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Global financing services agreement

General terms



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Introduction

This is the September 2019 edition of our global financing services general terms (**GFS General Terms**). They will apply to global financing services we provide you as agreed in your GFS Elections (your **GFS Terms**).

Global financing services at UBS

1 Components

We organise our global financing services business as follows:

(a) **Services:** We may provide you with services on the terms set out in the services section, including the following:

- (i) **Banking:** Operating multi-currency cash accounts.
- (ii) **Custody:** Holding your Custody Securities in safe custody.
- (iii) **Settlements and payments:** Making and receiving payments on your behalf and settling transactions you have entered into with us or any third parties.

(b) **Risk and cost management:** So we can manage the risks of your transactions and our costs of providing you the services, you must agree to the terms set out in the margin, risk and cost management section:

- (i) **Net Equity:** To hold sufficient assets with us to cover amounts you owe us and any margin we require in connection with your transactions.
- (ii) **Security:** To grant us security over the assets we hold for you.
- (iii) **Right of use:** To let us use a portion of your Securities not exceeding the Transfer Limit.

(c) **Transactions:** Transactions between us, including the following:

- (i) **Loans:** We may lend you cash and securities on the terms set out for Loans in the GFS transactions section.
- (ii) **Exchange-traded derivatives:** We may execute and clear your exchange-traded derivatives on the terms set out in the GFS transactions section.
- (iii) **Outperformance transactions:** We may borrow securities from you against collateral on the terms set out in the GFS transactions section.
- (iv) **Derivatives:** We may act as your counterparty under equity derivatives, foreign exchange and other derivative transactions on the terms set out in the Swap Agreement.

2 Documentation

We will document our relationship with you as follows:

(a) **GFS Elections:** Under the GFS Elections you will make certain elections relating to our services and we will agree the economic terms of our relationship, including which of our standard terms documents and other Master Agreements apply, and any changes to any of them.

(b) **Standard terms documents:** The following standard terms documents, copies of which we will publish at www.ubs.com/gfsterns. We may update these standard terms documents from time to time, but subsequent editions will only apply to you if you agree by amending

your GFS Agreement.

(i) **GFS General Terms:** These general terms on which we provide those services, enter into those transactions and manage our risks and costs are set out in these GFS General Terms.

(ii) **GFS ISDA Terms:** Our general ISDA terms, comprising a 2002 ISDA Master Agreement and schedule, a 2016 ISDA Credit Support Annex for Variation Margin and a portfolio swap master confirmation.

(c) **GFS Operating Terms:** Our standard GFS operating terms (**GFS Operating Terms**) relating to reporting, systems access, exercise procedures and deadlines, other operational matters and certain mandatory regulatory provisions. We may update these from time to time but will notify you in good time of material changes.

(d) **Other Master Agreements:** Where you specify other Master Agreements in your GFS Elections they will be subject to any terms in your GFS Terms which purport to amend them.

(e) **General terms of business:** Our general terms of business and other documents available at www.ubs.com/ibterms also apply, as relevant, to our services to you. Where inconsistent, your GFS Agreement will prevail.

(f) **Amendments**

(i) **Amendment procedure:** From time to time the parties may amend any of the Master Agreements by re-executing an updated version of the GFS Elections. Any such re-execution of the GFS Elections will operate:

(A) **Amendment:** to amend those parts of the affected Master Agreements which change as a result of the amendment; and

(B) **Restatement:** to restate (without amendment) those parts of the affected Master Agreements which do not change as a result of the amendment and confirm that such parts continue in full force and effect.

(ii) **Charge not affected by amendment:** The parties acknowledge that amendments made to the Master Agreements from time to time will not affect the effectiveness, time of original execution or priority of the Charge.

(g) **Terminology:** In this Agreement

(i) **GFS Terms:** These GFS General Terms as modified by your GFS Elections are your **GFS Terms**.

(ii) **GFS Agreement:** Your GFS Terms, the Swap Agreement and any other Master Agreement, as modified by your GFS Elections, comprise your **GFS Agreement**.

General principles

3 Principles

- (a) **Standard of conduct:** Both parties must always act in good faith and, unless expressly entitled to exercise an absolute discretion, in a commercially reasonable manner. Any purported limitation on either party's liability under your GFS Terms applies only as far as that party has not been negligent, fraudulent or in wilful default.
- (b) **Arm's length:** Where we enter into any transaction with you we will be your arm's length counterparty.
- (c) **Applicable Rules:** Both parties are subject to Applicable Rules at all times. We may take action to comply with Applicable Rules on your behalf. You will be bound by, and liable for, any such action.
- (d) **Regulatory enquiries:** If a Regulator enquires about any of your transactions, you must co-operate with us and promptly supply requested information.
- (e) **Time is of the essence:** It is fundamental that each party performs its obligations on time.
- (f) **FX conversions:** When making any determinations under your GFS Terms each party may convert such amounts as it considers necessary into the Base Currency at the prevailing spot rate.

4 What you must do

- (a) **Fees and Expenses:** You must pay our Fees and Expenses on the terms agreed between us or, if there is no agreement, as we notify you.
- (b) **Equity Demand:** You must meet any Equity Demand we make as required by your GFS Terms.

5 What we may do

- (a) **Manage our risk:** As permitted in your GFS Agreement we may:
 - (i) **Margin:** adjust the margin, interest rate or haircuts we apply to any transactions or assets.
 - (ii) **Enforce rights:** manage our exposure, enforce our rights and protect our interests, including closing out your transactions.
- (b) **Fees and Expenses:** We may deduct our Fees and Expenses and any indemnifiable Losses we incur from your Bank Account.
- (c) **Third Party Benefits:** When handling your business we may pay or accept fees, commissions and non-monetary benefits to or from Affiliates and third parties (**Third Party Benefits**) as long as they are designed to enhance the quality of our service to you and do not impair our ability to act in your best interests.
- (d) **Information about fees and benefits:** We will disclose information about our Fees and Expenses and the nature and amount of any Third Party Benefits as is required by Applicable Rules.
- (e) **Third parties:** To the extent permitted by Applicable Rules, when handling your orders and transactions we may pay or accept fees, commissions and non-monetary benefits to or from third parties. We will provide details of any such arrangements as is required under Applicable Rules but will not account to you for them.

6 What we do not have to do

- (a) **Commit:** We are not obliged to accept any order or enter into any transaction with you.
- (b) **Notify:** We will endeavour to notify you where we do not

accept your instructions but will not be liable for not doing so.

- (c) **Force majeure:** We will not be liable for Losses arising from our non-performance under your GFS Terms (or the non-performance of obligations any agent, Affiliate, market counterparty or clearing house owes to us) due to circumstances beyond our control and which we could not reasonably have avoided. We will make reasonable efforts to notify you of any force majeure events.

7 What we will not do

- (a) **No investment management or advice:** We will not manage or supervise your transactions or provide you with advice or recommendations.
- (b) **No client money protection:** Except to cover a shortfall as required by the CASS rules, we will always hold your money as banker and not as trustee under the CASS rules. If we fail, the CASS client money distribution rules will not apply and you will not share in any distribution under them.

8 Reporting and notification

- (a) **GFS Operating Terms:** Important information about our reporting will be set out in the GFS Operating Terms.
- (b) **Explanations:** We will endeavour, upon request, to explain our calculations and valuations under the GFS Agreement
- (c) **Changes:** We will promptly advise you of any changes we make to your transactions or accounts under the GFS Agreement.

9 Your liability and indemnity

- (a) **Your risk:** You are responsible for your instructions, the performance of your transactions and all market, counterparty and settlement risks arising from them.
- (b) **Indemnity for our Losses:** You indemnify us against all Losses we incur in carrying out your instructions, performing our obligations, protecting our interests or in connection with any transactions under the GFS Terms, except where they are caused by our negligence, fraud or wilful default.

