

MR01

Particulars of a charge



Companies House

000023/E23



Go online to file this information
www.gov.uk/companieshouse

A fee is be payable with this form
Please see 'How to pay' on the last page.

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument.

☒ **What this form is NOT for**
You may not use this form to
register a charge where there
instrument. Use form MR08.

For further information, please



R87Y9SY7
RM 19/06/2019 #10
COMPANIES HOUSE
A87XTZJM
A15 19/06/2019 #31
COMPANIES HOUSE

This form **must be delivered to the Registrar for registration wi
21 days** beginning with the day after the date of creation of the char
delivered outside of the 21 days it will be rejected unless it is accomp
court order extending the time for delivery.

You **must** enclose a certified copy of the instrument with this form. TI
scanned and placed on the public record. **Do not send the original.**

WEDNESDAY
WEC

1 Company details

Company number 0 0 0 1 4 2 5 9

Company name in full HSBC BANK PLC ✓

84 For official use

→ **Filling in this form**
Please complete in typescript or in
bold black capitals.

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date d 1 d 8 m 0 m 6 y 2 y 0 y 1 y 9

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge.

Name LME CLEAR LIMITED ✓

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below.

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge.

MR01

Particulars of a charge

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.

Brief description

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".

Please limit the description to the available space.

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.

☒ **Yes**

☐ **No**

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box.

☒ **Yes** Continue

☐ **No** Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ **Yes**

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☒ **Yes**

☐ **No**

8

Trustee statement ^①

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.

☐

^① This statement may be filed after the registration of the charge (use form MR06).

9

Signature

Please sign the form here.

Signature

Signature

X

AOW Farham

X

This form must be signed by a person with an interest in the charge.

MR01

Particulars of a charge



Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name MARK THOMAS

Company name LME CLEAR LIMITED

Address 10 FINSBURY SQUARE

Post town LONDON

County/Region

Postcode E C 2 A 1 A J

Country UK

DX

Telephone 02071138506



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have included a certified copy of the instrument with this form.
- ☐ You have entered the date on which the charge was created.
- ☐ You have shown the names of persons entitled to the charge.
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☐ You have given a description in Section 4, if appropriate.
- ☐ You have signed the form.
- ☐ You have enclosed the correct fee.
- ☐ Please do not send the original instrument; it must be a certified copy.



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House.'



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

For companies registered in England and Wales:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.

For companies registered in Scotland:

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post).

For companies registered in Northern Ireland:

The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG.
DX 481 N.R. Belfast 1.



Further information

For further information, please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 14259

Charge code: 0001 4259 0084

The Registrar of Companies for England and Wales hereby certifies that a charge dated 18th June 2019 and created by HSBC BANK PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th June 2019.

8

Given at Companies House, Cardiff on 2nd July 2019



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**



Security Agreement

New York Law

Certified to be a true copy
of the original
Name MARK THOMAS, SOLICITOR, 10 FINSBURY SQUARE, LONDON
Signature M. Thomas
Date 18/6/2019

DATED June 2019

HSBC Bank Plc

(as Member)

- and -

LME CLEAR LIMITED

(as Secured Party)

**SECURITY AGREEMENT
(NEW YORK LAW)**



CONTENTS

1.	DEFINITIONS AND INTERPRETATION	3
2.	COVENANT TO PAY SECURED OBLIGATIONS	7
3.	GRANT OF SECURITY	7
4.	CLIENT ACCOUNTS	9
5.	ADDITIONAL OR SUBSTITUTED SECURITIES	10
6.	HOLDING OF PLEDGED PROPERTY	10
7.	RESTRICTION ON RETURN OF PLEDGED PROPERTY AND DEFAULT FUND CONTRIBUTIONS	10
8.	CERTIFICATES, INSTRUMENTS AND VOTING RIGHTS	11
9.	COLLECTION OF RECEIVABLES	11
10.	NEGATIVE PLEDGE AND OTHER RESTRICTIONS	12
11.	REPRESENTATIONS, WARRANTIES AND COVENANTS	12
12.	PAYMENT OF CALLS AND EXPENSES	14
13.	CONTINUING SECURITY	14
14.	REMEDIES UPON DEFAULT	15
15.	POWERS EXERCISABLE BY LME CLEAR	22
16.	FURTHER ASSURANCE	23
17.	INDEMNITY	23
18.	INTEREST ON OVERDUE AMOUNTS	23
19.	CURRENCY INDEMNITY	23
20.	PROTECTION OF THIRD PARTIES	23
21.	PROTECTION OF LME CLEAR	24
22.	POWER OF ATTORNEY	25
23.	REIMBURSEMENT OF EXPENSES	25
24.	STAMP DUTY AND REGISTRATION FEES	25
25.	LIEN	26
26.	SET-OFF	26
27.	RETURN OF PLEDGED PROPERTY	26
28.	THIRD PARTY RIGHTS	27
29.	DETERMINATIONS AND DISCRETIONS	27
30.	TRANSFER	27
31.	FORBEARANCE, SEVERABILITY, AMENDMENTS, SURVIVAL	27
32.	DEMANDS AND NOTICES	28
33.	GOVERNING LAW AND JURISDICTION	28
34.	COUNTERPARTS	29



SECURITY AGREEMENT is dated as of ¹⁸ June 2019

BETWEEN:

- (1) **HSBC Bank Plc**, a company incorporated in insert jurisdiction (registered number 00014259) whose registered office is at 8 Canada Square, London, E14 (the "**Member**"); and
- (2) **LME Clear Limited**, a company incorporated in England and Wales (registered number 7611628) whose registered office is at 10 Finsbury Square, London, EC2A 1AJ ("**LME Clear**").

WHEREAS:

The Member is or proposes to become a member in the clearing system operated by LME Clear and has agreed to execute and deliver this Agreement for the purpose of securing its obligations and liabilities to LME Clear under the Member Documentation.

WITNESSES as follows:**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Words and phrases defined, and principles of interpretation provided for, in the Rules shall, unless the context otherwise requires or unless otherwise redefined in this Agreement, have the same meaning and shall apply (as the case may be) in this Agreement.
- 1.2 In this Agreement, except insofar as the context otherwise requires, the following words and phrases shall have the following meanings:

"Agreement" means this Agreement, including its recitals and schedules, as amended in accordance with its terms from time to time.

"Cash Collateral" means all sums of money from time to time provided by or on behalf of the Member to LME Clear in cash by way of Collateral (pursuant to the Rules), including all interest added to such sums (pursuant to the Rules), or so much of such sums as may be repayable to the Member under the Rules (and the debts represented thereby) and all money or funds received from money so provided or from sums so repayable.

"Custodian" means any Person appointed from time to time by LME Clear to act as its bank, custodian, global custodian, account operator, securities intermediary, commodity intermediary and/or other intermediary in relation to any Pledged Property, including its branches and affiliates providing custody or similar services to LME Clear and also including any additional or substitute custodian which LME Clear may designate from time to time and any agent, nominee or sub-custodian acting for LME Clear or any such Custodian.

"Default Fund Contributions" means all sums of money or other forms of property or assets from time to time provided by or on behalf of the Member to LME Clear by way of contribution to the Default Fund (pursuant to the Rules), including interest added to such sums (pursuant to the Rules), or so much of such sums as may be repayable to the Member under the Rules (and the debts represented thereby), and all money or funds received from money or other assets so provided or from sums so repayable.

"Enforcement Event" means:

- (a) a Default Event occurs in respect of the Member; or



- (b) the provisions for allocation of an excess loss under Rule 10 (*Default waterfall and allocation of any excess loss of the Rules*) come into operation, where and to the extent that such provisions in force from time to time permit an application of Default Fund Contributions towards the discharge of such excess loss.

"Equivalent Collateral" means:

- (a) in relation to Securities, Securities of the same issuer or debtor, forming part of the same issue or class and of the same nominal amount, currency and description; and
- (b) in relation to Precious Metal, the crediting of the same amount of Precious Metal to an Unallocated Account in New York.

"Indemnitees" has the meaning given to it in clause 18.

"Lien" means:

- (a) any security interest, mortgage, charge (whether fixed, floating or otherwise), pledge, assignment (whether or not expressed to be by way of security), hypothecation, lien, attachment, encumbrance or other adverse claim whatsoever, howsoever created or arising, and whether consensual or arising by operation of law;
- (b) any deferred purchase, title retention, trust, sale-and-repurchase, sale-and-leaseback, hold back arrangement or right of set-off; and
- (c) any other agreement or arrangement whatsoever having the same or a similar commercial or economic effect as security,

and any agreement to grant or otherwise providing for any of the foregoing.

"Loss" includes any loss, liability, damage, cost, claim or expense of any kind or nature, whether direct, indirect, special, consequential or otherwise (including any loss of business, loss of goodwill, loss of profit, and business interruption or other loss).

"LME Clear" has the meaning set forth in the heading of this Agreement, and in any event includes any transferee or successor (whether immediate or derivative) of LME Clear and any Person with which it may merge or be consolidated, whether or not it is the surviving entity.

