

## CLEARING MEMBERSHIP AGREEMENT

This Clearing Membership Agreement (the “**Agreement**”) is made between:

- (1) **LME Clear Limited**, incorporated in England and Wales under company number 07611628 whose registered office is at 10 Finsbury Square, London EC2A 1AJ (“**LME Clear**”); and
- (2)

<b>FIRM’S FULL NAME:</b>
<b>FIRM’S COMPANY NUMBER:</b>
<b>FIRM’S PLACE OF INCORPORATION:</b>
<b>ADDRESS:</b>

(the “**Firm**”)

### WHEREAS

- (A) LME Clear acts as a clearing house in respect of Transactions in accordance with the Rules.
- (B) LME Clear has been appointed by the Approved Transaction Platforms specified in the Rules to provide central counterparty and other services in accordance with the terms and conditions of the Rules and certain agreements entered into between LME Clear and any such Approved Transaction Platform.
- (C) LME Clear also provides central counterparty and other services to participants in certain over-the-counter (“**OTC**”) markets in accordance with the terms of this Agreement and the Rules.
- (D) The Firm desires to be admitted as a Member of LME Clear and LME Clear, having determined on the basis inter alia of the information supplied to it by the Firm that the Firm satisfies for the time being the relevant Membership Criteria, agrees to admit the Firm as a Member subject to the terms and conditions of this Agreement.
- (E) By entering into this Agreement, LME Clear approves the Firm as a Member to clear certain categories of Contracts that LME Clear agrees the Firm may clear from time to time.

### 1. INTERPRETATION

Terms defined in the rules and procedures of LME Clear (the “**Rules**”) shall have the same meanings in this Agreement.

### 2. MEMBERSHIP

- 2.1 By entering into this Agreement, LME Clear hereby admits the Firm as a Member, and the Firm hereby accepts to become a Member, on the terms and subject to the conditions of this Agreement and the Rules. The Membership shall commence on the date set out below.
- 2.2 The Firm's Membership shall be as a GCM or an ICM in accordance with the Firm's application for Membership and LME Clear's approval of that application. The Firm may apply to change its Membership as a GCM or an ICM at any time, subject to the Firm meeting the appropriate Membership Criteria and the approval of LME Clear to such a change.



2.3 The Firm shall be eligible to clear the type of business (as defined in the Membership Procedure Part B4) in accordance with the Firm's application for Membership and LME Clear's approval of that application. The Firm may apply to change its Membership as to the type of business it is able to clear at any time, subject to the Firm meeting the appropriate Membership Criteria and the approval of LME Clear to such a change.

### 3. RULES

3.1 The Member undertakes to act in accordance with the Rules and shall be bound by all the provisions of the Rules (including as may be amended from time to time in accordance with the provisions of the Rules) and LME Clear shall have all the rights and remedies set out in or contemplated by the Rules (including as so amended).

3.2 The Rules shall be part of the terms and conditions of every Contract which the Member may make or have with LME Clear.

### 4. CLIENTS OF THE FIRM

4.1 The Firm undertakes that its terms of business with Clients complies with Rule 5.2 as amended from time to time.

4.2 Where the Firm is a GCM, the Firm undertakes to verify the identity of its Clients in accordance with the requirements of the EU Money Laundering Directive (2005/60/EC) (as amended from time to time) (the "**ML Directive**") or the requirements of such local law and regulations which apply to the Firm and which are equivalent to the requirements of the ML Directive and the Firm represents and warrants to LME Clear that in relation to each Client it has carried out such verification in accordance with this clause and has satisfied itself that it is in compliance with the ML Directive or the relevant local law.

4.3 The Firm consents to LME Clear relying on the verification of Clients carried out by the Firm in accordance with clause 4.2.

4.4 The Firm undertakes to retain:

- (a) a copy of, or references to, the evidence of the Client's identity obtained pursuant to clause 4.2; and
- (b) the supporting records (consisting of the original documents or copies) in respect of a business relationship or occasional transaction (as those terms are defined in the ML Directive) with a Client,

at all times when it is a Member and, if longer, for a period of 5 years from the date on which LME Clear relies on the Firm under clause 4.3 (as notified to the Firm by LME Clear).