10 Recourse to Funds

- (a) **Umbrella agreements:** Where the GFS Agreement is specified as an "umbrella agreement" it will act as a separate agreement between us and each designated Fund. Each Fund's liability, and our recourse to it, will be several and not joint.
- (b) **Trusts:** Where a Fund is a trust, references to "you" are to the trustee specified in your GFS Agreement acting solely as trustee for that Fund.
- (c) **Limited recourse:** Where Limited Recourse applies to any Fund in your GFS Elections, our recourse against that Fund will be limited to its assets, rights and claims (including those accruing after its assets have been finally realised). Once they have been finally realised and their net proceeds applied under the GFS Agreement and Applicable Rules, that Fund will owe us no further debt and we may not take any further steps against it to recover any further sum.
- (d) **Agents and trustees:** Except where its negligence, fraud or wilful default has caused us direct Losses, we will have no claim against the personal assets of any trustee or agent appointed by a Fund to carry out its obligations under the GFS Agreement.

11 Consequential loss

- (a) Neither party will be liable for any other person's indirect or consequential losses in any circumstances.

Services

The GFS accounts

The GFS Accounts will be established where required to facilitate the services we provide and the transactions we enter into with you.

12 Securities accounts

- (a) **Custody Account:** We will establish in our books and records in your name a Custody Account comprising separate sub-accounts. We will operate the Custody Account subject to the Custody Terms.
- (b) **Transfer Account:** We will establish in our books and records in our name a Transfer Account into which we will credit Transferred Securities that we have transferred from your Custody Account from time to time as permitted under your GFS Terms.

13 Cash accounts

- (a) **Bank Account:** We will establish in our books and records

in your name:

- (i) **Bank Account:** a multi-currency bank account (the **Bank Account**).
- (ii) **Margin accounts**
 - (A) **IM Account:** one or more multi-currency cash accounts (the **IM Account**) to hold your cash initial margin from time to time.
 - (B) **VM Account:** one or more multi-currency cash accounts (the **VM Account**) to hold your variation margin from time to time.

Payment and settlements

14 ISDA Transfers

- (a) **Appointment:** You appoint us:
 - (i) To determine amounts required to be transferred between the parties under the Swap Agreement (**ISDA Transfers**).
 - (ii) To issue collateral demands on your behalf on any day on which you would be entitled to demand a transfer of variation margin under any credit support annex.
- (b) **Authorisation:**
 - (i) Where you are required to make an ISDA Transfer, you authorise us to do so on your behalf. If you withdraw this authorisation, you must make ISDA Transfers to us under the Swap Agreement.
 - (ii) As long as it would not create an Equity Shortfall we will transfer sufficient cash to satisfy any obligations you have to make ISDA Transfers under the Swap Agreement.
 - (iii) If we do not make any ISDA Transfer on your behalf where required to do so under clause 14(b)(ii):
 - (A) we will hold you harmless against claims arising from our failure to do so;
 - (B) no Event of Default, Termination Event or other breach will occur as a consequence under any Master Agreement.
- (c) **ISDA Transfers by UBS:** We will credit any ISDA Transfers

we owe you into the Bank Account.

- (d) **Limitation on Collateral Transfers:** We will not be obliged to make any ISDA Transfers on your behalf where there is an Equity Shortfall, or to do so would create one. To the extent we do not, your obligations under the Swap Agreement will not be discharged.

15 Account actions

- (a) **Reversals:** We may reverse any credit or debit to your GFS Accounts if it does not settle as anticipated.
- (b) **Withdrawal:** You may withdraw cash or Securities from your GFS Accounts at any time. However, we do not have to act on any withdrawal request if it would create an Equity Shortfall, if we need the requested assets to discharge your obligations under any transactions, to cover unpaid Fees and Expenses or if you are subject to a continuing Event of Default.
- (c) **Settlement netting:** If on any date multiple payments in a single currency would otherwise be due between the parties, we may settle all such payments by a single transfer of the aggregate net difference between the parties.

16 Transaction settlement

- (a) You may ask us to settle on your behalf any transaction you have entered with a third party by sending us a copy of the confirmation. Where we accept any such request, we will settle the transaction as your agent.

Custody Terms

These **Custody Terms** apply to any Custody Account we open on your behalf under your GFS Agreement. Further information, including as regards the exercise of corporate actions, is set out in the GFS Operating Terms. Please also see www.ubs.com/libterms for important information about how we hold your Securities and money, required under the CASS Rules.

17 Custody Account

- (a) **Holding:** We will credit all Custody Securities we accept on your behalf to your Custody Account, which we will maintain subject to the CASS rules.
- (b) **Income:** We will credit all Income we receive on your

Custody Securities on your behalf to your GFS Accounts.

- (c) **Registration of title:** Registrable Custody Securities will normally be registered in the name of a nominee affiliated with us or a sub-custodian. We accept the same level of responsibility for any nominee companies we control as for our own acts or omissions. However, if Custody Securities

are subject to the law or market practice of a jurisdiction outside the UK, and we have determined that it is in your best interests to do so, or it is not feasible to do otherwise:

- (i) We may register title to your Custody Securities in our own name (or in the name of any other third party).
 - (ii) We will notify you on request of any such jurisdictions, and the identity of the registered holder in those cases.
- (d) **Risks of non-segregation:** If we register your Custody Securities in our name, even though we separately identify them in our records, they may be less clearly segregated from our own assets. If we default, they may not be as well protected from claims of our general creditors.
- (e) **Non-EEA jurisdictions:** Where your Securities are held outside the EEA, your rights relating to those Securities may differ from those applying in the EEA. Where local regulations or market practice require it, we may hold your Custody Securities in a jurisdiction outside the EEA that does not regulate the safe-keeping of custody assets. By giving us instructions to hold securities of that nature, you consent to our doing so.
- (f) **AIFMD:** Where you are subject to AIFMD you may appoint us to carry out the duties referred to in Article 21(8)(a) of AIFMD. We will comply with Article 21(8)(a) as it applies to an entity carrying out such duties under Article 36(1)(a) of AIFMD.
- (g) **No insurance:** We will not insure your Custody Securities.
- (h) **Unclaimed Securities:** Where we determine any Custody Securities are unclaimed or represent fractional entitlements that cannot be allocated to any of our customers, we may divest ourselves of them under Applicable Rules.

18 Omnibus accounts

- (a) **Commingled Securities:** We may commingle securities we hold for our clients in a single omnibus account. In that case, where your Custody Securities are commingled with fungible securities we hold for our other clients:
- (i) **Right to Securities:** Your rights to Custody Securities are to an Equivalent number of fungible securities in that omnibus account.
 - (ii) **Equitable Interest:** You have an equitable interest in those fungible securities equal to the proportion that your Custody Securities bear to the total number of those securities in the account.
 - (iii) **Allotments:** Where securities are partially redeemed, we will allocate the redemption proceeds amongst the beneficial holders of those securities in that account.
- (b) **Shortfalls**
- (i) **Identification:** Where we identify a shortfall (for the purposes of the CASS rules) relating to any Custody Securities, where the CASS rules require us to, we will cover it by setting aside a pool of our own assets or money and holding it for relevant clients under the CASS rules until the shortfall is resolved.
 - (ii) **Resolution:** Once the shortfall is resolved, you will no longer have any claim to that pool of assets or money and it will revert to us.