"LME Clear Member" means, at any time, any Person that has been admitted by LME Clear as a Member of LME Clear System pursuant to the Rules and that has not withdrawn or been removed in such capacity.

"LME Clear System" means the clearing house operated by LME Clear and the services provided by it pursuant to the Rules.

"Membership Agreement" means the agreement for the time being in force between LME Clear and the Member relating to its participation in the LME Clear System, in which amongst other things the Member agrees to be bound by the Rules.

"Person" means any individual, corporation, company, voluntary association, partnership, limited liability company, joint venture, trust, unincorporated organization, governmental authority or other entity of whatever nature.

"Pledge Agreements" means the deed(s) of charge, pledge agreement(s) and security agreement(s) made or to be made between the Member and LME Clear pursuant to clause 3.2.



"Pledged Property" has the meaning given to that term in clause 3.1.

"Pledged Securities" means all Securities in which a security interest in favor of LME Clear is granted under clause 3.2.

"Powers" means, in relation to LME Clear, its powers, discretions and rights under this Agreement or any other document (including any Member Documentation) or under general law.

"Precious Metal" means gold and any other precious metal(s) which may from time to time be approved by LME Clear as Eligible Collateral.

"Precious Metal Collateral" means amounts of Precious Metal now or in the future provided by the Member to LME Clear by way of Collateral (including where such Collateral is provided by credit to an Unallocated Account, all rights and entitlements represented by such credit entry), or so much of such amounts as may be returnable to the Member under the Rules.

"Receivables" means all Accounts and payment intangibles arising from Pledged Property and all proceeds of the foregoing, and in any event shall include all money receivable by the Member now or in the future under or by virtue of the Pledged Property.

"Rules" means the rules and procedures established by LME Clear which are from time to time in force in relation to LME Clear Members, including the Member.

"Security Document" means:

- (a) this Agreement;
- (b) any Pledge Agreement;
- (c) any other agreement creating or purporting to create or provide for perfection of a Security Interest by the Member in favor of LME Clear to secure any Secured Obligation; or
- (d) any other agreement or document designated as such by the Member and LME Clear.

"Secured Obligations" means all money and liabilities whatsoever now or in the future (whether before or after the occurrence of a Default Event) due, owing or incurred by the Member to LME Clear (whether solely or jointly, or jointly and severally, with another or others, whether as principal or surety, whether actual or contingent, present or future and whether incurred previously, contemporaneously or in the future), under or in connection with the Member Documentation and also including (whether before or after any judgment) all interest, costs and other charges whatsoever including (with effect from the time of their transfer) any obligations, money and liabilities due, owing or incurred to LME Clear which are assumed by the Member in respect of any Client Account transferred to the Member under clause 4.3, and excludes (with effect from the time of their release) any obligations, money and liabilities to LME Clear from which the Member is released under clause 4.4, in each case whether direct, contingent or otherwise, and in whatever currency the same may be denominated. **"Secured Obligations"** in any event shall include, without limitation, all interest, fees, indemnities and other amounts that would have accrued but for the commencement of any proceeding for bankruptcy, insolvency, liquidation, administration, reorganization or comparable matters in any jurisdiction, whether or not allowed in such proceeding.

"Securities" means all investment property as that term is defined in the UCC, and in any event shall include, without limitation:

- (a) all stocks, shares, membership interests, partnership interests, units, debentures, notes, bonds, warrants and other investments, depositary receipts, government securities or other securities of any description, whether certificated or uncertificated and whether in registered or bearer form, including all book entry Securities;
- (b) all rights, benefits, money or property of any nature now or in the future accruing or offered in respect of the foregoing, including all additional or replacement shares, whether from stock splits or otherwise, and all rights or benefits arising from consolidation, conversion, exchange, option, preference, redemption, return of capital or in any other way;
- (c) all dividends, earnings, interest, fees and other distributions from time to time arising from any of the foregoing;
- (d) all rights under any subscription agreements, indentures, offering circulars, organization documents and other agreements, instruments and documents relating to the foregoing or the issuer thereof;
- (e) all certificates, promissory notes, instruments and other writings evidencing any of the foregoing;
- (f) all security entitlements in and commodity contracts relating to any of the foregoing; and
- (g) all proceeds of any of the foregoing.

"Tax" means:

- (a) all forms of tax, levy, impost, contribution, duty, liability and charge in the nature of taxation and all related withholdings or deductions of any nature (including any value added tax or similar tax); and
- (b) all related fines, penalties, charges and interest.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York.

"Unallocated Account" means, in relation to a Precious Metal, an account held by LME Clear with a member of such commodities exchange or market as LME Clear may select in the name of LME Clear recording the amount of such Precious Metal which such member has a contractual obligation to transfer to LME Clear (or, in the case of a debit balance, which LME Clear has a contractual obligation to transfer to such member).

"United States" means the United States of America, including each of its states, territories, possessions, associated commonwealths and the District of Columbia.

- 1.3 The provisions of Rule 1.2 (*Interpretation*) shall apply to this Agreement as if repeated in full in this Agreement with the necessary consequential changes
- 1.4 In this Agreement, references to **"book entry Securities"** mean Securities, the ownership of which is evidenced by entries in a register or account maintained by or on behalf of an issuer or a securities intermediary; and references to **"account debtor"**, **"certificated security"**, **"chattel paper"**, **"commodity"**, **"commodity intermediary"**,



"deposit account", "entitlement holder", "financial asset", "instrument", "investment property", "located", "payment intangible", "proceeds", "registered organization", "security entitlement", "securities intermediary" and "uncertificated security" have the meaning given to those terms in the UCC; and references to **"property"** include any interest (legal or equitable) in personal property, tangible or intangible, and any chose in action. The term **"Account"**, when beginning with a capital "A" and not with a lower case "a", and not used in another defined term (such as "House Account", "Client Account" or "Unallocated Account") has the meaning given to the term "account" in the UCC.

- 1.5 Any reference to this Agreement, any Member Documentation or any other document shall be construed as a reference to this Agreement, such Member Documentation or such other document (including their respective schedules) as the same may from time to time be amended, varied, supplemented, novated, replaced or restated and shall include any document which is supplemental to, or is expressed to be collateral to, or is entered into pursuant to or in accordance with the terms of, this Agreement or (as the case may be) any Member Documentation or such other document.
- 1.6 Unless the context requires otherwise, any reference to a clause or a schedule shall be to a clause or schedule of this Agreement.
- 1.7 Unless the context requires otherwise, the term "including" shall mean "including without limitation".

2. COVENANT TO PAY SECURED OBLIGATIONS

- 2.1 The Member covenants with LME Clear that it will duly and punctually perform, pay or discharge each Secured Obligation.
- 2.2 The Member confirms and agrees that it is liable as principal to LME Clear in respect of all transactions to which the Rules apply, whether (in LME Clear's books of account) such transactions be recorded on House Account or Client Account of the Member or otherwise.
- 2.3 The Member agrees that, upon the occurrence of any Enforcement Event, all amounts that may be or become due under the Member Documentation shall automatically be deemed to have become due for all purposes of this Agreement.

3. GRANT OF SECURITY

- 3.1 As continuing security for the payment and performance when due (whether at stated maturity, by acceleration or otherwise) of each of the Secured Obligations, the Member hereby grants, transfers and assigns to LME Clear a security interest in, general lien on and right of set-off against, all of its right, title and interest in and to the following, in each case whether now owned or hereafter acquired, whether now existing or hereafter arising and wherever located:
 - (a) all Securities now or in the future provided as Collateral or Default Fund Contributions by or on behalf of the Member to LME Clear or its Custodian and held or to be held by LME Clear or its Custodian in the United States, including all proceeds, wherever held, of sale of such Securities;
 - (b) all book entry Securities (to the extent not already subject to a security interest under paragraph (a) above) now or in the future provided as Collateral or Default Fund Contributions by or on behalf of the Member to LME Clear or its Custodian and held or to be held by LME Clear or its Custodian in the United States, including all security entitlements therein;



- (c) all Precious Metal Collateral now or in the future provided by or on behalf of the Member to LME Clear or its Custodian and held or to be held by LME Clear or its Custodian in the United States;
- (d) all other property deliverable to the Member by or on behalf of LME Clear (pursuant to the Member Documentation);
- (e) any Collateral or Default Fund Contributions transferred to the Member together with a Client Account under clause 4.3;
- (f) all of the Member's rights to the return of investment property, Precious Metal Collateral, Equivalent Collateral and other property from LME Clear by reason of deliveries thereof to LME Clear pursuant to the Rules, the Member Documentation or this Agreement;
- (g) all rights, benefits, claims, causes of action, choses in action and other interests now or in the future accruing at any time in respect of the property in which a security interest is granted under paragraphs (a) through (f) above, including any dividend, distribution or interest;
- (h) to the extent evidencing, arising from or giving rise to any of the foregoing, all of the Member's right, title and interest in and to all Receivables (including all Accounts and payment intangibles), documents, instruments, investment property and payment intangibles;
- (i) all books and records of the Member evidencing or relating to any of the foregoing; and
- (j) all earnings on and other proceeds of any of the foregoing, whether such proceeds are in the form of money, instruments, investment property, Accounts, payment intangibles, chattel paper or otherwise;

all of the foregoing being collectively called the **"Pledged Property"**; provided that the term "Pledged Property" shall exclude (with effect from the time of its release) any Pledged Property released under clause 4.4.

