



**TD Cowen**  
a division of TD Securities

Cowen Execution Services Limited  
11<sup>th</sup> Floor, 1 Snowden Street  
London EC2A 2DQ  
UK

## **Cowen Execution Services Limited**

### **Client Brokerage Agreement March 2023 Version**

Registered in England and Wales | Number 06262150  
Authorised and regulated by the Financial Conduct Authority

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## 1. Information about Cowen Execution Services Limited

Cowen Execution Services Limited (“**CESL**”), with its registered address at 11<sup>th</sup> Floor, 1 Snowden Street, London, England, EC2A 2DQ, UK, is authorised and regulated by the Financial Conduct Authority (the “**FCA**”) in the UK under registration number 472780. Contact details for CESL are set out in Section 26(f). The address of the FCA is 12 Endeavour Square, London, England, E20 1JN, UK.

## 2. This Agreement and Definitions

- (a) As a condition of, and in consideration for, from time to time accepting Orders and/or effecting Transactions in securities (including depository receipts and listed options), futures or foreign exchange, or providing other services from time to time at your direction and/or on your behalf or at the direction of or on behalf of your customer (as more particularly described in the documentation and similar related to the onboarding of you as a client of CESL), you (the “**Client**”) agree to the terms and conditions set forth in this agreement (the “**Agreement**”). The Agreement includes all schedules, appendices attachments, documents incorporated by reference, and any other documents executed or agreed to by the Client with CESL in connection with the Services.
- (b) Unless specifically agreed otherwise, this Agreement applies where the Client has become a client of CESL on or after 20 December 2022 notwithstanding anything to the contrary.

Where this Agreement applies, to the extent that an agreement, contract, document, notice or similar between the Client and CESL refers to, incorporates, applies or similar a version of the CESL standard terms and conditions of business or client brokerage agreement, howsoever described, other than this Agreement, this Agreement applies notwithstanding anything to the contrary.

Without prejudice to the generality of the foregoing, this Agreement amends, restates and supersedes in its entirety any and all forms of Agreement as published by CESL on or after 20 December 2022.

- (c) For purposes of this Agreement, the following definitions shall apply.

“**Accounts**” means the accounts of the Client that CESL has opened on the Client’s behalf or which the Client can access for trading purposes.

“**Action**” means any and all proceedings, demands, claims, complaints, litigations, arbitrations, actions, suits and investigations.

“**ADR**” means an American depository receipt.

“**Affiliate Company**” means, in relation to CESL, any entity directly or indirectly controlling or controlled by, or under direct or indirect common control with CESL.

“**Agreement**” has the meaning given in Section 2(a).

“**APA**” means an Approved Publication Arrangement.

“**Applicable Law**” means the laws and rules in the United Kingdom or elsewhere, including but not limited to, acts, regulations, the FCA Rules or other similar regulatory rules or handbooks; governmental, regulatory and self-regulatory organisation rules;

rules of execution venues and clearing houses; and customs (except as modified herein), that are in effect from time to time.

**“Business Day”** means:

- (i) in relation to services and similar performed by CESL and/or any Affiliated Company which is organised in otherwise incorporated under the laws of the UK, a day on which banks are open for business in England;
- (ii) in relation to services and similar performed by Cowen and Co and/or any Affiliated Company which is organised in otherwise incorporated under the laws of the United States of America, a day on which banks are open in New York;
- (iii) in relation to services and similar performed by any other Affiliated Company not covered by (i) or (ii) above, a day on which banks are open for business in the country of incorporation or organisation of such entity;

in each case, excluding Saturdays, Sundays and bank holidays.

**“CESL”** has the meaning given in Section 1.

**“CIL”** means Cowen International Limited, an Affiliate Company with its principal place of business at 11<sup>th</sup> Floor, 1 Snowden Street, London, England, EC2A 2DQ, UK.

**“Clearing Agreement”** means the agreement between CESL and Cowen and Co, or an Affiliate Company successor, where Cowen and Co or an Affiliate Company successor has agreed to provide clearing, settlement and other services to CESL and its clients.

**“Client”** has the meaning given in Section 2(a).

**“Communications”** means any and all current and future notices and/or disclosures that various federal and/or state laws or regulations require that CESL provide to the Client including such other documents, statements, data, records and any other communications regarding your relationship with CESL.

**“Cowen and Co”** means Cowen & Company, LLC, an Affiliate Company with its principal place of business at 599 Lexington Avenue, New York, NY 10022, United States. Cowen and Co is a member of FINRA and registered with the Securities Exchange Commission in the United States.

**“Customer Account”** has the meaning given in Section 16(o).

**“Data Protection Laws”** means the UK’s Data Protection Act 2018, the General Data Protection Regulation (2016/679) as it forms part of UK domestic law by virtue of the Withdrawal Act, and any other data protection legislation (howsoever described) to which CESL or the Client, as applicable, are subject.

**“Electronic Systems”** means communications over the internet, computer-to-computer interface, electronic mail, Bloomberg message, instant message or FIX connection, or that utilises any additional services, such as algorithmic trading solutions (whether provided by CESL, an Affiliate Company or a Third-Party Provider), other communication by similar means, and any other services offered from time to time by CESL, including the Electronic Trading Services.

**“Electronic Trading Services”** means access to execution venues, proprietary algorithmic systems, automated executions systems, alternative trade systems, analytic and portfolio tools and any such other electronic trading services that CESL or an Affiliate Company may choose to provide the Client with.

**“ETF”** means an exchange traded fund.

**“Event of Default”** has the meaning given in Section 17.

**“Execution Venues”** means securities exchanges and markets including regulated markets, multilateral trading facilities, organised trading facilities and alternative trading systems, as may be agreed from time to time.

**“FCA”** has the meaning given in Section 1.

**“FCA Rules”** means rules and guidance of the FCA from time to time as set out in the FCA’s Handbook.

**“FINRA”** means the Financial Industry Regulatory Authority in the United States.

**“FMPEP”** means a person who is a sufficiently close family member of a PEP, including the following:

- (i) spouse or civil partner of the PEP;
- (ii) children of the PEP and the spouses or civil partners of the PEP’s children;
- (iii) parents of the PEP; or
- (iv) a corporation, business or entity that has been formed by or for the benefit of, or is significantly owned or controlled by, any such individual. Significant ownership is twenty-five percent (25%) or more. Control includes holding a senior executive position of influence, such as the Chairman, CEO or President.

**“KCAPEP”** means:

- (i) an individual known to have joint beneficial ownership of a legal entity or a legal arrangement or any other close business relations with a PEP;
- (ii) an individual who has sole beneficial ownership of a legal entity or a legal arrangement which is known to have been set up for the benefit of a PEP; or
- (iii) a corporation, business or entity that has been formed by or for the benefit of, or is significantly owned or controlled by, any such individual. Significant ownership is 25% or more; control includes holding a senior executive position of influence, such as the Chairman, CEO and President.

**“LEI code”** means a validated and issued legal entity identifier code, the length and construction of which are compliant with the ISO 17442 standard and which is included in the Global LEI database maintained by the Central Operating Unit appointed by The Legal Entity Identifier Regulatory Oversight Committee.

**“Losses”** means all losses, liabilities, penalties, taxes, judgments, awards, fines, fees, costs, damages, and expenses, including without limitation, legal fees and costs of counsel whether or not the dispute or proceeding involves CESL, an Affiliate

Company, and/or a Third-Party Provider.

“**MiFID**” means the Markets in Financial Instruments Directive 2014/65/EU as it forms part of UK domestic law by virtue of the Withdrawal Act.

“**MTF**” means a multilateral trading facility, 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 MiFID.

“**Order**” means any orders to buy or sell financial instruments submitted by the Client to CESL.

“**Order Execution Policy**” means CESL’s policy for obtaining best execution, as amended from time to time.

“**OTF**” means 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 MiFID.

“**Parties**” means CESL and Client.

“**PEP**” means an individual who is entrusted with prominent public functions, other than as a middle-ranking or more junior official including the following:

- (i) heads of state, heads of government, ministers and deputy or assistant ministers;
- (ii) members of parliament or of similar legislative bodies;
- (iii) members of the governing bodies of political parties;
- (iv) members of supreme courts, of constitutional courts or of any judicial body the decisions of which are not subject to further appeal except in exceptional circumstances;
- (v) members of courts of auditors or of the boards of central banks;
- (vi) ambassadors, charges d’affaires and high-ranking officers in the armed forces; members of the administrative, management or supervisory bodies of state-owned enterprises;
- (vii) directors, deputy directors and members of the board or equivalent function of an international organisation; or
- (viii) a corporation, business or entity that has been formed by or for the benefit of, or is significantly owned or controlled by, any such individual. Significant ownership is twenty-five percent (25%) or more. Control includes holding a senior executive position of influence, such as the Chairman, CEO or President.

“**Regulated Market**” means a multilateral system operated and/or managed by a market operator, which brings together 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 in accordance with MiFID.

“**Services**” means receipt and transmission of Orders and agency dealing services and other services that CESL may offer.

“**Smart Router**” means a smart router system which CESL may use which may route an Order to an Execution Venue other than the agreed Execution Venue.