19 Sub-custodians and Service Providers

- (a) **Appointment:** We may appoint depositaries, settlement systems, clearing systems or sub-custodians (each a **Service Provider**) to carry out our custody obligations to you.
- (b) **Selection and monitoring:** We will use all due skill, care and diligence in selecting and appointing and periodic reviewing of any Service Provider and of the arrangements for the holding and safekeeping of Custody Securities.
- (c) **Acknowledgement:** Where we use any Service Provider, you agree that:
- (i) **Sub-custodian records:** Except as described in clause 17(c) we will require each sub-custodian to record your Custody Securities in its books and records so that it is clear they belong to our clients.
 - (ii) **Sub-delegation:** Any Service Provider may itself sub-delegate and grant powers of sub-delegation.
 - (iii) **Security:** Any Service Provider who holds your Custody Securities may acquire Interests in them as security for losses it incurs in carrying out activities for our clients.
 - (iv) **Insolvency:**
 - (A) We may have only an unsecured claim in the insolvency of any Service Provider who holds your Custody Securities. If so, the money or assets we receive from that Service Provider may not be sufficient to satisfy your claim in full.
 - (B) Upon such an insolvency, as long as you first provide us satisfactory indemnification for our costs of doing so, we will take reasonable steps to recover your assets and any losses on your behalf against such a Service Provider.
 - (v) **Limit on liability:** Unless caused by our negligence, fraud or wilful default we will not be liable for Losses you suffer through the acts or omissions of any Service Provider.
- (d) **UBS Affiliates:** Notwithstanding clause 19(c), where we appoint an Affiliate as a Service Provider we accept the same responsibility for that Affiliate's actions as we do for our own.

20 Corporate events and general meetings

- (a) **Voting:** We will not vote or exercise any rights on your Custody Securities without your instructions. You may not vote on Transferred Securities or Securities that are due to be settled to third parties.
- (b) **Corporate events:** We will use reasonable endeavours to notify you promptly after receiving notice of a corporate event entitling you to exercise rights under your Custody Securities, but we do not have to take any other action without further agreement. We will not notify you of general meetings.
- (c) **Proxies:** At your request, we will provide you with any necessary powers of attorney or proxies to participate in a corporate event or general meeting relating to any Custody Securities.

Pending Liabilities on that day.

Currency: The Currencies and the priority in which they will be applied will be specified in your GFS Agreement. If not otherwise specified, the eligibility and priority of Currencies will be as follows: First EUR; second, GBP; third, USD.

Money-market service

These Money-Market Terms apply where, at your request, we provide you with the money-market service.

21 Definitions

- (a) In this section the following definitions apply:

Base Currency Balance: On any Business Day, the overall net balance of the Bank Account expressed in the Base Currency, having deducted amounts required to satisfy all

Ledger Balance: For each Currency on any Business Day, any balance for that Currency in the Bank Account having deducted amounts required to satisfy all Pending Liabilities.

Ledger Credit: A Ledger Balance that is in credit to you.

Ledger Debit: A Ledger Balance that is in debit to you.

MMF: for each Currency, money market funds selected by UBS which are denominated in single units of that Currency and for the time being rated AAA/Aaa (S&P/Moody's).

MMF Balance: The prevailing balance of MMF units in any Currency we have purchased on your behalf under the GFS Agreement from time to time.

Net Credit: A Base Currency Balance that is in credit to you.

Net Debit: A Base Currency Balance that is in debit to you.

Pending Liabilities: In relation to any account or ledger and any Business Day, all Liabilities that we determine must be settled in any Currency from that account or ledger on that day.

22 Money-market fund sweeps

(a) **Balances:** On each Business Day we will calculate the Ledger Credit and the MMF Balance for each Currency.

(b) **Ledger reconciliation:** If, in any Currency, there is a positive MMF Balance and a Ledger Debit we will redeem MMF units in that Currency and apply the proceeds to that Ledger Balance until it is zero or, if earlier, the MMF Balance in that Currency is zero.

(c) **Net subscriptions:** If, having completed the necessary ledger reconciliations for each Currency:

(i) **Net Credit:** There is an overall Net Credit, we will apply an amount up to the value of that overall Net Credit on your behalf in purchase of MMF units denominated in the Currencies specified in your GFS Agreement. We will do this in the order of priority of the Currencies specified in your GFS Agreement, in each case up to the value of the available Ledger Credit for each such Currency.

(ii) **Net Debit:** There is an overall Net Debit, we will redeem MMF units in your account up to the value of that overall Net Debit on your behalf so as to reduce the Net Debit to zero. We will do this in the reverse

order of priority of the Currencies specified in your GFS Agreement, in each case up to the value of the MMF Balance for each such Currency.

(d) **Authorisation to transfer:** If on any Business Day any MMFs in which you own units cease to be eligible MMFs, you instruct us to redeem all outstanding units in such MMF and invest the proceeds on your behalf in an alternative MMF and hold them in your Custody Account under the terms of the GFS Agreement.

(e) **No MMFs:** If on any Business Day there are no eligible MMFs for any Currency, you instruct us to hold all sums in that Currency in cash in the Bank Account.

23 Custody Terms

(a) **Custody Terms to apply:** We will hold MMF units on your behalf in your Custody Account. Notwithstanding any other provision:

(i) **No effect on Transfer Limit:** When we calculate the Transfer Limit we will treat MMF units in your account as if they were cash credited to your Bank Account.

(ii) **No right to use:** We may not transfer any MMF units from your Custody Account to the Transfer Account.

24 Acknowledgment and representation

(a) **Acknowledgment:** You acknowledge that:

(i) The MMFs will not be registered under the Securities Act of 1933 (the **1933 Act**) or qualified under any applicable state statutes.

(ii) MMF units may not be transferred, offered or sold in the United States of America or to or for the benefit of any U.S. Person (as that term is used in Regulation S of the 1933 Act).

(b) **Representation:** You represent that:

(i) **US representations:** You are not a U.S. Person, you are not acquiring MMF units on behalf of, or for the benefit of, a U.S. Person and you will not transfer any MMF units to a U.S. Person.

(ii) **Irish representations:** If you are tax-resident in Ireland, you are legally entitled to receive MMF distributions without deduction of Irish withholding taxes.

Automatic returns service

These Automatic Returns Terms apply where, at your request, we provide you with the "automatic returns service" under your GFS Agreement.

25 Automatic returns

(a) Where you have covered a short position with borrowed securities and you subsequently acquire a long position in the same security we will automatically set off the long position against the existing short position and credit any excess securities to your Custody Account.

(b) **No commitment to re-lend:** You may not be able to re-borrow securities returned to you under this process.

(c) **Exclusions:** If you wish to exclude a borrowed position from the automatic return process you must tell us in writing before the close of business two London business days before expected settlement of the offsetting long position. An excluded borrowed position will be ineligible for automatic return until you tell us in writing to reactivate the automatic return service.

Margin, risk and cost management

Calculations, Margin and Net Equity

26 Calculations

- (a) **Calculations:** In order to manage our risks and costs of performing transactions and providing services we may from time to time calculate amounts, determine values and apply haircuts as permitted under your GFS Agreement.
- (b) **Notification:** We will notify you of prevailing values specified in the GFS Agreement.

27 Margin

(a) Initial margin

- (i) **Determination:** We may determine in our absolute discretion, at any time, the initial margin we require:
- (A) with respect to any transaction or position; and
 - (B) that we will apply to the value of your Securities and non-Base Currency balances for the purpose of determining your Net Equity.
- (ii) **Transfers:** in discharge of your obligations to provide us with initial margin under any Master Agreement:
- (A) **Cash:** We may transfer cash initial margin from your Bank Account to your IM Account. If we do, we will transfer it back to your Bank Account when we no longer require it.
 - (B) **Securities:** We may transfer Securities by title transfer from your Custody Account to our own account at any time. Whenever we do so, we will:
 - (I) notify you of the transfer of those Securities and record it in our books and records;
 - (II) return Equivalent Securities by title transfer back into your Custody Account when we no longer require them.

(b) Variation margin

- (i) **Calculation:** We may calculate variation margin due under any transaction under the GFS Terms at any time by reference to its mark-to-market exposure.
- (ii) **Transfers:** When you owe us any variation margin, we may transfer it from your Bank Account to your VM Account. When we owe you any variation margin, we will transfer it into your Bank Account.