4.5 The Firm shall make available to LME Clear as soon as reasonably practicable following a request by LME Clear:

- (a) any information about a Client (and any beneficial owner) which the Firm obtained when verifying the identity of the Client in accordance with clause 4.2; and
- (b) copies of any identification and verification data and other relevant documents on the identity of the Client (and any beneficial owner) which the Firm obtained when verifying the identity of the Client in accordance with clause 4.2.

### 5. FEES AND CHARGES

The Firm undertakes to pay to LME Clear the charges provided for in the Rules for clearing and other services rendered to the Firm and all other amounts, including fines, that pursuant to the Rules shall become payable by or be imposed on the Firm.



## 6. SERVICES PROVIDED BY LME CLEAR

LME Clear undertakes to act in accordance with the Rules (including as may be amended from time to time in accordance with the provisions of the Rules) and to perform its obligations in respect of all Contracts in accordance with the Rules (including as so amended).

## 7. CLIENT MONEY

LME Clear acknowledges that, as provided for in the Rules, a Client Account (which for the purposes of CASS 7.8.2 of the Financial Conduct Authority's Handbook shall constitute a "client transaction account") will not be combined with any other Account, nor will any right of set-off be exercised by LME Clear against money credited to the Client Account in respect of any sum owed to LME Clear on any other Account.

## 8. LICENCE

LME Clear grants, and the Firm accepts, a licence to use the LMEmercury Materials on the terms set out in Annex 1 to this Agreement.

## 9. WARRANTIES AND REPRESENTATIONS

9.1 The Firm hereby warrants and represents to LME Clear that:

- (a) as at the date of this Agreement, it is duly incorporated and validly existing and in good standing under the laws of its country of incorporation with full power and authority and the legal right to enter into this Agreement and to perform its obligations under it;
- (b) as at the date of this Agreement, it has completed all corporate actions required by it to authorise the execution and delivery of, and to exercise its rights and perform its obligations under, this Agreement;
- (c) as at the date of this Agreement, this Agreement is executed by its duly authorised representative and constitutes a legal, valid and binding obligation on it, enforceable against it in accordance with its terms;
- (d) as at the date of this Agreement, all information which has been provided to LME Clear in connection with the Firm's application to become a Member is true, complete and accurate in all material respects and that nothing has been omitted which would be material for LME Clear to know in connection with such application; and
- (e) all information which is provided to LME Clear in relation to the Firm or its Clients at any time during the Firm's Membership (whether or not the information is required to be provided under the Rules) will be true, complete and accurate in all material respects and will be produced to LME Clear as soon as reasonably practicable and in any event within any timeframe required under the Rules.

9.2 The Firm shall notify LME Clear immediately if any of the representations or warranties in clause 9.1 cease to hold true and accurate, as if such representations or warranties were made at the relevant time.

## 10. LIABILITY

The Firm acknowledges that the liability of LME Clear will be limited as set out in the Rules.

## 11. TERM

This Agreement commences on the date set out below by LME Clear and shall continue until the Firm ceases to be a Member in accordance with the Rules.



12. **CONFLICTS**

In the event of any conflict between the Rules and any provisions of this Agreement, the Rules shall prevail.

13. **SURVIVAL**

Notwithstanding any termination or purported termination of this Agreement or the Firm ceasing to be a Member, the rights and obligations of each of LME Clear and the Firm hereunder shall survive as to all matters and Contracts occurring while this Agreement was in effect and otherwise as provided in the Rules.

14. **Severability**

If a provision of this Agreement is found to be wholly or partly illegal, invalid or unenforceable in any respect then to the extent it is illegal, invalid or unenforceable, that provision will be given no effect and will be treated as though it were not included in this Agreement, but the validity or enforceability of the remaining provisions of this Agreement will not be affected

15. **VARIATION**

15.1 Except as provided in clause 15.2, no variation of this Agreement is valid unless it is in writing and it is signed by each of LME Clear and the Firm or their duly authorised representatives. For the avoidance of doubt, this clause does not apply to a variation of the Rules, which may be varied in accordance rule 2.2 of the Rules.

15.2 This Agreement may be varied by LME Clear without the Firm's consent where such variation is necessary in order for LME Clear to comply with any Applicable Law.