“**Transaction**” means any transaction in financial instrument executed by CESL or an Affiliate Company on behalf of the Client in accordance with the Order submitted to CESL by the Client.

“**Third-Party Provider**” means third parties owning, licensing, providing or otherwise setting rights, conditions or limitations on parts of the Electronic Systems or other products and services provided by CESL, including without limitation, data and technology.

“**Withdrawal Act**” means the UK’s European Union (Withdrawal) Act 2018.

(d) In this Agreement:

- (i) any reference to any entity or person includes, where appropriate, a reference to its or their successors in title, permitted assignees, permitted transferees or duly authorised agents or delegates;
- (ii) any references to a document, contract, agreement, hyperlink, location or similar are to such as amended, restated, supplemented and similar from time to time;
- (iii) any provision of any statute shall be deemed also to refer to any statutory modification or re-enactment thereof, or any statutory instrument, order or regulation made thereunder or under such modification or re-enactment;
- (iv) references to costs, charges, remuneration or expenses include any value added tax, sales tax, tax on turnover or similar tax charged in respect thereof;
- (v) any references to “include” or “including” are without limitation;
- (vi) sections and paragraphs shall be construed as references to, respectively, the Sections of and the paragraphs in this Agreement, respectively; and
- (vii) references to the singular shall include the plural and vice versa.

(e) The Client’s consent to this Agreement and all of its terms and conditions will be deemed to be given when it places its first Order with CESL, or any Affiliate Company after the date of this Agreement, and this Agreement will be deemed to be accepted by CESL and any Affiliate Company when CESL receives such Order. Thereafter, this Agreement will be deemed to be renewed with each Order placed with, or Transaction effected through, CESL and any Affiliate Company. This Agreement applies to all of the Client’s Accounts.

(f) This Agreement and all Orders and Transactions shall be subject to Applicable Law.

### **3. Client Categorisation**

CESL has classified the Client as a professional client or eligible counterparty for the purposes of this Agreement. A client classified as a professional client may elect to be categorised as an eligible counterparty, and a client classified as an eligible counterparty may request to be classified as a professional counterparty. Eligible counterparties are entitled to a lower level of client protection compared to professional clients. The Client should contact the Compliance Officer of CESL at the address in Section 26(f) if it requires further information about re-categorisation. CESL will inform the Client of its categorisation separately in writing

The Client is responsible for notifying CESL immediately, if they consider the criteria for meeting their classification is no longer met. If a change in classification is required, the Client considers to CESL taking action as necessary in relation to such change, which may result in CESL being unable to continue the provision of services as outlined in this agreement.

CESL does not provide services to retail clients. If you are categorised as a retail client under Applicable Law, you must contact the Compliance Officer of CESL and request a categorisation as a professional client. In such case, CESL will carry out an assessment in accordance with Applicable Law to assess whether you can be re-categorised as a professional client.

### **4. Our Capacity and Our Dealings with You**

- (a) Except where a Client provides a specific instruction to CESL via an Order as to the capacity in which CESL is to execute that Order, CESL shall, in its sole discretion, determine whether to execute an Order received from a Client as principal or agent, or partly as principal and partly as agent.
- (b) Unless specifically stated to the contrary, CESL does not act as a systematic internaliser, as defined by Applicable Law, in respect of any financial instrument. If CESL does act as a systematic internaliser, as defined by Applicable Law, in respect of any financial instrument and is required by Applicable Law to make public or provide quotes in respect of any financial instrument, the Client acknowledges and agrees that CESL may to the extent permitted by Applicable Law:
  - (i) update any such quotes at any time;
  - (ii) withdraw such quotes in exceptional market conditions;
  - (iii) decide the size or sizes of such quotes;
  - (iv) execute Orders received by the Client at a better price than that set out in quotes provided by CESL, provided that the improved price falls within a public range close to market conditions;
  - (v) execute Orders at a different price to those quoted to the Client in respect of Transactions where execution in several securities is part of one Transaction or in respect of Orders that are subject to conditions other than the current market price;
  - (vi) where CESL provides only one quote in respect of a financial instrument or where CESL's highest quote in respect of that financial instrument is lower than the standard market size for that financial instrument and CESL receives an Order from the Client that is bigger than the quoted size but lower than the standard market size for that financial instrument, CESL may, in its sole discretion, decide to execute that part of the Order which exceeds the quoted

- size, either at the quoted price or at a different price in accordance with (iv) and (v) above;
- (vii) where CESL provides quotes in different sizes for the same financial instrument and a Client submits an Order between those sizes, CESL may determine the relevant quoted price against which that Order will be executed;
  - (viii) determine in its sole discretion which Clients it wishes to give access to quotes; and
  - (ix) limit the total number of Transactions that CESL undertakes with a Client in respect of its published quoted prices and limit the total number of Transactions that CESL enters into with different Clients at the same time.
- (c) CESL may, in its sole discretion, utilise a Smart Router to route the Order to an alternate Execution Venue, unless the Client has opted out of the Smart Router. The Smart Router is available only with respect to certain securities and markets. The Client will be required to provide any information that CESL requests in order to provide the Services. Client understands and agrees that CESL may execute such transactions by routing Orders for handling and/or execution by one or more third parties, including CESL's Affiliate Company, and that such third parties may effect such Transactions as agent or on a principal basis. Such third parties may handle and/or execute Orders at a price inclusive of their mark-up/down, commission equivalent or spread. In connection with such executions by third parties, the Client understands that the commission or commission equivalent charged by CESL and reported to the Client via a trade confirmation shall be in addition to any such third-party mark-up/down, commission equivalent or spread (i.e., net price) included in the price for the Transaction.
- (d) Transactions executed by CESL may be settled by Cowen and Co under the terms of the Clearing Agreement. Cowen and Co utilises third parties, including its Affiliate Company to execute, clear, and settle Orders and Transactions. Information about the services that Cowen and Co provides to the Client is set out in Appendix 2.
- (e) The Client acknowledges that the hedging activity of CESL and its Affiliate Company could impact the market price of the relevant security and/or the price of the execution received by Client.

## **5. The Client's Payment and Settlement Obligations for the Services**

- (a) The Client agrees to pay for the Services provided by CESL or its Affiliate Company. The amounts that the Client shall pay for the Services shall be determined in accordance with CESL's prevailing rates. The Client will receive information about applicable rates when it becomes a client of CESL. CESL may also notify the Client in writing about changes to the applicable rates. The amount that the Client shall pay for the Services shall be collected from the Client by an Affiliate Company, acting on behalf of CESL, and the sum will be paid to CESL by an Affiliate Company at the time of settlement of the relevant Transaction. The Client agrees that the Affiliate Company shall be entitled to retain a proportion of the amount received from the Client which has been agreed between CESL and the Affiliate Company.
- (b) It is the Client's intention and obligation to deliver securities to cover all sales and remit funds to pay for all purchases upon demand and, but in no event beyond the time period set forth in Applicable Law. The Client shall be fully and unconditionally liable for the timely settlement of each and every Transaction effected with or through CESL. Timely settlement means settlement of any outstanding amounts relating to interest or dividend

payment; corporate action; foreign exchange Transaction charges and fees; brokerage charges; give-up fees; commissions; sums equivalent to commission; Transaction related taxes or stamp duties; service fees charged by CESL or third parties; or any other fees relating to execution or clearing of Orders and Transactions. All such amounts shall be collected at the time of settlement of the relevant Transaction.

The Client agrees to accept and pay for delivery of securities in an amount equal to the total amount owed to CESL in connection with a Transaction. The Client shall be liable to CESL for any deficiency remaining in any of Client's Account(s) in the event of the liquidation thereof, in whole or in part, by the Client or CESL. The Client agrees to reimburse CESL for all expenses, including reasonable attorneys' fees, incurred by or on behalf of CESL to enforce the Client's obligations as a result of any Order or foreign exchange Transaction. The Client agrees that if the Client directs CESL to execute a short sale of securities, or if the Client fails to deliver to CESL securities that CESL has sold at the Client's direction, the Client authorises CESL to borrow the securities necessary to make delivery and the Client agrees to be responsible for any costs incurred by CESL. The Client understands that the Applicable Law may require CESL and the Affiliate Company to take certain actions or impose certain restrictions on the Client if the Client does not timely settle its Transactions.

- (c) Unless otherwise agreed, all monies and securities for settlement shall be delivered directly to CESL's agent, or the agent of an Affiliate Company for the market in which the Client's Transaction is executed. This agent acts on CESL's or the Affiliate Company', as applicable, behalf to settle Transactions in most cases on a delivery versus payment or receipt versus payment basis. Following settlement, all monies and securities are delivered to the Client's custodian.

Unless otherwise agreed, settlement of all transactions effected with or for the Client must be made in accordance with the usual terms for settlement of the appropriate Exchange, market or Clearing System where applicable.

## **6. Client Money and Assets**

CESL is not authorised to hold client money (as defined under the CASS sourcebook under the FCA Rules).

As such, any commissions, fees or similar that are due and payable by the Client to CESL will not be classified as client money and will not be treated as such.