28 Net Equity and Total Equity

- (a) **Net Equity:** We will calculate Net Equity as follows:

$$\text{Net Equity} = \text{Total Equity} - \text{Total Initial Margin}$$

- (b) **Total Equity:** We will calculate Total Equity as follows:

$$\text{Total Equity} = (\text{Long Value} - \text{Short Value}) + \text{Derivative Value} + \text{Cash Balance}$$

- (c) **Definitions:** To make these calculations we will determine the following values in the Base Currency on each day:

- (i) **Total Initial Margin** is the prevailing total initial margin that we require from you (whether or not credited to the IM Account).
- (ii) **Long Value** is the prevailing market value of your Securities.
- (iii) **Short Value** is the prevailing market value of all Securities we have lent you under outstanding Securities Loans that you have sold short.
- (iv) **Derivative Value** is the prevailing net mark-to-market value, expressed as a positive if in-the-money to you, of your outstanding over-the-counter and exchange-traded derivative transactions
- (v) **Cash Balance** is the aggregate value in the Base Currency, expressed as a positive if owed to you, of:
- (A) **Bank Account:** the prevailing balance of your Bank Account (including the proceeds of sale of any Securities we have lent you under outstanding Securities Loans); and
 - (B) **VM Account:** the prevailing balance of the VM Account; and
 - (C) **IM Account:** the prevailing balance of your IM Account.

29 Equity Shortfalls

- (a) **Equity Shortfall:** Where your Total Initial Margin exceeds your Total Equity, there will be an Equity Shortfall equal to the absolute value of the difference. In any other case your Equity Shortfall will be zero.
- (b) **Equity Demand:** Whenever the Equity Shortfall exceeds the Minimum Call specified in your GFS Agreement, we may by notice (an **Equity Demand**) require you to transfer cash in the Base Currency into your Bank Account (or, with our agreement, other assets) so that your Net Equity is positive.
- (c) **Timing:** If we give you an Equity Demand on a Business Day before the Notification Time set out in your GFS Agreement, you must comply with it by the close of business on that day, if it is a Business Day for payments in the Base Currency. In all other cases you must comply by the close of business on the following Business Day.

Our rights of use

This section applies where "rights of use" applies in your GFS Agreement.

30 Transferred Securities

- (a) **Right to transfer:** We may transfer Custody Securities having a value not exceeding the Transfer Limit from your Custody Account to the Transfer Account on any day.
- (b) **Transfer Limit:** We must ensure that the value of Transferred Securities does not exceed the Transfer Limit. If it does on any day for any reason we must remedy the

situation before the end of the same Business Day.

- (c) **Event of Default:** For so long as we are subject to an existing Event of Default, the Transfer Limit will be nil.
- (d) **Title:** Full legal and beneficial title to Transferred Securities will pass to us. The Custody Terms will not apply to them.
- (e) **Manufactured payments:** Following an Income record date for any Transferred Securities, we will promptly credit

your GFS Accounts with Income Equivalent to that you would have received had you held the Transferred Securities on the Income record date.

- (f) **Hong Kong transactions:** Where we use Hong Kong Securities, you authorise us as borrower to comply with the HKIRD and the Hong Kong Stamp Duty Ordinance requirements described in clause 39(g) and you must provide us with any information we request to assist in our reporting obligations.

31 Return

- (a) **Meaning of return:** In this clause to “return” Transferred Securities to you means to debit them from the Transfer Account and credit Equivalent Securities by title transfer to your Custody Account, free from competing Interests.
- (b) **Our obligation to return Transferred Securities**
- (i) We may return Transferred Securities to you at any time.

- (ii) We must return Transferred Securities (selected by us) to you promptly whenever necessary to comply with the Transfer Limit.
- (iii) We must use our reasonable efforts to return specific Transferred Securities to you upon your request.
- (iv) You must allow us the standard settlement time after your request to return Transferred Securities to you.

- (c) **Non-return:** If we fail to return Transferred Securities to you and you incur costs and expenses by way of interest or overdraft or as a direct result of buying in Equivalent Transferred Securities, on your request we will pay you an amount equal to those incurred costs and expenses (unless they arise from your negligence, fraud or wilful default).
- (d) **Suspension, etc.:** Where the Transferred Securities have been suspended or delisted, we may, and at your request will, pay you their fair value in satisfaction of our obligation to return Equivalent Securities.

Security

This section applies where “security” applies in your GFS Agreement.

32 Charge

- (a) **First fixed charge:** As continuing security for all your Liabilities you charge the Charged Property to us for ourselves and each of our Affiliates that is party to a Master Agreement by way of first fixed charge, with full title guarantee and free from any competing Interests.
- (b) **Charged Property:** The Charged Property comprises all your Interests in:
- (i) **Custody Securities:** The Custody Securities, the Custody Account and any other account we maintain for you that is subject to the Custody Terms.
- (ii) **Transferred Securities:** Our obligation to deliver Equivalent Transferred Securities to you from time to time.
- (iii) **Transactions:** All transactions entered under the GFS Agreement.
- (iv) **Master Agreements:** All other Master Agreements.
- (v) **GFS Agreement:** such other accounts or property as may be specified in your GFS Agreement.
- (c) **Nature of Charge:** The Charge is in addition to any other Interest we may have in the Charged Property. It is not affected by any settlement on account, amendment of any Master Agreement or other matter.

- (d) **Perfection:** You must promptly do anything we request to perfect the Charge.
- (e) **Attorney:** You irrevocably appoint us by way of security as your attorney to execute all documents and do anything necessary to exercise our rights hereunder, preserve our Interests under the Charge and vest any Charged Property in our name.
- (f) **No competing Interests:** You may not create or permit any competing Interests over the Charged Property, other than those that arise under Applicable Law in the ordinary course of your business.
- (g) **Law of Property Act 1925:** Sections 93 ([restriction on consolidation of mortgages](#)) and 103 ([regulation of exercise of power of sale](#)) of the Law of Property Act 1925 do not apply. Your Liabilities are due for the purposes of section 101 ([mortgagee powers](#)) and the statutory power of sale and of appointing a receiver conferred under that Act (as varied or extended hereby) and all other powers are deemed to arise upon execution hereof.
- (h) **Discharge:** Upon termination of the GFS Agreement and once all your outstanding obligations have been ascertained and all your Liabilities finally and fully discharged to our satisfaction, we will, upon your request, promptly take the necessary steps to release the security created by the GFS Agreement.

Default and enforcement

33 Events of Default

- (a) **Events of Default for you:** Each of the following is an Event of Default for you:
- (i) **Failure to pay or deliver:** You fail to make any payment or delivery when due under your GFS Terms and you do not remedy such failure within three hours of our notice to you, provided that any such notice given outside ordinary business hours on a Business Day will be effective as of business open on the following Business Day;
- (ii) **Breach of agreement**
- (A) You fail to perform any obligation when due under the GFS Terms such that our ability to manage our risk under the GFS Terms is

materially impaired; and

- (B) you do not remedy the failure by close of business on the third Business Day following the one on which we give you written notice of the failure;
- (iii) **Breach of representation or warranty:** Any representation or warranty you have made under the GFS Terms is incorrect in any material respect when made;
- (iv) **Bankruptcy:** If you are subject to Bankruptcy (as defined in the Swap Agreement).
- (v) **Repudiation:** You or your Investment Manager states that you cannot, or will not, perform any of your obligations under any Master Agreement.