- 3.2 The Member shall, forthwith upon the execution of this Agreement, execute and deliver to LME Clear such additional pledge, security or charge agreements or deeds in such form as LME Clear may require if the Member wishes to provide Pledged Property at a location inside the United States of America (other than in the State of New York).
- 3.3 Without prejudice to the other provisions of this Agreement (including under clause 10) and any Member Documentation, and in particular without prejudice to any Enforcement Event that would occur thereby, the Member shall ensure that if any Pledged Property becomes subject to any attachment or other Lien, whether voluntary or involuntary (except in favor of LME Clear) such attachment or other Lien shall be expressed to be subject to this Agreement and shall rank junior in priority in all respects to the Liens created by the Security Documents.
- 3.4 If the Member ceases to be an LME Clear Member, upon its written request and at its expense after all Secured Obligations have been indefeasibly paid and discharged in full to LME Clear (or, if contingent, have wholly ceased to be capable of arising) and after the Member has become entitled under the Rules to request the release of such security interest, LME Clear shall release and discharge all Pledged Property from the security interests created by this Agreement, and shall cause the remaining Collateral or, at LME Clear's option, Equivalent Collateral to be transferred to the Member.



- 3.5 All rights of LME Clear hereunder, the security interest in the Pledged Property and all obligations of the Member hereunder shall be absolute, irrevocable and unconditional in all respects and remain in full force and effect without regard to, and shall not be impaired by:
- (a) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like of the Member;
 - (b) any lack of authorization, legality, validity or enforceability of the Membership Agreement, any Member Documentation or any other agreement or instrument relating to any of the foregoing;
 - (c) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of any consent to any departure from the Membership Agreement, any Member Documentation or any other agreement or instrument;
 - (d) any exchange, release or non-perfection of any Lien or any other collateral, or any release or amendment or waiver of or consent under or departure from any guarantee, securing or guaranteeing all of any of the Secured Obligations; or
 - (e) any other circumstances that might otherwise constitute a defense available to, or a discharge of, the Member in respect of the Secured Obligations or this Agreement. In no event shall LME Clear be obligated to exercise any right or remedy against any other Person obligated with respect to, or any other collateral security for, the Secured Obligations prior to exercising its rights with respect to the Pledged Property.
- 3.6 The Member agrees that LME Clear shall be the sole entitlement holder of all security entitlements that constitute Pledged Property and the sole Person who can give instructions with respect to the disposition of any Precious Metal Collateral.
- 3.7 The Member has executed a security deed (governed by English law) in favor of LME Clear on or about the same date as this Agreement pursuant to which the Member grants (or purports to grant) a security interest over the Pledged Property and to the extent that such security deed creates an effective security interest over any of the Pledged Property, the security interest provided for in this Agreement shall take priority, and to the extent there is any inconsistency between the provisions of this Agreement and such security deed in relation to any Pledged Property, this Agreement shall take precedence.
- 4. CLIENT ACCOUNTS**
- 4.1 The security interests provided for in clause 3.1 shall apply to all Pledged Property whenever arising, including all Collateral, whenever arising, provided in respect of each Client Account of the Member.
- 4.2 All money received or realized under the Powers conferred by this Agreement shall be applied for the purposes and in the manner determined by LME Clear in accordance with the Rules. If LME Clear maintains in its books of account one or more House Accounts and one or more Client Accounts for the Member, such money shall be allocated and applied by LME Clear in the proportions and subject to the restrictions on the use of Collateral provided on House Account and Client Account applicable under the Rules.

- 4.3 If a Client Account of a Member Transferor and Collateral provided by it for such Client Account are validly transferred to the Member (as a Member Transferee) in accordance with Rule 10.7 (*Portability of Client Accounts*) of the Rules and Part D (*Porting Procedure*) of the Default Procedures of the Rules, then, immediately upon such transfer taking effect, all present and future obligations, money and liabilities due, owing or incurred to LME Clear under or in connection with such Client Account will be secured by the security interest set forth in clause 3.1 and all present and future Collateral provided in respect of such Client Account shall be Pledged Property and subject to the security interest provided in this Agreement in favor of LME Clear.
- 4.4 If a Client Account of the Member and Collateral provided by it for such Client Account are validly transferred to a Member Transferee in accordance with Rule 10.7 (*Portability of Client Accounts*) of the Rules and Part D (*Porting Procedure*) of the Default Procedures of the Rules, then, upon such Client Account and Collateral being validly transferred to the Member Transferee and such Collateral becoming subject to a valid, first priority security interest granted by the Member Transferee in favor of LME Clear on the same terms as applicable under clause 3.1, the obligations, money and liabilities due, owing or incurred to LME Clear in respect of such Client Account shall cease to form part of the Secured Obligations and such Collateral will be released from the security interests granted in clause 3.1.

5. **ADDITIONAL OR SUBSTITUTED SECURITIES**

- 5.1 If at any time the Member deposits, delivers or transfers any further or other Securities with or to LME Clear or its Custodian or to an account of LME Clear or its Custodian in substitution for or in addition to the Pledged Securities, such Securities will immediately become part of the Pledged Securities for all purposes of this Agreement and will be subject to the security interest and other provisions contained in this Agreement.
- 5.2 All further or new Securities (whether by way of stock split, coupon, reissuance, redenomination, conversion, merger, reconstruction or otherwise) which may be issued in respect of any Pledged Securities shall be deposited with and delivered to LME Clear or its Custodian or as LME Clear may direct, and will immediately become part of the Pledged Securities for all purposes of this Agreement and will be subject to the security interest and other provisions contained in this Agreement.

6. **HOLDING OF PLEDGED PROPERTY**

- 6.1 The Member shall deliver to LME Clear all Pledged Property in such manner as LME Clear may direct, and in the case of Securities, in any event in satisfaction of all requirements for "delivery" within the meaning of that term in Article 8 of the UCC.
- 6.2 At all times during the term of this Agreement, LME Clear shall be entitled to maintain sole and exclusive possession and control of all Pledged Property, in such deposit accounts, securities accounts, commodity accounts and other accounts of LME Clear and in the sole name of LME Clear as LME Clear in its sole discretion may determine. LME Clear shall be the sole entitlement holder of all security entitlements and the sole holder of all commodity contracts constituting Pledged Property. Without limiting the generality of the foregoing, and anything to the contrary in the Uniform Commercial Code Section 9-207(c)(2) notwithstanding, Member agrees that LME Clear will not be required to apply money or funds received from other Pledged Property to reduce the Secured Obligations at any time while Member remains an LME Clear Member, or before such application will fully satisfy the Secured Obligations.

7. **RESTRICTION ON RETURN OF PLEDGED PROPERTY AND DEFAULT FUND CONTRIBUTIONS**

- 7.1 The Member acknowledges that, by deposit, delivery and transfer to LME Clear or its Custodian of any Pledged Securities or Precious Metal Collateral under the Rules, the



Member relinquishes all claims to a proprietary interest in any security entitlement or commodity contract held by LME Clear or its Custodian in its own account, and instead has only a claim against LME Clear for return and delivery to the Member of such Pledged Securities and Precious Metal Collateral (or, in each case, at LME Clear's option, Equivalent Collateral) only at the times and in the amounts expressly provided for in the applicable provisions of the Rules.

- 7.2 Where Precious Metal is provided by the Member to LME Clear as an entitlement (including unallocated Precious Metal on Unallocated Account), LME Clear may freely use and apply the amount so provided to it in acquiring actual Precious Metal (including allocated Precious Metal), all of which LME Clear shall hold as legal and beneficial owner (free of any rights or interest of the Member or any third party).

8. CERTIFICATES, INSTRUMENTS AND VOTING RIGHTS

- 8.1 Promptly upon any request by LME Clear therefor from time to time, the Member shall:

- (a) deliver, within the meaning of that term in Article 8 of the UCC, to LME Clear (or as it may direct), and LME Clear shall be entitled to retain during the term of this Agreement, all certificates relating to certificated securities, all promissory notes and other instruments, and any other agreements and documents relating to Pledged Property, in each case together with such indorsements, in blank or otherwise, as LME Clear may request; and
- (b) execute and deliver to LME Clear such agreements, instruments and other documents, give such instructions and perform such other acts as LME Clear may require at any time to attach, perfect or preserve the priority of the Liens contemplated by this Agreement and otherwise to further effect the purposes of this Agreement.

- 8.2 If any Pledged Securities carry voting rights, then, unless and until an Enforcement Event occurs and is continuing or LME Clear otherwise directs in any case:

- (a) such voting rights shall continue to be exercised by the Member for so long as it remains the registered owner of the relevant Pledged Securities; and
- (b) if the relevant Pledged Securities are registered in the name of LME Clear or its Custodian, such voting shall be exercised in accordance with the instructions in writing from time to time received from the Member and (in the absence of any such written instructions) the registered holder shall refrain from exercising any such rights;

provided that if an Enforcement Event has occurred and is continuing, or if LME Clear otherwise directs, all of the foregoing rights of the Member shall automatically cease, and LME Clear alone shall be entitled to exercise all such voting rights in lieu of the Member.