In the event that the Client makes an overpayment of commission, fees or similar to CESL's clearer or other relevant service provider, CESL will rely on the Client to provide account details promptly, such that attempts will be made to have overpayment returned to the Client at the earliest opportunity. Such commission, fees and similar may not be segregated from the monies assigned to CESL and may be transferred to CESL and used by it in the course of its business, and the Client will rank only as a general creditor of CESL.

CESL is not authorised to safeguard or administer client assets and shall not hold any assets belonging to the Client or any other person. CESL may arrange for your client assets and money to be held by a custody provider.

## **7. General Agreements in Relation to Order Handling and Transactions**

The Parties agree that:

- (a) The Client will be responsible:

- (i) for the accurate submission of all Orders and instructions to CESL, and
- (ii) to ensure that any Orders or other instructions given by it, any of its employees or agents shall have been properly authorised.

CESL is authorised to comply with and rely upon any Orders, instructions or communications which CESL believes have been sent or given by an authorised representative of Client. CESL shall be entitled to rely on its understanding of any Order, instruction or communication (whether given or received by CESL), notwithstanding any discrepancy between its understanding and any subsequent confirming document or communication.

- (b) Except as otherwise agreed to by the Parties in writing, the Client agrees and directs that all open orders submitted to CESL for execution will not be adjusted by CESL in any manner to account for corporate actions of any kind including, without limitation stock splits, dividends or distributions, during the entire period that CESL holds such Open Orders.
- (c) In the event that the Client disputes or denies knowledge of any Order or Transaction, CESL shall be authorised, but not required, to liquidate or otherwise offset the disputed position. The Client will promptly notify CESL of any Transaction that the Client or a customer of the Client believes to be in error.

CESL, in its sole discretion, may reject, in whole or in part, any Order from the Client and shall not be required to notify the Client of the reason why. CESL will not accept any Orders sent to a mobile device in accordance with Applicable Law.

- (d) Where CESL provides prices to Clients, such prices will either be based on the underlying market price (where CESL acts as agent) or based on CESL's own prices (where CESL acts as principal), which will incorporate CESL's spread. Where CESL acts as principal, it shall have sole discretion to determine the prices and sizes it is willing to transact in with Clients.
- (e) CESL, in its sole discretion and without notice, may impose trading limits on the Client and generally restrict trading with or for the Client.
- (f) The Client shall provide CESL with financial and other information regarding the Client as CESL in its sole discretion may request. The Client shall notify CESL immediately if the financial condition of the Client changes adversely from that shown in the most recent financial information provided to CESL or if there is any adverse change in Client's operations. The Client authorises CESL to investigate and to make and obtain reports concerning the Client's credit standing, financial position and business conduct. The Client authorises CESL to rely on any documentation including, without limitation, traders' authorisations, financial statements, letters of representation, and indemnities, that the Client has provided to CESL or its Affiliate Company or employee of CESL.
- (g) CESL shall have the right, but not the obligation, to set off any amounts owed by CESL to the Client under any other agreement and/or Transaction against any amounts owed by the Client to CESL under this Agreement.
- (h) The Client agrees that all Orders and Transactions shall be subject to CESL's policies and procedures which are in effect from time to time.

- (i) The Client agrees that CESL may transmit to the Client information concerning Client's Orders and Transactions through non-encrypted electronic mail and other electronic means. The Client understands and accepts the risks involved and assumes responsibility for such electronic transmission.
- (j) Except for Communications made pursuant to Section 26(f), the Client specifically agrees to receive and/or obtain any and all CESL-related Communications. Communications can be made via email, hyperlinks or postings on CESL's website. The Client accepts that Communications provided via email, hyperlinks or postings on CESL's website constitute reasonable and proper notice for the purpose of Applicable Law. The Client agrees that such electronic form satisfies any requirement that the communications must be provided to Client in writing.
- (k) CESL may, at the Client's request, permit the Client to communicate directly with CESL's Affiliate Company in connection with the provision of Services hereunder. The Client agrees that the matters set forth in this Section 7 shall apply to any communication and dealing with CESL's Affiliate Company.
- (l) Unless otherwise agreed, any Order received by CESL from the Client shall be for immediate execution. Where the Order is not immediately executed in full, CESL may in its absolute discretion execute the Order over such period as CESL may consider is necessary to obtain the best possible result for the Client and in such circumstances may report to the Client an average price for the series of Transactions instead of the price at which each individual Transaction was executed. The Client will be bound by all executions (partial or otherwise) of Orders CESL receives from the Client.
- (m) Under its Order Execution Policy, CESL may execute Orders outside of a Regulated Market, MTF or OTF. The Client has been or will be asked separately whether it expressly consents or does not consent to CESL executing the Client's Orders outside of a regulated market, MTF or OTF.
- (n) Certain types of securities, such as ADRs and ETFs, are comprised of one or more underlying securities. Those underlying securities often are traded in various markets, and mechanisms exist to exchange them for the ADRs or ETFs and vice versa. The following information applies to ADRs and ETFs:
  - (i) Orders for ADRs and/or ordinary shares are subject to this Agreement, as well as the ADR Direct and Reverse ADR Client Terms and Conditions, which are hereby incorporated by reference. A copy of the ADR Direct and Reverse ADR Client Terms and Conditions are available at the internet address noted for these purposes in Appendix 1.
  - (iii) With respect to Orders for ETFs, the Client agrees that when CESL believes it is advantageous to the Client and consistent with best execution principles, CESL through Cowen and Co will effect the trade by buying or selling the underlying securities composing the ETF and then converting such securities to, or redeeming such securities, for the ETF shares, as opposed to buying or selling the ETF shares directly. The Client agrees to execute ETF Orders in this manner notwithstanding that it may result in the Client paying certain additional fees to Cowen and Co or other Affiliate Company for, among other things, processing the conversions or redemptions, pre-releasing shares, borrowing or lending securities or cash, foreign exchange, taxes, clearing and settlement fees, and other costs. The Client acknowledges that an Affiliate Company may earn revenue on some or all of these additional fees, including spreads on securities Transactions. The Client agrees that it will not hold eighty

percent (80%) or more of the outstanding ETF shares of the issuing fund and will not treat such purchase as eligible for tax-free treatment under Section 351 of the Internal Revenue Code of 1986 in the United States, as amended.

- (o) Cowen and Co advertises executed trade volumes from across all of its businesses via third-party systems such as Bloomberg and Autex, each of which disseminates this information to the marketplace. Cowen and Co will only advertise the symbol and size for Transactions and only after the trade(s) have been reported to an applicable self-regulatory organisation trade reporting facility, as required by Applicable Law. The Client can opt-out of having its volume(s) advertised in this manner by providing notice to CESL or Cowen and Co in accordance with this Agreement.
- (p) Under Applicable Law, where CESL handles a limit order for shares admitted to trading on a regulated market in the United Kingdom or European Union, which is not immediately executed under prevailing market conditions, CESL must have the Client's express instructions not to make that order immediately public. The Client has been or will be asked separately whether it consent or not to immediately making its orders public.
- (q) CESL has, at all times, the right exercisable in its sole discretion to refuse to accept Orders, or execute or clear Transactions for the Client's Accounts, and to refuse to conduct business with the Client, which it may exercise where, for example and without limitation, it has not received the necessary information from the Client.

## **8. Marking of Orders and "Restricted" Securities**

- (a) The Client shall place any short sale Order or any long sale Order in an appropriate Account. The Client hereby authorises CESL to mark any such Order as "short" or "long" in accordance with the Client's designation and as appropriate in the particular market, in accordance with Applicable Law. The Client represents and warrants that it owns any securities sold long and has located or borrowed any securities sold short. The Client agrees that it shall not mark any sale Order "long" unless the Client owns, and is net long, the security being sold and will deliver the security in good deliverable form by settlement date. The Client agrees that it shall mark all other sale Orders "short," provided that the Applicable Law requires Orders be marked accordingly. Unless otherwise agreed, the Client's failure to deliver the security in good deliverable form prior to settlement date will result in a buy-in of the security, meaning that CESL will purchase the securities from a third party and deliver those securities on the Client's behalf. The Client will be solely responsible for all costs associated with such buy-in.
- (b) The Client agrees that any Order or Transaction in securities which are deemed to be "restricted" under Applicable Law shall be effected only in accordance with the policies and requirements prescribed from time to time by CESL. Such policies and requirements may require, for instance, execution of appropriate documentation and, in certain circumstances, receipt of opinion of counsel.
- (c) The Client shall adhere to any and all limitations imposed on its Transactions, as communicated by CESL from time to time. Such limitations may concern, among other things:
  - (i) the principal amount and the number of shares per Order or Transaction for any security, all securities or foreign exchange;
  - (ii) the notional amount or the number of shares for which Orders and Transactions

may be submitted on any given Business Day for any security or for all securities;

- (iii) the notional amount involved per Order or Transaction for any security or for all securities; or
- (iv) the notional amount involved for all Orders and Transactions which may be submitted on any given Business Day for any security or for all securities.

## **9. Best Execution, Aggregation of Orders and Programme Trades**

- (a) CESL will comply with its Order Execution Policy and, in particular, any applicable obligations regarding its Order Execution Policy under the Applicable Law. The Client's Orders will be executed in accordance with CESL's Order Execution Policy.