- (vi) **Default under UBS agreement:** An event of default or other termination event (however described) occurs with respect to you under any master trading agreement between you and any member of the UBS group which results in the early termination of that agreement (or all the outstanding transactions under it).
- (b) **Events of Default for us:** It will be an Event of Default for us if we are subject to Bankruptcy (as defined in the Swap Agreement).
- 34 **Close-out**
- (a) **Single agreement:** The parties acknowledge that each is relying on the fact that the GFS Agreement, the other Master Agreements and all transactions form a single agreement between them. The parties would not otherwise enter into any transaction.
- (b) **Close-out:** If an Event of Default has occurred to a party (the **Defaulting Party**) and is continuing, without prejudice to its other rights the other party (the **non-Defaulting Party**) may deliver a notice (the **Close-out Notice**) to the Defaulting Party specifying the relevant Event of Default and designating a date no earlier than the effective date of the Close-out Notice (the **Termination Date**) as the early termination date relating to all outstanding transactions under each Master Agreement (and where necessary under the relevant Master Agreement, the Master Agreement itself).
- (c) **Automatic termination:** If, however, an Event of Default has occurred to us which, under Swiss law, comprises either the "opening of bankruptcy" (*Konkurseröffnung*) or the "opening of composition proceedings" (*Nachlassverfahren*) the Termination Date will occur immediately before the institution of the relevant proceeding.
- (d) **Consequent amendment:** Each other Master Agreement is hereby amended to give effect to the close-out right as described above, so that a valid Close-out Notice will satisfy all formal requirements of an equivalent notice under that Master Agreement.
- (e) **Effect of designation:** Without prejudice to any security interests created under the GFS Agreement, upon the effective designation of a Termination Date, no further payments or deliveries will be required under any terminated transaction.
- (f) **Determination:** As soon as practicable following the Termination Date the non-Defaulting Party will:
- (i) **Close-out Amounts:** determine the net termination amount due under the GFS Terms and each other Master Agreement upon termination of all transactions under it (the **Close-out Amount**) and by whom it is owed. When determining the Close-out Amount under the GFS Terms, the non-Defaulting Party must use the method set out in Section 6 of the Swap Agreement, as if each transaction under the GFS Terms were a Transaction under the Swap Agreement;
- (ii) **Net Settlement Amount:** aggregate any such Close-out Amounts to determine the final net amount (**Net Settlement Amount**) payable upon termination of all Master Agreements and by whom it is owed; and
- (iii) **Notify:** notify the Defaulting Party in writing of the Net Settlement Amount, by whom it is owed and the due date for payment (**Settlement Date**) together with, on request, reasonable detail of its calculations.
- (g) **Payments:** The party owing the Net Settlement Amount must pay that amount to the other party on the Settlement Date.
- (h) **Enforcement:** Where Security applies and you owe any amount to us upon close-out of any Master Agreement, it will form part of your Liabilities and will be subject to the Charge.
- 35 **Enforcement**
- (a) **Enforcement:** If an Event of Default has occurred with respect to you and is continuing, we may in our absolute discretion and without prior notice enforce the Charge.
- (b) **Following enforcement:** Following enforcement, we may:
- (i) **Exercise powers:** Exercise all the powers and rights over the Charged Property of a mortgagee conferred by statute or otherwise, including the powers of sale, including by buying any part of the Charged Property ourselves or selling it to any Affiliate at the best price we could reasonably have obtained had we sold it to an independent buyer at arm's length.
- (ii) **Appropriate property:** Appropriate to our own use any part of the Charged Property that is financial collateral.
- (iii) **Apply proceeds:** Determine in our absolute discretion how we apply the proceeds of enforcement to discharge your Liabilities.
- (c) **After enforcement:** If, having enforced the Charge, your Liabilities are discharged in full, we will pay you any remaining amounts. If the proceeds are not sufficient to pay your Liabilities in full, you must immediately pay the remaining balance to us.
- 36 **Waivers**
- (a) **Event of Default:** No waiver of an Event of Default by either party constitutes a waiver of any other Event of Default.
- (b) **Exercise of remedies:** No exercise of a remedy (or delay in exercising a remedy) by either party constitutes a waiver of any other remedy.

GFS transactions

Loans

These Loans Terms apply where, at your request, we provide you with any Loans under the GFS Agreement.

37 General terms

- (a) **Loans:** We may periodically agree to advance Loans to you, either at your request or where we determine we need to settle your obligations under a third party transaction.
- (b) **Restrictions on use:** You may not use any Loan to help any person acquire control of any legal entity. You may not vote on any Securities we lend to you (**Loaned Securities**).
- (c) **Cancellation before advance:** We may cancel any Loan at no cost to either party at any time before advancing it, by notice to you. We shall endeavour to give you notice of any intention to use this right as soon as reasonably practicable.

38 Cash Loans

- (a) **Advances:** We will advance any Cash Loan to you by paying the relevant sum directly to your counterparty on your behalf in settlement of the transaction to which the Loan relates and debiting your Bank Account with the principal amount of the Cash Loan.
- (b) **Repayments:** When you repay any part of any Cash Loan to us, we will credit your Bank Account with the principal amount of that repayment.
- (c) **Termination:** Unless it is a term loan, either party may terminate a Cash Loan by providing one Business Day's notice. You must repay the advance with accrued Interest, in the currency in which the Loan is denominated, on the termination date.

39 Securities Loans

- (a) **Advance:** We may advance any Securities Loan to you by delivering the Loaned Securities to your counterparty on your behalf in settlement of the transaction to which the Loan relates. Where the Loan does not relate to a third party transaction, we will deliver the Loaned Securities into your Custody Account.
- (b) **Market terminology:** Notwithstanding the use of expressions such as "borrow", "lend" and "loan", under a Securities Loan title to Securities "borrowed" or "lent" passes to you, and your obligation is to deliver Equivalent Loaned Securities to us.
- (c) **Income distribution:** Where a Securities Loan extends over an Income record date you must pay us, within three Business Days of the Income distribution date, amounts Equivalent to the Income we would have received under those Loaned Securities (taking account of amounts that would have been withheld or deducted) had we held them on the Income record date.
- (d) **Termination right:** Unless it is a term loan:
 - (i) **Your termination right:** You may terminate a Securities Loan on one Business Day's notice.
 - (ii) **Our termination right:** We may terminate a

Securities Loan at any time by giving you notice of the standard settlement time on the relevant Market.

- (e) **Obligations on termination:** Upon termination, you must deliver to us Equivalent Loaned Securities. If you do not:
 - (i) **Buy in:** we may buy in Equivalent Loaned Securities to satisfy your obligations to us at your expense, but such a failure will not constitute an Event of Default.
 - (ii) **Reimbursement:** you must reimburse us on demand for the Fees and Expenses we incur in doing so (unless they arise from our negligence, fraud or wilful default).
 - (iii) **Suspension, etc.:** Where the Loaned Securities have been suspended or delisted, we may require you pay us their fair value in satisfaction of your obligation to return Equivalent Loaned Securities.
- (f) **EU Short Selling regulations:** Where you ask us to provide any locate approval notice for the purposes of EU short selling regulations, the terms of our EU Short Selling Notices published at www.ubs.com/ibterms apply.
- (g) **Hong Kong Stock Loans**
 - (i) **Hong Kong requirements:** To qualify for exemption from Hong Kong stamp duty a borrower of Hong Kong stocks must:
 - (A) **Register:** Register the relevant Securities Loan with the Hong Kong Inland Revenue department (**HKIRD**) within 30 days after the first stock borrow is effected.
 - (B) **Compliance:** Comply with the requirements of the Hong Kong Stamp Duty Ordinance including as to periodic reporting and submitting documentation to the HKIRD.
 - (ii) **Consequences of non-compliance:** Failure to meet Hong Kong requirements can result in ineligibility of the relevant Securities Loan for exemption from stamp duty and fines being levied for late stamping or late filing of a required return.
 - (iii) **Borrower's responsibility:** It is your responsibility as borrower to meet all the Hong Kong requirements. Accordingly:
 - (A) **Authorisation to register:** You authorise us to register the GFS Agreement with the HKIRD on your behalf.
 - (B) **Reporting and compliance:** You remain responsible for all periodic reporting to the HKIRD relating to Hong Kong stock loans and compliance with all other requirements. We will provide you with any information you reasonably request to assist in your reporting obligations.