9. COLLECTION OF RECEIVABLES

- 9.1 All dividends, interest and other income derived from Pledged Property shall be credited initially to such cash account of LME Clear or its Custodian as LME Clear shall decide, and shall thereafter be transferred to an Account of the Member as LME Clear shall decide, including such an Account so that the transferred credit balance forms part of the Cash Collateral for all purposes of the Rules.
- 9.2 The Member shall collect and realize any other Receivables and pay to such account with such bank as LME Clear may direct all money which it may receive in respect of



such Receivables forthwith on receipt. Each such account shall be operated by the relevant bank solely on the instructions of LME Clear.

- 9.3 If the Member receives any money, Securities or other property in respect of a Receivable, it shall hold such money in trust for LME Clear and shall immediately deliver the same to LME Clear in the form in which the same were received, without set-off, counterclaim or deduction of any kind.

10. **NEGATIVE PLEDGE AND OTHER RESTRICTIONS**

The Member shall not, without the prior written consent of LME Clear:

- (a) other than in favor of LME Clear, create, or agree or attempt to create, or permit to exist, any Lien (whether voluntary or involuntary) or any trust over any Pledged Property;
- (b) sell, transfer or otherwise dispose of any part of the Pledged Property or any of its right, title or interest therein;
- (c) withdraw, or attempt to withdraw, any Pledged Property from LME Clear or from any account with a Custodian, except if and insofar as expressly permitted by LME Clear; or
- (d) consent to any Pledged Securities being consolidated, sub-divided or converted or any rights attaching to them being varied, or to any uncertificated Pledged Securities being converted into certificated Pledged Securities (or vice versa).

11. **REPRESENTATIONS, WARRANTIES AND COVENANTS**

11.1 The Member represents and warrants to, and covenants with, LME Clear that:

- (a) the Member is a corporation, limited liability company or other entity as set forth in Schedule A, duly organized, validly existing and in good standing under the laws the jurisdiction set forth in Schedule A, and has full power, authority and legal right to own its properties and to conduct its business;
- (b) the Member has the full power, authority and legal right to execute, deliver and perform this Agreement; this Agreement has been duly authorized by all necessary action on the part of the Member and, to the extent required, by the shareholders, members and other equity holders of the Member;
- (c) this Agreement has been duly executed and delivered by the Member and constitutes the legal, valid and binding obligation of the Member, enforceable against the Member in accordance with its terms, except as enforceability may be subject to bankruptcy, insolvency, reorganization and other similar laws affecting creditors' rights generally, and subject to general principles of equity;
- (d) this Agreement creates a valid, perfected, first-priority security interest in all present and future Pledged Property, subject to no other Lien whatsoever (save any Lien in favor of LME Clear);
- (e) all Securities are or will (at the time of their becoming part of the Pledged Securities and at all times thereafter) be fully paid and non-assessable;
- (f) the Member has obtained all authorizations, consents, approvals and licenses of, and has made all registrations and filings with, any governmental or regulatory body required in connection with execution, delivery or performance of this Agreement and all such authorizations, consents, approvals, licenses, registrations and filings are in full force and effect;



- (g) the execution, delivery and performance of this Agreement do not, and will not, violate any law, regulation, ordinance, judgment, charter, by-law or rule applicable to the Member or any of its property or assets, or any agreement by which it is bound or by which any of its property or other assets are affected;
- (h) the Member is acting as principal in entering into this Agreement and performing its obligations hereunder and not as agent, trustee or other representative on behalf of any other Person; without limiting the generality of the foregoing, no portion of the funds or other property constituting Pledged Property or otherwise delivered to LME Clear pursuant to this Agreement will constitute assets of any employee benefit plan or similar entity or arrangement, nor will any such property be subject to any claim by the Pension Benefits Guaranty Corporation, the Internal Revenue Service or any other governmental authority, whether in the United States or elsewhere;
- (i) at the time of transfer of any Pledged Property to LME Clear or its Custodian, the Member was or will be, as the case may be, the sole legal and beneficial owner thereof, and has or will have, as the case may be, good title thereto, free and clear of any and all Liens whatsoever other than the security interest created by this Agreement;
- (j) the Member has, and will continue to keep, in force with each of its Clients an agreement under which the Member is expressly entitled, with respect to any property or other assets from time to time held by the Member or delivered to the Member by or for the account of any such Client, to charge, mortgage or pledge (as owner) such property or assets in favor of LME Clear (free of any Lien in favor of such Client) to secure the discharge of the Secured Obligations;
- (k) neither the Member nor any Client of the Member or other Person is or will be in breach of any trust or other fiduciary duty as result of the pledging, or authorizing the pledging of any Pledged Property under any Security Document;
- (l) all Pledged Property is free from any restriction on transfer (except for the restrictions contained in this Agreement), and the Member shall ensure that, to the fullest extent within the Member's control, all Pledged Property will at all times remain free from any restriction on transfer (except for the restrictions contained in this Agreement);
- (m) the Member is not required to register as an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and is not otherwise subject to regulation under said Act;
- (n) the exact legal name of the Member, as established in its charter or other organizing documents, is as set forth in Schedule A;
- (o) the Member is or is not a "registered organization", as set forth on Schedule A;
- (p) the Member is "located" (within the meaning of Section 9-307 of the UCC) in the jurisdiction identified in Schedule A;
- (q) the chief executive office and principal place of business of the Member are as set forth in Schedule A;
- (r) the Member has no place of business in the United States of America other than as set forth in Schedule A;
- (s) the Member does not go by any trade name, "doing business as" or any other name, other than as set forth in Schedule A;



- (t) the Member has not merged or consolidated with or into any other Person during the period of five years prior to each date on which this representation and warranty is made, except as set forth in Schedule A; and
 - (u) none of the Pledged Property is or will become responsible for any tax obligations of the Member in any jurisdiction.
- 11.2 The representations, warranties and covenants contained in clause 11.1 shall be made on the date on this Agreement and deemed to be repeated by the Member on each day on which any Pledged Property is transferred or otherwise provided by or on behalf of the Member to LME Clear or its Custodian.
- 11.3 The Member agrees that it will not take any action that would cause or otherwise permit any of the statements in clause 11.1(m) through (t) to cease to be correct without giving LME Clear at least thirty (30) days' prior written notice thereof. The Member will, promptly upon any request therefor by LME Clear from time to time, take such further actions as may be necessary to preserve the attachment, perfection and first priority of the Liens contemplated by this Agreement and otherwise to further effect the purposes of this Agreement.
- 11.4 The Member hereby irrevocably authorizes LME Clear at any time and from time to time to file:
- (a) any financing statements (and any amendments thereto) and continuation statements in any applicable filing office in any relevant Uniform Commercial Code jurisdiction and provide any other information required by part 5 of Article 9 of the UCC or of the Uniform Commercial Code of any other jurisdiction for the sufficiency or filing office acceptance of any financing statement, amendment or continuation statement; and
 - (b) all other documents as are reasonably necessary or appropriate in the reasonable opinion of LME Clear to establish and maintain a valid, enforceable, perfected security interest in the Pledged Property as provided herein and the first priority thereof and the other rights and Liens contemplated hereby, without the signature of the Member where permitted by law.

12. PAYMENT OF CALLS AND EXPENSES

The Member shall promptly pay all calls, fees, charges, fines, rents, storage fees, lease payments, costs, expenses and other amounts of any kind which may become due in respect of any Pledged Property or any actual, or allocated, Precious Metal converted from entitlements to, or unallocated, Precious Metal provided by the Member as Pledged Property. If the Member defaults in doing so, LME Clear shall be entitled to pay them and the Member shall reimburse LME Clear on demand in relation to any such payment made by LME Clear, and in any event the amount of any such payment made by LME Clear shall be added to and form part of the Secured Obligations.

13. CONTINUING SECURITY

The security interests created by this Agreement are continuing security interests, and shall remain in full force and effect notwithstanding any intermediate payments of Secured Obligations or settlements of accounts, and notwithstanding that from time to time there may be no Secured Obligations outstanding, and notwithstanding any other matter or circumstance whatever, and shall be in addition to and shall not prejudice or be prejudiced by any right of set-off, combination, lien, pledge or other rights exercisable by LME Clear against the Member or any security, guarantee, indemnity and/or instrument now or in the future held by LME Clear.