By agreeing to be bound by the terms of this Agreement, the Client confirms it has read, agrees and consents to CESL executing Orders in accordance with CESL's Order Execution Policy.

CESL's Order Execution Policy is provided to Clients prior to placing orders with CESL and is re-distributed from time to time. Copies of the Order Execution Policy can be obtained by contacting by the Compliance Officer of CESL. The Order Execution Policy can also be found on the internet website noted for these purposes in Appendix 1.

CESL will notify you of any material changes to its Order Execution Policy (which may include by making it available on the website listed above) but it is the Client's responsibility to check for any other changes to CESL's Order Execution Policy as and when relevant.

The Client is deemed to agree and consent to the Order Execution Policy as in effect from time to time each time the Client gives instructions and places an Order.

- (b) Where CESL or any Affiliate Company executes a programme trade the Client agrees that CESL will not be obliged to notify the Client whether such Affiliate Company acts as principal or agent.
- (c) The Client agrees that it will be responsible for any profit and loss due to fluctuations in exchange rates arising from Transactions which are effected in a foreign currency. Furthermore, the Client agrees that CESL or any Affiliate Company may use such exchange rate as conclusively determined by CESL or such Affiliate Company when executing such Transactions.
- (d) The Client agrees that CESL has the right to aggregate one of the Client's Orders with Orders from other customers, if such aggregation is permitted by Applicable Law and CESL's Order Execution Policy.

## **10. Post-Trade Reporting**

- (a) Where CESL decides that it will achieve the best result for the Client's order by executing it in an alternative trading system, CESL may submit trade reports regarding such Transactions to APAs. As applicable, CESL will only make public such information when CESL is acting as the seller, unless the buyer is acting as a systematic internaliser, in which case CESL will not make public such information.

- (b) Subject to Applicable Law, CESL has the sole discretion to determine where any trade should be trade reported for post-trade transparency purposes.
- (c) CESL may agree to allow APAs to use certain data provided by CESL for the purposes of the Client's trade reporting obligations; however, if CESL does so, the Client undertakes, represents and warrants that the Client is and remains responsible and liable for the submission and accuracy of the data or related reports (including promptly checking and verifying such data, where applicable) and overall compliance with the Client's trade reporting obligations. CESL gives no representations or warranties as to the accuracy of such data and neither CESL nor any of CESL's Affiliate Company shall be liable for any Losses arising in connection with the accuracy of such data or the failure of, or delays caused by any system, interface or other internal or external technology used for capturing transmission or receipt of such data or the APA services or any act or omission of such APA or any third party. CESL reserves the right to discontinue the provision of such data at any time and for any reason.

## **11. Transaction Reporting**

- (a) To enable CESL to comply with transaction reporting obligations under Applicable Law, the Client agrees to promptly deliver to CESL any information that CESL may from time-to-time request to enable CESL to complete and submit transaction reports to the FCA. The Client agrees that CESL may provide information about the Client or, where applicable, a principal, and Transactions executed with or for the Client or, where applicable, a principal, to competent authorities in the course of submitting transaction reports and to it making public relevant details of quotes provided to you and Transactions executed for you in accordance with Applicable Law.
- (b) The Client acknowledges that the Client may be separately required to submit transaction reports regarding certain Transactions. CESL will not submit transaction reports to the FCA on behalf of the Client, and CESL will not reference the Client's underlying clients.
- (c) The Client will be solely responsible for assessing and determining whether the Client is subject to any transaction reporting obligations in relation to any Transaction that is executed by or through CESL, and the Client will be solely responsible for complying with any such transaction reporting obligations that the Client is subject to.
- (d) The Client acknowledges that the disclosures made in the context of CESL's trade or transaction reporting may be made to recipients in a jurisdiction other than CESL's or the Client's:
  - (i) to the extent that applicable non-disclosure, confidentiality, bank secrecy, or other law imposes non-disclosure requirements on Transaction and similar information required or permitted to be disclosed as contemplated herein but permits a Party to waive such requirements by consent, the consent and acknowledgements provided herein shall be your consent for purposes of such law; and
  - (ii) any agreement between CESL and the Client to maintain confidentiality of information contained in this Agreement or in any non-disclosure, confidentiality or other agreement shall continue to apply to the extent that such agreement is not inconsistent with the disclosure of information in connection with this provision; and
  - (iii) nothing herein is intended to limit the scope of any other consent to disclosure

separately given by each Party to the other Party.

## **12. Trade Confirmations**

- (a) Unless otherwise agreed, CESL will promptly provide the Client with confirmations of any Transactions executed for Client in accordance with Applicable Law. The Client agrees that the commission set out in any confirmation of Transaction should combine the amounts of commission receivable by each of CESL and any Affiliate Company in accordance with Section 5(a). CESL will send a confirmation in respect of each transaction executed through CESL or an Affiliate Company to the Client no later than one (1) Business Day following the execution of that Transaction.
- (b) The Client agrees that CESL may provide confirmations of Transactions to the Client by electronic means, unless otherwise has been agreed. The Client agrees that it is responsible for regularly confirming the correctness of electronic confirmations. Confirmations of Transactions shall be conclusive and binding on the Client unless there is clear evidence in telephone records of manifest error. Confirmations shall be deemed to be accepted unless the Client objects within one (1) Business Day of receipt.
- (c) CESL shall, on the Client's request, supply information about the status of an Order or Transaction under Applicable Law.

## **13. Information on Costs and Charges**

- (a) CESL will, in good time before the provision of any Services, provide the Client with appropriate information in relation to the costs and charges relating to the Services CESL may provide to the Client and any third-party payments CESL may receive in connection with the Services CESL may provide to the Client.
- (b) By way of the Client's categorisation as a professional client or an eligible counterparty (as applicable), the Client agrees to being provided more limited information on costs and charges than would otherwise be required under Applicable Law.
- (c) Information on costs and charges with respect to Services will be provided to Client in writing. Client agrees that CESL may provide it with information on costs and charges via e-mail. Client agrees to a limited application of the detailed requirements set out in Article 50 of MiFID and in particular the disapplication of the requirement to provide an illustration showing the cumulative effect of costs on return, the requirement to provide an indication of the currency involved and applicable currency conversion rates and costs.
- (d) Where CESL has or has had an ongoing relationship with the Client during the year, CESL will also provide the Client with appropriate information in relation to the costs and charges incurred in accordance with Applicable Law.
- (e) The Client may request a breakdown of applicable costs or charges at any time. The Client can make such a request by contacting the Compliance Officer of CESL.

## **14. Recording of Conversations**

In order to comply with Applicable Law and internal compliance policies, CESL may in its absolute discretion record, monitor and retain all communications, including email, telephone conversations and other Communications with the Client and will normally record telephone, mobile phone or other mobile handheld Communications device based conversations between the Client and CESL's employees who act in a trading or sales capacity. All instructions

received by telephone shall be binding as if received in writing. CESL will retain such records for whatever period may be required by our internal policies and/or Applicable Law. The records will be available to the Client upon request during that period. Where the Client requests such records, CESL may charge the Client an administration fee and such fee will be disclosed to the Client in advance of any related costs being incurred.

## **15. Electronic Systems**

If the Client, or a third party representing the Client (including an outsourced trading desk) or a customer of the Client sends Orders and/or effects Transactions with or through CESL through any Electronic Systems then, in addition to all other provisions of this Agreement, Client represents, warrants, acknowledges and/or agrees to the following:

- (a) Access to Electronic Systems may be limited, unavailable or interrupted at any time, including but not limited to, during periods of peak demand, market volatility, system upgrades and maintenance during any other events impacting the Client, CESL or any Third-Party Provider of systems or services necessary for the Electronic Systems to be available. If Electronic Systems are unavailable for any reason, the Client agrees to use alternative means to contact CESL. CESL and any Third-Party Provider will have no liability whatsoever, and the Client will not attempt to hold CESL or any Third-Party Provider liable, for any unavailability, interruption, disruption or delay in Electronic Systems, regardless of the reason or duration for such disruption or delay.
- (b) The Client shall be solely responsible for all aspects of its use of Electronic Systems including, but not limited to, administering all of its user authorisations, capturing and maintaining any record keeping relating to such use, storing any data file backups and procuring and maintaining any hardware, software and other equipment used in connection therewith.
- (c) The Client shall comply with any and all conditions or limitations imposed on its Transactions, as communicated by CESL from time to time, including, but not limited to, the matters enumerated in Section 8 of this Agreement.
- (d) The Client will not transmit, attempt to transmit or conduct any Order through the Electronic Systems constituting a short sale or any Order in any security deemed to be “restricted” under Applicable Law unless such Order is compliant with Applicable Law.
- (e) The Client will be responsible for inputting and transmitting its and its customers’ Orders correctly and accurately. The Client will not attempt to hold CESL, CESL’s Affiliate Company or any Third-Party Provider liable for any damages or losses arising out of or relating to any inaccuracies, duplications, or errors in any such Orders or resulting Transactions. Order information transmitted Electronic Systems shall not be deemed an Order until its acceptance has been confirmed verbally or in writing by CESL to Client.
- (e) CESL offers to its clients various encrypted communication services for exchanging Account, Transaction, Order and other sensitive information. CESL strongly recommends that the Client uses one or more of these services for transmission of any sensitive information to CESL. Neither CESL nor any Third-Party Provider accepts responsibility or liability for unauthorised access to, or any loss, misuse or alteration of information transmitted to or from the Client.
- (f) All hardware and software employed by CESL in connection with the provision of the Electronic Systems, are owned, leased, or licensed by CESL. The Client acknowledges

that CESL is granting the Client a revocable license to use the Electronic Systems for the sole purpose of transmitting Order information and effecting Transactions. CESL reserves the right, at any time and with or without cause or prior notice, to limit, block or stop the Client's use of the materials and Electronic Systems. The Client agrees not to, directly or indirectly copy, reproduce, remanufacture, distribute, sublicense, translate, convert, modify, reverse engineer, decompile, disassemble or in any way duplicate all or any part of the materials.