Exchange-traded derivatives

These ETD Terms apply where, at your request, we agree to handle your orders for exchange-traded derivatives under your GFS Agreement.

40 Interpretation

(a) **Definitions:** In this section the following definitions apply:

ETD Transaction: A transaction entered into under this section as a result of your order, which may comprise:

- (i) **Market Transaction:** An exchange-traded derivative transaction entered into on any Market;
- (ii) **Intermediary Transaction:** Where an Intermediary enters into the Market Transaction, a transaction between us and the Intermediary referencing that Market Transaction.
- (iii) **Client Transaction:** A transaction between you and us referencing that Market Transaction.
- (iv) **Margin:** Any margin arrangements relating to any of the above.

Intermediary: Any intermediary, executing broker or other counterparty satisfactory to us through whom we clear or effect any Intermediary Transaction.

UBS Limits: Any limits we impose on your orders, your positions or our total exposure to you as we notify you from time to time.

UBS Procedures: Procedures and cut-off times we establish for the performance of any Client Transaction as we notify you from time to time, which may be stricter than those applying to the corresponding Market Transaction.

(b) **Exchange Annexes:** We have published and may periodically update annexes describing the rules and procedures of certain Markets on our website at www.ubs.com/etd-documentation. By placing an order with us for any Client Transaction you represent that you have read, understood and will comply with the relevant annex.

41 Orders

(a) **Your orders:** You may give orders orally, in writing or electronically. You may address them to us or on our behalf to such of our Affiliates as we may agree from time to time.

(b) **Orders irrevocable:** Once we have received it, an order is irrevocable. You may only cancel or change an order with our express agreement.

(c) **Affiliates:** Where you give our Affiliate an order directly to execute an ETD Transaction and that Affiliate accepts that order we will treat you as having given the order directly to us (and not to our Affiliate). We will be the counterparty to any resulting Client Transaction.

(d) **Delivery of Property:** Where you have entered into any ETD Transaction requiring the delivery of property you must, by the deadline set out in the UBS Procedures, either:

- (i) instruct us to close out that ETD Transaction; or
- (ii) where we have agreed to physical settlement, provide us with the necessary instructions and property to settle that ETD Transaction.

(e) **General compliance with obligations:** You must promptly deliver to us everything we required of you with regard to any ETD Transaction so that we can perform our corresponding obligations thereunder.

(f) UBS Limits

- (i) **Compliance** You must comply with prevailing UBS Limits.
- (ii) **Cure:** You must cure any breach of a UBS Limit within

three hours of our notice to you to do so.

(iii) **Remedy:** If you have not done so, we may take such action as we consider necessary to remedy such breach, at your cost and risk, including cancelling outstanding orders and closing out your transactions.

(g) **Applicable Rules:** We may cancel your orders, close out open ETD Transactions and take such other action as we consider necessary to comply with Applicable Rules. Any such action will be binding on you.

(h) **Regulator action:** If a Regulator takes action that affects any ETD Transaction or any Market Participant ceases operation, we may do whatever we consider necessary to respond and mitigate any resulting Losses. You will be bound by any such action we take.

(i) **Remedy upon failure to comply:** If you do not comply with any obligations under any ETD Transaction we may, in our absolute discretion and at your cost and risk:

(i) **Perform:** Buy in or take such other action as we consider necessary to perform the ETD Transaction; or

(ii) **Close out:** Close out your ETD Transaction without further notice to you.

(j) **Exposure Reduction:** Where you enter into Client Transactions having equal and opposite exposures on the same Market, upon payment of the net amounts due thereunder those opposing Client Transactions and all outstanding obligations under them will be automatically terminated.

42 Exercise of options

(a) **Exercise:** In exercising any options under any Client Transaction you are bound by the relevant Applicable Rules and, where different, UBS Procedures.

(b) **Performance:** You must exercise your rights and perform your obligations (including the deposit of necessary funds and documents) within the limits set by any applicable UBS Procedures or, if none, prevailing Applicable Rules or, if none, the close of the relevant Market on the relevant day.

(c) **In-the-money options:** In the absence of contrary instructions if, by the relevant cut-off time, you have not exercised an option that we determine is in-the-money, we may (but need not) exercise it for your account. We will not do so for out-of-the-money or at-the-money options without your specific instructions.

(d) **Exercise against us:** If any right is exercised against us under any part of the ETD Transaction, then we will automatically exercise our right against you on the same terms. Where you do not receive notice directly from the Market we will promptly notify you of each such exercise and any relevant terms.

43 Intermediaries and Give-ups

(a) **Intermediaries:** We may handle any of your orders by means of an Intermediary Transaction.

(b) **Standard of care in selection:** We will exercise reasonable skill, care and diligence in the selection and ongoing monitoring of any Intermediary.

(c) **Give-Ups:** We may provide you with a reference code for use by any executing broker to identify ETD Transactions it has executed on your instructions for submission to us for clearing. Where we do so:

- (i) **Transaction binding:** Any ETD Transaction we accept which was submitted with that reference code will be binding on you immediately.
 - (ii) **No liability for discrepancies:** We will not be liable for any discrepancies between your instructions to that executing broker and the terms of the ETD Transaction submitted to us.
- (d) **Executing broker invoices:** We may rely on any invoice an executing broker submits to us under a give-up. You must reimburse us for any sums we pay in reliance on it. We will not be liable for any errors in such an invoice.
- 44 Limitation and Reimbursement**
- (a) **Limitation:** Unless non-performance by a Market Participant arises directly out of our own negligence, fraud or wilful default:
 - (i) Our obligations to you under any Client Transaction will be conditional at all times upon due performance by all Market Participants of their corresponding obligations to us under corresponding components of the ETD Transaction;
 - (ii) Our payment and delivery obligations to you under any Client Transaction will be limited to amounts we actually receive from Market Participants under corresponding components of the ETD Transaction
- (Participant Payments).**
- (b) **Performance:** We will make reasonable efforts to require a Market Participant (or any person to whom its liabilities have been transferred) to perform its obligations to us. To the extent we are successful (or are otherwise compensated for such non-performance), we will perform our corresponding obligations to you under the affected Client Transaction.
 - (c) **Reimbursement:** If we pay you an amount under a Client Transaction that exceeds the corresponding Participant Payment we actually receive you must reimburse us for that excess amount (**Reimbursement Payment**) on demand. We may deduct any Reimbursement Payment you owe us from any payment obligation we have to you under the GFS Agreement.
 - (d) **Netting and set off:** We may treat amounts that any Market or Intermediary would have paid to us but for the application of netting or set off as having been paid to you.
 - (e) **Direct Settlement:** Where any Market Participant settles obligations to you directly under Applicable Rules, this will discharge our corresponding obligations to you under the related Client Transaction.
 - (f) **Notification:** We will notify you of any resulting reduction in amounts we are due to pay or deliver to you as soon as reasonably practicable following the relevant event.

Outperformance Transactions

These Outperformance Terms apply where we enter into any "outperformance transactions" with you under your GFS Agreement.

45 Definitions

- (a) In this section the following definitions apply:

Borrowed Securities: Securities we borrow from you under this section.

Outperformance Collateral Account: An account we establish in your name (in addition to the Custody Account and subject to the Charge) to hold collateral we transfer to you under this section.

Collateral: Property that we have credited to your Outperformance Collateral Account at any time.

Outperformance Transaction: A transaction under this section under which we borrow Securities from you against Collateral we transfer to your Outperformance Collateral Account.

Settlement Date: The settlement date specified in the confirmation.

Termination Date: Any termination date specified in the confirmation or, if none, any London Business Day from the Settlement Date.

46 Outperformance Transactions

- (a) **Agreement:** Periodically we may agree to enter into Outperformance Transactions with you under which we borrow Securities from you against Collateral we transfer to your Outperformance Collateral Account.