14. REMEDIES UPON DEFAULT

14.1 The Member agrees that, on or after the occurrence of an Enforcement Event, then and in every such case, LME Clear, in addition to any rights now or hereafter existing under applicable law and under the other provisions of this Agreement, shall have all rights as a secured party under the Uniform Commercial Code in effect at such time in all relevant jurisdictions, and such additional rights and remedies to which a secured creditor is entitled under the laws in effect in all relevant jurisdictions, and, without limiting the foregoing, in any event may:

- (a) To the extent that any Pledged Property is not already in the possession and control of LME Clear, personally, or by agents or attorneys, immediately take possession and control of the Pledged Property or any part thereof, from the relevant Member or any other Person who then has possession or control of any part thereof with or without notice or process of law, and for that purpose (i) LME Clear or its agents or representatives may enter upon the Member's premises where any of the Pledged Property (including books and records relating to the Pledged Property) is located and remove the same and use in connection with such removal any and all services, supplies, aids and other facilities of the Member, and (ii) the Member, at the request of LME Clear, shall assemble and make available the Pledged Property, or provide access thereto, or deliver the Pledged Property, to the place or places designated by LME Clear;
- (b) instruct the issuer(s), account debtor(s) and any other obligor or obligors on any agreement, instrument, Security or other obligation constituting the Pledged Property to make any payment required by the terms of such agreement, instrument, Security or other obligation directly to LME Clear, and may exercise any and all remedies of the relevant Member in respect of such Pledged Property;
- (c) instruct all banks, securities intermediaries and commodity intermediaries, if any, which have entered into a control agreement with LME Clear to take instructions exclusively from LME Clear and/or to transfer all monies, Securities, commodities and instruments constituting Pledged Property held by such bank, securities intermediary or commodity intermediary to such account as LME Clear shall instruct such Persons;
- (d) sell, assign or otherwise liquidate any or all of the Pledged Property or any part thereof in accordance with clause 14.2, or direct the Member to sell, assign or otherwise liquidate any or all of the Pledged Property or any part thereof, and, in each case, take possession and control of the proceeds of any such sale or liquidation for application in accordance with clause 14.4;
- (e) apply any monies constituting Pledged Property or proceeds thereof in accordance with the provisions of Clause 14.4; and
- (f) take any other action as specified in the UCC, including clauses (1) through (5), inclusive, of Clause 9-607(a) of the UCC,

it being understood that the Member's obligation to so deliver or to cause the delivery of the Pledged Property is of the essence of this Agreement and that, accordingly, upon application to a court of equity having jurisdiction, LME Clear



shall be entitled to a decree requiring specific performance by the Member of said obligation.

14.2 If an Enforcement Event shall have occurred, then:

- (a) any Pledged Property in the possession or control of LME Clear, or repossessed by LME Clear under or pursuant to clause 14.1, and any other Pledged Property, wherever located, may be sold, assigned, exchanged, leased, subparticipated or otherwise disposed of under one or more contracts, in pieces or as an entirety, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner, at such time or times, at such place or places and on such terms as LME Clear may, in compliance with any mandatory requirements of applicable law, determine to be commercially reasonable;
- (b) any of the Pledged Property may be sold, assigned, exchanged, leased, participated or otherwise disposed of in the condition in which the same exists at the time, without any requirement that LME Clear remedy any damage to, or missing documents for, the Pledged Property;
- (c) any such sale, lease, exchange, participation or other disposition may be effected by means of a public disposition or private disposition, effected in accordance with the applicable requirements (in each case if and to the extent applicable) of Clauses 9-610 through 9-613 of the UCC and/or such other mandatory requirements of applicable law as may apply to the respective disposition;
- (d) LME Clear may, without notice or publication, adjourn any public or private disposition or cause the same to be adjourned from time to time by announcement at the time and place fixed for the disposition, and such disposition may be made at any time or place to which the disposition may be so adjourned;
- (e) to the extent permitted by any such requirement of law, LME Clear may bid for and become the purchaser (and may pay all or any portion of the purchase price by crediting Secured Obligations against the purchase price) of the Pledged Property or any item thereof, offered for disposition in accordance with this clause 14.2 without accountability to the Member;
- (f) if, under applicable law, LME Clear shall be permitted to make disposition of the Pledged Property within a period of time which does not permit the giving of notice to the Member as specified above, LME Clear need give the relevant Member only such notice of disposition as shall be required by such applicable law;
- (g) the Member agrees to do or cause to be done all such other acts and things as may be reasonably necessary to make such disposition or dispositions of all or any portion of the Pledged Property valid and binding and in compliance with any and all applicable laws, regulations, orders, writs, injunctions, decrees or awards of any and all courts, arbitrators or governmental instrumentalities, domestic or foreign, having jurisdiction over any such sale or sales, all at the expense of the Member; and
- (h) at any time when an Enforcement Event has occurred and is continuing, LME Clear or its Custodian, or any agent or representative on behalf of either of them,



may exercise its Powers under this Agreement in relation to all such parts of the Pledged Property in such manner and at such time or times as it thinks fit.

14.3 To the extent that applicable law imposes duties on LME Clear to exercise remedies in a commercially reasonable manner, the Member acknowledges and agrees that it is not commercially unreasonable for LME Clear:

- (a) to fail to inform Member of any decline in the value of Pledged Property;
- (b) to fail to ascertain or inform Member with respect to any maturities, calls, conversions, exchanges, offers, tenders or similar matters relating to Pledged Property;
- (c) to fail to preserve rights in the Pledged Property against third parties;
- (d) to fail to defend Pledged Property against claims and legal proceedings;
- (e) to fail to incur expenses reasonably deemed significant by LME Clear to prepare Pledged Property for disposition;
- (f) to fail to prepare an offering memorandum or to gather investor information about the Pledged Property;
- (g) to fail to take any action that could expose LME Clear to any underwriter or broker/dealer liability in connection with the disposition of the Pledged Property;
- (h) to fail to obtain third party consents for access to Pledged Property to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Pledged Property to be collected or disposed of;
- (i) to fail to exercise collection remedies against account debtors or other Persons obligated on Pledged Property or to fail to remove Liens on or any adverse claims against Pledged Property;
- (j) to fail to register with all applicable state, federal and foreign securities or financial services regulatory authorities any Securities to be disposed of;
- (k) to advertise dispositions of Pledged Property through publications or media of general circulation, whether or not the Pledged Property is of a specialized nature;
- (l) to contact other Persons, whether or not in the same business as the Member, for expressions of interest in acquiring all or any portion of the Pledged Property;
- (m) to hire or fail to hire one or more professional auctioneers to assist in the disposition of Pledged Property, whether or not the collateral is of a specialized nature;
- (n) to dispose of Pledged Property by utilizing Internet sites that provide for the auction of assets of the types included in the Pledged Property or that have the reasonable capability of doing so, or that match buyers and sellers of assets;
- (o) to dispose of assets in wholesale rather than retail markets;



- (p) to disclaim disposition warranties;
- (q) to purchase or fail to purchase insurance or credit enhancements to insure LME Clear against risks of loss, collection or disposition of Pledged Property or to provide to LME Clear a guaranteed return from the collection or disposition of Pledged Property;
- (r) to offer and dispose of the Pledged Property or any portion thereof in markets outside the United States;
- (s) to offer and dispose of the Pledged Property through a receiver or other representative on behalf of the Member; or
- (t) to the extent deemed appropriate by LME Clear, to obtain the services of brokers, investment bankers, consultants and other professionals to assist LME Clear in the collection or disposition of any of the Pledged Property, or to fail to do any of the foregoing.

The Member acknowledges that the purpose of this clause 14.3 is to provide non-exhaustive indications of what actions or omissions by LME Clear would fulfill LME Clear's duties under the UCC or the Uniform Commercial Code of any other relevant jurisdiction in LME Clear's exercise of remedies against the Pledged Property and that other actions or omissions by LME Clear shall not be deemed to fail to fulfill such duties solely on account of not being indicated in this clause 14.3. Without limitation upon the foregoing, nothing contained in this clause 14.3 shall be construed to grant any rights to the Member or to impose any duties on LME Clear that would not have been granted or imposed by this Agreement or by applicable law in the absence of this clause 14.3.

14.4 Except as otherwise provided in this Agreement, THE MEMBER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NOTICE AND JUDICIAL HEARING IN CONNECTION WITH LME CLEAR'S TAKING POSSESSION OR CONTROL OR LME CLEAR'S DISPOSITION OF ANY OF THE PLEDGED PROPERTY, INCLUDING ANY AND ALL PRIOR NOTICE AND HEARING FOR ANY PREJUDGMENT REMEDY OR REMEDIES, and the Member hereby further waives, to the fullest extent permitted by law:

- (a) all damages occasioned by such taking of possession or control or any such disposition except any damages which are the direct result of LME Clear's fraud, gross negligence or willful misconduct;
- (b) all other requirements as to the time, place and terms of sale or other requirements with respect to the enforcement of LME Clear's rights hereunder;
- (c) all rights of redemption, appraisalment, valuation, stay, extension or moratorium now or hereafter in force under any applicable law in order to prevent or delay the enforcement of this Agreement or the absolute sale of the Pledged Property or any portion thereof, and the Member, for itself and all who may claim under it, insofar as it or they now or hereafter lawfully may, hereby waives the benefit of all such laws; and
- (d) demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Pledged Property received or delivered or other action taken in reliance hereon and all other demands and notices of any description.