- (g) The Client agrees that that it does not wish to receive information relating to the placing and receipt of Orders set out in articles 10(1) and (2) and 11(1) and (2) of the Electronic Commerce Directive (Directive 2000/31/EC) as it forms part of UK domestic law by virtue of the Withdrawal Act.
- (h) The Client will be solely responsible for ensuring that access to its systems that enable routing of Orders to CESL is strictly controlled and CESL takes no responsibility for unauthorised access to Client's systems. The Client shall remain wholly responsible for any Order and Transaction which CESL, in its sole discretion, reasonably believes has been originated by the Client.
- (i) The Client agrees to properly supervise all of its users of the Electronic Systems pursuant to Applicable Law.

## **16. The Client's Representations, Warranties and Agreements**

The Client represents and warrants, when doing business with or through CESL, that:

- (a) The Client and, if applicable, the Client's principals are in compliance with Applicable Law to which they are subject. Such compliance includes, without limitation, any rules that require the Client and its principals to be registered, licensed or approved by any regulatory supervisory authority or governmental body, and that the Client and the Client's principals maintain authorisations, registrations, licenses and/or approvals which are necessary or advisable:
  - (i) for the performance and observance by Client of the Agreements, including, without limitation, approvals relating to the opening of an Account with CESL, the availability and transfer of sterling, U.S. dollars or other foreign exchange required to make all payments due under the Agreement and in connection with any Orders and any Transaction;
  - (ii) for the validity, binding effect and enforceability of the Agreement; and
  - (iii) for the entry of any Order and for the effectuation any Transaction; have been obtained and are in full force and effect.
- (b) No Orders or Transactions will violate or be in conflict with any Applicable Law to which the Client is subject. No Orders or Transactions will violate, be in conflict with, or constitute a default under any agreement to which Client is a party or duty (fiduciary or otherwise) by which the Client is bound.
- (c) The Client has full power, authority and legal right to enter into the Agreement, place any Orders and effect any Transactions. The Agreement constitutes a direct, general and unconditional obligation of the Client, which is legal, valid and binding upon the Client and enforceable against the Client in accordance with its terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable

principals of general application and regardless of whether enforcement is sought in a proceeding in equity or at law).

- (d) The Client is not a public sector body, local public authority, municipality or a private individual investor. If the Client is such a body or investor, the Client has elected and is capable of being treated as an elective professional client in accordance with the FCA Rules or other Applicable Law and undertakes to notify CESL immediately of any changes to the Client's status that mean the Client is no longer capable of being treated as an elective professional client.
- (e) The Client has obtained and will duly renew and maintain one or more LEI codes that pertain to the Client and, if the Client is acting on behalf of one or more principals, each principal on whose behalf the Client may be acting. The Client will immediately inform CESL in writing of any changes to such LEI codes and of any new LEI codes issued to the Client or any principals on behalf of which the Client acts.
- (f) It is not necessary for the Agreement to be registered, recorded, enrolled or otherwise filed with any court or other governmental authority, or be notarised, or that any documentary stamp or other similar tax, imposition or charge of any kind be paid on or in respect of the Agreement, to ensure the legality, validity, enforceability, priority or admissibility of the Agreement in evidence under any Applicable Law.
- (g) The Client has established sufficient customer identification, "know your customer" anti-money laundering, prevention of market abuse and other applicable compliance policies and procedures as required by Applicable Law, which are reasonably designed to protect and prevent any use of the Client's Account for illegal purposes, including money laundering or terrorist financing activities.
- (h) The Client will fully comply with any tax obligations, recordation provisions and foreign exchange controls applicable to Client or any Order or Transaction, including, but not limited to, withholding of tax, foreign exchange control implications and recordation provisions. The Client will not engage in tax evasion.
- (i) The Client has a complete understanding of all the terms, conditions and risks, whether economic, financial, operational, or otherwise, which relate to this Agreement, of its Orders and Transactions and is financially and otherwise capable of assuming and willing to assume those risks. A summary of risks is available at the internet address noted for these purposes in Appendix 1.
- (j) The Client shall promptly notify CESL if the Client, or if any party related to the Client which has a significant impact on the relationship between CESL and Client, is or becomes a Senior Foreign Political Figure or Politically Exposed Person. For the purposes of this clause, a "significant party" includes all persons who have direct or indirect control or authority over the Client's Accounts which includes owners, authorised signatories, officers and directors of the Client. If the Client is a trust, this list of persons will also include donors, settlors, trustees and beneficiaries of the Client.
- (k) The Client is not an insider and does not possess any inside information or material non-public information in relation to any securities for which the Client places an Order or effects a Transaction or in relation to the issuer of such securities.
- (l) The Client does not maintain or transact business for accounts which are held in the name(s) of individuals or organisations, or in relation to accounts that are located in countries, that have been placed by the U.S. Treasury Department's Office of Foreign Assets Control on the OFAC Specially Designated National List or are subject to an

OFAC Sanctions Program or similar in the United Kingdom, European Union, or other relevant jurisdiction.

- (m) No Transaction or Order which has been or will be placed with CESL is, or is part of, a Transaction which involves funds derived from unlawful activity and/or violates the anti-money laundering, counter terrorist financing or economic sanctions laws of any jurisdiction, including those of the United Kingdom and the United States.
- (n) Prior to transmitting any Order to CESL on behalf of a customer, the Client has made a reasonable inquiry into the customer's financial situation, investment experience and investment objectives, and has determined that the securities and financial products purchased or sold from, to or through CESL are suitable or otherwise appropriate for the customer.
- (o) In case the Client exercises investment discretion on behalf of its customers (one customer, one "**Customer Account**"), such investment discretion includes, among other things, the authority to bind each Customer Account with respect to Transactions effected for such Customer Account and to directly deliver funds and/or securities, as the case may be, to settle such Transactions. The Client shall use its best efforts to:
  - (i) effect settlement of, and/or,
  - (ii) make each Customer Account honour its settlement obligations on a timely basis with respect to each and every Order and Transaction.

The Client represents and warrants that:

- (1) each Order or Transaction is being entered or effected with respect to one or more Customer Accounts;
  - (2) the Client has full authority on behalf of each such Customer Account to enter such Order and to cause the Customer Account to effect and settle such Transaction;
  - (3) each such Customer Account will have an absolute, unconditional and non-assignable obligation to complete any resulting Transaction and, in connection therewith, to make and ensure timely delivery of the subject securities and/or funds, in good deliverable form, free and clear of any lien, claim, interest or restriction of any sort, as well as any required remittance of interest, dividend payments, and/or other distributions; and
  - (4) the Client has established that each such Customer Account has sufficient available:
    - (A) funds to make timely settlement in cash of each buy Transaction, or
    - (B) securities to make timely delivery of such securities upon settlement of each sell Transaction.
- (p) The Client understands and agrees, when doing business with or through CESL, that:
- (i) CESL and any Affiliate Company or their respective employees, officers, directors or agents may provide recommendations on the merits of Orders and Transactions but that neither CESL nor its Affiliate Company will provide discretionary investment services, such as investment advice, with regards to

those Orders or Transactions.

- (ii) No communication whether written or oral that the Client receives from CESL shall be deemed to constitute an assurance or guarantee as to the expected results of any Order or Transaction.
- (iii) The Client is responsible for monitoring any pending Order submitted to CESL and for any Transaction effected in accordance with any Order. CESL shall have no responsibility to notify the Client or any customer of the Client of the status of any such Order. The Client agrees that it is responsible for ensuring that any Transaction is effected in accordance with the terms of an Order that has been placed with CESL. If the Client is acting on behalf of its customers, the Client shall allocate the Transaction to one or several Customer Accounts as soon as possible and in accordance with the time period specified in Applicable Law.