47 Outperformance Collateral Account

- (a) **Outperformance Collateral Account:** When you enter into any Outperformance Transaction we will establish in our books and records, in your name, an Outperformance Collateral Account which will be subject to the Custody Terms.
- (b) **Limitation on access:** Unless we are subject to an existing Event of Default, you may not withdraw, pledge or otherwise deal with any Collateral.
- (c) **Collateral:** On any day when an Outperformance Transaction is outstanding, we will credit or debit the

Outperformance Collateral Account to ensure that the value of Collateral at least equals the prevailing value of all outstanding Outperformance Transactions.

48 Transaction Terms

- (a) **Cancellation before Settlement Date:** We may cancel any Outperformance Transactions at any time before its Settlement Date, by notice to you, at no cost to either party.
- (b) **Settlement:** On the Settlement Date of each Outperformance Transactions we will:
 - (i) **Debit:** Debit the Borrowed Securities from your Custody Account by title transfer.
 - (ii) **Credit:** Credit the Outperformance Collateral Account with Collateral equal to the value of the Borrowed Securities on the Settlement Date.
- (c) **Income:** Following an Income record date for any Borrowed Securities, on receipt of Income, we will promptly credit your GFS Accounts with Income Equivalent to that you would have received had you held the Borrowed Securities on the Income record date.
- (d) **Our right to terminate:** We may terminate any Outperformance Transaction on any Termination Date Termination will take effect on the date we credit those Equivalent Borrowed Securities to your Custody Account.
- (e) **Your right to terminate:** You may terminate any Outperformance Transaction on any Termination Date by giving us notice. Termination will be subject to the standard settlement period for transactions in Equivalent Borrowed Securities effected on the Business Day following your notice.
- (f) **Effect of Termination:** Upon terminating any Outperformance Transaction, we will:
 - (i) **Credit:** Credit your Custody Account with Equivalent Borrowed Securities.
 - (ii) **Debit:** Debit the Outperformance Collateral Account with Collateral equal to the value of the Equivalent

Borrowed Securities on the Termination Date.

- (iii) **Non-return:** If we fail to deliver Equivalent Borrowed Securities to you and you incur costs and expenses by way of interest or overdraft or as a direct result of buying in Equivalent Borrowed Securities, on your request we will pay you an amount equal to those incurred costs and expenses (unless they arise from your negligence, fraud or wilful default).
- (iv) **Suspension, etc.:** Where the Borrowed Securities have been suspended or delisted, in satisfaction of our obligation to return Equivalent Borrowed Securities we may and, at your request, will pay you their fair value.
- (g) **Hong Kong transactions:** Where Borrowed Securities are

Hong Kong securities, you authorise us as borrower to comply with the HKIRD and Hong Kong Stamp Duty Ordinance requirements described in 39(g) and you must provide us with any information we request to assist in our reporting obligations.

- (h) **No effect on Transfer Limit:** Outperformance Transactions are in addition to any right we may have to use your Securities under the GFS Agreement. Therefore:
 - (i) Borrowed Securities will not be treated as Transferred Securities for any purposes.
 - (ii) Neither the Borrowed Securities nor Collateral we post under any Outperformance Transactions will affect the calculation of your Transfer Limit.

General

49 Your representations and warranties

- (a) When you execute the GFS Agreement or enter into any transaction and on any day on which any transaction exists, you represent and warrant to us that:
- (i) **Status:** You are organised and validly existing under the laws of your jurisdiction.
 - (ii) **Powers:** You have all necessary powers and have taken all necessary actions to authorise execution and delivery of the GFS Agreement and performance of your obligations under it and to grant the security interests specified in your GFS Agreement.
 - (iii) **No violations:** Execution, delivery and performance of your obligations does not breach any Applicable Rules, your constitutional documents, any agreements by which you are bound, or any investment restrictions which apply to you.
 - (iv) **Consents:** You have obtained all consents you require under Applicable Rules to perform your obligations under the GFS Agreement, and they remain in full force.
 - (v) **Principal:** You always act as principal and never as agent or (except where you are designated as such in your GFS Agreement) trustee.
 - (vi) **Location:** The persons executing the GFS Agreement on your behalf are located in your jurisdiction at the time of execution.
 - (vii) **Understanding:** You understand the risks of each transaction you enter into, and you are able to assume those risks.
 - (viii) **Comprehension:** You act for your own account and, having taken such professional advice as you considered necessary, have made your own decision to enter into the GFS Agreement and any such transactions and that each is appropriate and suitable for you.
 - (ix) **Non-reliance:** You are not relying on anything we have said or done as investment advice or as recommending any transaction.
 - (x) **No representation:** We have not made, and you have not relied upon, any representation as to the expected performance of any transaction.
 - (xi) **Unencumbered delivery:** You beneficially own and have the absolute right to deliver to us all Custody Securities, free from any competing Interests other than customary liens and those arising under any Master Agreement.
 - (xii) **No Event of Default:** No Event of Default has occurred to you or would occur as a result of you entering into or complying with any Master Agreement or transaction.
 - (xiii) **No litigation:** No litigation, arbitration or similar claim is in progress, pending or, to your knowledge, threatened which would adversely affect your ability to perform your obligations under any Master Agreement or transaction.
 - (xiv) **Investment Manager:** You have appointed your Investment Manager to act as your agent for all purposes. Notwithstanding any deficiency in its authority:
 - (A) **Bound:** You will be bound as principal by any instructions your Investment Manager gives or transactions it entered into on your behalf.

(B) **Discharge:** Any obligation we owe you will be discharged when performed as instructed by your Investment Manager.

(C) **Termination:** You must notify us immediately if your Investment Manager's business relationship with you terminates.

(xv) **Swiss Stay:** For the purposes of the Banking Insolvency Ordinance published by the Swiss Financial Market Supervisory Authority (**FINMA**), you agree to "accept" (*anerkennt*) any "suspension of the termination of agreements" (*Aufschub der Beendigung von Verträgen*) imposed by FINMA under Article 30a of the "Banking Act" (*Bundesgesetz über die Banken und Sparkassen*; SR 952.0) of Switzerland with respect to your GFS Agreement.

50 Our representations and warranties

(a) When we execute the GFS Agreement and on any day on which any transaction exists, we represent and warrant to you that:

(i) **Powers:** We have all necessary powers and have taken all necessary actions to authorise execution and delivery of the GFS Agreement and performance of our obligations under it.

(ii) **Consents:** We have obtained all consents we require under Applicable Rules to perform our obligations under the GFS Agreement, and they remain in full force.

(iii) **No violations:** Entry into and performance of our obligations under the GFS Agreement does not breach Applicable Rules.

(iv) **No Event of Default:** No Event of Default would occur or has occurred to us because of our entry into or performance of any Master Agreement or transaction thereunder.

51 Tax

(a) **Deductions from income:** Unless you provide satisfactory evidence that other rates apply, we will credit you with Income on your Custody Securities after deducting Tax at applicable non-treaty rates.

(b) **Payments under transactions**

(i) **No withholding:** Unless required by Applicable Rules, you must pay all amounts due to us under the GFS Agreement without withholding or deduction for any Tax.

(ii) **Gross-up:** Where withholding or deduction is required by Applicable Rules, you must gross up the payment unless such withholding or deduction:

(A) results from our failure to provide such documentation as you reasonably request to reduce or eliminate that liability;

(B) is a FATCA Withholding Tax; or

(C) is a tax on net income or a similar tax.

(c) **Tax status:** Each party is responsible for:

(i) notifying the other of its Tax status and any periodic changes to it; and

(ii) promptly providing such documentation as the other reasonably requests to reduce or eliminate a withholding or deduction.

(d) **UK income Tax:** You may only give us instructions to pay income without deduction for United Kingdom income Tax

where the beneficial owner is not a British subject or resident in the United Kingdom.

52 Non-fault termination

- (a) **Right to terminate on notice:** Either party may terminate the GFS Agreement without reason on thirty calendar days' written notice. Such a termination on notice will not affect:
- (i) **Outstanding transactions:** Our respective Interests and Liabilities under any outstanding transactions under any Master Agreement.
 - (ii) **Net Equity:** Your obligation to meet an Equity Demand;
 - (iii) **Charge and Enforcement:** The Charge and our rights to enforce security (clauses 32 and 34).
 - (iv) **Mutual rights:** Either party's rights to close out any Master Agreement.
- (b) **Delivery of Securities, records:** When the GFS Agreement terminates and all liabilities have been settled we will close all related accounts and, at your expense, deliver to your order:
- (i) **Assets:** All your cash and Securities, in necessary form for transfer and we will take all the necessary steps to vest them in you.
 - (ii) **Records:** All books and records, statements and other items belonging to you and under our control.

53 Miscellaneous

- (a) **Amendments:** Any amendment to the GFS Agreement requires the agreement of all contractual parties provided that:
- (i) **Regulatory amendments:** Where, due to a change in Applicable Rules, we are obliged to amend the GFS Agreement in a way which does not adversely affect your interests, we may make that amendment by notice to you.
 - (ii) **GFS Operating Terms:** We may update our GFS Operating Terms from time to time by notice to you (but any such amendment will not override express terms of your GFS Agreement).
- (b) **Transfer documentation:** Each party must execute and deliver all documents and take all steps necessary to ensure that all Interests in any assets pass free from all competing Interests upon transfer under the GFS Agreement.

- (c) **Contracts (Rights of Third Parties) Act 1999:** No person (other than an Affiliate of ours acting on our behalf under the GFS Agreement) has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the GFS Agreement.

54 Reporting and communications

- (a) **Records:** We will keep such books and records as are necessary to record all Custody Securities and transactions we enter with you or carry out on your behalf. Details of our reporting to you will be set out in the Operating Terms.
- (b) **Communications:** Formal communications must be sent to the recipient (or, in your case, your Investment Manager) at the contact details specified in your GFS Agreement. Either party may change those contact details by written notice.
- (c) **Effectiveness:** Notices will be effective, where delivered during business hours on a Business Day, on that Business Day. Notices delivered outside business hours will be effective as of the open of business on the next Business Day.
- (d) **Recording:** Each party:
- (i) consents to the recording of telephone conversations between the parties in connection with this Agreement and any transaction;
 - (ii) will obtain any necessary consent of, and give any necessary notice of such recording to, its relevant personnel; and
 - (iii) acknowledges that recordings may be submitted in evidence in any proceedings.
- (e) **Reliance:** We may rely on any communication we believe was made on your behalf without enquiring as to its authenticity.

55 Governing Law

- (a) **English law:** The GFS Agreement and any non-contractual obligations arising out of it will be governed by and construed in accordance with English law.
- (b) **Jurisdiction:** English courts have non-exclusive jurisdiction to settle any dispute arising in connection with the GFS Agreement. The parties irrevocably submit to the jurisdiction of the English courts.
- (c) **Process Agent:** You irrevocably appoint the Process Agent in England specified in your GFS Agreement to receive service of process in those courts on your behalf.

Interpretation

56 Interpretation

- (a) Unless the context requires otherwise:
- (i) **You** and **us** will be specified in your GFS Agreement.
 - (ii) **Business day convention:** Payments which would otherwise fall due on a non-Business Day will be due on the following Business Day.
 - (iii) **Agents:** References to actions by a party include persons validly acting on its behalf under the GFS Agreement. In particular, **you** includes your Investment Manager acting on your behalf, and **us** includes our Affiliates acting on our behalf.
 - (iv) **Actions and omissions:** Actions include omissions.
 - (v) **Exercise of rights and remedies:** Exercise of any rights or remedies will be without prejudice to any other rights or remedies.
 - (vi) **Amendments:** References to agreements, Applicable Rules, constitutional documents and other legal provisions are to such provisions as periodically amended.

57 Definitions

- (a) In these GFS General Terms the following definitions apply:

Affiliate: Affiliate is as defined in Section 14 of the 2002 ISDA Master Agreement.

Applicable Rules: The rules, directions and enquiries of any Regulator and all laws, rules and regulations in any jurisdiction to the extent they apply to either party under the GFS Agreement.

Bank Account: The bank accounts we establish to record your cash balances in difference currencies, as specified in your GFS Agreement.

Base Currency: The base currency specified in the GFS Agreement.

Business Day:

(a) For communications, a day on which commercial banks are open for business in the city in which the recipient is located.

(b) For payments and deliveries, a day on which the primary settlement system for that payment or delivery is open for normal business.

(c) For all other matters, a day on which commercial banks are open for business in London and the city in which your Investment Manager is located.

Cash Loan: Any cash Loan we make to you under the GFS Agreement.

CASS rules: Rules in force in the United Kingdom for the safekeeping of client assets and the holding client money, as amended from time to time.

Charge: The Charge set out in clause 32.

Charged Property: The property that is subject to the Charge, as described in clause 32.

Custody Account: Any account we establish which is expressed to be subject to the Custody Terms.

Custody Securities: Any financial instruments credited for the time being to any Custody Account.

Equivalent: For cash, an equal amount of cash in the same currency; for securities, other securities that are fungible with them (or, following any corporate event relating to the issuer, assets due to a holder who had validly participated in

that event).

Event of Default: Any of the events described as such in clause 33.

FATCA Withholding Tax: Any US federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the US Internal Revenue Code of 1986, as amended (the **Code**), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code.

Fees and Expenses: Our fees, charges and commissions, and Taxes, fees, costs and disbursements we may incur in relation to the GFS Agreement.

Fund: You, or where the GFS Agreement is an "umbrella agreement", each entity or account designated as such under the GFS Agreement.

GFS Accounts: Any Custody Accounts and Bank Accounts we establish in your name under your GFS Agreement.

GFS Agreement: The global financing services agreement between us incorporating your GFS Terms, the Swap Agreement and any other Master Agreement, each as modified by your GFS Elections.

Income: All interest, dividends or other distributions (whether in cash or in kind) paid or made on any Securities or transaction.

Interest: Any right, title, claim, lien, charge, encumbrance, security interest, guarantee, indemnity or other legal or beneficial interest.

Liabilities: The aggregate in the Base Currency of all money, debts, liabilities and obligations, whether present or future, actual or contingent, you owe us or our Affiliates under the GFS Agreement or any Master Agreement.

Loan: A Cash Loan or a Securities Loan.

Losses: Any liabilities, losses, costs or penalties a person incurs (beyond its ordinary costs of performance) that it could not reasonably have avoided, and any costs it incurs in defending them.

Investment Manager: The entity specified as such in your GFS Agreement and any sub-investment manager, adviser or agent acting on its behalf.

Market: Any exchange, quotation, clearing or settlement system or market on which securities, futures, options and contracts for differences are bought, sold or cleared.

Market Participant: Any Market or Intermediary involved in an ETD Transaction.

Master Agreement: The GFS Terms, the Swap Agreement and any other Master Agreement specified in your GFS Agreement.

Net Equity: The amount we determine from time to time under clause 28 (*Net Equity*).

Regulator: Any court, governmental or regulatory authority claiming jurisdiction over you or us, and any Market on which any transactions are executed or cleared.

Securities: Your Custody Securities and your rights against us relating to any Transferred Securities or Outperformance Securities.

Securities Loan: Any securities Loan we make to you under

the GFS Agreement.

Swap Agreement: The ISDA Master Agreement and schedule between us, including any credit support annex and master confirmations under it, as identified in and modified by the GFS Elections.

Taxes: Any present or future tax or withholding (including interest and penalties) imposed by any taxing authority in respect of any payments under the GFS Agreement.

Transfer Account: The account described as such in clause 12.

Transfer Limit: The value of Transferred Securities that we may transfer to the Transfer Account, which is specified in the GFS Elections.

Transferred Securities: Securities credited to the Transfer Account for the time being.