With respect to both the Secured Obligations and the Pledged Property, the Member assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of or failure to perfect any security interest in any Pledged Property, to the addition or release of any party or Person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as LME Clear may deem advisable. The Member agrees that LME Clear shall have no duty as to the collection or protection of the Pledged Property or any income therefrom, the preservation of rights against prior parties, or the preservation of any rights pertaining thereto beyond the safe custody thereof as set forth in clause 22.5.

- 14.5 Any sale of, or the grant of options to purchase, or any other realization upon, any Pledged Property shall operate to divest all right, title, interest, claim and demand, either at law or in equity, of the relevant Member therein and thereto, and shall be a perpetual bar both at law and in equity against the Member and against any and all Persons claiming or attempting to claim the Pledged Property so sold, optioned or realized upon, or any part thereof, from, through and under the Member.
- 14.6 Any money received or realized under this Agreement shall be paid or applied toward the satisfaction of the Secured Obligations in the manner applicable under the terms of the Membership Agreement and the Rules.
- 14.7 Until all the Secured Obligations have been indefeasibly paid and discharged in full, LME Clear may place and keep to the credit of a suspense account any money received from or realized in respect of the Member's liability under this Agreement. LME Clear shall have no intermediate obligation to apply such money in or towards the discharge of any of the Secured Obligations. Amounts standing to the credit of any such suspense account may, if it is an interest-bearing account, bear interest at a rate considered by LME Clear in good faith to be a fair market rate.
- 14.8 Until all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full, LME Clear may refrain from applying or enforcing any other moneys, Liens or rights held by it in respect of the Secured Obligations or may apply and enforce such moneys, Liens or rights in such manner and in such order as it shall decide in its unfettered discretion.
- 14.9 It is understood that the Member shall remain liable to the extent of any deficiency between the amount of the proceeds of the Pledged Property and the aggregate amount of the Secured Obligations.
- 14.10 No failure to exercise and no delay on the part of LME Clear in exercising any right, remedy, power or privilege under the Member Documentation and no course of dealing between the parties shall be construed or operate as a waiver of that right, remedy, power or privilege, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of it or the exercise of any other right, remedy, power or privilege. Each and every right, power and remedy hereby specifically given to LME Clear shall be cumulative and in addition to every other right, power and remedy specifically given to LME Clear under this Agreement, any Member Documentation or now or hereafter existing at law, in equity or by statute and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time or simultaneously and as often and in such order as may be deemed expedient by LME Clear. All such rights, powers and remedies

- may be exercised singularly, alternatively, successively or concurrently at such time or at such times as LME Clear deems expedient, and the exercise or the beginning of the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No notice to or demand on the Member in any case shall entitle it to any other or further notice or demand in similar or other circumstances or constitute a waiver of any of the rights of LME Clear to any other or further action in any circumstances without notice or demand. The taking of enforcement action by LME Clear on or after the occurrence of an Enforcement Event shall not preclude LME Clear from taking further enforcement action on the occurrence of any other such event or events.
- 14.11 In the event that LME Clear shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then the Member shall pay to LME Clear any and all reasonable expenses, including reasonable attorneys' fees, whether or not the amounts thereof shall be included in such judgment.
- 14.12 In case LME Clear shall have instituted any proceeding (which term shall include, without limitation, the exercise of self-help and other non-judicial remedies) to enforce any right, power or remedy under this Agreement by foreclosure, sale, entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to LME Clear, then and in every such case the Member, LME Clear and each holder of any of the Secured Obligations shall be restored to their former positions and rights hereunder with respect to the Pledged Property subject to the security interest created under this Agreement, and all rights, remedies and powers of LME Clear shall continue as if no such proceeding had been instituted.
- 14.13 In no event shall LME Clear be obligated to exercise any right or remedy against any other Person obligated with respect to, or any other collateral security for, the Secured Obligations (including pursuant to the other Security Documents) prior to exercising its rights with respect to the Pledged Property.
- 14.14 LME Clear shall not be required to marshal any present or future collateral security (including the Pledged Property) for, or other assurances of payment of, the Secured Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of the rights and remedies of LME Clear hereunder and of LME Clear in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights and remedies, however existing or arising. To the extent that it lawfully may, the Member hereby agrees that it will not invoke any law relating to the marshalling of collateral which might cause delay in or impede the enforcement of LME Clear's rights and remedies under this Agreement or under any other instrument creating or evidencing any of the Secured Obligations or under which any of the Secured Obligations is outstanding or by which any of the Secured Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, the Member hereby irrevocably waives the benefit of all such laws.
- 14.15 In view of the position of the Member in relation to the investment property pledged hereunder, or because of other current or future circumstances, a question may arise under the Securities Act of 1933, as now or hereafter in effect, or any similar statute hereafter enacted analogous in purpose or effect (such Act and any such similar statute as from time to time in effect being called the "**Federal Securities Laws**") with respect to any disposition of such Pledged Property permitted hereunder. The Member understands that compliance with the Federal Securities Laws might very strictly limit



the course of conduct of LME Clear if LME Clear were to attempt to dispose of all or any part of the investment property pledged hereunder, and might also limit the extent to which or the manner in which any subsequent transferee of such investment property could dispose of the same. Similarly, there may be other legal restrictions or limitations affecting LME Clear in any attempt to dispose of all or part of the investment property pledged hereunder under applicable Blue Sky or other state securities laws or similar laws analogous in purpose or effect. The Member recognizes that in light of such restrictions and limitations LME Clear may, with respect to any sale of such investment property, limit the purchasers to those who will agree, among other things, to acquire such investment property for their own account, for investment, and not with a view to the distribution or resale thereof. The Member acknowledges and agrees that in light of such restrictions and limitations, LME Clear, when exercising remedies when an Enforcement Event has occurred, (a) may proceed to make such a sale whether or not a registration statement for the purpose of registering the investment property pledged hereunder or part thereof shall have been filed under the Federal Securities Laws and (b) may approach and negotiate with a single potential purchaser to effect such sale. The Member acknowledges and agrees that any such sale might result in prices and other terms less favorable to the seller than if such sale were a public sale without such restrictions. In the event of any such sale, LME Clear shall incur no responsibility or liability for selling all or any part of the investment property pledged hereunder at a price that LME Clear, in its sole and absolute discretion, may in good faith deem reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might have been realized if the sale were deferred until after registration as aforesaid or if more than a single purchaser were approached. The provisions of this clause 14.15 will apply notwithstanding the existence of a public or private market upon which the quotations or sales prices may exceed substantially the price at which LME Clear sells.

- 14.16 If an Enforcement Event shall occur, LME Clear shall be entitled as a matter of right and to the fullest extent permitted by law, without notice to the Member, and without regard to the adequacy of security, to the immediate *ex parte* appointment of a receiver, trustee, custodian, liquidator or similar fiduciary (each referred to herein as a "Receiver") by a court of competent jurisdiction in order to carry out all rights and remedies available to LME Clear upon such Enforcement Event, and to manage, protect and preserve the Pledged Property and continue to operate or liquidate the Member's business and to collect all revenues and profits thereof and apply the same to the payment of all expenses and other charges of such receivership, custodianship or similar appointment, including compensation of the Receiver, and to the payment of the Secured Obligations, and to the payment of such other claims and expenses as may appear appropriate. If LME Clear shall apply for the appointment of, or the taking of possession by, a Receiver of the Member, to hold or operate or liquidate all or any substantial part of the properties or assets of the Member, the Member hereby consents to any such appointment and taking of possession. The Member shall deliver to any Receiver so appointed upon LME Clear's request all original books and records and any other information regarding the operations of the Member's business. Any Receiver so appointed shall have the right to exclude, and prevent the access and entry of, the Member and any of the Member's affiliates, shareholders, directors, officers, employees, contractors, agents and advisors to and from any Pledged Property, any premises or other property.
- 14.17 For purposes of the enforcement of LME Clear's rights under this agreement, or for any other reason, LME Clear may appoint, at the expense of the Member, one or more



agents, sub-agents, attorneys-in-fact, nominees or managers (for purposes of this clause 14.17 and elsewhere in this Agreement, the "**sub-agents**") to act on its behalf in connection with any or all of the Liens created hereby and the Pledged Property and the exercise of remedies therein. The selection of each sub-agent and the terms of their engagement shall be determined in the sole and absolute discretion of LME Clear. LME Clear may enter into such agreements, instruments and other documentation (including instruments of assignment of security interests) with each sub-agent as LME Clear deems necessary and appropriate, and on terms and conditions satisfactory to LME Clear in its sole discretion, all without consent of or signature by the Member. Each sub-agent shall be entitled to exercise such rights of LME Clear as LME Clear may determine from time to time.