## 17. Events of Default, Remedies and Indemnification

- (a) For purposes of this Agreement, each of the following events shall be deemed to constitute an **“Event of Default”** in respect of the Client:
  - (i) the Client fails to make any payment due to CESL or to deliver any securities due to CESL (or any Affiliate Company or agents used by CESL or any Affiliate Company) or the Client fails to perform any other obligation owed to CESL;
  - (ii) any representation or warranty the Client makes to CESL is false or misleading either under this Agreement or under any other agreement between the Client and CESL; or
  - (iii) CESL, for any reason whatsoever, reasonably deems it necessary or desirable to declare an Event of Default for CESL’s protection;
  - (iv) the Client becomes unable to pay its debts as they fall due or becomes insolvent or bankrupt or becomes the subject of any insolvency, bankruptcy, administration or any similar proceedings under any Applicable Law, such as the filing of a petition for the appointment of a receiver by or against the Client, an assignment is made by the Client for the benefit of creditors, the commencement of dissolution proceedings with respect to Client, the suspension by the Client of its usual business or any material portion of such usual business, any material adverse change in the Client’s financial condition or net asset value or the occurrence of any equivalent event in any jurisdiction; or
  - (v) the filing by or against the Client of a notice of intent to dissolve or terminate the Client with any governmental, regulatory or self-regulatory agency or body;
  - (vi) the loss by the Client of any registration or license required to carry on its business; or
  - (vii) if the Client is an employee benefit plan or similar scheme, the inability of Client to pay benefits under the relevant plan when due.
- (b) Upon the occurrence of an Event of Default or in the event CESL considers it necessary

for its or an Affiliate Company's protection, CESL and any Affiliate Company shall have the right (but not the obligation) to cancel any unexecuted Orders, liquidate any outstanding positions, or take such other or further action as they deem necessary or appropriate. Any such action may be made in the sole discretion of CESL and any Affiliate Company, without notice to, or demand of, the Client, and at such times and places as CESL may determine.

- (c) The Client shall fully defend, reimburse, compensate, indemnify, and hold harmless CESL and all Affiliate Companies, Third-Party Providers, their directors, officers, employees and associated persons from and against all Actions and all Losses. This applies where such Actions or Losses are incurred, arising out of or relating to, directly or indirectly:
- (1) an Event of Default,
  - (2) the Client's acts or omissions,
  - (3) the Client's breach of its obligations under this Agreement or in connection with an Order (including those received by Client from its customers) or Transaction (including those relating to Orders received by Client from its customers),
  - (4) an Order (including those received by Client from its customers) transmitted by the Client, the execution of which would violate Applicable Law, and/or
  - (5) the exercise, pursuit, or enforcement by CESL or any Affiliate Company or Third-Party Providers of its rights or remedies hereunder.

The rights of CESL, its Affiliate Companies and or Third-Party Providers and their directors, officers, employees and associated persons provided above shall be in addition to any other right or remedy available to CESL and its Affiliate Companies and Third-Party Providers at law, by statute or in equity or under any Applicable Law.

- (d) If, within ten (10) calendar days after receiving written notice from CESL of an Action with respect to which CESL has a valid claim to indemnification by the Client under this Agreement, if the Client fails to institute the defence of CESL in connection with the Action, or if thereafter the Client fails diligently to pursue such defence, CESL shall have the right to defend the Action. The reasonable costs and expenses, including attorney's fees, associated with such a defence shall be borne by the Client. The exercise of the right to participate in or assume the responsibility for any such defence shall not limit in any way CESL right to indemnification under this Section.
- (e) Notwithstanding any other provision of this Agreement, the Client shall also reimburse, compensate, indemnify and hold harmless any and all Affiliate Companies, including without limitation Cowen and Co or CIL, from and against all Actions and for all Losses suffered by such Affiliate Company in connection with any service they provide to CESL in respect of Client pursuant to agreements such Affiliate Company have with CESL, including in relation to any clearing agreements such Affiliate Company have with CESL and any Accounts such Affiliate Company hold for Client, and any Order (including those received by Client from its customers) or Transaction (including those relating to Orders received by the Client from its customers) that an Affiliate Company execute or clear in relation to the Client, including any failure by the Client to meet a margin call.

## **18. Warranties Relating to CESL, Affiliate Companies and Third Parties**

- (a) None of CESL, Third-Party Providers or any Affiliate Company makes any representation or warranty, express or implied, as to the Services to be provided in accordance with this Agreement, including Electronic Systems, or the results to be achieved by the use thereof. CESL, Third-Party Providers, and all Affiliate Companies disclaim all warranties including, without limitation, any implied warranties of merchantability, fitness for a particular purpose and non-infringement. None of CESL, Third-Party Providers or any Affiliate Company can or does guarantee the accuracy, quality, sequence, timeliness, reliability, performance, completeness, continued availability, title or non-infringement of any data or Third-Party Provider services used in relation to the Agreement and each of CESL, Third-Party Providers and all Affiliate Companies of CESL disclaim any express or implied warranties. The Services to be provided by CESL (including Electronic Systems) are provided on an “as is” and on an “as available” basis without warranty of any kind to the maximum extent permitted by Applicable Law.
- (b) The Client hereby irrevocably agrees that to the extent that the Client or any of its assets has or may hereafter acquire any right of immunity, whether characterised as sovereign immunity or otherwise, from any legal proceedings, whether in the UK or outside the UK, to enforce or collect upon any liability or obligation of the Client related to or arising from the Services, Orders or Transactions contemplated by the Agreement including, without limitation, immunity from service of process, immunity from jurisdiction or judgment of any court or tribunal, immunity from execution of judgment, and immunity of any of its property from attachment prior to any entry of judgment, or from attachment in aid of execution up on a judgment, the Client hereby expressly and irrevocably waives any such immunity and agrees not to assert any such right or claim in any such proceeding, whether in the U.K. or outside the U.K.

## **19. Limitation of Liability and Standard of Care**

- (a) Unless otherwise expressly provided by Applicable Law, CESL, all Affiliate Companies, and their respective partners, controlling persons, shareholders, members, directors, officers, employees and agents, shall not be responsible or liable for any Losses resulting directly or indirectly from:
  - (i) any act or omission of the Client or a customer of the Client, or any error, negligence or misconduct of the Client or a customer of the Client, any Execution Venue or clearing house, or any other third party not directly controlled by CESL, any Affiliated Company or any such Third-Party Provider;
  - (ii) failure of transmission or communication facilities or failure of any Electronic System;
  - (iii) any other cause or causes beyond CESL’s control;
  - (iv) CESL’s reliance on any instructions, notices or communications that it believes to be from an individual authorised to act on behalf of the Client or a customer of the Client, and the Client waives any and all defences that any such individual was not authorised to act on behalf of the Client or a customer of the Client;
  - (v) government restrictions; exchange, regulatory, or market rulings; suspension of trading; military operations; terrorist activity; labour disputes, actions or

strikes, or any other condition beyond CESL's control, including, without limitation, extreme market volatility or trading volume; or

- (vi) any action taken by CESL, any action taken by any Affiliated Company or any executing broker, clearing broker, Execution Venue, clearing house, or other third party, to comply with Applicable Law or this Agreement.

For the avoidance of doubt, nothing in this Agreement will exclude or restrict any liability for breach of any obligation which cannot be limited under Applicable Law, nor will anything in this Agreement require the Client to indemnify or compensate CESL or any Affiliated Company to any extent prohibited by Applicable Law.

- (b) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NONE OF CESL, ANY AFFILIATE COMPANY, OR ANY THIRD-PARTY PROVIDERS SHALL BE RESPONSIBLE FOR ANY LOSSES EXCEPT TO THE EXTENT THAT SUCH LOSSES ARISE FROM CESL'S FRAUD, WILLFUL MISCONDUCT, OR GROSS NEGLIGENCE. IN NO EVENT WILL CESL OR ANY AFFILIATE COMPANIES BE LIABLE TO THE CLIENT FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES OF ANY CHARACTER OR FOR ANY LOST PROFITS, REVENUE OR OTHER COMMERCIAL LOSSES WHETHER FORESEEABLE OR NOT.

## **20. Lien**

All of Client's securities and other property held, carried, or maintained by the Affiliate Company providing clearing and settlement services to CESL or otherwise in the possession or control of that Affiliate Company, in or for any Accounts in the Client's name, shall be subject to a lien for the discharge of all indebtedness and other of the Client's obligations to CESL and that Affiliate Company. Such security and/or property will be held by that Affiliate Company as security for the payment of any such liability or indebtedness. That Affiliate Company shall have the right to transfer securities and other property so held from or to any other Accounts in Client's name whenever CESL or that Affiliate Company consider such transfer necessary for its protection. CESL and that Affiliate Company shall have the discretion to determine which of Client's securities or property is to be sold and which contracts are to be closed.

## **21. Conflicts of Interest**

- (a) CESL is continuously working on preventing and managing conflicts of interest that may arise in CESL's business. A summary of the policies and procedures that CESL has in place for identifying, preventing, minimising and managing conflicts of interest is available at the internet address noted for these purposes in Appendix 1.
- (b) CESL and each Affiliate Company provide services and maintain positions in a wide range of products, whether as a result of trading activities requested by clients or counterparties, or as part of a hedging strategy in reasonable expectation of near-term demand. CESL's Affiliate Companies may also have an interest or arrangement that is material to a transaction effected with or for the Client. These activities may give rise to a conflict of interest.

## **22. Third Party Remuneration and Inducements**

- (a) CESL may receive remuneration from an Affiliate Company and provide remuneration to its Affiliate Company in the ordinary course its business and in connection with a Transaction, such as when CESL introduces clients to an Affiliate Company or an Affiliate Company introduces clients to CESL. Such introduction fees may be paid or

received by CESL on an ongoing basis only if permitted under Applicable Law.

- (b) Where CESL and any Affiliate Company execute Orders through local brokers, those local brokers are paid by CESL and its Affiliate Company for those executions, but they could also earn additional compensation through payment for order flow arrangements with the local exchanges in the same way that Cowen and Co may receive payment for order flow in the United States. Please be advised that CESL is not involved in payment for order flow.
- (c) Any arrangements concerning third party remuneration and inducements shall be set forth in an agreement between CESL and the relevant Affiliate Company. CESL agrees to provide to the Client upon request information regarding any commission or other form of remuneration it or its Affiliate Company receive in connection with the Client's Transaction(s). CESL, as a MiFID firm, will only accept third party commissions when these provide a benefit to you, the Client. We will disclose such commissions to the Client in advance of their receipt.

### **23. Complaints and Compensation**

- (a) In the event that the Client is dissatisfied with the service it receives from CESL or any Affiliate Company, the Client should make its complaint in writing to the Compliance Officer of CESL at the address in Section 26(f), including as many details as possible, including the type of Transaction, price, date, time, amount involved and any similar information.
- (b) CESL participates in the UK's Financial Services Compensation Scheme. The Client may or may not be entitled to compensation from the scheme if CESL cannot meet its obligations. Whether the Client enjoys protection from the Financial Services Compensation Scheme will depend on the type of business that the Client carries out and the circumstances of the claim. This means that professional clients and eligible counterparties may not be eligible claimants. Further information is available at the internet address noted for these purposes in Appendix 1.

### **24. Confidentiality**

CESL and the Client shall each keep all information received from the other (or any Third-Party Provider) in connection with this Agreement private and confidential and shall not disclose such information to any person outside CESL or an Affiliated Company except to the extent that the other gives its prior consent, the information is already in the public domain, the information is required to be disclosed by Applicable Law or legal process, the disclosure is necessary to carry out obligations under this Agreement (including, without limitation, any audit or similar of previously discharged obligations) or the disclosure is made to any of CESL's or any Affiliated Company's professional advisers.

### **25. Data Protection**

- (a) For purposes of this Section 25, the terms "personal data", "data subject", "data controller" and "process" shall have their meanings given to them as set out in the Data Protection Laws.
- (b) In terms of the Data Protection Laws, CESL is acting as data controller in relation to any personal data which the Client provides to CESL.
- (c) CESL and the Client shall comply with all Data Protection Laws when processing personal data arising out of this Agreement.

- (d) Where personal data is shared by the Client with CESL, the Client shall ensure such disclosure is in compliance with all Data Protection Laws and that there is no prohibition or restriction that could:
  - (i) prevent or restrict it from disclosing or transferring the personal data to CESL;
  - (ii) prevent or restrict CESL from disclosing or transferring personal data to an Affiliate Company, competent authorities or for any other purpose which will enable CESL to provide the Services;
  - (iii) prevent or restrict CESL and any Affiliate Company from processing the personal data for the purposes set out in this Agreement and for the purposes of its applicable privacy notice and/or data protection policy (howsoever described).

If the Client shares personal data with CESL, the Client shall ensure that it has provided a fair processing notice informing the data subject of CESL processing of such personal data.

## **26. Miscellaneous**

- (a) CESL and each Affiliate Company are wholly-owned, indirect subsidiaries of The Toronto-Dominion Bank and are separate and distinct legal entities from The Toronto-Dominion Bank and each other. This means that CESL and Affiliated Companies are solely responsible for their obligations and commitments as provided in this Agreement. No public distribution or solicitation is being made by CESL or Affiliated Companies to any person or entity, nor is CESL or Affiliated Companies offering products or services in jurisdictions where prohibited by Applicable Law. Not all products and services are offered at all locations and such products or services may differ in terms of fees, charges, interest rates, and balance requirements among different locations.
- (b) CESL may modify or amend the terms of this Agreement at any time by giving the Client written notice (which may include by posting amendments, restatements, supplements or similar to this Agreement on the internet address noted for these purposes in Appendix 1) and it is the Client's responsibility to check for any other changes to this Agreement when relevant. By continuing to accept Services from CESL, the Client agrees to any such modifications and amendments. If the Client does not accept such modifications or amendments, the Client must cease transacting with CESL and notify CESL in writing. This Agreement together with any written amendments represents the entire agreement between CESL and the Client which supersedes any contemporaneous and prior agreements between the CESL and the Client.
- (c) If any provision of this Agreement is deemed by an authority of competent jurisdiction to be unenforceable or contrary to Applicable Law, such provision shall be enforced to the maximum extent permitted by law to effect the Parties' intentions hereunder. The remainder of this Agreement shall continue in full force and effect.
- (d) All headings in this Agreement are for description only, shall not be used to interpret this Agreement, and do not modify or qualify any rights or obligations.
- (e) Any transfer, assignment or attempted transfer or assignment by Client of this

Agreement or of any of the Client's rights or obligations hereunder without obtaining the prior written consent of CESL shall be null and void. CESL shall have the right to transfer or assign this Agreement and of its rights and obligations under this Agreement to any Affiliate Company, successor entity or to a third party in its sole discretion and without obtaining the consent of the Client.

- (f) Except for Communications made pursuant to Section 7(k), all notices by either Party hereunder shall be sent by overnight mail or delivery service (return receipt requested), to the other Party at its address. Any Party may by notice to the other change the address at which notices or other communications are to be given to it. Any notice shall be effective upon the receipt thereof by the Party to whom it is sent. All notices and communications must be in English.

Notices and communications shall be sent to:

- (i) If to CESL:

Cowen Execution Services Limited  
11<sup>th</sup> Floor  
1 Snowden Street  
London,  
England  
EC2A 2DQ

Email: [michael.page@cowen.com](mailto:michael.page@cowen.com)  
For the attention of the Compliance Officer

- (ii) If to the Client, CESL will use the address and contact person that was most recently received from the Client to communicate with or make notifications to the Client.
- (g) Neither the failure to insist upon strict compliance with this Agreement nor any course of conduct, including without limitation, failure on the part of CESL to exercise or delay in exercising any rights, shall constitute a waiver by CESL of any of its rights under this Agreement. No single or partial exercise by CESL of any right shall preclude any other or future exercise of any such right or the exercise of any other single or partial right. Any waiver by CESL must be in writing and signed by an authorised representative of CESL and shall be effective only for the purpose and in the specific instance for which it is given.
  - (h) This Agreement, its enforcement, all non-contractual obligations arising from or related to it and all disputes arising from it or related to any Order or Transaction shall be exclusively governed by, and construed in accordance with, the laws of England and Wales. All Actions relating to this Agreement will be subject to the exclusive jurisdiction of the courts of England and Wales.
  - (i) This Agreement shall come into effect upon the Client's placing its first Order with CESL, or the Client's first request or use of any of the Services if earlier, provided that CESL has provided the Client with a copy of the Agreement (which may include by making reference to this Agreement as listed on a website).
  - (j) All rights conferred on any Affiliate Company of CESL under this Agreement, including the rights under this Section 26, shall be enforceable by such Affiliate Company respectively in its own right. Furthermore, the Client will indemnify the Affiliate Company in respect of those matters that the Client has referred to the Affiliate

Company set out at Sections 17 and 19. Subject to the foregoing, no term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement. The Client and CESL may, without the consent of any other Affiliate Company of CESL, terminate this Agreement or vary any of its terms, even if it has the effect of altering any Affiliate Company or CESL's rights under this Section 26(j). However, the Client and CESL may not terminate this Agreement or vary any terms of this Agreement if the Affiliate Company of CESL has notified CESL that it intends to bring legal proceedings against the Client or CESL in relation to rights in this Agreement.

- (k) Nothing contained or implied in this Agreement creates a joint venture or partnership between the Parties or makes one party the agent or legal representative of the other party for any purpose.
- (l) Unless pursuant to a separate agreement executed by CESL, neither the relationship between CESL and the Client, nor the services to be provided by CESL, nor any other matter, will give rise to any fiduciary or equitable duties on CESL's part which would oblige CESL or any Affiliate Company to accept responsibilities more extensive than those set out in this Agreement.
- (m) This Agreement may be terminated by either Party hereto upon written notice to the other Party. This Agreement may also be terminated by CESL with immediate effect upon the occurrence of an Event of Default or in the event CESL, in its sole discretion, considers it necessary for its protection. Any such termination shall have no effect upon any party's rights and obligations arising out of Orders and/or Transactions executed or initiated prior to such termination. The termination of this Agreement shall not affect Sections: 5 "The Client's Payment and Settlement Obligations for the Services"; 16 "The Client's Representations, Warranties and Agreements"; 17 "Events of Default, Remedies and Indemnification"; 19 "Limitation of Liability and Standard of Care"; 20 "Lien"; 21 "Confidentiality"; 25 "Data Protection"; and 26 "Miscellaneous", nor shall termination affect the rights accrued and obligations incurred prior to the date of termination. Any outstanding Orders or Transactions in progress shall be completed or cancelled by CESL as soon as possible on termination of the Agreement.
- (n) Where CESL provides investment recommendations, sales and marketing commentaries, marketing materials, advertising or promotional materials, or similar (howsoever described), these will be subject to such appropriate disclaimers and similar as may be applied in the relevant communication in addition to the disclaimers available at the internet address noted for these purposes in Appendix 1.

## Appendix 1

For the purposes of the relevant provisions, the following are internet links on which CESL's current policies, disclosures and similar documents related to this Agreement and the Services can be obtained (which such links and related policies, disclosure and similar documents (including any relevant titles) may be amended by CESL from time to time, with or without notice):

(1) **ADR Direct and Reverse ADR Client Terms and Conditions:**

The document entitled "ADR Direct & Reverse ADR Client Terms and Conditions" under the section related to Cowen and Co at <https://www.cowen.com/regulatory-disclosures/>

(2) **Agreement and all amendments, restatements, supplements and similar:**

The document entitled "Terms of Business" under the section related to CESL at <https://www.cowen.com/regulatory-disclosures/>

(3) **Best execution policy:**

The document entitled "Order Execution Policy" under the section related to CESL at <https://www.cowen.com/regulatory-disclosures/>

(4) **Conflicts of interest policy:**

The document entitled "Conflicts of Interest" under the section related to CESL at <https://www.cowen.com/regulatory-disclosures/>

(5) **Country specific disclosures:**

The document entitled "Country Specific Disclosures and Provisions" under the section related to CESL at <https://www.cowen.com/regulatory-disclosures/>

(6) **Financial crime and related matters:**

The document entitled "UK Bribery Act" under the section related to CESL at <https://www.cowen.com/regulatory-disclosures/>

(7) **Information about securities and associated risks:**

The document entitled "Information About Securities and Associated Risks" under the section related to CESL at <https://www.cowen.com/regulatory-disclosures/>

(8) **Privacy notice:**

<http://www.cowen.com/regulatory-disclosures/cowen-inc-non-us-privacy-notice/>

(9) **United Kingdom's Financial Services Compensation Scheme:**

<https://www.fscs.org.uk/>

(10) **Disclaimer for investment recommendations, sales and marketing commentaries, marketing materials, advertising or promotional materials, or similar (howsoever described):**

The document, if any, related to disclaimers for investment recommendations, sales and

marketing commentaries, marketing materials, advertising or promotional materials, or similar (howsoever described) under the section related to CESL at <https://www.cowen.com/regulatory-disclosures/>

## Appendix 2

### **Services to be Provided by Cowen and Company and Allocation of Responsibilities Between CESL and Cowen and Co.**

- (a) As set out in this Agreement, Cowen and Co will provide certain clearing, settlement and other services on behalf of CESL in order to ensure that Client's Transactions are executed and cleared in accordance with the Agreement. This Appendix serves as notice, pursuant to FINRA Rule 4311(d), of the allocation of responsibilities between CESL and Cowen and Co, as Cowen and Co is a U.S. registered broker-dealer and FINRA member. The services provided by Cowen and Co and the allocation of responsibilities between CESL and Cowen and Co, are set out in the Clearing Agreement, which is summarised below, provided however, that this is intended to be a general disclosure, not a definitive enumeration of the allocation each and every responsibility between Cowen and Co and CESL.
  
- (b) You have appointed CESL to act as your agent for the purpose of carrying out your directions with respect to your purchase or sale of securities in accordance with the Agreement. CESL has informed Cowen and Co that Cowen and Co is authorized to open or close brokerage accounts, place and withdraw orders and take such other steps as are reasonable to carry out your directions. Until receipt of your written notice to the contrary, Cowen and Co may accept instructions for your Account from CESL without inquiry or investigation by Cowen and Co including, without limitation, instructions with respect to the disbursement of funds and the transfer of securities. As between you and Cowen and Co, you shall be responsible for any action taken by Cowen and Co in your Account based upon instructions Cowen and Co received from either you or CESL. In the event that you maintain a delivery versus payment account, you agree to comply with applicable regulations by furnishing CESL with instructions for the delivery or receipt of securities promptly upon receipt of confirmation (or the relevant data as to execution), which shall be no later than:
  - (i) the close of business on the second Business Day after execution for purchases; and
  - (ii) the close of business on the first Business Day after execution for sales.
  
- (c) Cowen and Co will provide the following services:
  - (i) Maintaining books and records, including stock records and journals, on CESL's behalf.
  - (ii) Accepting the Client's Orders routed to Cowen and Co by CESL, if any, and executing the Client's Transactions upon instructions from CESL subject to Cowen and Co's right to reject Orders or Transactions.
  - (iii) Cowen and Co will use commercially reasonable efforts to communicate corporate action information to Client but shall not be liable for any delays in the communication of corporate action information. Cowen and Co will handle CESL's requests for instructions relating any corporate actions involving investments or interests held by Client on the books of Cowen and Co. Cowen and Co will provide written advice to CESL of pending corporate actions at CESL's designated locations and collect corporate action requests from CESL and then submit them to the soliciting party in accordance with the instructions received.
  - (iv) Cowen and Co will be responsible for receiving and delivering funds and securities on behalf of CESL and Client in connection with Client Transactions. Unless otherwise agreed, all monies and securities for settlement shall be delivered directly to Cowen and Co's agents in the applicable market in which the Client's Transaction is executed.

Following settlement, all monies and securities will be delivered to the Client's custodian. If Cowen and Co agrees to accept delivery of monies or securities on an exceptional basis, Cowen and Co will not be responsible for any monies or securities delivered until such monies or securities are actually received by Cowen and Co or deposited in a bank account maintained by Cowen and Co.

- (v) Determining and/or charging a commission and any other charge or expense that CESL instructs Cowen and Co to charge in respect of each Transaction. Cowen and Co may charge additional fees and charges in accordance with instructions from CESL.
  - (vi) Cowen and Co will maintain custody of funds and securities on behalf of CESL and Client. Other than on an exceptional basis, all Transactions will be settled exclusively on a "delivery versus payment" or "receipt versus payment" basis. Cowen and Co will not be responsible for any monies or investments delivered by the Client to CESL until such monies or investments are actually received by Cowen and Co or deposited in bank accounts maintained by Cowen and Co.
  - (vii) Preparing and transmitting confirmations of Transactions to Client on behalf of CESL as required to be provided under the Applicable Law and in accordance with any instructions received from CESL.
  - (viii) Notwithstanding the foregoing, Cowen and Co have, at all times, the right to contact the Client directly regarding its information requirements. Cowen and Co has, at all times, the right exercisable in its sole discretion, or refuse to accept Orders or execute or clear Transactions for the Client's Accounts or to refuse to conduct business with the Client, which it may exercise where, for example and without limitation, it has not received the necessary information from the Client.
- (d) CESL will be responsible for the following:
- (i) Opening, approving, servicing, and monitoring of the Client's account, including obtaining and verifying the Client's new account information.
  - (ii) Obtaining information from the Client and monitoring the conduct of the Client's account to ensure that all Transactions and transfers are in compliance with all applicable laws, rules, and regulations. Such responsibility includes, without limitation:
    - (1) knowing all of Client's persons having authority to act with respect to its Account and those persons holding power of attorney in relation to the Client's Account,
    - (2) determining suitability and legality of all Transactions in the Client's account, and
    - (3) determining the appropriateness of the frequency of trading in the Client's Account.
  - (iii) Collecting customer information and completing and submitting all customer account opening documentation required by CESL and Cowen and Co, to the extent requested by Cowen and Co.
  - (iv) Reviewing your Account and all Orders and Transactions received or executed in that Account.
  - (v) Transmitting instructions concerning Client's Accounts, Orders and Transactions to

Cowen and Co.

- (vi) Ensuring that securities sold by you may be transferred without restriction or that you have complied with transfer restrictions.
- (vii) The conduct of your Account and ensuring that all the Orders received from Client and all Transactions executed on behalf of Client are in compliance with all applicable laws, rules and regulations. Such responsibility includes, without limitation:
  - (i) selecting, investigating, training and supervising all personnel who open, approve or authorise Transactions in your Account;
  - (ii) establishing written policies and procedures for the conduct of your Account and maintaining compliance and supervisory personnel adequate to implement such policies and procedures; and
  - (iii) determining the suitability and legality of all transactions in your account.
- (viii) Responding to any inquiries or resolving any complaints you may have concerning your Account. If any complaint concerns Cowen and Co's performance of its functions, CESL will be responsible for promptly notifying Cowen and Co in writing about such complaint.

CESL or Cowen and Co will notify the Client in the event the Clearing Agreement is terminated. Any termination of the Clearing Agreement will not affect any obligations that the Client may have to CESL or Cowen and Co. Such obligations may include the obligations to pay for securities purchased for the Client's Accounts, deliver securities disposed of for the Client's Accounts, or to meet a margin call on the Client's Accounts. Since the Client is not a party to the Clearing Agreement and has not been given any rights to enforce any of its provisions, the Client will not be able to bring an action against Cowen and Co for breach of any of Cowen and Co's obligations to CESL under the Clearing Agreement.