16. **AGENT FOR SERVICE** (*ONLY FOR FIRMS INCORPORATED OR FORMED OUTSIDE ENGLAND AND WALES*)

In accordance with rule 2.12.3 of the Rules, the Firm irrevocably appoints:

AGENT'S FULL NAME:
ADDRESS:
FAX NUMBER:

as its agent to receive on its behalf in England service of any process under clause 17 of this Agreement or the Rules. Such service shall be deemed completed on delivery to such agent (whether or not it is forwarded to and received by the Firm) and shall be valid until such time as LME Clear has received prior written notice that such agent has ceased to act as agent. If for any reason such agent ceases to be able to act as agent or no longer has an address in England or Wales, the Firm shall forthwith appoint a substitute acceptable to LME Clear and deliver to LME Clear the new agent's name and address and fax number within England.

17. **GOVERNING LAW AND JURISDICTION**

17.1 This Agreement and any non-contractual obligations of any kind arising out of or in relation to this Agreement are governed by and shall be interpreted and construed in accordance with English Law.



- 17.2 The courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement. The Firm irrevocably submits to that jurisdiction for the benefit of LME Clear and waives any objection on the grounds of venue or *forum non conveniens* or any similar grounds.
- 17.3 Where the Firm is a government body or agency, a state-owned or controlled entity or an entity that is otherwise entitled to benefit from any immunity from suit or equivalent protections customarily or legally available to states or their representative bodies under the law of any jurisdiction it hereby:
- (a) consents generally in accordance with the State Immunity Act 1978 to the issue of any proceedings or to relief being given against it by way of injunction or order for specific performance or for the recovery of any property whatsoever and to its property being subject to any process for the enforcement of any order or judgment or any process effected in the course of or as a result of any action in rem; and
  - (b) irrevocably waives and shall not claim any immunity from suits and proceedings and from all forms of execution or attachment (including attachment prior to judgment and attachment in aid of execution) to which it or its property is now or may hereafter become entitled in accordance with the laws of any jurisdiction and declares that such waiver shall be effective to the fullest extent permitted by such laws.

Signature of the Firm		
Printed name of authorised signatory		
Date of signature		

Signature of LME Clear		
Printed name of authorised signatory		
Date of signature		

Date of admission (To be inserted by LME Clear only)	
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## NNEX 1: LICENCE OF LME MERCURY MATERIALS

1. In consideration of the Firm complying with the terms of this Agreement, LME Clear hereby grants the Firm a worldwide, non-exclusive and non-transferable licence to use the LMEmercury Materials, but only to the extent necessary for the Firm to use and receive the benefit of the Clearing Systems in respect of:
  - (a) cash and derivatives in underlying commodities traded at the LME;
  - (b) OTC derivatives in underlying commodities which are trade captured and matched through LME's systems; and
  - (c) any other instruments which LME Clear may notify to the Firm as covered by the Licence,but not in respect of any instruments other than commodity related instruments.
2. The licence set out in this Annex shall terminate with immediate effect if:
  - (a) the Firm ceases to be a Member;
  - (b) LME Clear gives notice to the Firm to this effect where the Firm (i) breaches the terms of this licence, and (ii) fails to rectify such breach within thirty (30) Business Days of being notified of such breach by LME Clear; or
  - (c) LME Clear ceases to have the necessary rights to provide this licence.
3. Notwithstanding this licence, the Firm acknowledges that, as between the parties, any Intellectual Property Rights in the LMEmercury Materials remain the property of LME Clear or its licensors and nothing in this Agreement has the effect of assigning or transferring any title or Intellectual Property Rights in the LMEmercury Materials to the Firm.
4. The Firm shall not:
  - (a) sell, lease, transfer, assign, sub-lease or in any way make the LMEmercury Materials available to any third party without the prior written consent of LME Clear;
  - (b) decompile, disassemble or reverse engineer to procure possession of the source code to the LMEmercury Materials, or use them in a time sharing or service bureau application;
  - (c) download or create copies of the LMEmercury Materials (other than temporary copies created incidentally to its permitted use of the LMEmercury Materials) without the prior written consent of LME Clear;
  - (d) remove, erase or hide from view any copyright, trade mark, confidentiality or other proprietary notice, mark or legend appearing in the LMEmercury Materials; or
  - (e) make any use of the LMEmercury Materials which is not expressly permitted under the terms of the licence set out in this Annex.
5. The LMEmercury Materials constitute confidential information of LME Clear and the Firm shall comply with the obligations imposed on Members under Rule 2.5 in relation to them.