15. **POWERS EXERCISABLE BY LME CLEAR**

15.1 In addition to all rights and powers that LME Clear may enjoy under applicable law and under the Member Documentation, LME Clear (or a Custodian acting on its behalf) shall be entitled at its absolute discretion without notice to the Member:

- (a) to pledge, sell or procure the sale of title to or any interest in all or any portion of the Pledged Property and to do so for such consideration (whether payable immediately or by instalments) and on such terms as LME Clear may think fit, and also to grant any option to purchase any interest in all or any portion of the Pledged Property;
- (b) to send such messages and instructions (electronically or in writing) with respect to the Pledged Property as LME Clear may think fit, including messages and instructions for the transfer of any or all Pledged Securities to such account or accounts as LME Clear may choose or for the pledge or sale of all or any of such Pledged Securities or for the redenomination or reissuance of any or all of such Pledged Securities;
- (c) to apply or transfer as LME Clear thinks fit all or any part of any money or interest subject to this Agreement at any time or times (whether on or before or after the expiry of any fixed or minimum period for which such money may have been deposited) in or towards satisfaction of all or such part of the Secured Obligations as LME Clear may determine in its sole discretion;
- (d) to execute and deliver such documents and give such instructions as may be required to give effect to this Agreement, including instructions for the withdrawal of any Pledged Property held by any Person and/or for the use of any money or interest subject to this Agreement to purchase any currency or currencies required to effect such application;
- (e) to transfer or procure the transfer of the whole or any part of the Pledged Property into one or more accounts in the name of LME Clear or a Person nominated by LME Clear and, in connection with the exercise of any of its rights or powers, to transfer any interest in the Pledged Property into the name of LME Clear or any such nominee of LME Clear; and/or
- (f) with a view to, or in connection with, the sale or other disposition of the Pledged Property, to enter into any transaction or arrangement which LME Clear may, in its absolute discretion, consider appropriate.

15.2 The powers contained in clause 15.1(a) to (f) shall be exercisable by LME Clear at any time or times in accordance with clause 14.1 without the necessity for any Enforcement Event having occurred first or any other condition having been fulfilled first.



16. FURTHER ASSURANCE

The Member shall, promptly on demand at any time and from time to time by LME Clear in writing, execute and deliver to LME Clear at the cost of the Member and in such form as LME Clear may require:

- (a) an absolute assignment of all or any Receivables;
- (b) evidence of the registration in the name of LME Clear of all investment property constituting Pledged Property;
- (c) where any Pledged Property is situated outside the United States or where title to it is evidenced by entries in a register or account maintained by or on behalf of an intermediary outside the United States, such charge, mortgage, pledge or other fixed security under the law of the place where the Pledged Property is situated as LME Clear may require; and
- (d) such other documents as LME Clear may in its discretion think fit to further secure the payment of the Secured Obligations or to perfect the Liens created hereby, or to vest title to any Pledged Property in itself or its Custodian or any purchaser.

17. INDEMNITY

The Member shall on demand at any time and from time to time indemnify LME Clear fully against any and all Losses which LME Clear or any Custodian or other sub-agent acting for LME Clear, and any officer, director, employee, agent, attorney or other representative of any of them (collectively, "**Indemnitees**"), may incur as a consequence of anything done or purported to be done by or on behalf of LME Clear under or in connection with this Agreement or in exercise of any rights or powers conferred on LME Clear or such Custodian or sub-agent by this Agreement, except if and insofar as any such Loss results from LME Clear's or such Custodian's or sub-agent's own fraud, gross negligence or wilful default as determined by a court of competent jurisdiction.

18. INTEREST ON OVERDUE AMOUNTS

Any overdue amount due under this Agreement or secured by this Security shall bear interest at the rate and in accordance with the terms applicable under paragraph 4.5 of Part G (*Interest, fees and charges*) of the Clearing Procedure of the Rules (or any replacement or other provision of the Rules which deals with default interest payable by a Member for late payments).

19. CURRENCY INDEMNITY

If, for any reason, any amount payable to LME Clear by the Member under this Agreement is paid or recovered in a currency other than that in which it is required to be paid, then, to the extent that the payment to LME Clear falls short of the amount payable in the contractual currency, the Member shall, as an independent obligation and notwithstanding any judgment that gave rise to such payment in such other currency, indemnify LME Clear on demand for such shortfall on the terms applicable under Rule 2.17 (*Currency conversion*) of the Rules.

20. PROTECTION OF THIRD PARTIES

- 20.1 No Custodian or purchaser from, or other Person dealing with, LME Clear shall be concerned to inquire whether any of the powers it has exercised or purported to exercise has arisen or become exercisable, or whether the Secured Obligations remain



outstanding, or whether any event or cause has happened to authorize LME Clear to act or as to the propriety or validity of the exercise or purported exercise of any such power, and the title of a purchaser and the position of a Custodian or such a Person shall not be affected by any of those matters.

- 20.2 LME Clear, or a Custodian or other representative on its behalf, may give a receipt for any Pledged Property or any interest therein that a Person may acquire by reason of LME Clear's exercise of remedies in the Pledged Property, and such receipt shall be an absolute and conclusive discharge to such Person and shall relieve such Person of any obligation to see to the application of any money paid to or by the direction of LME Clear.

21. PROTECTION OF LME CLEAR

- 21.1 LME Clear shall not be liable to the Member for:

- (a) any failure to obtain payment of any sums (whether of an income or capital nature or otherwise) due or becoming due in respect of any Pledged Securities;
- (b) any failure to pay any call or instalment which may become payable on or to accept any offer relating to any Pledged Securities;
- (c) any failure to notify the Member of any of such matters; or
- (d) any Loss which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise, any of LME Clear's powers, except if and insofar as such Loss results from its own fraud, gross negligence or wilful misconduct as determined by a court of competent jurisdiction.

- 21.2 Without prejudice to the generality of clause 21.1, neither the possession nor control of Pledged Property nor the sending or receiving of instructions in relation thereto on behalf of the Member with respect to any Pledged Property shall render LME Clear liable to account as secured party or otherwise for any sum not actually received by it.

- 21.3 The Member shall not have any claim against LME Clear in respect of any Loss arising out of the sale of any Pledged Property effected pursuant to this Agreement from whatever cause and whether or not a better price could have been obtained, including whether by deferring or advancing the date of such sale or otherwise, or selling to another Person.

- 21.4 LME Clear shall not be liable for any Loss sustained by the Member in consequence of the exercise of LME Clear's rights under this Agreement, including any loss of dividends, interest or other income caused by the appropriation, disposal or use of any Pledged Property or by the fluctuation in any exchange rate at which currency may be bought or sold by LME Clear.

- 21.5 The powers conferred on LME Clear hereunder are solely to protect its interest in the Pledged Property and shall not impose any duty upon it to exercise any such powers. Except for the exercise of reasonable care in the custody of any Pledged Property in its possession or control and the accounting for monies actually received by it hereunder, LME Clear shall have no duty as to any Pledged Property or as to the taking of any necessary steps to preserve rights against prior or other parties or any other rights pertaining to any Pledged Property. LME Clear shall be deemed to have exercised reasonable care in the custody and preservation of Pledged Property in its possession or control if such Pledged Property is accorded treatment substantially equal to that which LME Clear accords its own property.

22. POWER OF ATTORNEY

22.1 For the purposes of securing the interest of LME Clear in the Pledged Property and the performance of its obligations to LME Clear under the Member Documentation, the Member irrevocably hereby appoints LME Clear and separately each Custodian acting for LME Clear to be its attorney-in-fact (with full power to appoint substitutes and to sub-delegate, including power to authorize the Person so appointed to make further appointments, in both cases, with regard to all or any part of the Pledged Property) on behalf of the Member and in its name or otherwise, in each case acting singly and without the others:

- (a) to execute any document or do any act or thing which LME Clear or such Custodian or such substitute or delegate may, in its absolute discretion, consider appropriate in connection with the exercise of any of the powers of LME Clear conferred by this Agreement and any Member Documentation or which the Member is obliged by LME Clear to execute or do under this Agreement and any Member Documentation;
- (b) to endorse checks and other instruments and otherwise to act on behalf of the Member in the collection of all Receivables arising from the Pledged Property; and/or
- (c) to act on behalf of the Member with full authority to communicate with any securities intermediary, commodity intermediary, the operator of any clearing or securities transfer system or other appropriate Person in all matters relating to the Pledged Property and, without limitation, to send and receive messages and instructions on behalf of the Member with respect to the Pledged Property.

22.2 The power of attorney contained in clause 22.1 shall be exercisable by LME Clear or a Custodian or other sub-agent acting for it at any time or times as LME Clear or such Custodian or sub-agent thinks fit in its sole discretion (without the necessity for any Enforcement Event or any other condition having been fulfilled first) and shall continue in force until the security interest created by this Agreement is absolutely and unconditionally released in writing by LME Clear.

22.3 LME Clear hereby accepts each of the powers conferred on it pursuant to this Agreement.

23. REIMBURSEMENT OF EXPENSES

The Member shall reimburse or pay to LME Clear on demand (on the basis of a full indemnity) the amount of all expenses and Losses incurred by LME Clear and/or any Custodian acting for LME Clear in connection with the exercise, or the attempted or purported exercise, by or on behalf of LME Clear of any of its powers or any other action taken by or on behalf of LME Clear with a view to or in connection with the recovery of the Secured Obligations, the realization of the security interests created hereby, the preservation of the Pledged Property or any other purpose contemplated in this Agreement.

