the Clearing Member under this clause relates only to the obligations between the Clearing Member and the Direct Client under the Direct Client Clearing Arrangement and does not affect, and is not affected by, the obligations between the Clearing Member and any person (including without limitation any intermediate broker or clearing member or Agreed CCP) other than the Direct Client in connection with any Terminated Position.

13. Set off

If permitted by any Applicable Law, the Direct Client acknowledges and agrees that any Early Termination Amount payable to the Direct Client by the Clearing Member, will, at the option of the Clearing Member (and without prior notice to the Direct Client), be reduced by its set-off against any other amounts (**Other Amounts**) payable by the Direct Client to the Clearing Member (whether or not arising under the Direct Client Clearing Arrangement, matured or contingent and irrespective of the currency, place of payment or place of booking of the obligation). To the extent that any Other Amounts are so set off, those Other Amounts will be discharged promptly and in all respects. The Clearing Member will give notice to the Direct Client of any set-off effected under this clause.

14. Limited recourse

- 14.1. The Direct Client agrees that performance and payment obligations by the Clearing Member to the Direct Client under or in respect of the Direct Client Clearing Services are limited by and contingent on the actual performance or payment by the relevant Agreed CCP to the Clearing Member including, without limitation, in relation to any related collateral arrangements.
- 14.2. The Clearing Member will only be obliged to perform its obligations to the Direct Client under or in respect of the Direct Client Clearing Services to the extent that the Agreed CCP actually performs its obligations to the Clearing Member in relation to the related Agreed Clearing Member Transactions or any related collateral arrangements; provided that amounts that would have been paid by the Agreed CCP to the Clearing Member, except for the application of (i) netting or set-off in accordance with the relevant Rule Set and/or Applicable Law or (ii) any provision of the relevant Rule Set and/or Applicable Law that allows the Agreed CCP to make payments directly to the Direct Client or Transfer related Agreed Clearing Member Transactions upon the occurrence of a Clearing Member Trigger Event will, for the purposes of this provision be considered to have been paid.
- 14.3. The Clearing Member will give notice in writing to the Direct Client of any deduction, withholding or other reduction from any payment or performance effected under this Article 14, in each case as soon as reasonably practicable following the relevant event.

15. Miscellaneous

- 15.1. **Accounting:** No provision of the Direct Client Clearing Arrangement is intended to address the accounting treatment of the relationships between the Clearing Member and any Agreed CCP.
- 15.2. **Mandatory CCP Provisions:** The Direct Client agrees to be bound by and comply with the Mandatory CCP Provisions of each Agreed CCP Service.
- 15.3. **Electronic Notices:** For the purposes of the Direct Client Clearing Arrangement, a communication, notice or document delivered by email or an electronic messaging system or made available on an electronic platform will be treated as being in writing.

15.4. **Use of third parties:** The Direct Client acknowledges and agrees that the Clearing Member may use one or more third parties (executing brokers appointed by it) for the provision of the Execution Services and the Direct Client Clearing Services.

15.5. **Confidentiality and Disclosure:**

- 15.5.1. The Direct Client will promptly provide the Clearing Member with such information as the Clearing Member may reasonably require from time to time, and will update that information as required by the Clearing Member from time to time, to enable the Clearing Member or any Affiliate of the Clearing Member to comply with any Applicable Law. The Direct Client will notify the Clearing Member in writing within 30 days of any material change in the validity of, or information contained in, any information that the Direct Client has previously provided to the Clearing Member further to this clause.
- 15.5.2. Without prejudice to any Applicable Law, the Clearing Member is bound by professional secrecy requirements. Unless stated otherwise in any Applicable Law, this secrecy requirement may be waived upon request from any legal, supervisory, tax or customs authority, or by court order.
- 15.5.3. Notwithstanding the above, the Direct Client authorises the Clearing Member to communicate any useful information on the Direct Client to any person whose intervention is necessary for the accomplishment of its duties under the Direct Client Clearing Arrangement and most notably to the Agreed CCP. In particular, the Direct Client authorises the Clearing Member to communicate the Direct Client Clearing Arrangement to the Agreed CCP in relation to the Agreed CCP Services.
- 15.5.4. In this respect, the Direct Client hereby authorises the Clearing Member to provide the Agreed CCP with (i) any information deemed necessary by the Agreed CCP to identify, monitor and manage any material risks arising from the provision of the Direct Client Clearing Services by the Clearing Member, and (ii) in case of default of the Clearing Member, all information deemed necessary by the Agreed CCP in respect of the Direct Client, Direct Client's Positions and the Direct Client Clearing Services.
- 15.5.5. Without prejudice to any provision of the Direct Client Clearing Arrangement relating to information or data or its disclosure, the Direct Client authorises the disclosure by the Clearing Member to its Affiliates and its and their agents and service providers of any confidential information or data in connection with or relating to the Direct Client, the Direct Client Clearing Arrangement and/or any Direct Client's Positions (including, without limitation, pricing data) (i) to the extent that the Clearing Member determines it is required, permitted or desirable to comply with any Applicable Law and (ii) to the extent not permitted by Article 15.5.1 above, if such disclosure is made to any trade repository registered in accordance with Article 55 of EMIR or recognised in accordance with Article 77 of EMIR or one or more systems or services operated by any such trade repository.
- 15.5.6. The Direct Client authorises the Clearing Member to communicate any information that may be helpful in the performance of the Direct Client Clearing Arrangement to any of its Affiliates and its shareholders in accordance with the risk and compliance policies and standards of groups to which the Clearing Member belongs.
- 15.5.7. In all other cases, both the Direct Client and the Clearing Member expressly undertake not to reveal the terms of the Direct Client Clearing Arrangement or any other information in their possession which are considered to be confidential without the written agreement of each party.

16. Data protection

- 16.1. The parties agree that, for the purposes of the Personal Data Protection Laws, the parties shall not constitute joint controllers (or any equivalent status).
- 16.2. Each party acknowledges that, for the purposes of the Personal Data Protection Laws, it is a controller in relation to the personal data and that it determines the purposes for which and the manner in which any data is, or is to be, processed.
- 16.3. Each party shall:
- 16.3.1. comply with its obligations under the Personal Data Protection Laws; and
- 16.3.2. to the extent permitted by the Personal Data Protection Laws, deal promptly and in good faith with all reasonable and relevant enquiries from the other party relating to its processing of the personal data.
- 16.4. Each party shall use commercially reasonable endeavours to assist the other party, on receipt of a reasonable request in writing setting out the nature of the assistance required, to enable that party to comply with its obligations under the Personal Data Protection Laws.
- 16.5. Without limiting the forgoing, the Direct Client represents, warrants and undertakes that:
- 16.5.1. to the extent applicable, it collected the personal data in accordance with the Personal Data Protection Laws; and
- 16.5.2. it has the right to disclose the personal data to the Clearing Member for processing for the purposes set out in this Supplement.
- 16.6. Except as otherwise provided in this Supplement, the General Terms and Conditions shall apply to the Clearing Member when acting in its capacity of the Direct Client's data processor (within the meaning of the Personal Data Protection Laws).

17. Term of the Direct Client Clearing Arrangement

- 17.1. The Direct Client Clearing Arrangement is concluded for an indefinite period. It may be terminated at any time by registered letter with acknowledgement of receipt. Such termination will take effect five (5) Business Days after the receipt of such letter and acknowledge of receipt.
- 17.2. However, this Direct Client Clearing Arrangement will remain in force between the Direct Client and the Clearing Member in respect of Direct Client's Clearing Eligible Trades being Cleared prior to such termination becoming effective.

18. Amendment

- 18.1. **Amended Provisions.** The Clearing Member may amend the Direct Client Clearing Arrangement in accordance with the provisions – Amendment and validity – of the General Terms and Conditions of the Clearing Member.
- 18.2. **Supplementary Provisions.** In respect of an Agreed CCP and from time to time, the terms of the Direct Client Clearing Arrangement may be supplemented by provisions set out in a supplementary annex hereto (each a **Supplementary Annex**). The Clearing Member will notify the Direct Client in writing (which may be by e-mail) of the terms of each Supplementary Annex and such terms will be effective on receipt. Unless otherwise stated in a Supplementary Annex, in the event of a conflict between the provision of a Supplementary Annex and the Direct Client Clearing Arrangement, the provisions of the Supplementary Annex will prevail in relation to Agreed Clearing Member Transactions and the relevant Agreed CCP. Any modification to the terms of a Supplementary Annex pursuant to the Rule Set of the relevant Agreed CCP will be deemed to be made to such Supplementary Annex with immediate effect.

19. Other provisions

19.1. Risk disclosure document, commercial terms with costs and fees and account identification statement.

For the purpose of EMIR, the Clearing Member has made the following disclosures:

- (i) a risk disclosure, which provides a description of the main legal implications of the levels of segregation offered in connection with an Individual Client Account and an Omnibus Client Account respectively, including information on the insolvency law applicable in the relevant jurisdictions;
- (ii) the Direct Clearing Service Commercial Terms (which include without limitation):
 - the Agreed Fees
 - an account identification statement, giving details (as they become available) of each Individual Client Account or Omnibus Client Account that the Clearing Member will be making available on account of Direct Client at each Agreed CCP;
 - Identification of the Agreed CCP(s) used to provide the Direct Client Clearing Services to the Direct Client.

Disclosures (i) and (ii) above are available on the Clearing Member's website at www.banquedeluxembourg.com.

Each disclosure, together with this Supplement, will be kept under review and revised from time to time to take account of legal and regulatory developments.