24. STAMP DUTY AND REGISTRATION FEES

24.1 The Member shall pay all present and future stamp, registration and similar Taxes or charges which may be payable in connection with the execution of this Agreement and the creation, maintenance and enforcement of this Agreement and the security interests created hereby, and shall indemnify LME Clear against all Loss (including interest and penalties) resulting from any delay or omission to pay any such stamp, registration and similar Taxes or charges.



24.2 The Member shall on demand at any time and from time to time indemnify LME Clear against any Tax which LME Clear and/or any Custodian may incur, suffer, pay or be obliged to account for in consequence of anything done or purported to be done by or on behalf of LME Clear under or in connection with:

- (a) this Agreement or in exercise of any rights or powers conferred on LME Clear or such Custodian by this Agreement (including the execution and delivery of this Agreement);
- (b) the granting, perfection, maintenance of the priority, preservation and enforcement of the Liens created under this Agreement, including the delivery or provision of the Pledged Property; and/or
- (c) the conversion of any Precious Metal entitlement (including unallocated Precious Metal on Unallocated Account) to actual Precious Metal (including allocated Precious Metal), and vice versa.

25. LIEN

Without prejudice to the other rights of LME Clear under the Member Documentation and as a separate and independent obligation, the Member agrees that, if any Secured Obligation is incurred as a result of the Member failing to perform when due its payment or delivery obligations relating to a transaction for the sale or purchase of any financial asset, LME Clear shall have a Lien on such financial asset or the proceeds arising out of that transaction until the discharge of such Secured Obligation.

26. SET-OFF

26.1 Without prejudice to its other rights under the Member Documentation and as a separate and independent stipulation, the Member agrees that any money or other property from time to time deposited or paid by the Member with or to LME Clear and any payment obligation or the value of any delivery obligation owed by LME Clear to the Member may, at any time without notice to the Member (the Member hereby waiving, to the fullest extent that it lawfully may do so, any right it may have to such notice), be applied and set off in or towards the discharge of the Secured Obligations or such part of them as LME Clear may select, regardless of the place of payment, delivery and/or currency of the obligation, subject only to the provisions of clause 4.2.

26.2 LME Clear may make any currency conversion necessary to give effect to such set-off. If any obligation is unliquidated or unascertained, LME Clear may set off an amount estimated by it in good faith to be the amount of that obligation. LME Clear will endeavor to notify the Member following the exercise of any such right of set-off but any failure to do so will not affect the validity of such right or its exercise.

27. RETURN OF PLEDGED PROPERTY

27.1 If any Pledged Property is required to be returned to the Member pursuant to the Rules or this Agreement, such Pledged Property shall be released from the Lien of this Agreement automatically on the transfer of such Pledged Property or Equivalent Collateral to the Member to the account that it may specify, to another LME Clear Member pursuant to the Porting Process or to the relevant Client or Clients of the Member pursuant to Rule 10.5.1(c). The Liens on all other property and rights forming part of the Pledged Property shall continue in full force and effect.



28. THIRD PARTY RIGHTS

- 28.1 Except as otherwise expressly provided in clause 17, there are no third party beneficiaries of this Agreement, and no Person other than a party to this Agreement shall have any right to enforce any term (express or implied) of this Agreement.

29. DETERMINATIONS AND DISCRETIONS

- 29.1 Any certification or determination by LME Clear or its Custodian of a rate or amount under this Agreement shall, in the absence of manifest error, be conclusive evidence of the matters to which it relates.
- 29.2 Any discretion, power or right conferred on LME Clear by this Agreement to make or vary any determination or to give any approval or to decide any matter or to form any opinion or judgment shall be construed to be a discretion, power or right exercisable by LME Clear, in its sole and unfettered discretion, at any time and from time to time.

30. TRANSFER

- 30.1 LME Clear may assign or transfer the whole or any part of the benefit of this Agreement (or any of its rights under this Agreement) without the Member's consent to the extent that LME Clear, in its capacity as operator of the LME Clear System, is entitled to assign or transfer any of its rights against the Member to any Person, including any successor, pursuant to the Rules.
- 30.2 The Member may not:
- (a) assign or transfer any of its rights or obligations under this Agreement; or
 - (b) enter into any transaction or arrangement which would result in any of those rights or obligations passing to or being held in trust for or for the benefit of another Person,

without the prior written consent of LME Clear, and any purported assignment or transfer without such consent shall be null and void.

31. FORBEARANCE, SEVERABILITY, AMENDMENTS, SURVIVAL

- 31.1 If any provision of this Agreement is held to be illegal, invalid or unenforceable in whole or in part, this Agreement shall continue to be valid as to its other provisions and the remainder of the affected provision.
- 31.2 No amendment, waiver, variation, supplement, deletion or replacement of or from this Agreement or any of its terms shall be effective unless made in writing and signed by or on behalf of each party hereto.
- 31.3 All covenants, agreements, representations and warranties made by the Member in this Agreement and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by LME Clear and its successors and assigns and shall survive the execution and delivery of this Agreement, regardless of any investigation made by LME Clear and notwithstanding that LME Clear may have had notice or knowledge of any Enforcement Event or incorrect representation or warranty at the time any amount became due under this Agreement, and shall continue in full force and effect as long as any Secured Obligation is outstanding and so long as this Agreement has not expired or terminated.

- 31.4 If there is any inconsistency between the provisions of this Agreement and the Rules or any Member Documentation, this Agreement shall take precedence to the extent of the inconsistency.

32. DEMANDS AND NOTICES

Any demand or notice to the Member under this Agreement shall be effective only if made in writing by an officer of LME Clear and served on the Member in accordance with the Rules.

33. GOVERNING LAW AND JURISDICTION

- 33.1 This Agreement and all rights and obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of the State of New York, without reference to any choice of laws or conflicts of laws rules that would result in the application of a different law. Section 5-1401 of the General Obligations Law of the State of New York is expressly made applicable to this Agreement.
- 33.2 The Member hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court for the Southern District of New York, and any appellate court from any thereof, in any suit, action or proceeding arising out of or relating to this Agreement, or arising out of or relating to any Member Documentation (if any) to which such Member now or hereafter may be a party, or for recognition or enforcement of any judgment, and the Member hereby irrevocably and unconditionally agrees that all claims in respect of any such suit, action or proceeding may be heard and determined in such New York State or such Federal court. The Member agrees that a final judgment in any such suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any Member Documentation shall affect any right that LME Clear may otherwise have to bring any suit, action or proceeding relating to this Agreement against the Member, or its properties, in the courts of any other jurisdiction.
- 33.3 The Member hereby irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or arising out of or relating to any Member Documentation brought in any court referred to in clause 34.2 above. The Member hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such suit, action or proceeding in any such court.
- 33.4 The Member hereby appoints HSBC Bank USA (Attn: General Counsel) located at 452 Fifth Avenue, New York, New York 10018 (the "**New York Process Agent**"), as its designated agent for service of all writs, summonses and other process for any suit, action or proceeding arising out of or relating to this Agreement. The Member hereby agrees that failure of the New York Process Agent to notify the Member of the receipt or content of any such process shall not invalidate such process or any judgment resulting therefrom. In addition to the foregoing, the Member agrees that service of process in any suit, action or proceeding before any court referred to in clause 33.2 may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Member at the address of such Member set forth in Schedule A to this Agreement or at such other address of



which LME Clear shall have been notified. Nothing in this Agreement will affect the right of LME Clear to serve process in any other manner permitted by law.

33.5 EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS CLAUSE 34.5.

33.6 To the extent that in any jurisdiction whatsoever the Member now or hereafter may enjoy, in relation to this Agreement or the transactions contemplated hereby, any immunity, whether based on sovereignty or otherwise, from suit, from service of process, attachment (whether prior to, after or in aid of execution of a judgment), from judgment, from execution of a judgment, from set-off or from any other legal or equitable process or remedy, the Member hereby irrevocably waives and agrees not to claim or accept the attribution of any such immunity.

34. COUNTERPARTS

This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. A set of counterparts executed by all the parties hereto shall be lodged with the Member and LME Clear. Delivery of an executed signature page to this Agreement by facsimile or electronic mail transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective duly authorized signatories as of the date stated below (being the date on which it is accepted and executed by LME Clear).

HSBC Bank Plc

By

Title:

Timothy J Brown
Global Markets
Risk Controller
HSBC Bank plc

Accepted by LME CLEAR LIMITED on 18 June 2019

LME Clear Limited

By

Name: Adrian FarnhamTitle: Chief Executive Officer

and

LME Clear

Name:

Title:

¹ Note: Formalities of execution (such as need for witnesses, seal and form of signature block) should follow practices of the place where the Agreement is signed.

SCHEDULE A

Information About the Member

Type of Entity: Public Limited Company

Jurisdiction of Organization: ENGLAND AND WALES

Exact Legal Name: HSBC BANK PLC

Registered Organization: Yes - 00014250

"Location": UK

Chief Executive Office:

Principal Place of Business: UK

Place(s) of Business in the United States:

Trade Names and "Doing Business as" Names:

Mergers and Consolidations:

Address for Notices: