



August 2020

# CREST Terms and Conditions

*Post-trade made easy*



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# Terms and Conditions

## 1 Definitions and interpretation

These Terms and Conditions shall be interpreted in accordance with the provisions of Schedule 5.

## 2 Joint members

2.1 Where there are Joint Members each person comprised within the definition of 'the Member' in the Admission Agreement (each such person being for the purposes of this clause 2.1 a 'Joint Member') agrees as follows:

- 2.1.1 all obligations, undertakings, agreements and liabilities arising under or pursuant to these Terms and Conditions on the part of the Member shall constitute joint and several obligations of each Joint Member;
- 2.1.2 the obligations, undertakings and agreements on the part of Euroclear UK and Ireland Limited's (EUI) contained in these Terms and Conditions are given to the Joint Members taken together and not separately to each of the Joint Members; and
- 2.1.3 references in clauses 14, 15 and 16 to events occurring in relation to or in respect of the Member or an Associate shall be construed as references to the event or events concerned occurring in relation to or in respect of any of the Joint Members or any Associate of any Joint Member.

## 3 Information obligations of Members

- 3.1 The Member undertakes to EUI that it will:
  - 3.1.1 notify EUI without delay if it becomes aware of any inaccuracy in the information within the EUI systems;
  - 3.1.2 notify EUI of any changes in the information supplied to EUI as part of its membership application and wherever possible notify EUI of any changes to such information that are expected to occur;
  - 3.1.3 provide to EUI such information in its possession as EUI may require from time to time in order for EUI to meet its obligations under the CREST Regulations (or any other relevant legislation) or to any regulatory authority to whose jurisdiction it is subject;
  - 3.1.4 make available to EUI such information and/or records as EUI may from time to time reasonably request for the purpose of carrying out its functions as Operator

of the CREST relevant system and/or as a recognised CSD and/or as a recognised clearing house and which relates to the Member's membership or any business undertaken by the Member in connection therewith;

- 3.1.5 make available to any investment exchange in respect of which EUI provides services as a recognised CSD or as a recognised clearing house or as Operator of a relevant system any information which that investment exchange may reasonably require for the purpose of discharging its functions as an investment exchange;
- 3.1.6 in the event that the Member is a member or a participant of an investment exchange or clearing house and is declared under the rules of such investment exchange or clearing house to be in default, make available such information and/or records as any default (or similar) official of such investment exchange or clearing house may from time to time request in relation to transactions of the Member or in relation to facilities relating to the Member's membership;
- 3.1.7 (where it maintains records, in electronic form, or otherwise, of dematerialised instructions sent to or received by it) permit EUI to have access to such records at any time or times (on being given reasonable notice) and, on being given reasonable notice, will provide EUI with copies of all or any of such records (in such form as EUI may reasonably require), subject to EUI paying the reasonable costs of the provision of such copies;
- 3.1.8 keep EUI informed at all times, in accordance with the CREST Manual, of all Group Companies that are for the time being CREST members or CREST IPAs;
- 3.1.9 create a record of the full names of the persons who, in respect of each business day, occupy a responsible position in relation to the supply of information to the Gateway and will maintain such record for the period prescribed in the CREST Manual and produce such record on request by EUI.

3.2 Where the Member is a Sponsored Member, the Member undertakes to notify EUI immediately of:

- 3.2.1 any suspension, termination or withdrawal of the Sponsor's appointment or authority to act as the Sponsored Member's CREST sponsor; and/or
- 3.2.2 any proposed appointment by it of a replacement CREST sponsor

in accordance with (and only in accordance with) the procedures for such notification set out in the CREST Manual.

3.3 The Member warrants, represents and undertakes to EUI that:

- 3.3.1 all information concerning it provided by it to EUI (or, where relevant, to the Sponsor for onward transmission to EUI) was when provided and, unless EUI has been notified to the contrary, remains correct and, where relevant, was duly authorised in accordance with the Member's own internal procedures;
- 3.3.2 all information concerning it provided by it to EUI (or, where relevant, to the Sponsor for onward transmission to EUI) in the future will be correct and, where relevant, duly authorised in accordance with the Member's own internal procedures;
- 3.3.3 insofar as it has provided, or in future provides, to EUI (or, where relevant, to the Sponsor for onward transmission to EUI), information other than that referred to in clause 3.3.1 or clause 3.3.2:
  - (a) where relevant, such information was or (as appropriate) will be correctly reproduced from information provided to it; and
  - (b) the Member will notify EUI forthwith if it becomes aware of any inaccuracy in such information.

#### **4 Disclosure of information by EUI**

The Member acknowledges, agrees and accepts that:

- 4.1 information held by EUI or within the EUI systems about the Member and its activities may be provided by EUI from time to time to (or EUI may permit access to the same from time to time by):
  - 4.1.1 any UK or other regulatory or governmental or taxing authority, body or agency (whether or not EUI is required by law to do so);
  - 4.1.2 any person where or to the extent that EUI is permitted or required to do so by law or by a court order;
  - 4.1.3 any person where the information is or becomes generally available in the public domain other than as a result of unauthorised disclosure by EUI;
  - 4.1.4 the Bank of England, the Central Bank of Ireland, the European Central Bank and the UK Debt Management Office in the manner specified in the CREST Manual;
  - 4.1.5 any Federal Reserve Bank or other part of the Federal Reserve System in the manner and/or for the purposes specified in the CREST Manual;
  - 4.1.6 any Associate of EUI or any third party supplier of services to EUI (or an Associate of EUI) to be used and/or disclosed for such purposes and in the manner and/or for the purposes specified in the CREST Manual, provided that in



any such case such Associate or third party supplier of services to EUI (or an Associate of EUI) shall have agreed in advance with EUI (or in the case of a third party supplier of services to an Associate, with the Associate) that it shall receive and keep such information subject to substantially the same obligations, if any, that EUI (or in the case of a third party supplier of services to an Associate, the Associate) itself is subject to in respect of such information;

- 4.1.7 any exchange, clearing house, central securities depository or operator of a Multilateral Trading Facility or an Alternative Trading System, to be used and/or disclosed for such purposes and in the manner specified in the CREST Manual;
- 4.1.8 the settlement bank appointed by the Member in respect of each designated currency (if applicable), and the NSS settlement participant acting as Settler for any USD settlement bank appointed by the Member, for such purposes and in the manner specified in the CREST Manual; and
- 4.1.9 another CREST member for such purposes and in the manner specified in the CREST Manual;

and, by accepting these Terms and Conditions, the Member expressly consents to the disclosure of such information in the circumstances specified above;

4.2 (without prejudice to clause 4.1) information held by EUI or within the EUI systems which relates to stock lending and/or stock borrowing activities of the Member may from time to time be used by EUI and/or disclosed by EUI to (or EUI may permit access to the same from time to time by) any person who is identified as a recipient of such information in the CREST Manual, but in each such case only for the purpose or purposes and in the manner specified in the CREST Manual; and, by accepting these Terms and Conditions, the Member expressly consents to the use, disclosure and access referred to in this clause 4.2;

4.3 EUI will not be obliged to reveal to the Member any information disclosed to EUI which is confidential information, revenue information or specially protected information within the meaning of Sections 348(2), 350(7) and 353A respectively of the Financial Services and Markets Act 2000 or any other information disclosed to EUI by any UK or other regulatory or governmental authority, body or agency or by the Relevant Central Bank or by any Federal Reserve Bank;

4.4 EUI may publicise from time to time, in such manner as it may determine, information relating to compliance by the Member with any of the CREST Requirements. EUI shall not be liable to the Member in respect of any Liabilities suffered or incurred by the Member as a result of any such publicity or any errors in any such publicity made in good faith by EUI.

## **5 General system matters**

5.1 The Member agrees with EUI that it accepts the CREST Requirements as forming the basis of its membership and undertakes to EUI that it will comply with the CREST Requirements applicable to it from time to time. The Member acknowledges that the CREST Manual describes the EUI systems and CREST services. Without limiting the generality of the foregoing (but without prejudice to the obligations of EUI set out in clause 17), the Member acknowledges, agrees and accepts that:

5.1.1 the time within which any particular dematerialised instruction is processed may be affected by the factors described in the CREST Manual;

5.1.2 certain services provided by EUI are dependent upon the provision to EUI of information from third parties (the relevant services and information being specified in the CREST Manual) and EUI does not check the accuracy of any such information. The Member accordingly acknowledges and agrees that EUI shall not be liable to the Member for any Liabilities suffered or incurred by the Member as a result of any inaccuracy in any such information or as a result of any calculation made by EUI drawing on external information supplied to it as described in the CREST Manual which is inaccurate or incomplete, provided always that EUI has:

(a) accurately reproduced the information supplied to it or (as the case may be) has not itself made an error in the calculation in question; and

(b) taken reasonable care in its selection of the third party supplier.

5.1.3 EUI may delegate some or all of its functions as operator of the EUI systems and of the CREST services.

5.2 The Member acknowledges, agrees and accepts that:

5.2.1 EUI does not owe the Member any duty in relation to the admission of any person as a system-member, system-participant (or, to the extent that such person is admitted as a CREST Registrar or CREST IPA but is not a system-participant, as a CREST Registrar or CREST IPA), settlement bank, CM undertaking or NSS settlement participant or in relation to the exercise or non-exercise of EUI's powers of termination or suspension of any such person;

5.2.2 EUI does not owe the Member any duty to monitor or enforce compliance by any person with any provision which relates to its participation in the CREST relevant system, or its use of the CREST services;

5.2.3 EUI is not responsible for the Relevant NCB's systems or any other procedures or facilities provided or operated by the Relevant Central Bank or the services and/or systems provided or operated by any Eurosystem central bank as part of or in connection with the DvP Service (which systems, procedures and facilities

do not form part of the CREST relevant system or the CREST services), and EUI owes no duty to the Member in relation to any matter forming part of or relating to the DvP Service which is described in the CREST Manual as not being EUI's responsibility;

- 5.2.4 EUI is not responsible for any systems, procedures or facilities provided or operated by any Federal Reserve Bank, the Bank of England or any Settler in connection with the US dollar payments mechanism (which systems, procedures and facilities do not form part of the CREST relevant system or the CREST services), and EUI owes no duty to the Member in relation to any matter forming part of or relating to the US dollar payments mechanism which is described in the CREST Manual as not being EUI's responsibility;
- 5.2.5 the Liquidity Management Services do not form part of the CREST relevant system, but form part of the CREST services;
- 5.2.6 EUI has no responsibility for electronic messages sent from or through:
  - (a) the EUI-Bank link network to the BoE's systems after the messages leave the EUI-Bank link network or for electronic messages sent from or through the BoE's systems to the EUI-Bank link network until they reach the EUI-Bank link network;
  - (b) the T2 link network to TARGET2 after the messages leave the T2 link network or for electronic messages sent from or through TARGET2 to the T2 link network until they reach the T2 link network;
- 5.2.7 EUI has no responsibility for any Settlement File sent by it as NSS settlement agent (and as part of the CREST services) after such point as may be specified as such in Chapter 6, section 4A of the CREST Reference Manual;
- 5.2.8 EUI does not undertake or assume any responsibility towards any person other than the Member and where the Member holds securities as nominee or agent for any other person and any provision of these Terms and Conditions or function comprised in the EUI systems or CREST services may affect such person the Member is responsible for advising such person of any such matter and obtaining any requisite permission;
- 5.2.9 EUI reserves the right to make correcting entries in any inaccurate record or register maintained by it which relates to the Member, including entries necessary to correct any inaccurate credit or debit to any cash memorandum account or stock account;
- 5.2.10 EUI reserves the right to suspend the operation of the EUI systems or the CREST services in whole or in part if it, in its absolute discretion, considers it appropriate to do so by reason of any circumstances described in the CREST Manual or other

circumstances beyond EUI's reasonable control. EUI reserves the right to vary the daily timetable if it, in its absolute discretion, considers it appropriate to do so. Any such suspension or variation will, where reasonably practicable, be notified in advance to the Member (or in the case of Sponsored Members, to the Sponsor) in accordance with the CREST Manual; and

5.2.11 under or pursuant to the services provided or obligations owed by EUI to the Relevant Central Bank as part of or in connection with the DvP Service certain data held in the RTGS Liquidity Management System relating to the Member and/or its activities is made available or otherwise disclosed to the Relevant Central Bank in the manner described in the CREST Manual, and the Member authorises EUI to make any such disclosure in accordance with the CREST Manual.

5.3 In the circumstances referred to in the CREST Manual, or where required or permitted to do so by law, by a court order or by any UK or other governmental or regulatory body or authority from time to time, EUI may issue an Operator-instruction or register a transfer of units of a participating security held by the Member in relation to the Member or any participating security held or to be held by the Member without having received an instruction in relation thereto from the Member (or, in the case of Sponsored Members, from the Sponsor and attributable to the Sponsored Member). In particular (but without limiting the generality of the foregoing), EUI may, whether or not in connection with suspension or termination of the membership, issue an instruction to a participating issuer to issue a certificate for all or any securities held by the Member by means of the CREST relevant system (including securities credited to any escrow balance).

5.4 The Member authorises EUI to do on behalf of the Member all or any of the acts and things which the CREST Manual provides may be done by EUI on behalf of the Member, and without limitation to the generality of the foregoing the Member acknowledges and agrees that under:

5.4.1 the self-collateralisation arrangements (as described in the CREST Manual); and

5.4.2 the procedures relating to the correction of any error or errors brought about by the entry of an Uninitiated Transaction (as described in the CREST Manual) into the CREST system,

EUI may centrally generate a dematerialised instruction which causes a system transfer by way of debit or credit to a stock account of the Member and/or causes a CREST payment to be made by or to the Member, in either case without EUI having received a system-member instruction from the gateway computer of the Member (or, where the Member is a Sponsored Member, the gateway computer of its Sponsor) or from the gateway computer of the transferor (or its CREST sponsor, if applicable).

5.5 If the Member acts in relation to any participating issuer as issuer's agent (as defined in the Glossary of the CREST Manual) in connection with the CREST Voting Service, or purports to do so, the Member agrees that it will:

- 5.5.1 ensure that it acts in relation to any participating issuer only if fully and validly authorised to do so;
- 5.5.2 ensure that all material which it or its Sponsor inputs in the CREST system in relation to any meeting or other voting occasion is accurate and correctly reproduces the relevant information provided to it by the issuer; and
- 5.5.3 comply with the CREST Requirements applicable to a person who acts as an issuer's agent;

and will hold EUI fully and effectively indemnified against all Liabilities which EUI may suffer or incur which arise directly or indirectly from any breach of these obligations.

5.6 If the Member acts in relation to any participating issuer as announcement agent (as defined in the Glossary of the CREST Manual) in connection with the CREST Voting Service, or purports to do so, the Member agrees that it will:

- 5.6.1 ensure that it acts in relation to any participating issuer only if fully and validly authorised to do so;
- 5.6.2 ensure that all material which it or its Sponsor inputs in the CREST system in relation to any meeting or other voting occasion is accurate and correctly reproduces the relevant information provided to it by the issuer; and
- 5.6.3 comply with the CREST Requirements applicable to a person who acts as an announcement agent;

and will hold EUI fully and effectively indemnified against all Liabilities which EUI may suffer or incur which arise directly or indirectly from any breach of these obligations.

## **6 Networks**

6.1 Where the Member is not a Sponsored Member, the Member warrants, represents and undertakes to EUI that it has entered into and will keep in force a contract with an accredited network provider pursuant to which it is able to send and receive properly authenticated dematerialised instructions.

6.2 Where the Member is a Sponsored Member, the Member warrants and represents to EUI that it has full power to employ the services of its Sponsor and acknowledges and agrees that its Sponsor has no authority to give any advice or waiver or make any representations on behalf of EUI.

6.3 Save as referred to in clause 6.6, EUI has specified the requirements in relation, inter alia, to functionality, security and performance to be met by the networks through which dematerialised instructions are sent. EUI accredits network providers who demonstrate to EUI that they are able to supply services which comply with the requirements specified by EUI. The CREST Software is designed and built by, or on behalf of, EUI and is supplied to the Member on the terms and conditions set out in Schedule 2.

6.4 Accredited network providers provide their services as principal and not as agent or delegate for EUI, and EUI has arrangements to enable it to monitor the provision of such services by them. The Member acknowledges and agrees that its network provider (or, in the case of Sponsored Members, the network provider used by its Sponsor) and not EUI is responsible for the supply, upkeep and security of the network and the service levels to which the Network Services are provided and that it is the responsibility of the network provider and not EUI:

- 6.4.1 to supply hardware for authentication of messages to the standards specified by EUI and the software which is required in order to provide Network Services (except for the CREST Software);
- 6.4.2 to transmit to the CREST system only dematerialised instructions which have been authenticated at the Gateway;
- 6.4.3 to provide such other services as are described in the CREST Manual as being the responsibility of a network provider;

and that the basis on which the network provider provides its services is a matter for agreement between the Member (or, where relevant, the Sponsor) and the network provider.

6.5 The Member acknowledges and agrees that it is responsible for (or in the case of Sponsored Members, its Sponsor is responsible for):

- 6.5.1 the operation of the equipment used by or on behalf of the Member (or the Sponsor) to prepare, send and receive dematerialised instructions (including the CREST Software, any file transfer system, any local or wide area network and the Gateway);
- 6.5.2 the maintenance and security of the equipment used by or on behalf of the Member (or the Sponsor), including the security of any local or wide area network, and accordingly acknowledges that it is its (or its Sponsor's) responsibility to ensure that the only communications delivered to the Gateway are dematerialised instructions which have not been tampered with en route to the Gateway;
- 6.5.3 the design and build of any file transfer system used to assist with the creation of dematerialised instructions;

- 6.5.4 taking steps to prevent tampering with the CREST Software or the authentication hardware and software;
- 6.5.5 ensuring that if any software is used on the Gateway (or on any other hardware on which the CREST Software is operating) which is not CREST Software or supplied by a network provider as referred to in clause 6.4.1, that such software does not interfere with the CREST Software or the authentication procedures contained in the Gateway.

6.6 Where permitted under the CREST Regulations instructions may be sent between EUI and depositories, clearing houses and exchanges which are authenticated in accordance with the specifications of the depository, clearing house or exchange. Accordingly the Member acknowledges and agrees that EUI is not responsible for setting such specifications and the relevant network providers are not accredited or monitored by EUI.

## **7 Instructions (electronic and otherwise)**

7.1 Any properly authenticated dematerialised instruction received by EUI and attributable to the Member shall be irrevocable except to the extent (if at all) that the instruction may be revoked or amended in accordance with the CREST Manual.

7.2 The Member agrees that EUI shall be entitled without further enquiry to execute or otherwise act upon instructions or information or purported instructions or information received by or through the EUI systems, the EUI-Bank link network or the T2 link network and instructions or information or purported instructions or information received in accordance with the CREST Manual or the CREST Rules otherwise than by or through the EUI systems, the EUI-Bank link network or the T2 link network notwithstanding that it may afterwards be discovered that any such instruction or information or purported instruction or information was not genuine or was not correct or was not sent with the authority of any person on whose behalf it was expressed to have been sent or was not initiated by the person entitled to give it or was not initiated through the systems, gateway, workstations and associated equipment (as the case may be) operated by such person.

7.3 Without prejudice to clause 7.2, the Member agrees that EUI shall be entitled without further enquiry to act upon any written instructions or information or purported instructions or information relating to the Member received in accordance with the CREST Manual or the CREST Rules whether from the Member, the Parent, the Sponsor, a CREST VSP appointed by the Member or any person reasonably believed by EUI to be a person who is legally able to act on behalf of the Member or to be a person notified to it by the Member as having authority to act on the Member's behalf notwithstanding that it may afterwards be discovered that any such instruction or information was not genuine or was not correct or was unauthorised.

7.4 Nothing in clauses 7.2 or 7.3 shall entitle EUI to execute or otherwise act upon an instruction or information or purported instruction or information if at the time it received it or at any time thereafter EUI had actual notice that:

7.4.1 it was not genuine; or

7.4.2 any information contained in it was incorrect; or

7.4.3 it was not sent with the authority of the person on whose behalf it was expressed to have been sent; or

7.4.4 it was not initiated by the person entitled to give it; or

7.4.5 it was not initiated through the systems, gateway, workstation and associated equipment (as the case may be) operated by the person entitled to give it

and at the time it received the actual notice it was practicable for EUI to halt the processing of the instruction or information or purported instruction or information.

7.5 EUI shall not be liable to the Member for any Liabilities suffered or incurred by the Member as a result of EUI having executed or otherwise acted upon any instruction or information or purported instruction or information that it was entitled to execute or act upon pursuant to clauses 7.2 or 7.3.

7.6 The Member agrees that, notwithstanding any other obligation imposed on it, whether under these Terms and Conditions or otherwise, EUI shall not be obliged to take any action upon an instruction (whether dematerialised or not) received from or attributable to the Member, to the extent that any such action or any result of it would be (or, in EUI's reasonable opinion, would be likely to be) in breach of any relevant law, order of a court or requirement of the Bank of England, the Central Bank of Ireland, the European Central Bank or any Federal Reserve Bank or any regulatory or governmental authority or body having jurisdiction over EUI and/or any part of the CREST relevant system.

## **8 Securities**

8.1 The Member acknowledges that it is the responsibility of the participating issuer to ensure that any securities issued by it which are admitted to the CREST relevant system can be lawfully transferred by means of the CREST relevant system. EUI shall have no responsibility to the Member for investigating the creditworthiness or status of any participating issuer or of any guarantor, or for the accuracy of any description of a security or its terms, or the effectiveness in law of any transfer thereof by means of the CREST relevant system or of any instruction transmitted by means of the CREST relevant system.

8.2 Units of a participating security enter the CREST relevant system as a result of a transfer from a certificated holder to a CREST member, or as a result of a conversion from



certificated form to uncertificated form or because they are issued directly to CREST members. EUI relies on instructions from the relevant participating issuer in relation to the entry of such units to the CREST relevant system, whether by way of transfer or on conversion or on a new issue. In addition, EUI, when it permits a security to be a participating security, does so in reliance on confirmation by the issuer of the security that all necessary conditions to the admission of such security (whether imposed by the CREST Rules, the CREST Regulations or otherwise howsoever) have been fulfilled and EUI does not monitor compliance with such conditions. EUI shall not incur any liability for any Liabilities suffered or incurred by the Member as a result of the admission of a security as a participating security or as a result of entry into the CREST relevant system of units of a security, whether such Liability suffered or incurred by the Member arises as a result of some defect in the constitution of the security concerned or because of some want of or defect in title to any unit of a particular security or otherwise howsoever. The Member further acknowledges that it is responsible for ascertaining the terms of issue of any participating security and the mode of exercise of any privilege, benefit or right attaching to it, and for ascertaining the terms of any corporate event facilitated by the CREST relevant system. This clause 8.2 is subject to any liability which EUI might have pursuant to paragraph 6.1 of Schedule 1.

8.3 The Member acknowledges that the facilities of the CREST relevant system may be applied to facilitate the holding in uncertificated form and transfer without written instrument of securities or other intangible moveable assets which are not eligible to be treated as participating securities within the meaning of the UK Regulations (whether because they are constituted under the law of a territory outside the United Kingdom or for some other cause) and to facilitate supplementary and incidental matters; and agrees that if the facilities of the CREST relevant system are so applied, these Terms and Conditions shall have effect in relation to such securities or other intangible assets with such modifications, if any, as EUI may, from time to time, prescribe in the CREST Manual.

8.4 The Member acknowledges that certain services provided by EUI in relation to an eligible debt security are dependent upon the provision to EUI of information from the relevant CREST IPA acting as issuing and paying agent in respect of that eligible debt security (the relevant services and information being specified in the CREST Manual). The Member acknowledges that EUI does not check the accuracy of such information and relies on the relevant CREST IPA to ensure its accuracy and completeness. Without prejudice to clause 8.2, the Member undertakes to EUI that it shall cooperate with EUI in taking any action which EUI may require to correct any inaccurate or incomplete data or other information which is entered into the EUI systems by a CREST IPA in the performance of its functions as an issuing and paying agent, or which EUI considers appropriate to avoid or minimise any threat to the security, integrity or reputation of the CREST relevant system or the EUI systems or any risk that EUI may be involved in material expense or legal proceedings which might arise as a result of the entry of such inaccurate or incomplete data or other information into the EUI systems.

8.5 The Member acknowledges that:

- 8.5.1 securities constituted under the laws of the UK, Ireland, Guernsey, the Isle of Man or Jersey may be admitted to the CREST system either:
- (a) directly as participating securities themselves; or
  - (b) indirectly by means of the admission of depository interests representing an interest in such securities (such depository interests being themselves participating securities) ('indirectly held domestic securities');
- 8.5.2 indirectly held domestic securities may be identified by means of a list of such securities available on the Euroclear website;
- 8.5.3 indirectly held domestic securities may be subject to custody and other risks associated with indirect holdings, including that rights attaching to such securities will only be available to the Member through the intermediation of third parties;
- 8.5.4 rights attaching to indirectly held domestic securities may be affected by various factors including, but not be limited to: (i) the interest held by third parties in respect of such securities; (ii) the laws of the jurisdiction of the CSD in which the underlying security is held, of the issuer or which is otherwise applicable to any particular contract, agreement, event or circumstance; (iii) the terms and conditions of any relevant CSD, custodian or sub-custodian; and (iv) the terms and conditions of the depository interests admitted to the CREST system (which in the case of CDIs are set out in the CREST International Manual).

## **9 Stock deposits and the CREST Courier & Sorting Service**

- 9.1 The Member warrants, represents and undertakes to EUI that:
- 9.1.1 any form of transfer presented by or for the Member through the CCSS or otherwise for transfer to a CREST Member will be properly and validly executed (whether executed by the Member or by any other person); and
  - 9.1.2 the Member will not convert or seek to convert any security held by it in certificated form into uncertificated form if it is aware of any want of or defect in its title to such security.
- 9.2 The Member acknowledges, agrees and accepts that:
- 9.2.1 the services provided by the CCSS do not include checking documents for accuracy or completeness; and
  - 9.2.2 any documentation which it deposits for delivery by the CCSS will be delivered by EUI (or by any other person operating the CCSS from time to time) as agent of the Member to any participating issuer or other person to whom the same is to

be delivered. EUI shall have no responsibility, and has no duty, in respect of any inaccuracy or defect in, or omission from or in relation to, any such documentation as deposited with the CCSS from time to time.

## **10 Holding and transfer of uncertificated securities**

10.1 The Member undertakes to EUI that:

10.1.1 it will only transfer by means of the CREST relevant system securities which it is able to so transfer free from any proprietary, equitable or other similar interest (including without limitation any unpaid vendor's lien) of any person (including the Member or person for whom, directly or indirectly, the Member acts as nominee or agent);

10.1.2 it will not assert and, so far as it is able, it will procure that no person for whom (directly or indirectly) it holds or is to hold securities as nominee or agent will assert, any interest that it or that person may have or claim to have in securities held by the Member by means of the CREST relevant system in any way which could prevent a transfer of title to a unit of that security by the Member (or by any other person) which has been instructed by a system-member instruction, an issuer-instruction or an Operator-instruction from proceeding to registration (but without affecting the Member's ability to amend or delete a system-member instruction in accordance with the CREST Manual).

10.2 Where the Member holds and/or transfers any Restricted Securities, it acknowledges that the CREST Manual describes the arrangements for the admission, holding and transfer of such securities in the CREST system and acknowledges, agrees and accepts that:

10.2.1 it remains responsible at all times for compliance with any applicable holding and transfer restrictions applicable to Restricted Securities under US law;

10.2.2 it remains responsible at all times to account for any applicable taxes in respect of Restricted Securities under US law; and

10.2.3 EUI will not take any actions in respect of holding or transfer restrictions applicable to Restricted Securities other than those set out in the CREST Manual.

10.3 The Member undertakes to EUI that it will not hold or transfer by means of the CREST system any Restricted Securities:

10.3.1 where it is a US CREST member;

10.3.2 where it is the issuer, or an affiliate of the issuer (as that term is used in Regulation S under the Securities Act), of such security;

10.3.3 as nominee or agent on behalf of (directly or indirectly) the issuer, or an affiliate of the issuer (as that term is used in Regulation S under the Securities Act), of such security;

10.3.4 as nominee or agent on behalf of (directly or indirectly) any person where such person is not permitted to hold or transfer such securities, and the Member warrants, represents and undertakes to EUI that it has in place adequate procedures to comply with any holding and transfer restrictions applicable to the Restricted Securities in respect of any changes to the person it holds such securities on behalf of.

## **11 Bad delivery rules**

11.1 The Member acknowledges, agrees and accepts that:

11.1.1 there is no guarantee that a participating issuer will register a transfer of title to uncertificated units of a security in response to an Operator-instruction and that where registration is not so effected the bad delivery rules set out in the CREST Rules may be applied; and

11.1.2 the bad delivery rules set out in the CREST Rules may result in the reversal of system transfers, which reversals may affect the Member notwithstanding that it did not cause the bad delivery, and, where so provided under the bad delivery rules, the Member may have an obligation to procure the delivery of securities to remedy a bad delivery.

## **12 Escrow functionality**

12.1 The Member undertakes to EUI that it will only move securities held by it (or cause securities held by it to be moved) into the facility described in the CREST Manual as an escrow balance:

12.1.1 where an irrevocable power of attorney or other irrevocable authority to effect a transfer thereof has been granted in relation to the securities transferred to the escrow balance in favour of the person described in the CREST Manual as the escrow agent;

12.1.2 where required to do so by law, by any UK or other governmental or regulatory authority or body or by EUI; or

12.1.3 in such other circumstances as may be described in the CREST Manual from time to time.

12.2 The Member acknowledges and agrees that EUI does not monitor whether or not any person described in the CREST Manual as the escrow agent is entitled to transfer to himself any securities held within such balance. Accordingly, EUI shall not be liable to the

Member for any Liabilities suffered or incurred by the Member as a result of the transfer of securities from an escrow balance to the escrow agent.

12.3 The Member acknowledges and agrees that, where it is acting as an escrow agent, it is responsible for ensuring that the use of the escrow balance facility is suitable and adequate for the purpose for which it is used and acknowledges that the escrow balance is operated in the manner described in the CREST Manual. Accordingly EUI shall have no responsibility for the validity or effectiveness of any transaction for which an escrow balance is used and shall not be liable for any Liabilities suffered or incurred by the Member as a result of the Member using the escrow balance facility as an escrow agent.

### **13 Payment**

13.1 The Member acknowledges and agrees with EUI that where a settlement event occurs which gives rise to an obligation on the part of the (or any) settlement bank acting for any person (the 'obligor') to make a payment to the (or any) settlement bank acting for the Member (a 'settlement bank payment obligation'), the creation of the settlement bank payment obligation shall to the extent of the amount of the settlement bank payment obligation discharge any obligation of the obligor and/or any person on whose behalf or with whose consent it is acting to make a payment to the Member in respect of the settlement event. Nothing in this clause 13 shall affect any liability of the obligor and/or any person on whose behalf or with whose consent it is acting to pay any sum to the Member in excess of the amount of the settlement bank payment obligation, or any liability of the Member to make an adjusting payment to the obligor and/or any person on whose behalf or with whose consent it is acting, in respect of the settlement event.

13.2 The Member undertakes to EUI as follows:

13.2.1 to arrange for, authorise and instruct its settlement bank (or, if appropriate, each of its settlement banks) to pay and receive payment in respect of settlement events to which the Member is a party in whatever manner is for the time being prescribed by the CREST Manual as the manner for such payment or receipt;

13.2.2 not to stop, countermand, restrain or seek to restrain or otherwise interfere with any arrangements, instructions or authority under which the Member's settlement bank (or, if appropriate, each of its settlement banks), either generally or in respect of one or more specific settlement event or events, is entitled to receive or bound to make payment in the circumstances and manner referred to in clause 13.2.1;

13.2.3 not to revoke or terminate the appointment of its settlement bank (or, if appropriate, any of its settlement banks where it proposes after any such revocation or termination to make and/or receive payments by means of the CREST system in the designated currency in respect of which the settlement bank acts as such for it) save in conjunction with the appointment of another settlement bank which EUI has approved to act as such for the Member.

13.3 The Member consents to the operation of the payment arrangements in the CREST relevant system and acknowledges and agrees that:

13.3.1 EUI acts on instructions received from the Member's settlement bank (or, if appropriate, one of the Member's settlement banks) in relation to the operation of the Member's payment arrangements;

13.3.2 in relation to the DvP Service, EUI acts on information received from the Bank of England or TARGET2 to determine the amount of liquidity in the relevant RTGS currency which is available at any one time to an RTGS settlement bank and the amount of liquidity so notified to EUI in respect of the Member's RTGS settlement bank(s) (if any) may, in accordance with the CREST Manual, constrain the ability of the Member to make RTGS payments;

13.3.3 EUI shall not be liable to the Member for any Liabilities suffered or incurred by the Member as a result of EUI acting in accordance with any such instructions or information; and

13.3.4 under the US dollar payments mechanism, the US dollar equivalent of sterling funds held at any one time by EUI in the EUI Trust Account for the benefit of the Member's USD settlement bank and/or the functionality made available to the NSS settlement participant acting for the Member's USD settlement bank may, in accordance with the CREST Manual, constrain the ability of the Member to make CREST payments denominated in US dollars.

#### **14 Court orders, stop notices, etc.**

14.1 The Member undertakes to notify EUI immediately in accordance with the CREST Manual if it believes or becomes aware of, any of the following:

14.1.1 that a stop notice is to be served in respect of any units of a participating security held by it through the CREST relevant system;

14.1.2 that an application is to be made for a court order which, if granted, would in any way restrain the transfer of title to units of a participating security held by it through the CREST relevant system or the exercise of any rights, benefits or privileges attaching to or arising from such units;

14.1.3 that any other event is likely to occur which could affect its ability to transfer title to units of a participating security held by it through the CREST relevant system or exercise any rights, benefits or privileges attaching to or arising from such units;

14.1.4 the receipt of any stop notice or court order of the type described in clause 14.1.1 or clause 14.1.2 or becomes aware that any such order has been or is to be served on any other person; or

14.1.5 the occurrence of any other event affecting its right capacity or ability to transfer title to units of a participating security held by it through the CREST relevant system or exercise any rights, benefits or privileges attaching to or arising from such units.

14.2 Where any notification is given pursuant to clause 14.1, it shall be confirmed in writing and the Member shall provide EUI with all relevant information that it has relating to the matter. EUI may take such action as it in its absolute discretion thinks fit with a view to preventing (so far as practicable) any such event or threatened event from giving rise to a bad delivery or from rendering any action taken or to be taken in connection with the CREST Voting Service void, voidable or otherwise not effective and the Member undertakes to cooperate with EUI to facilitate the taking of any such action. EUI shall not, provided it has acted in good faith, be liable to the Member for any Liabilities suffered or incurred by the Member as a result of any such action and shall be entitled to recover from the Member any costs or expenses reasonably incurred by it in connection with the taking of any such action, or arising as a result of its taking such action.

## **15 Insolvency, etc., of the Member**

15.1 The Member undertakes to EUI to notify EUI immediately in accordance with the CREST Manual upon becoming aware of the occurrence of any of the following events:

- 15.1.1 the presentation of any petition or the making of an application for the bankruptcy or winding-up of the Member or for the appointment of a receiver or an administrator in relation to the Member;
- 15.1.2 the taking of any step with a view to the voluntary winding-up of the Member;
- 15.1.3 the appointment or purported appointment of a receiver, administrative receiver, manager, trustee, administrator or similar person in respect of the Member or any property of the Member;
- 15.1.4 the service or filing of any notice (or a copy of any notice) by any person of intention to appoint an administrative receiver or administrator in respect of the Member;
- 15.1.5 the Member becoming unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 (but as if in subsections (1)(e) and (2) of that Section the words 'it is proved to the satisfaction of the court that' did not appear);
- 15.1.6 the Member appearing to be unable to pay or to have no reasonable prospect of being able to pay any debt as those expressions are defined in Section 268 of the Insolvency Act 1986;
- 15.1.7 the proposal of a voluntary arrangement in respect of the Member under Part I or Part VIII of the Insolvency Act 1986;

- 15.1.8 the dissolution of the Member or the publication in the Gazette of a notice of prospective striking off the register of companies or the making of an application by the Member for its striking off the register of companies;
- 15.1.9 the making of any application in respect of the Member for an interim order under Section 253 of the Insolvency Act 1986;
- 15.1.10 the Financial Conduct Authority or the Prudential Regulation Authority imposing, or giving written notice to the Member that it proposes to impose, an assets requirement (within the meaning of Section 55P(4) of the Financial Services and Markets Act 2000) on the Member in respect of any assets of, or which are held by or to the order of, the Member (or the Financial Conduct Authority or the Prudential Regulation Authority giving written notice of the imposition of any such assets requirement to any institution with whom the Member keeps an account);
- 15.1.11 the Member stopping, suspending or threatening to stop or suspend payment of all or any part of its indebtedness or the commencing of negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of all or any part of its indebtedness or the making of a general assignment for the benefit of or composition with its creditors or if a moratorium is agreed, declared or otherwise obtained in respect of, or affecting, all or any part of its indebtedness;
- 15.1.12 the occurrence under the laws of any applicable jurisdiction of anything analogous to or having a substantially similar effect to any of the events described in clauses 15.1.1 to 15.1.11 inclusive in relation to the Member;
- 15.1.13 the occurrence in relation to any Associate of the Member of any of the events listed in clauses 15.1.1 to 15.1.12 inclusive (and for this purpose any reference in those clauses to 'the Member' shall be construed as a reference to each such Associate), where such occurrence could or may give rise to the occurrence in relation to the Member of any of such events; or
- 15.1.14 (if relevant) the occurrence in relation to the Member of any event of default (howsoever described) under the RTGS CREST Master Self-Collateralising Repurchase Agreement to which the Member is a party,

and the Member shall thereafter promptly notify EUI of the making of any order or appointment or the occurrence of any other relevant event, consequent upon any of the foregoing.

15.2 The Member undertakes to EUI that upon becoming aware of any of the events referred to in clause 15.1 it will not (except with the prior consent of EUI) take any steps which could result in:



- 15.2.1 any further securities (being securities in addition to any securities held by it at the date of it becoming aware of the event concerned) becoming held by it by means of the CREST relevant system (whether by virtue of a transfer to it or otherwise) and will take all steps available to it within the CREST relevant system to prevent any transfer of securities to it or by it (including any transfer to an escrow balance), except any transfer which has the prior consent of EUI; or
- 15.2.2 any dematerialised instructions in connection with the CREST Voting Service attributable to the Member being sent by means of the CREST relevant system and will take all steps available to it within the CREST relevant system to prevent any dematerialised instructions in connection with the CREST Voting Service attributable to the Member being sent, except any dematerialised instruction which has the prior consent of EUI.

## **16 Suspension and termination of membership, etc.**

- 16.1 EUI may suspend the Member's membership in whole, or in part in relation to any particular function, with immediate effect (or with effect from such time and date as EUI may specify) in the following circumstances:
  - 16.1.1 where, in the opinion of EUI, the Member or the Parent is in breach of any provision of these Terms and Conditions or has not complied with any provision of the CREST Requirements or where, in the opinion of EUI, any such breach or non-compliance is or appears to be threatened or likely to occur;
  - 16.1.2 if, in the opinion of EUI, circumstances have arisen which make it appropriate to do so in order to avoid the risk of a bad delivery or which could be prejudicial to EUI or represent a threat to the security, integrity or reputation of the CREST relevant system or which could involve EUI in material expense or legal proceedings, not being proceedings solely between EUI and the Member arising out of these Terms and Conditions;
  - 16.1.3 if, in the opinion of EUI, the Member's participation is disruptive to other CREST members, system-participants (or CREST Registrars or CREST IPAs which are not system-participants), the Networks or to participating issuers;
  - 16.1.4 if any of the events set out in clauses 14.1 or 15.1 occurs or, in the opinion of EUI, appears likely to occur;
  - 16.1.5 on death of the Member;
  - 16.1.6 if it appears to EUI that the Member has become or is likely to become mentally incapable of managing its property and affairs;
  - 16.1.7 if the appointment of any of the Member's settlement banks ceases to be effective or if the settlement bank status of any of the Member's settlement

banks is otherwise terminated, or suspended (whether in whole, or in part in relation to any particular function), save in each such case in conjunction with the appointment of another settlement bank which EUI has approved to act as such for the Member;

16.1.8 where the Member is a Sponsored Member:

- (a) upon the participation of the Sponsor as a CREST sponsor being suspended or terminated (in whole, or in part in relation to any particular function or to the Sponsored Member) unless prior to such suspension or termination the Sponsored Member has notified EUI in accordance with the CREST Manual of the appointment of a replacement CREST sponsor (other than a CREST central sponsor); and
- (b) if EUI has any reason to believe that the appointment of the Sponsor as the Sponsored Member's CREST sponsor, or the authority of the Sponsor to act as CREST sponsor for the Sponsored Member, has been or is to be suspended or terminated unless prior to such suspension or termination the Sponsored Member has notified EUI in accordance with the CREST Manual of the appointment of a replacement CREST sponsor (other than a CREST central sponsor);

16.1.9 where the Member is admitted pursuant to a CREST Sponsored Member (Nominee) Admission Agreement, if the Sponsored Member ceases to be a wholly owned subsidiary of the Parent.

16.2 Any suspension pursuant to clause 16.1 shall continue for so long as EUI shall in its absolute discretion determine is appropriate and shall end on such date and on such conditions as EUI shall determine. The Member agrees that EUI may suspend the Member on the basis of information supplied to EUI (whether orally or in writing) which EUI bona fide believes to be true.

16.3 Either EUI or the Member may terminate the membership in whole, and EUI may terminate the membership in part in relation to any particular function, by giving written notice to the other. Where notice is given the membership shall terminate, to the extent specified by such notice (where applicable), on the expiry of 30 days from the date on which the notice is treated as served under clause 21 or on such later date as may be specified in the notice.

16.4 EUI may terminate the Member's membership in whole, or in part in relation to any particular function, with immediate effect, or with effect from such time and date as EUI may determine, if any of the circumstances set out in clause 16.1 occurs.

16.5 Without prejudice to clause 20.3, termination or suspension of membership or re-materialisation of part or all of any securities held by the Member through the CREST system shall not affect any rights or obligations arising prior to or continuing during or

after the date of the termination, suspension or re-materialisation or which arise in consequence of it or which relate to the Member's period of membership, and all such rights and obligations shall continue to be subject to these Terms and Conditions. EUI shall not be liable to the Member for any Liabilities suffered or incurred by the Member arising out of the exercise of its powers of rematerialisation, suspension or termination pursuant to these Terms and Conditions.

16.6 Upon termination or suspension of membership the manner of transferring securities or of withdrawing securities from the CREST system and of settling any other matters concerning the Member's membership or the termination or suspension of that membership shall be as for the time being prescribed in the CREST Manual.

## **17 Obligations and liability of EUI**

17.1 EUI undertakes to the Member that it will take reasonable care to cause the EUI systems and the CREST services to operate in all material respects in the manner described in the CREST Manual. EUI shall not be liable to the Member for any Liabilities which may be suffered or incurred by the Member as a result of the EUI systems or the CREST services or the manner in which the EUI systems or the CREST services operate at any particular time not being adequate or sufficient for any specific purpose of the Member or any other person, whether or not EUI is aware of any such purpose.

17.2 The undertaking in clause 17.1 is subject and without prejudice to:

- 17.2.1 the ability of EUI to alter the provisions of these Terms and Conditions, the CREST Manual and the CREST Rules in accordance with these Terms and Conditions;
- 17.2.2 the limitations on the scope of EUI's obligations to the Member, and the limitations on, and exemptions from, EUI's liability to the Member, provided for in these Terms and Conditions.

17.3 EUI will allow:

- 17.3.1 a member which is a Sponsored Member access to its records relating to the Sponsored Member's stock accounts, cash memorandum accounts and dematerialised instructions received from the Sponsor and attributable to the Sponsored Member and sent to the Sponsor and addressed to the Sponsored Member (subject to the Sponsored Member paying the charges levied by EUI for such access), in the event that it is established to EUI's satisfaction that the Sponsor cannot or will not provide details of the same to the Sponsored Member; and
- 17.3.2 a member which is a VSP Voting Member access to its records relating to dematerialised instructions received from a CREST VSP and attributable to the VSP Voting Member and sent to a CREST VSP and addressed to the VSP Voting

Member (subject to the VSP Voting Member paying the charges levied by EUI for such access), in the event that it is established to EUI's satisfaction that the CREST VSP cannot or will not provide details of the same to the VSP Voting Member.

17.4 The Member acknowledges and agrees that:

17.4.1 EUI shall not be liable to the Member for any Liabilities suffered or incurred by the Member which result from EUI taking any action authorised by or permitted or provided for in the CREST Regulations, these Terms and Conditions, the CREST Manual or the CREST Rules; and

17.4.2 EUI shall not be liable to the Member for any Liabilities suffered or incurred by the Member which result directly or indirectly from EUI increasing the settlement priority of dematerialised instructions relating to CLA transaction types from zero in accordance with the CREST Manual or from any error in any calculations made by the Claims Processing Unit operated by EUI.

17.5 EUI undertakes that if the services provided by the EUI systems or the CREST services are interrupted (whether by EUI or otherwise) for any reason (including but without limitation as a result of a software error or fault) it will take reasonable care to minimise the duration of any interruption or to otherwise take the action provided for or described in the CREST Manual and (wherever practicable and appropriate) to operate the stand-by procedures referred to in the CREST Manual. Provided that EUI complies with this undertaking, EUI shall not be liable to the Member for any Liabilities which may be suffered or incurred by the Member as a result of any such interruption, whether caused by EUI's negligence or otherwise howsoever, except where such interruption is caused by EUI's fraud or wilful default.

17.6 Any liability of EUI to the Member, whether such liability arises under any express or implied term of these Terms and Conditions, in tort, for misrepresentation, for breach of any other duty imposed by law, in respect of the maintenance of an Operator-register of securities or in any other way (and whether such liability is to make any payment of any kind or to deliver or reinstate property or is of any other kind), shall be limited as set out in clauses 17.7 to 17.10 (inclusive).

17.7 EUI shall not incur any liability to the Member save to the extent that such liability results from EUI's negligence, wilful default or fraud.

17.8 EUI shall not incur any liability for any indirect, special or consequential loss of any kind.

17.9 If it is the case that the total liability of EUI to the Member and to all other claimants (if any) against EUI in relation to the CREST relevant system and/or the CREST services for amounts claimed in respect of Liabilities arising out of:

17.9.1 any single act or omission, or related acts or omissions; or if there be no such acts or omissions;

17.9.2 any one event or series of related events;

would otherwise exceed the amount of the Liability Cap, then the total liability of EUI to the Member for such Liabilities suffered or incurred by the Member shall be limited to a proportion of the Liability Cap corresponding to the proportion which the amount EUI would otherwise be liable to pay to the Member, or to meet a claim made by the Member bears to the aggregate of the amounts that EUI would otherwise be liable to pay to, or to meet claims made by, the Member and all other claimants against EUI in relation to the CREST relevant system or CREST services or, if there are no such other claimants, to the amount of the Liability Cap.

17.10 Where the Liability suffered or incurred by the Member relates to or arises from or in connection with any facility or service provided by the CCSS clause 17.9 shall not apply and EUI's liability to the Member in respect of such Liability shall not exceed the relevant limitation(s) for the time being set out in the CREST Manual.

17.11 EUI shall on no account be liable for any Liabilities suffered or incurred by the Member unless written notice of the claim has been given to EUI by or on behalf of the Member on or before the date which is six months after the date on which the Member became aware of the specific act, fact, circumstance or event which gave rise to the claim or if earlier the date on which it ought reasonably (having regard to all the circumstances) to have become so aware.

17.12 Nothing in these Terms and Conditions (including this clause 17) shall be construed as limiting or excluding in any way the statutory no-fault liability imposed on EUI by UK Regulation 36.

17.13 If EUI has paid to the Member an amount in respect of a claim for breach of these Terms and Conditions or otherwise, and subsequent to the date of making such payment the Member recovers from a third party a sum which is referable to the subject matter of that claim, then the Member shall apply the amount recovered (less the actual cost of recovery) first in satisfaction of any loss suffered by it which was not recovered from EUI due to the operation of the limits in clauses 17.9 or 17.10 and second shall forthwith repay to EUI so much of the amount paid by the third party as does not exceed the sum paid by EUI to the Member. The Member undertakes to use all reasonable endeavours to enforce any right to recover any such sum.

17.14 EUI undertakes to the Sponsored Member that, where the Sponsored Member has notified EUI, in accordance with the CREST Manual, that the authority of the Sponsor is limited by reference to the net value of the units of securities that may be transferred in any one day, EUI will take reasonable care to apply the limit in the manner described in the CREST Manual.

17.15 The Member or, (where the Member is admitted pursuant to a CREST Sponsored Member (Nominee) Admission Agreement), the Parent, agrees to indemnify and keep indemnified EUI against all Liabilities suffered or incurred by EUI in connection with:

17.15.1 the Member's membership arising directly or indirectly from the actions and/or omissions of the Member, including any failure of the Member to comply with the CREST Requirements, and of every person for whom the Member acts as agent or nominee and/or from EUI relying upon information provided to it by or on behalf of the Member; and

17.15.2 (without prejudice to the generality of the indemnity set out in clause 17.15.1) the failure of the Member (and of every person for whom the Member acts as agent or nominee) to comply with any requirements or restrictions imposed on the Member concerning the use (or otherwise) of data which has been provided by third parties to EUI and which is made available by EUI as part of or otherwise in connection with the services provided by it.

This indemnity in clause 17.15.1 shall not apply to the extent that EUI could have avoided the Liabilities by taking reasonable steps. The requirements or restrictions contemplated by the indemnity in clause 17.15.2 are more particularly described in Chapter 1, section 3 of the CREST Reference Manual.

The Member (or, where relevant, the Parent) agrees that any indemnity set out in this clause 17.15 shall survive any termination of the Member's membership.

17.16 EUI has entered into certain arrangements with the BoE intended to facilitate the operation by EUI of the EUI systems and CREST services. The Member agrees that the BoE does not owe any duty of care in relation to the operation of the arrangements and accordingly agrees that it will not take any action against the BoE (or any person for whom the BoE is vicariously liable) to recover damages, compensation or payment or remedy of any other nature in respect of any acts, omissions or events which occur while such arrangements are in operation.

17.17 The Member agrees that if it suffers or incurs any Liabilities arising out of or in connection with entries made on or deleted from an Operator-register of securities (whether relating to it or any other person) or otherwise out of the maintenance of an Operator-register of securities, it will take no action in respect of such Liabilities which could directly or indirectly give rise to the Member (or any other person) recovering damages or having or obtaining any other remedy against the participating issuer which issued the participating security to which the Operator-register of securities relates. This undertaking is given to EUI and also for the benefit of each participating issuer but shall not be construed so as to prevent the Member exercising such rights (if any) as it may have against a participating issuer for breach of the UK Regulations or otherwise from taking any action which relates to changes made to the Operator-register of securities as a result of an instruction from or a properly authenticated dematerialised instruction

attributable to a participating issuer or arising out of the negligence, wilful default or fraud of a participating issuer.

17.18 Where pursuant to the UK Regulations EUI maintains a register of securities, it does not accept any obligations under the provisions in the constitution or terms of issue of a participating security which relate to the maintenance of registers or otherwise and the Member agrees that it will not assert that any such provisions apply.

17.19 EUI may, from time to time, enter into certain arrangements with one of its Associates, such that the Associate provides certain services to EUI. The Member agrees that such Associate does not owe the Member any duty of care in relation to the operation of the arrangements and, accordingly, agrees it will not take any action against such Associate (or any person for whom such Associate is vicariously liable) to recover damages, compensation or payment or remedy of any other nature in respect of any acts or omissions or events which occur while such arrangements are in operation. The Member further agrees that it will have no other rights against such Associate in connection with the operation of such arrangements.

17.20 The Member acknowledges that systems, procedures and other facilities which comprise all or part of the EUI systems and CREST services may also from time to time be used by EUI's Associates. The Member agrees that no such Associate owes the Member a duty of care or assumes any responsibility towards the Member in connection with any such use and accordingly the Member agrees that it will not take any action against any such Associate (or any person for whom the Associate is vicariously liable) to recover damages, compensation or payment or remedy of any other nature in connection with any such use.

## **18 Fees, charges, etc.**

18.1 The Member undertakes to EUI that it will pay to EUI in accordance with the CREST Requirements such fees, tariff charges, fines and default and other charges as are in force from time to time and as are applicable to it.

18.2 The Member acknowledges and agrees that EUI may pay rebates to the Member from time to time in respect of any fees, tariffs and other charges paid by the Member, if EUI determines (in its absolute discretion) that any such rebates should be so paid.

18.3 Any amount payable by or to the Member or EUI pursuant to these Terms and Conditions shall be exclusive of value added tax (if any).

## **19 Amendments to these Terms and Conditions, the CREST Manual and the CREST Rules**

19.1 The Member acknowledges, agrees and accepts that the provisions of the CREST Manual, the CREST Rules and these Terms and Conditions may be changed from time to time by EUI and, by entering into the Admission Agreement, the Member agrees to comply

with such provisions as so altered from time to time. Such changes will be made in the manner described, and subject, where relevant, to the applicable prior consultation procedures set out in the CREST Manual. EUI confirms that the introduction of material new functionality, the use of which will not be optional on the part of the Member, and material changes to existing functionality will be subject to prior consultation.

19.2 EUI confirms that changes to these Terms and Conditions which restrict or exclude liability on the part of EUI or which impose additional obligations or liabilities on the Member (other than changes to Schedule 1 or changes which only relate to new services or new optional functionality) will be subject to prior consultation. No change will affect the ability of the Member to terminate its membership by written notice.

19.3 No change to these Terms and Conditions shall take effect until the earlier of:

19.3.1 40 days after service of notice on the Member; or

19.3.2 the date on which, in the case of functionality or a service the use of which is optional on the part of the Member, the Member (or the Sponsor on behalf of the Sponsored Member) first uses the new or enhanced functionality or additional service,

at which time the Member shall be deemed to have accepted the change.

## **20 General**

20.1 No failure or delay by any party or time or indulgence given by any party in or before exercising any remedy or right under or in relation to these Terms and Conditions shall operate as a waiver or variation of the same nor shall any single or partial exercise of any remedy or right preclude any further exercise of the same or the exercise of any other remedy or right; and no act or course of conduct on the part of any party shall preclude that party from exercising any such right or constitute a suspension or variation of any such right.

20.2 No waiver by any party of any requirement of these Terms and Conditions or of any remedy or right under these Terms and Conditions shall have effect unless given by notice in writing signed by such party. No waiver of any particular breach of the provisions of these Terms and Conditions shall operate as a waiver of any repetition of such breach.

20.3 The provisions of these Terms and Conditions, so far as relevant, shall continue to apply during any suspension of membership. Without prejudice to clause 16.5, the Member and the Parent agree that the provisions of clauses 1, 3.1.3, 3.1.4, 3.1.7, 3.1.9 (so far as it concerns the maintenance and production of records), 4.1, 4.4, 5.3, 5.5, 5.6, 14.2, 16.5, 17.3, 17.6 to 17.13 (inclusive), 17.15 to 17.20 (inclusive), 20.1 to 20.5 (inclusive), 21, 22, 23, Schedule 1, Schedule 3, Schedule 4, Schedule 5, Schedule 6 and Schedule 7 shall survive any termination of its membership.



20.4 If any provision (or part of any provision) of these Terms and Conditions is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of these Terms and Conditions, and the validity and enforceability of the other provisions of these Terms and Conditions shall not be affected.

20.5 The Member may not assign any of its rights, benefits or obligations under or pursuant to these Terms and Conditions, provided always that these Terms and Conditions shall be binding on, and shall ensure for the benefit of, any successor in title to the Member.

## **21 Notices**

21.1 Any notice required or permitted to be served by the Member or Parent under clauses 3.2, 14.1 or clauses 15.1 or 23.2.12 (or, if applicable, paragraph 5 or paragraph 6 of Schedule 3, paragraph 2.2.7 of Schedule 4 or paragraph 4.3 of Schedule 7)) shall be given in accordance with the CREST Manual.

21.2 Any notice other than a notice contemplated by clause 21.1 shall be in writing and signed by or on behalf of the person giving it. Except in the case of personal service, any such notice (including, unless an agent is appointed under the Admission Agreement, service of any process) shall be sent or delivered to the party to be served, in the case of EUI, at the address set out in the Admission Agreement and marked for the attention of the Company Secretary and, in the case of the Member or the Parent, at the relevant address set out in the Admission Agreement. Any alteration in the details of the party to be served shall, to have effect, be notified to the other party in accordance with this clause. Service of a notice must be effected by one of the following methods:

21.2.1 personally on a director or the secretary of any party and shall be treated as served at the time of such service;

21.2.2 by prepaid first class post (or by airmail if from one country to another) and shall be treated as served on the second (or if by airmail the fourth) business day after the date of posting. In proving service it shall be sufficient to prove that the envelope containing the notice was correctly addressed, postage paid and posted;  
or

21.2.3 by delivery of the notice through the letterbox of the party to be served and shall be treated as served on the first business day after the date of such delivery.

## **22 Applicable law and jurisdiction**

22.1 These Terms and Conditions, and any non-contractual obligations arising out of or in connection with these Terms and Conditions, shall be governed by, and construed in accordance with, English law.

22.2 For the benefit of EUI, the Member (and, where relevant, the Parent) irrevocably agrees that the courts of England shall have jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with these Terms and Conditions or any non-contractual obligations which may arise out of or in connection with these Terms and Conditions. For such purposes, the Member (and, where relevant, the Parent) irrevocably submits to the jurisdiction of the courts of England.

22.3 The Member (and, where relevant, the Parent) irrevocably waives any objection which it might now or hereafter have to the courts referred to in clause 22.2 being nominated as the forum to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with these Terms and Conditions, or any non-contractual obligations which may arise out of or in connection with these Terms and Conditions, and agrees not to claim that any such court is not a convenient or appropriate forum.

22.4 The submission to the jurisdiction of the courts referred to in clause 22.2 shall not (and shall not be construed so as to) limit the right of EUI to take proceedings against the Member (and, where relevant, the Parent) in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

### **23 Parents of Sponsored Member (Nominees)**

23.1 The agreements contained in this clause by the Parent relate to each Sponsored Member in respect of which the Parent has executed an Admission Agreement and references to the 'Sponsored Member' in this clause are to each such Sponsored Member.

23.2 The Parent undertakes and agrees with EUI that:

23.2.1 it will notify EUI forthwith upon the Sponsored Member ceasing to be a wholly-owned subsidiary of the Parent;

23.2.2 it will procure that the Sponsored Member complies with the CREST Requirements applicable to it from time to time;

23.2.3 it will pay to EUI in accordance with the CREST Requirements such fees, tariff charges, fines and default and other charges as are in force from time to time and as are applicable to the Sponsored Member;

23.2.4 where under the bad delivery rules the Sponsored Member becomes obliged to procure the delivery of securities to remedy a bad delivery, the Parent will procure the delivery of such securities and EUI agrees to accept the obligation of the Parent to procure the delivery in place of the obligation which would otherwise arise on the Sponsored Member;

- 23.2.5 it will notify EUI without delay if it becomes aware of any inaccuracy in the information within the EUI systems;
- 23.2.6 it will notify EUI of any changes in the information supplied to EUI as part of the membership application and wherever possible notify EUI of any changes to such information that are expected to occur;
- 23.2.7 it will provide to EUI such information in the possession of the Parent as EUI may require from time to time in order for EUI to meet its obligations under the CREST Regulations (or any other relevant legislation) or to any regulatory authority to whose jurisdiction it is subject;
- 23.2.8 the Sponsored Member will not convert or seek to convert any security held by it in certificated form into uncertificated form if the Parent is aware of any want of or defect in its title to such security;
- 23.2.9 EUI shall be entitled without further enquiry to act upon any written information relating to the Parent received from the Parent or any person reasonably believed by EUI to be a person who is legally able to act on behalf of the Parent or to be a person notified to it by the Parent as having authority to act on behalf of the Parent and shall not be liable for any Liabilities suffered or incurred by the Parent if it is subsequently discovered that any such information is not genuine or was not correct or was unauthorised;
- 23.2.10 EUI may pay rebates to the Parent from time to time in respect of any fees, tariffs and other charges paid by it which are applicable to the Sponsored Member, if EUI determines (in its absolute discretion) that any such rebates should be so paid;
- 23.2.11 if it believes or becomes aware that any of the matters referred to in clause 14.1 (or, if applicable, paragraph 5.1 of Schedule 3) has occurred or is likely to occur, it will notify EUI immediately in accordance with the CREST Manual and will provide EUI with all relevant information that it has relating to the matter and will co-operate with EUI to facilitate the taking of any action to prevent:
- (a) a bad delivery; or (if applicable)
  - (b) the settlement of a central counterparty transaction in breach of any relevant law, order of a court or requirement of an Appropriate Regulator or any other regulatory or governmental authority or body (including any investment exchange or clearing house) having jurisdiction over any non-clearing member or CM undertaking for whom the Sponsored Member acts as a settlement agent,

and EUI shall be entitled to recover from the Parent any costs or expenses reasonably incurred by it in connection with the taking of any such action, or arising as a result of its taking such action;

- 23.2.12 it will notify EUI immediately in accordance with the CREST Manual upon becoming aware of the occurrence of events referred to in clause 15 (or, if applicable, paragraph 6 of Schedule 3) and the Parent shall thereafter promptly notify EUI of the making of any order or appointment or the occurrence of any other relevant event, consequent upon any such event;
- 23.2.13 upon becoming aware of any of the events referred to in clause 15 it will procure that the Sponsored Member does not (except with the prior consent of EUI) take any steps which could result in any further securities (being securities in addition to any securities held by it at the date of it becoming aware of the event concerned) becoming held by it by means of the CREST relevant system (whether by virtue of a transfer to it or otherwise) and will take all steps available to it within the CREST relevant system to prevent any transfer of securities to it or by it (including any transfer to an escrow balance) except any transfer which has the prior consent of EUI;
- 23.2.14 the Parent may not assign any of its rights, benefits or obligations under or pursuant to this Agreement, provided always that this Agreement shall be binding on, and shall ensure for the benefit of, any successor in title to the Parent;
- 23.2.15 the provisions of these Terms and Conditions, the CREST Manual and the CREST Rules may be changed in accordance with clause 19 provided that any changes which expressly imposes an obligation or liability on the Parent (and not the Sponsored Member) shall not take effect until 40 days after service of the notice of change on the Parent;
- 23.2.16 any amount payable by or to the Parent, the Sponsored Member or EUI pursuant to this Agreement shall be exclusive of value added tax (if any); and/or
- 23.2.17 any notice required to be served by the Parent under clause 23.2.11 or clause 23.2.12 shall be given in accordance with the CREST Manual.
- 23.3 The Parent warrants, represents and undertakes to EUI that:
- 23.3.1 all information concerning the Parent provided by the Parent to EUI (or to the Sponsor for onward transmission to EUI) was when provided and, unless EUI has been notified to the contrary, remains correct and, where relevant was duly authorised in accordance with the Parent's own internal procedures;
- 23.3.2 all information concerning the Parent provided by the Parent to EUI (or to the Sponsor for onward transmission to EUI) in the future will be correct and, where

relevant, duly authorised in accordance with the Parent's own internal procedures;

23.3.3 in so far as it has provided or in the future provides to EUI (or to the Sponsor for onward transmission to EUI) information other than that referred to in clause 23.2.18(a) or (b) above:

- (a) where relevant, such information was or (as appropriate) will be correctly reproduced from information provided to the Parent; and
- (b) it will notify CREST forthwith if it becomes aware of any inaccuracy in such information.

## **24 Appointment and removal of CREST VSPs**

24.1 The Member may appoint one or more CREST VSPs authorised by it to send properly authenticated dematerialised instructions attributable to the Member and to receive properly authenticated dematerialised instructions on behalf of the Member in connection with the CREST Voting Service. EUI shall be notified of the appointment or termination of the appointment of a CREST VSP in accordance with the CREST Manual.

24.2 The Member acknowledges that a CREST VSP's participation in the CREST system may be suspended or terminated in whole or in part at any time and that such suspension or termination may affect the ability of the CREST VSP to send properly authenticated dematerialised instructions attributable to the Member and to receive properly authenticated dematerialised instructions on behalf of the Member.

## **25 Investment Funds Service**

25.1 These Terms and Conditions apply in relation to the Investment Funds Service subject to the provisions of Schedule 6.

## **26 Stamp Duty Assessment Service**

26.1 These Terms and Conditions apply in relation to the Stamp Duty Assessment Service subject to the provisions of Schedule 7.

## **Schedule 1: International Settlement Links**

### **1 Scope of International Settlement Links Service**

1.1 The International Settlement Links Service comprises arrangements with one or more CSDs, which arrangements may differ as between CSDs, the principal details of the arrangements (insofar as they are relevant to CREST members) being as described from time to time in the CREST Manual. All the arrangements involve the holding of International Securities by the Custodian on behalf of the Depository for the account of CREST members and the issue of CDIs representing such International Securities by the Depository to CREST members; and the terms and conditions contained in this Schedule together with the provisions of the relevant Deed Poll and the CREST Manual set out, in particular, the basis on which such International Securities are so held and CDIs are so issued and may be transferred, and the basis on which CREST members may transfer CREST Securities to, or receive CREST Securities from, participants in CSDs.

1.2 Clause 8.5 of the Terms and Conditions is specifically drawn to the attention of participants using the International Settlement Links Service. In particular, participants should note that the defined term 'International Securities' includes both non-participating domestic securities and foreign securities.

1.3 To the extent that the International Settlement Links Service involves the holding in safe custody and the administration of the assets represented by CDIs, EUI accepts responsibility for the same as being a CREST service provided by it; the performance of the functions required for this purpose is carried out by the Depository and/or the Custodian under arrangements which are operated by EUI as described in this Schedule and the CREST International Manual.

1.4 The International Settlement Links Service at the date of publication of these terms and conditions comprises a link to SIX SIS AG, the Depository Trust Company and Euroclear Bank S.A./N.V.. EUI may in the future enter into arrangements with other CSDs and accordingly provide additional services as part of the overall International Settlement Links Service. Each arrangement with a CSD comprises a separate service provided by EUI. EUI may terminate any particular service by not less than 30 days' prior written notice to the Member (or such lesser notice as is necessary to comply with the arrangements made with the relevant CSD).

### **2 Depository, Issue of CDIs and Member's obligations and the Nominee Arrangement**

2.1 EUI undertakes to the Member that it will procure that the Depository will, before issuing any CDIs in respect of any class of International Securities held within a CSD, execute a Deed Poll which by its terms will comprise International Securities of classes which include the class in question.

2.2 The Member acknowledges and agrees with EUI (for itself and as agent for and on behalf of each of the Depository and the Custodian) that, by utilising the facilities of the International Settlement Links Service, it accepts and is bound by all the provisions of the Deed Poll and by all the provisions of, or prescribed pursuant to, the CREST Manual and the CREST Rules applicable to the International Settlement Links Service and shall comply in full with all obligations imposed on it by such provisions.

2.3 Without prejudice to paragraph 2.2, the Member undertakes to and agrees with EUI (for itself and as agent for and on behalf of each of the Depository and the Custodian) that whenever it is a Taker or a Holder of a CDI, as those expressions are defined in the Deed Poll, it gives to the Depository and the Custodian the indemnities, warranties, representations and undertakings expressed in the Deed Poll to be given by a Taker or a Holder of a CDI.

2.4 The Member consents to the non-payment of interest on any moneys held for his account by the Depository or the Custodian, waives any right to interest on such moneys, and consents to the retention by the Depository for its own benefit of any interest earned by it on such moneys.

2.5 Pursuant to the terms of the Deed Poll, upon the termination or suspension of a Member (including pursuant to such Member's insolvency) and in certain other default circumstances, a Member's CDIs may be transferred to Trinity Nominees Limited or other nominee ('Trinity') which is a subsidiary of EUI and a CREST member, to be held on bare trust for the Member on such terms as Trinity, EUI or the Depository shall determine (the 'Nominee Arrangement'). Notwithstanding this, the following general provisions shall apply to the Nominee Arrangement:

2.5.1 to the extent that the Nominee Arrangement involves the holding in safe custody and the administration of CDIs, EUI accepts responsibility for the same as being a CREST service provided by it (as part of the International Settlement Links Service), the performance of the functions required for this purpose being carried out by Trinity under arrangements which are operated by EUI;

2.5.2 EUI undertakes to the Member that it will be responsible to the Member for the acts and omissions of Trinity under the Nominee Arrangement (including any Liabilities resulting from the same for which Trinity would otherwise be liable) in place of Trinity, on the same basis as if they were the acts and omissions of EUI under these Terms and Conditions and clause 17.7 shall be read accordingly, subject always to the limitations and restrictions of EUI's liability provided for therein; and

2.5.3 paragraph 6.2 of Schedule 1 to these Terms and Conditions shall apply in consideration of EUI's undertaking in paragraph 2.5.2 above on the basis that references to 'the Depository' and/or 'the Custodian' are construed as references to 'Trinity' (and other necessary changes made);

in each case subject to the terms of the Nominee Arrangement which may, with the agreement of the Member where necessary, amend these Terms and Conditions.

*The Member should note that the provisions of this Schedule, the Deed Poll and the CREST Manual include material to the following effect:-*

- (1) the indemnities, etc., to be given by the Member as referred to above are provisions for:-*
  - (a) imposing on the Member liability for any defect in title to International Securities acquired for the account of the Member or for any breach of law or contractual obligations relating to the acquisition of International Securities for the account of the Member;*
  - (b) requiring the Member to obtain all necessary consents for acquisitions of International Securities for his account, or for issues or distributions to him;*
  - (c) permitting the Depository or EUI to recover all fees, costs, taxes, duties and charges attributable to the Member's holdings or otherwise due to the Depository or EUI from the Member, by charging them to the Member, or by making appropriate deductions from distributions to or property held for the account of the Member, or by selling all or part of the Member's International Securities or other assets and making appropriate deductions from the proceeds of sale; and*
  - (d) indemnifying the Depository and the Custodian from all losses incurred in carrying out their obligations in relation to the Member except in the case of wilful default, negligence or fraud, and permitting the recovery of such losses in the manner described in the immediately preceding sub-paragraph; these indemnities will survive even if the Depository resigns or the depository arrangements are terminated;*
- (2) the Member authorises EUI to create a payment instruction attributable to the Member for the creation of a CREST payment to EUI, the Depository or the Custodian to facilitate the collection of sums due to EUI, the Depository or the Custodian; examples of circumstances in which EUI may create such payment instructions might be where such payment instructions are intended to facilitate the collection of sums due or to become due which arise from benefit claims, interest claims, clawbacks or tolerance adjustments (which terms are explained in the CREST International Manual) or in relation to any SDRT (including any interest, charges or penalties in relation to late or non-payment of SDRT) in respect of which EUI, the Depository or the Custodian becomes or may become liable; the Member may receive no prior notice of the creation (or settlement) of such instructions;*
- (3) the Member acknowledges and agrees (inter alia) that EUI and its subsidiaries have no responsibility in relation to the type or character or suitability of International Securities acquired for the account of the Member, or for the settlement, legal and regulatory requirements, and practices regarding segregation of investments, which will*



*apply in the jurisdictions of the various CSDs or other jurisdictions in which International Securities are held or whose legal or regulatory requirements apply to the holding and transfer of International Securities;*

*(4) EUI will take responsibility for the Depository and the Custodian (provided it is a wholly owned subsidiary of EUI), but (a) EUI's liability, including, but not limited to, its liability for loss of International Securities will only arise in case of negligence, wilful default or fraud on the part of EUI or the Depository or the Custodian and will be subject to the general limitations on EUI's liability contained in these Terms and Conditions; and (b) neither EUI, the Depository or the Custodian accept responsibility for any act or omission of the CSD;*

*(5) the Depository will (through the Custodian) hold the entitlements to the International Securities on trust for the Member and other holders of CDIs of the same series collectively in the same name or in a fungible account, but the underlying International Securities of each class will not be identifiable by separate physical documents of title or otherwise; accordingly, if there were found to be a shortfall in the Custodian's holding of a particular class of International Securities, the shortfall may be shared pro rata amongst the Member and all other CREST members holding CDIs of the corresponding series or, if the Depository considers it reasonable or appropriate, may be allocated to one or more CREST members;*

*(6) in circumstances where the Depository's and or Custodian's right to particular International Securities is defective for any reason, including by reason of law or any events in the jurisdiction of the CSD or elsewhere, or by reason of the CSD's terms and conditions or where, as a result of an event beyond the Depository's reasonable control, there are in issue CDIs of a particular series representing more International Securities of the corresponding class than are held by the Custodian, the Depository may cancel CDIs without compensation to the CREST members concerned or take such other action as it, in its sole discretion, deems appropriate;*

*(7) personal (or sponsored) Members accept that EUI, the Depository and the Custodian are not obliged to communicate corporate actions details or other information relating to International Securities direct to the Member; information is disseminated by EUI by means of the CREST system to the relevant CREST sponsor.*

*The foregoing summary shall not limit the terms of the provisions it seeks to summarise. In particular it should not be regarded as a substitute for reading the terms of the relevant documents.*

### **3 Protection of transferor participants of CSDs in transactions with CREST members**

Where by utilising the International Settlement Links Service the Member is proposing to acquire CREST Securities, or CDIs representing International Securities, which securities are held by or for a CSD for the account of a participant in it (the 'transferor participant'),

and the CSD records a transfer of the transferor participant's entitlement thereto to a reserve balance of the Custodian in that CSD, or takes any other step to provisionally allocate securities to the proposed acquisition by placing them under the control of the Custodian or otherwise, the Member undertakes to and agrees with EUI (for itself and as agent for and on behalf of each of the Custodian and the Depository) that (a) the Member will not assert and, so far as it is able, will procure that no person for whom (directly or indirectly) it holds or is to hold securities as nominee or agent will assert, any claim whatever against EUI or the Depository or the Custodian in respect of any securities held within such reserve balance or otherwise so provisionally allocated; and (b) EUI, the Depository and the Custodian may agree to or sanction the application of such arrangements as may be stipulated by the CSD with a view to securing that the transferor participant retains rights to the securities concerned up to the time when the securities are (if they are CREST securities) credited to the Member's stock account in CREST; or (if they are International Securities) credited to the available balance of, or otherwise credited unconditionally to the account of, the Custodian in the CSD on behalf of the Depository for the account of the Member.

#### **4 Charges, etc.**

4.1 The Member undertakes to EUI (for itself and as agent for and on behalf of the Depository and the Custodian) to pay the fees, charges, costs and expenses in connection with its use of the International Settlement Links Service as set out in, and on the basis referred to in, the CREST Manual or the Deed Poll or as may otherwise be published by EUI from time to time.

Such fees, charges, costs and expenses may be supplemented by and shall not be abated by other remuneration received or receivable by EUI, the Depository or the Custodian in connection with the use by the Member of the International Settlement Links Service and neither EUI, the Depository nor the Custodian shall be under any obligation to account to the Member for any financial benefit so derived by any of them.

4.2 The Member agrees with EUI (for itself and as agent for and on behalf of the Depository and the Custodian):

4.2.1 that if any sum is or will become due or owing from it to any of EUI, the Depository or the Custodian (whether under these Terms and Conditions or the Deed Poll) (such sum for the purposes of this paragraph 4 being referred to as the 'relevant sum'), subject always to the cap in relation to a cash memorandum account, EUI, the Depository and/or the Custodian are irrevocably authorised, at any time (and without prior notice to the Member), to effect a CREST payment (denominated in the currency of the sum due) from the Member to EUI, the Depository and/or the Custodian in an amount equal to the relevant sum (or the unpaid part of it) and in discharge of the relevant sum (or the unpaid part of it) due or owing from the Member;

4.2.2 that where the Member does not have a cash memorandum account denominated in the currency of the relevant sum, EUI may convert such sum (or the unpaid

part of it) into the currency of a cash memorandum account of the Member either:-

- (a) (where the currency of payment of the relevant sum is a designated currency) at the exchange rate held within the CREST system at that time; or
- (b) (where the currency of payment of the relevant sum is not a designated currency) at such exchange rate and at such time as EUI may reasonably consider appropriate;

and paragraph 4.2.1 shall apply to the resulting sum;

4.2.3 that clause 7 of the Terms and Conditions shall apply to any properly authenticated dematerialised instruction created under the authority contained in paragraph 4.2.1, which instruction shall be deemed to be sent by and shall be attributable to the Member; and

4.2.4 not to revoke any of the authorities contained in this paragraph 4.2.

4.3 EUI (for itself and as agent for and on behalf of the Depository and the Custodian) agrees that the CREST payment made in accordance with paragraph 4.2.1 shall discharge the Member's obligation to pay the relevant sum (or the unpaid part of it) to the extent of the amount of the CREST payment (and, if applicable, the amount converted in accordance with paragraph 4.2.2).

## **5 Further acknowledgements by the Member**

5.1 The Member acknowledges and agrees with EUI (for itself and as agent for and on behalf of the Depository and the Custodian) that:

5.1.1 the communications links (including, without limitation, communications links relating to payment mechanisms) between each CSD (or any other person) and the CREST Applications Hosts will not form part of the EUI systems, and that EUI, the Depository and the Custodian have no responsibility for the operation or non-operation of those links; accordingly, EUI, the Depository and/or the Custodian shall be entitled without further enquiry to execute or otherwise act upon instructions or information or purported instructions or information received by means of such communications links (and to authorise a CSD or other person to do so) notwithstanding that it may afterwards be discovered that any such instruction or information or purported instruction or information was not genuine or was not correct or was not initiated by the CSD or other person authorised to give it. Nothing in this paragraph shall entitle EUI or the Depository or the Custodian to execute or otherwise act upon an instruction or information or purported instruction or information if at the time it received it or at any time thereafter it had actual notice that it was not genuine, or that any information

contained in it was incorrect or that it was not initiated by the CSD or other person authorised to give it and at the time that it received the actual notice it was practicable to halt the processing of the instruction or information or purported instruction or information. Neither EUI nor the Depository nor the Custodian shall be liable to the Member for any Liabilities suffered or incurred by the Member as a result of EUI, the Depository and/or the Custodian having executed or otherwise acted upon any instruction or information or purported instruction or information that it was entitled to execute or act upon pursuant to this paragraph;

- 5.1.2 EUI, the Depository and the Custodian rely on the CSD in which the relevant International Securities are held to supply information relating to cash distributions, corporate actions, forthcoming meetings of the holders of those securities and other matters having a bearing on the rights of persons holding CDIs representing such securities; accordingly the content of the information made available to CREST members and the time at which such information is available will reflect the content of and timing of the supply of information to EUI, the Depository or the Custodian, for which no responsibility is accepted by EUI, the Depository or the Custodian;
- 5.1.3 Neither EUI, the Depository nor the Custodian make any representation or give any assurance as to (a) the legal or regulatory implications of the operation of the International Settlement Links Service in the UK, in the respective jurisdictions of the CSDs or any relevant jurisdiction in which International Securities are constituted, held and/or transferred or any other relevant jurisdiction or (b) the legal or regulatory requirements or the arrangements relating to settlement and the holding and segregation of investments in the respective jurisdictions of the CSDs or in which International Securities are held and/or transferred. CREST members who utilise the International Settlement Links Service to acquire and hold and dispose of interests in International Securities, or to acquire from, and dispose of to, participants in CSDs CREST Securities, acknowledge and accept that these are matters as to which it is for them to satisfy themselves;
- 5.1.4 EUI, the Depository and the Custodian may participate in the CSDs subject to the normal terms and conditions of business of that CSD or such other terms and conditions as EUI, the Depository or the Custodian may consider appropriate. Where, by virtue of compliance with such terms and conditions EUI, the Depository or the Custodian may breach the provisions of these Terms and Conditions or the Deed Poll, they shall have no liability to the Member or any other person for any Liabilities suffered or incurred as a result;
- 5.1.5 the Member shall not cause or endeavour to cause EUI, the Depository or the Custodian to make or assert any right or claim whatsoever against a CSD or an issuer of International Securities or its officers or any other person;

- 5.1.6 information held by EUI, the Depository or the Custodian or within the EUI systems about the Member and its activities may (without prejudice to clause 4) be provided by any of EUI, the Depository or the Custodian from time to time to (or they may permit access to the same from time to time by) any CSD without restriction on its use of such information and the Member expressly consents to the disclosure of such information;
- 5.1.7 if the Member elects in accordance with the CREST International Manual to receive cash distributions referable to International Securities in a currency in which the Member does not have a cash memorandum account, having been notified of his entitlement to a distribution in accordance with the CREST International Manual, it is the responsibility of the Member to monitor the receipt of the correct amount and the Member agrees and undertakes to notify the Depository no later than 5.00pm on the date on which the Member should, in accordance with the notification, have received payment if no such payment, or the incorrect amount, has been received;
- 5.1.8 the responsibility under the CREST Regulations for maintaining the registers and records of CDIs rests with the Depository or EUI (as the case may be) and the provisions of paragraph 6 of this Schedule shall apply to any claim or proceedings against the Depository to recover damages, compensation or other payment or remedy arising directly or indirectly from the maintenance of such registers and records and accordingly the Member undertakes to take no action to recover damages, compensation or payment or remedy of any other nature from any person (including any agent appointed by the Depository) other than EUI or, where permitted, the Depository, in respect of the maintenance of such registers and records;
- 5.1.9 EUI, the Depository and the Custodian may hold CREST Members' money entitlements in client bank accounts outside the UK on a pooled basis pending distribution and such money may not be protected as effectively as money held in a bank account in the UK; in particular, the relevant bank may be entitled to combine funds held in a client bank account with any other account of EUI, the Depository or the Custodian or to exercise any right of set-off or counterclaim against money held in a client bank account in respect of any sum owed to it on any other account by EUI, the Depository or the Custodian;
- 5.1.10 EUI undertakes to take reasonable care in the selection and continued use of any person who provides banking and related services in connection with the provision of the International Settlement Links Service but neither EUI, the Depository nor the Custodian is responsible for the acts or omissions of any such person; and the Member further acknowledges and agrees that any such person is responsible only to any or all of EUI, the Depository and the Custodian and the Member undertakes to take no action to recover damages, compensation or payment or remedy of any other nature from any such person;

- 5.1.11 EUI is authorised to make available in the manner described in Chapter 2-5 of the CREST International Manual details of distributions, bonus issues, rights issues, capital reorganisations and other information or matters relating to International Securities and the Sponsored Member is responsible for making arrangements with its Sponsor to enable it to receive such information; EUI, the Depository and the Custodian have no obligation to make any such information or matters available in any other manner, and in particular have no obligation to make such information available or to disclose such matters directly to a Sponsored Member;
- 5.1.12 certain fractional entitlements may be retained by the Depository or EUI as an additional fee in the manner set out in the International Manual; and
- 5.1.13 neither the Depository nor the Custodian shall be liable to comply with any registration or similar requirement which is imposed in any jurisdiction.
- 5.2 The Member agrees with EUI (for itself and as agent for and on behalf of the Depository and the Custodian) that:
- 5.2.1 it shall provide all or any of EUI, the Depository and the Custodian with such security, indemnity, guarantees or other cover as EUI may from time to time require in relation to Liabilities which they or any of them may actually or prospectively or contingently suffer or incur as a result of the participation of the Member in the International Settlement Links Service and/or any particular element thereof; and
- 5.2.2 EUI, the Depository and the Custodian may, in the circumstances described in the CREST International Manual, purchase, for the account and at the expense of the Member, a sufficient amount of any class of International Securities to eliminate any shortfall or prospective shortfall in the Custodian's holding of that class of International Securities which is, in the opinion of EUI, attributable to the Member.
- 5.3 The Member and, where relevant, the Parent agree to indemnify, keep indemnified and hold harmless each of EUI, the Depository and the Custodian from and against any and all Liabilities suffered or incurred by EUI, the Depository and/or the Custodian in connection with the participation by the Member in the International Settlement Links Service except for Liabilities caused by or resulting from any wilful default, negligence or fraud of EUI, the Depository or the Custodian. This indemnity is given without prejudice to the indemnity given for the benefit of the Depository and the Custodian in the Deed Poll. The Member acknowledges and agrees that EUI may undertake obligations to CSDs and other persons providing services in connection with the International Settlement Links Service to enable the Depository and the Custodian to carry out their duties under the Deed Poll and that EUI may have recourse to the Depository and the Custodian in respect of any Liabilities suffered by it under such arrangements, and that where such Liabilities relate to property held for the account of the Member or CDIs held

by the Member then the Depository and the Custodian may have recourse to their rights in relation to the Member contained in the Deed Poll.

## **6 EUI to assume liability in damages, etc., in place of Depository and Custodian**

6.1 EUI undertakes to the Member that it will be responsible to the Member for the acts and omissions of the Depository and any Custodian which is a wholly-owned subsidiary of EUI on the same basis as if they were the acts and omissions of EUI and clause 17.7 shall be read accordingly.

If by reason of the failure to comply with, or breach of, any duty or obligation binding on it pursuant to the Deed Poll or otherwise by, or otherwise as a result of the negligence, fraud or wilful default of, the Depository and/or such Custodian in connection with the International Settlement Links Service, the Member suffers or incurs any Liabilities in respect of which the Depository or such Custodian would otherwise, in the absence of this provision, be liable to make any payment to the Member or incur any other financial cost or obligation to deliver property by way of damages, compensation, restitution or otherwise (whether such liability arises in respect of breach of contract, in tort, for misrepresentation, for breach of trust or any other duty imposed by law or in any other way), then EUI undertakes to the Member and the Member undertakes to EUI (for itself and as agent for and on behalf of each of the Depository and such Custodian) that any such payment shall be made or cost or obligation shall be incurred, and the liability to make any such payment or incur any such cost or obligation shall be borne, exclusively by EUI (subject to the limitations on and restrictions of EUI's liability provided for in the Terms and Conditions but so that nothing in the Terms and Conditions shall operate so as to (i) exclude or limit any liability for death or personal injury resulting from negligence or (ii) exclude liability for fraud of the Depository or the Custodian or (iii) limit any liability below the amount of any benefit the Depository or the Custodian has received by reason of the act, omission or event giving rise to such liability); or (iv) exclude or limit any liability to the extent that such liability may not be lawfully so excluded or limited.

6.2 In consideration of the undertaking of EUI in paragraph 6.1, the Member further undertakes to EUI for itself and as agent for the Depository and the Custodian that it shall not make, permit, cause or assist any other person to make, any claim against, or take any proceedings against, the Depository or the Custodian to recover such damages or compensation or other payment, even if the same is not recoverable from EUI by reason of limitations of or restrictions on EUI's liability contained in the Terms and Conditions or otherwise; but this provision shall not prevent the Member from obtaining injunctive or declaratory relief, or an order for specific performance, or any other relief provided that in any case such relief does not involve (actually, contingently or prospectively) the payment of money or the incurring of any other financial cost or obligation or the delivery of property, against the Depository or the Custodian.

## **7 Liability to pay Stamp Duty Reserve Tax**

7.1 The Member agrees and acknowledges that:

7.1.1 agreements to transfer certain International Securities represented or to be represented by CDIs, CDIs or other interests in International Securities ('relevant interests') may not be subject to stamp duty reserve tax (SDRT) by virtue of the Finance Act 1986 (as amended) and/or the Stamp Duty Reserve Tax (UK Depository Interests in Foreign Securities) Regulations 1999 (as amended); and

7.1.2 it is the responsibility of the Member, and not EUI, to ensure that any relevant interests which the Member is proposing to acquire or dispose of by means of the CREST system and which are identified by the CREST system as being exempt from the charge to SDRT on their transfer are so exempt.

7.2 The Member undertakes to EUI:

7.2.1 to notify EUI forthwith if relevant interests which the Member is proposing to acquire or dispose of by means of the CREST system and which are identified by the CREST system as being exempt from the charge to SDRT on their transfer are not so exempt; and

7.2.2 to pay to EUI any SDRT and any interest, charges or penalties in relation to late or non-payment of SDRT arising directly or indirectly from any agreement of the Member to acquire or dispose of relevant interests which are not exempt for whatever reason from the charge to SDRT on their transfer and to hold EUI harmless from any and all Liabilities arising from or incurred in connection therewith.

7.3 For the purposes of this paragraph 7, a Member will be taken to be proposing to acquire relevant interests or to have entered into an agreement to acquire relevant interests if he acquires CDIs from another Member or if the CDIs are to be issued to him and to be proposing to dispose of CDIs or to have entered into an agreement to dispose of relevant interests if he disposes of CDIs to another Member or if the CDIs would, as a result, be cancelled.

## **8 Further services where CSD is not a CREST member**

8.1 EUI has made arrangements for CDIs to be transferred to and held by the Custodian, pending confirmation or re-transfer to the transferring CREST member, in the circumstances set out under the heading 'When the relevant CSD is not a CREST member' in Section 3 of Chapter 3 of the CREST International Manual or in similar circumstances described elsewhere in the CREST International Manual (referred to in this paragraph 8 as 'the relevant circumstances').



8.2 If, during the period when the Custodian is registered as the holder of CDIs in the relevant circumstances, it becomes entitled to any right or benefit attributable to the CDIs, EUI undertakes that it shall take reasonable care to take such action (if any) in connection with the delivery of that right or benefit to the transferring CREST member as is set out in the CREST International Manual. The Member agrees and acknowledges that the Custodian shall have no obligation to take any action in connection with the administration of such rights or benefits.

8.3 EUI (in its capacity as agent for and on behalf of the Custodian and not for itself) hereby declares and confirms that the Custodian will hold CDIs transferred to it in the relevant circumstances as bare trustee and on the terms recorded in the CREST International Manual.

## **9 General**

Save as may be described in the CREST Manual in relation to any particular link, EUI shall not nor shall the Depository or the Custodian (a) arrange for any International Securities or other Deposited Property (as defined in the Deed Poll) to be lent to any other person, or (b) charge in favour of any other person any such property as security.

*The Member should note that, in accordance with the provisions of these Terms and Conditions, the Deed Poll and the CREST Manual, participation in the International Settlement Links Service can be terminated by:*

- (a) the transfer or cancellation of any CDIs held by him and, in the case of cancellation, withdrawal of the International Securities represented by such CDIs; and*
- (b) opting-out of the international settlement links functionality (thereby preventing delivery of CDIs to him across the international settlement links).*

*A Member wishing not to receive a transfer of CDIs from a CREST Member should not match the delivery instruction relating to the CDIs which cites him as the transferee.*

The normal CREST tariffs will apply to the above transactions. No special charges will be made on the Member ceasing to participate in the International Settlement Links Service.

## **Schedule 2: Licence for use of CREST Software**

### **1 General**

1.1 Subject to these terms and conditions EUI grants the Member (or the Sponsored Member if the Sponsored Member is provided by the Sponsor with a copy of the CREST Software) a non-exclusive, royalty-free, non-assignable, non-sub-licensable and non-transferable licence to:

1.1.1 load and use the CREST Software on any number of PCs, servers or other equipment in the Member's local or wide area network in order to access the CREST system and input dematerialised instructions to and receive dematerialised instructions from the CREST system;

1.1.2 make such copies of the CREST Software as are reasonably required for operational purposes and for back-up purposes. All such copies must reproduce and include all copyright notices which appear on the original version and are subject to the terms and conditions of this licence; and

1.1.3 allow Authorised Persons to load, use or access the CREST Software on its behalf.

1.2 The Member is not authorised (except as expressly provided in this licence):

1.2.1 to rent, lease, sub-license, transfer, loan, copy, modify, adapt, amend, develop, distribute, enhance, assign, merge or translate the whole or any part of the CREST Software;

1.2.2 (except as expressly permitted by law) to reverse engineer, decompile, disassemble or create derivative works based on the whole or any part of the CREST Software;

1.2.3 to use, reproduce or deal in the CREST Software in any way; or

1.2.4 to allow any third parties to load, use, access, copy or reproduce the CREST Software in any way.

1.3 The Member shall promptly notify EUI of any actual or suspected unauthorised access or use of the CREST Software of which the Registrar becomes aware and shall provide all reasonable assistance to EUI in its investigations of unauthorised access or use and any subsequent claims or proceedings which may be brought by EUI.

1.4 Where the Member allows an Authorised Person to access, load or use the CREST Software on its behalf, the Member shall procure that the Authorised Person complies with, and provides the Member with all information required to enable the Member to comply with, this Schedule 2.

1.5 The Member must promptly notify EUI in writing of any actual or suspected malfunction, virus or any defect the Member encounters when accessing, loading or using the CREST Software.

## **2 Intellectual Property**

2.1 All information in relation to the CREST Software and any rights including Intellectual Property Rights in and to the same are proprietary and confidential to EUI and the Member shall not disclose such information or Intellectual Property Rights to any third party, unless expressly permitted in these Terms and Conditions.

2.2 The Member shall protect, and not infringe any Intellectual Property Rights in the CREST Software, and shall comply with EUI's reasonable requests to protect EUI's proprietary rights in the CREST Software. If the Member becomes expressly aware of any infringement of EUI's proprietary rights in the CREST Software the Member will notify EUI promptly in writing.

2.3 The Member acknowledges that the EUI Marks may not be used or displayed in any manner without EUI's prior express written consent. Notwithstanding the foregoing, the Member may refer to EUI and CREST in its contractual and pre-contractual documentation and in internal documentation and guidance for the sole purpose of identifying, and explaining the functionality of the CREST system as operated by EUI in accordance with UK legislation. The Member shall not, nor shall it permit any third party to, modify or remove any copyright, trademark or other proprietary notices, or product identifications, or disclaimers present on all or any part of the CREST Software, create any software application, or system, or derivative work that infringes, or misappropriates all, or any portion of the CREST Software, or any Intellectual Property Rights therein, or sell, lease, license, loan, sublicense, make available, disclose, distribute, or otherwise transfer, or provide the CREST Software (or any part thereof or rights therein), directly, or indirectly to any third party unless expressly permitted in these Terms and Conditions.

2.4 Nothing in these Terms and Conditions will be deemed to transfer any Intellectual Property Rights between the parties or grant any other rights except as stated in these Terms and Conditions.

## **3 Upgrades**

3.1 EUI may from time to time issue upgrades of, or other changes to, the CREST Software.

3.2 Where the Member is not a Sponsored Member, the Member agrees to accept such upgrades or other changes to the CREST Software by such means as EUI shall determine from its accredited network provider or EUI or to permit its accredited network provider or EUI's agents to install, test and accept such upgrade or other changes to the CREST Software on the Gateway promptly in accordance with the timetable issued by EUI and at all times to load and use only the most recent upgrade or other changes to the

CREST Software (if any) issued by EUI. The Member shall ensure that any back-up or other copies of the CREST Software are also promptly upgraded or changed.

2.3 Where the Member is a Sponsored Member, the Sponsored Member acknowledges that EUI may from time to time issue upgrades of, or other changes to, the CREST Software to the Sponsor and that the Sponsor is responsible for providing such upgrades or other changes to the Sponsored Member. EUI has no obligation to provide the Sponsored Member with the CREST Software or any copies or upgrades or other changes to the CREST Software.

#### **4 Liability**

4.1 The Member will be liable to EUI for the acts and omissions of any Authorised Person accessing, loading or using the CREST Software as if they were the Member's or Sponsored Members own acts or omissions.

4.2 EUI warrants that it has used reasonable skill and care in developing the CREST Software and that the CREST Software does not infringe any third party Intellectual Property Rights but does not warrant that the CREST Software is free of errors or faults or that any errors or faults can be corrected or that use of the CREST Software will provide uninterrupted access to the CREST system.

4.3 If EUI receives written notice from the Member or otherwise becomes aware of any errors or faults in the CREST Software which materially affect the performance of the CREST Software, EUI shall use reasonable endeavours to correct such errors or faults as soon as reasonably practicable.

4.4 EUI shall in any event have no liability to the Member for any Liabilities suffered or incurred by the Member as a result of:

- 4.4.1 use of the CREST Software on or in conjunction with any hardware platform which does not meet the minimum standards recommended by EUI from time to time;
- 4.4.2 use of the CREST Software in conjunction with, or on the same personal computer, equipment and/or server as, any third party software (other than that provided in connection with the provision of Network Services);
- 4.4.3 faults or errors in any software provided in connection with the provision of Network Services;
- 4.4.4 failure to install or use the CREST Software or any software provided in connection with the provision of Network Services, in accordance with the relevant instructions or guidance given from time to time by EUI or, as the case may be, the relevant accredited network provider;

- 4.4.5 any failure in the hardware platform on which the CREST Software is used;
  - 4.4.6 any modification or attempted modification of the CREST Software other than by EUI or its agents;
  - 4.4.7 use of any version of the CREST Software other than the most recent upgrade or up-to-date version; or
  - 4.4.8 use of the CREST Software for any purposes other than those set out in paragraph 1.1.1.
- 4.5 For the avoidance of doubt, the provisions of clauses 17.6. to 17.11 (inclusive) of these Terms and Conditions apply to any liability of EUI arising under this licence.
- 4.6 Save as expressly set out in this licence, all warranties, conditions and other terms implied by statute, common law, trade usage, course of dealing or otherwise, are hereby excluded in relation to the CREST Software to the fullest extent permitted by law.

## **5 Duration and Termination**

This licence shall terminate on termination of the Member's membership.

## **Schedule 3: Central counterparty service**

### **1 Scope of the central counterparty service**

The central counterparty service comprises collaborative arrangements with one or more CCPs, which arrangements may differ as between CCPs, the principal details of the arrangements (insofar as they are relevant to CREST members) being as described from time to time in the CREST Manual. To the extent that the arrangements with a CCP involve the provision of CREST settlement services in respect of central counterparty transactions, they all contemplate the performance of the obligations of a non-clearing member (and/or its principal) or a CM undertaking in respect of such central counterparty transactions by the use of a CREST member (acting as a settlement agent) to deliver (or to receive delivery of) central counterparty securities to (or from) the relevant CCP by means of the CREST relevant system; and the terms and conditions contained in this Schedule together with the CREST Manual set out, in particular, the basis on which CREST members may act as settlement agents and transfer central counterparty securities to, or receive central counterparty securities from, a CCP and on which certain enquiry and information facilities are made available to a CREST member in its capacity as a settlement agent.

### **2 Information obligations of Members as settlement agents**

The Member undertakes to EUI that it will:

2.1 in the event that a non-clearing member or a CM undertaking for whom the Member acts or has acted as a settlement agent is declared under the rules of an investment exchange or (as the case may be) a clearing house to be in default, make available such information and/or records as any default official of such investment exchange or clearing house may from time to time request in relation to transactions of such non-clearing member or CM undertaking in respect of which the Member acts or has acted as a settlement agent;

2.2 keep EUI informed at all times, in accordance with the CREST Manual, of the identity of all non-clearing members and CM undertakings for whom the Member acts as a settlement agent; and to notify EUI immediately, in accordance with the CREST Manual, if its appointment as a settlement agent for any non-clearing member or CM undertaking is, or is to be, terminated or if it becomes aware that it is, or is to be, no longer authorised or permitted (for any reason) to act as a settlement agent for any non-clearing member or CM undertaking.

### **3 Disclosure of information by EUI affecting a Member as a settlement agent**

The Member acknowledges, agrees and accepts that:

3.1 information held by EUI or within the EUI systems about the Member and its activities may be provided by EUI from time to time to (or EUI may permit access to the same from time to time by) any clearing house or investment exchange of which any non-clearing member or CM undertaking, for whom the Member acts as a settlement agent, is a member in the manner specified in the CREST Manual (to the extent that the consent of the Member to any such disclosure is not already provided for under clause 4.1.2 of these Terms and Conditions);

3.2 EUI will not be obliged to reveal to the Member any information disclosed to EUI by any of the persons referred to in paragraph 3.1;

3.3 the provision of CM services to any CM undertaking for whom the Member acts as a settlement agent may result in the disclosure to that CM undertaking of information in relation to transactions of the Member in respect of which that CM undertaking has rights and/or obligations as a clearing member, and the Member authorises EUI to make any such disclosure in accordance with the CREST Manual;

3.4 the relevant CCP is responsible for the provision of the CCP services which are described as being its responsibility in the CREST Manual and for the provision or use of a network to enable it to receive CM electronic instructions from and send CM electronic instructions to the CM system in connection with the central counterparty service;

3.5 neither the CCP services nor the network referred to in paragraph 3.4 form part of the EUI systems or the CREST services and that EUI has no responsibility for CM electronic instructions sent from the CM system to a CCP after the instructions leave the CM system or for CM electronic instructions sent by a CCP to the CM system until they reach the CM system;

3.6 the services referred to in the CREST Manual as being provided to a settlement agent do not form part of the CREST relevant system, but form part of the CREST services, and the CREST Manual describes the CM system; and

3.7 information held within the CM system may in fact relate to a transaction which is subsequently discovered to be a transaction in respect of which the relevant CCP is not obliged (under its rules or procedures) to act as the contracting counterparty to a clearing member, and that a CCP may (in accordance with the CREST Manual) amend or delete a system-member instruction attributable to it (including a system-member instruction relating to such a transaction) which may result in the amendment or deletion of information held within the CM system which is derived from any such system-member instruction.

#### **4 Responsibility of EUI to the Member in relation to the central counterparty service**

The Member agrees and accepts that EUI owes no duty to the Member in relation to the performance of any function or service which forms part of the central counterparty service

(including the CM services), but without prejudice to its obligations to cause the EUI systems and the CREST services referred to in the CREST Manual as being provided to a settlement agent to operate in accordance with clause 17 of these Terms and Conditions and any obligation of confidentiality which may be owed by EUI to the Member in respect of any information relating to any transaction of the Member.

## **5 Default in relation to a non-clearing member or a CM undertaking**

5.1 The Member undertakes to notify EUI immediately in accordance with the CREST Manual if it believes or becomes aware of, any of the following:

- 5.1.1 that a default under the rules of an investment exchange or clearing house is to be declared in respect of any non-clearing member or CM undertaking for whom the Member acts as a settlement agent;
- 5.1.2 that an application is to be made for a court order which, if granted, would in any way prevent or interfere with the performance of the obligations of any non-clearing member or CM undertaking for whom the Member acts as a settlement agent in respect of any central counterparty transaction;
- 5.1.3 that any other event is likely to occur which could affect the ability of any non-clearing member or CM undertaking for whom the Member acts as a settlement agent to perform its obligations in respect of any central counterparty transaction; or
- 5.1.4 the declaration of a default or the receipt of a court order of the type described in paragraph 5.1.1 or paragraph 5.1.2.

5.2 Where any notification is given pursuant to paragraph 5.1, it shall be confirmed in writing and the Member shall provide EUI with all relevant information that it has relating to the matter. EUI may take such action as it in its absolute discretion thinks fit with a view to preventing (so far as practicable) any such event or threatened event from giving rise to the settlement of a central counterparty transaction in breach of any relevant law, order of a court or requirement of the Financial Conduct Authority or any other regulatory or governmental authority or body (including any investment exchange or clearing house) having jurisdiction over any non-clearing member or CM undertaking for whom the Member acts as a settlement agent, and the Member undertakes to cooperate with EUI to facilitate the taking of any such action. EUI shall not, provided it has acted in good faith, be liable to the Member for any Liabilities suffered or incurred by the Member as a result of any such action and shall be entitled to recover from the Member any costs or expenses reasonably incurred by it in connection with the taking of any such action, or arising as a result of its taking such action.



## **6 Insolvency of a non-clearing member or a CM undertaking**

The Member undertakes to EUI to notify EUI immediately in accordance with the CREST Manual upon becoming aware of the occurrence of any of the following events:

- 6.1 the presentation of any petition or the making of an application for the bankruptcy or winding-up of any non-clearing member or CM undertaking for whom the Member acts or acted as a settlement agent, or for the appointment of a receiver or an administrator in relation to any such non-clearing member or CM undertaking;
- 6.2 the taking of any step with a view to the voluntary winding-up of any non-clearing member or CM undertaking for whom the Member acts or acted as a settlement agent;
- 6.3 the appointment or purported appointment of a receiver, administrative receiver, manager, trustee, administrator or similar person in respect of any non-clearing member or CM undertaking for whom the Member acts or acted as a settlement agent, or in respect of any property of such a non-clearing member or CM undertaking;
- 6.4 the service or filing of any notice (or a copy of any notice) by any person of intention to appoint an administrative receiver or administrator in respect of any non-clearing member or CM undertaking for whom the Member acts or acted as a settlement agent;
- 6.5 any non-clearing member or CM undertaking for whom the Member acts or acted as a settlement agent becoming unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 (but as if in subsections (1)(e) and (2) of that Section the words 'it is proved to the satisfaction of the court that' did not appear);
- 6.6 the proposal of a voluntary arrangement in respect of any non-clearing member or CM undertaking for whom the Member acts or acted as a settlement agent under Part I of the Insolvency Act 1986;
- 6.7 the dissolution of any non-clearing member or CM undertaking for whom the Member acts or acted as a settlement agent or the publication in the Gazette of a notice of prospective striking off the register of companies or the making of an application by any such non-clearing member or CM undertaking for its striking off the register of companies;
- 6.8 the Financial Conduct Authority imposing, or giving written notice to any non-clearing member or CM undertaking for whom the Member acts or acted as settlement agent that it proposes to impose, an assets requirement (within the meaning of Section 55P(4) of the Financial Services and Markets Act 2000) on such non-clearing member or CM undertaking in respect of any assets of, or which are held by or to the order of, such non-clearing member or CM undertaking (or the Financial Conduct Authority giving written notice of the imposition of any such assets requirement to any institution with whom such non-clearing member or CM undertaking keeps an account);

6.9 any non-clearing member or CM undertaking for whom the Member acts or acted as a settlement agent stopping, suspending or threatening to stop or suspend payment of all or any part of its indebtedness or the commencing of negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of all or any part of its indebtedness or the making of a general assignment for the benefit of or composition with its creditors or if a moratorium is agreed, declared or otherwise obtained in respect of, or affecting, all or any part of its indebtedness;

6.10 the occurrence under the laws of any applicable jurisdiction of anything analogous to or having a substantially similar effect to any of the events described in paragraphs 6.1 to 6.9 inclusive in relation to any non-clearing member or CM undertaking for whom the Member acts or acted as a settlement agent,

and the Member shall thereafter promptly notify EUI of the making of any order or appointment or the occurrence of any other relevant event, consequent upon any of the foregoing.

## **7 Communications with the CM system**

7.1 It is acknowledged that the equipment operated by the Member (or in the case of Sponsored Members, its Sponsor) to prepare, send and receive dematerialised instructions may be used by the Member (or its Sponsor) to send CM electronic instructions to and receive CM electronic instructions from the CM system as part of the CREST services provided by EUI to the Member as a settlement agent. EUI and the Member agree that the basis of the Member's (or its Sponsor's) use of such equipment in this way shall be as set out in paragraphs 7.2 to 7.4 (inclusive).

7.2 The provisions of clauses 6.1 to 6.5 (inclusive) of these Terms and Conditions and Schedule 2 shall apply, but so that each reference in those provisions or that Schedule to a term contained in the left hand column below shall be interpreted as if it were a reference to the term which is opposite it in the right hand column below:

<b>Term used in Terms and Conditions</b>	<b>Corresponding term</b>
'CREST Software'	'CREST CM Software'
'CREST system'	'CM system'
'dematerialised instruction'	'CM electronic instruction'
'Gateway'	'CM Gateway'
'Network'	'CM Network'
'Network Services'	'CM Network Services'

'properly authenticated dematerialised instruction'

'authenticated CM electronic instruction'.

7.3 If the Sponsored Member proposes to use the services of its Sponsor to send authenticated CM electronic instructions attributable to the Sponsored Member as a settlement agent and/or receive authenticated CM electronic instructions on its behalf (as a settlement agent), then in relation to those services (and only in relation to those services):

7.3.1 for the purposes of these Terms and Conditions, the CREST Rules and the CREST Manual, the Sponsor shall be treated as a 'clearing sponsor' or 'CM user', and the Sponsored Member shall be treated as a 'CM undertaking' or 'Sponsored CM' (but without changing the CREST services which EUI agrees under these Terms and Conditions to provide to the Sponsored Member, which shall be those CREST services referred to in the CREST Manual as being provided to a CREST member acting as a settlement agent and not the CREST services referred to in the CREST Manual as being provided to a CM undertaking); and

7.3.2 for the purposes of these Terms and Conditions, each reference to a term contained in the left hand column below shall be interpreted as if it were a reference to the term which is opposite it in the right hand column below:

<b>Term used in Terms and Conditions</b>	<b>Corresponding term</b>
'CREST member'	'CM undertaking'
'Sponsored Member'	'Sponsored CM'
'CREST sponsor'	'clearing sponsor'; and

7.3.3 for the purposes of these Terms and Conditions, each reference to the 'Sponsor' shall be interpreted as a reference to the person who (in accordance with the CREST Requirements) acts from time to time as the Member's CREST sponsor (other than a CREST central sponsor) but in its capacity as a 'clearing sponsor' (in accordance with paragraph 7.3.1 above).

7.4 Subject to the terms and conditions of Schedule 2 (as applied by paragraph 7.2 above), EUI grants the Member (or the Sponsored Member if, in its capacity as a 'Sponsored CM' (as provided by paragraph 7.3.2), the Sponsored Member is provided by the Sponsor, in its capacity as 'clearing sponsor' (as provided by paragraph 7.3.3), with a copy of the CREST CM Software) a non-exclusive, royalty-free and non-transferable licence to:

7.4.1 load and use the CREST CM Software on any number of PCs or servers in the Member's local or wide area network in order to access the CM system and input

CM electronic instructions to and receive CM electronic instructions from the CM system; and

- 7.4.2 make such copies of the CREST CM Software as are reasonably required for operational purposes and for back-up purposes. All such copies must reproduce and include all copyright notices which appear on the original version and are subject to the terms and conditions of this licence.

## **8 Suspension and termination, etc., when a Member acts as a settlement agent**

8.1 EUI may suspend or terminate the Member as a system-member in whole, or in part in relation to any non-clearing member or CM undertaking for whom the Member acts or acted as a settlement agent, with immediate effect (or with effect from such time and date as EUI may specify) in the following circumstances:

- 8.1.1 if any of the events set out in paragraph 5.1 or paragraph 6 occurs or, in the opinion of EUI, appears likely to occur;
- 8.1.2 if EUI has any reason to believe that the appointment of the Member as a settlement agent for a non-clearing member or a CM undertaking, or the authority of the Member to act as a settlement agent for a non-clearing member or a CM undertaking, has been or is to be suspended or terminated (whether in whole or in part);
- 8.1.3 if a CCP, which permits or permitted a clearing member for whom the Member acts or acted as a settlement agent to act as a GCM or an ICM, suspends or terminates its provision of CCP services (or any part of the CCP services provided by it).

8.2 The Member acknowledges and agrees that the provisions of clauses 16.2 to 16.6 inclusive of these Terms and Conditions shall apply (with all appropriate changes of detail) in relation to any suspension or termination pursuant to paragraph 8.1. This paragraph 8.2 shall survive any termination of the Member's membership in relation to any non-clearing member or CM undertaking for whom the Member acts or acted as a settlement agent.

## **Schedule 4: Central sponsor services and netting procedures**

1.1 Central sponsor services comprise the systems, services and procedures, which may differ as between CREST central sponsors acting as such in relation to:

- 1.1.1 trades executed on different trading systems or cleared through different clearing services (**'clearing related central sponsor services'**);
- 1.1.2 orders placed through an order routing system; or
- 1.1.3 collateral management services provided by a third party,

the principal details of which in all cases (insofar as they are relevant to CREST members) being as described from time to time in the CREST Manual. All the services involve systems, services and/or procedures which are intended to facilitate the creation of central sponsor transactions. The terms and conditions contained in paragraphs 2 to 6 (inclusive) of this Schedule 4 together with the CREST Manual set out, in particular, the basis on which central sponsor services are provided to CREST members.

Each arrangement under which a particular CREST central sponsor provides central sponsor services in relation to a trading system, orders placed through an order routing system, a clearing service or a collateral management service comprises a separate service provided by that CREST central sponsor which may be terminated by not less than 30 days' prior written notice to the Member (or such other period of notice, which may be more or less than 30 days, as is necessary to comply with any arrangements made between that CREST central sponsor and EUI or, where the relevant central sponsor services are operated or provided by EUI as CREST central sponsor, between EUI and the operator of the relevant trading system, order routing system and/or the relevant CCP or the provider of the relevant clearing service or collateral management service).

### **2 Appointment of a CREST central sponsor**

2.1 The Member acknowledges and agrees that:

- 2.1.1 a CREST central sponsor's provision of central sponsor services to the Member is made on and subject to the provisions of paragraph 2.2; and
- 2.1.2 to the extent that they do not form part of the CREST system, central sponsor services provided by EUI form part of the CREST services.

2.2 The Member agrees:

- 2.2.1 that upon its election in accordance with the procedures described in the CREST Manual that central sponsor transactions attributable to a particular CREST

central sponsor shall in addition be attributable to the Member, that CREST central sponsor shall be appointed to act as the Member's CREST central sponsor in relation to such central sponsor transactions upon and subject to the remaining provisions of this paragraph 2.2;

- 2.2.2 that its CREST central sponsor is authorised to do on behalf of the Member all or any of the acts or things which the CREST Manual provides may be done by that CREST central sponsor on behalf of the Member, and the Member's CREST central sponsor shall not be liable to the Member for any Liabilities suffered or incurred by the Member which result from the CREST central sponsor taking any action authorised by or permitted or provided for in these Terms and Conditions or the CREST Manual;
- 2.2.3 to indemnify and keep indemnified the Member's CREST central sponsor against all Liabilities suffered or incurred by that CREST central sponsor arising directly or indirectly from its actions and/or omissions under these Terms and Conditions in connection with its central sponsorship of the Member, provided always that this indemnity shall not apply to the extent that the Liabilities suffered or incurred by the Member's CREST central sponsor are suffered or incurred by reason of the CREST central sponsor's negligence, wilful default or fraud or to the extent that its CREST central sponsor could have avoided such Liabilities by taking reasonable steps or to the extent that the CREST central sponsor has acted outside the scope of its authority under these Terms and Conditions;
- 2.2.4 its appointment of a CREST central sponsor (and the authorities and permissions given by the Member to its CREST central sponsor under these Terms and Conditions) are irrevocable during that CREST central sponsor's sponsorship and termination of these Terms and Conditions or the Member's purported revocation of that CREST central sponsor's sponsorship shall not affect then outstanding rights and obligations and instructions (or instructions the processing of which it is not practicable to halt) which shall continue to be governed by these Terms and Conditions until all obligations of the Member and that CREST central sponsor under these Terms and Conditions have been fully performed;
- 2.2.5 that, save that a CREST central sponsor shall be obliged to enter into and keep in force a contract with an accredited network provider or to operate such other procedures pursuant to which it is able to send and receive properly authenticated dematerialised instructions attributable to and on behalf of the Member in relation to central sponsor transactions, where a CREST central sponsor appoints an accredited network provider it owes no other duty to the Member in relation to the services provided to that CREST central sponsor by its accredited network provider and/or in relation to any services which are described in the CREST Manual as being the responsibility of the network provider;
- 2.2.6 that, where a CREST central sponsor appoints an accredited network provider, the acknowledgements and agreements of the Member set out in clauses 6.4 and 6.5

in relation to the respective responsibilities of the Member (or, in the case of Sponsored Members, its Sponsor) and its network provider apply (with appropriate changes of detail) to the respective responsibilities of the Member's CREST central sponsor and its network provider;

- 2.2.7 to notify EUI immediately in accordance with the CREST Manual and (if different) the CREST central sponsor concerned immediately of any circumstances of which the Member is aware and which may affect the right, authority or ability of a CREST central sponsor to act as such on behalf of the Member in relation to any central sponsor transaction;
- 2.2.8 that a CREST central sponsor's sponsorship may only be suspended or terminated (whether in whole, or in part in relation to any particular function) in the circumstances, and in accordance with the procedures, described in the CREST Manual;
- 2.2.9 in connection with the suspension or termination of a CREST central sponsor's sponsorship, to take all reasonable steps to ensure that such suspension or termination is achieved in an orderly manner which minimises disruption to other CREST users and participants and to use all reasonable endeavours to co-operate with EUI and (if different) the CREST central sponsor concerned to implement such suspension or termination in an orderly manner;
- 2.2.10 that its CREST central sponsor has no responsibility for electronic messages until they reach the systems or other equipment identified in the CREST Manual as being the point at which that CREST central sponsor's responsibility for such messages commences and, if so specified in the CREST Manual, has no responsibility for electronic messages sent from such systems or equipment after the messages leave such systems or equipment;
- 2.2.11 that, save for the operation of the CREST system, the netting procedures and the direct input services when operated or provided by EUI as part of the central sponsor services provided by it as CREST central sponsor (which are operated or provided by EUI as principal), the central sponsor services provided by a CREST central sponsor to the Member are provided as agent for the Member (but the CREST central sponsor does not otherwise act as trustee or fiduciary for the Member or any other person in relation to the central sponsor services provided by it as agent or otherwise);
- 2.2.12 that, where a person other than EUI acts as a CREST central sponsor, EUI does not undertake or assume any responsibility to the Member (or any other person) for the central sponsor services provided by that CREST central sponsor; and, in relation to the operation or provision of the CREST system and the CREST services (including the netting procedures, where applicable, and the direct input services) in connection with that CREST central sponsor's provision of central sponsor services to the Member, that EUI does not undertake or assume any

responsibility towards the Member or any other person (other than the CREST central sponsor concerned); and

2.2.13 that information about the Member and its activities, which a person receives or to which it has access as a CREST central sponsor, may be disclosed or used by the CREST central sponsor for the purpose or purposes and in the manner specified in the CREST Manual; and, by accepting these Terms and Conditions, the Member expressly consents to such disclosure or use.

2.3 For the purposes of these Terms and Conditions, the clearing related central sponsor services provided by a CREST central sponsor to the Member comprise:

2.3.1 if the Member has elected, in accordance with the procedures described in the CREST Manual, for any gross transaction to which it is a party to be created as a central sponsor transaction attributable to it, the operation and provision of all central sponsor services provided by the CREST central sponsor concerned in relation to that transaction prior to and upon the creation of such gross transaction;

2.3.2 if the Member has elected, in accordance with the procedures described in the CREST Manual, for any net transaction which results from the operation of the netting procedures to be created as a central sponsor transaction attributable to it, the operation and provision of all central sponsor services provided by the CREST central sponsor concerned in relation to that transaction in the period commencing immediately after the creation of any gross transaction attributable to the Member which is included in the netting procedures from which such net transaction results and ending upon the creation of such net transaction.

2.4 The Member warrants and represents to EUI and, if different, the CREST central sponsor concerned that it has full power to employ the services of its CREST central sponsor.

2.5 EUI will allow the Member access to its records relating to dematerialised instructions received from the Member's CREST central sponsor and attributable to the Member and sent to the Member's CREST central sponsor and addressed to the Member (subject to the Member paying the charges levied by EUI for such access), in the event that it is established to EUI's satisfaction that the CREST central sponsor concerned and/or (if the Member is a Sponsored Member) its Sponsor, cannot or will not provide details of the same to the Member.

2.6 The Member acknowledges that the central sponsor services provided by a CREST central sponsor have not been developed with a view to reserving the right or power to the Member to notify EUI that the authority of the Member's CREST central sponsor is limited by reference to the net value of securities that may be transferred in any one day. Accordingly, the Member undertakes to EUI that it will not give any such notification without the prior written consent of EUI.



### **3 Reliance on information**

3.1 The Member agrees that its CREST central sponsor shall be entitled without further enquiry to execute, rely or otherwise act upon instructions or information or purported instructions or information received by or through the systems or equipment referred to in paragraph 2.2.10 above notwithstanding that it may afterwards be discovered that any such instruction or information or purported instruction or information was not genuine or was not correct or was not sent with the authority of any person on whose behalf it was expressed to have been sent or was not initiated by the person entitled to give it or was not initiated through the systems, gateway, workstations and associated equipment (as the case may be) operated by such person.

3.2 Nothing in paragraph 3.1 shall entitle a CREST central sponsor to execute, rely or otherwise act upon an instruction or information or purported instruction or information if at the time it received it or at any time thereafter that CREST central sponsor had actual notice that:

3.2.1 it was not genuine;

3.2.2 any information contained in it was incorrect;

3.2.3 it was not sent with the authority of the person on whose behalf it was expressed to have been sent;

3.2.4 it was not initiated by the person entitled to give it; or

3.2.5 it was not initiated through the systems, gateway, workstation and associated equipment (as the case may be) operated by the person entitled to give it,

and at the time it received the actual notice it was practicable for that CREST central sponsor to halt the processing of the instruction or information or purported instruction or information.

3.3 A CREST central sponsor shall not be liable to the Member for any Liabilities suffered or incurred by the Member as a result of that CREST central sponsor having executed, relied or otherwise acted upon any instruction or information or purported instruction or information that it was entitled to execute, rely or act upon pursuant to paragraph 3.1.

### **4 EUI as CREST central sponsor**

4.1 If and to the extent that EUI acts as CREST central sponsor for the Member, the provisions of paragraphs 2 and 3 above shall operate for the benefit of EUI acting in that capacity, and are in addition and without prejudice to:

4.1.1 the limitations on the scope of EUI's obligations to the Member, and the limitations on, and exemptions from, EUI's liability to the Member provided for in the other provisions of these Terms and Conditions; and

4.1.2 the authorities, permissions and consents given to EUI under any other provision of these Terms and Conditions.

4.2 Nothing in clause 7.5 of these Terms and Conditions shall exclude liability on the part of EUI for any Liabilities suffered or incurred by the Member as a result of EUI having executed, relied or otherwise acted upon any instruction or information which was sent or initiated by EUI as the Member's CREST central sponsor in breach of EUI's obligations to the Member under these Terms and Conditions (but any such liability or obligations on the part of EUI shall be subject to the limitations on the scope of EUI's obligations to the Member, and the limitations on, and exemptions from, EUI's liability to the Member provided for in the other provisions of these Terms and Conditions).

## **5 Suspension and termination, etc., when a Member uses central sponsor services**

5.1 EUI may suspend or terminate the Member as a system-member in whole, or in part in relation to any particular function, with immediate effect (or with effect from such time and date as EUI may specify) in the following circumstances:

5.1.1 if the participation of the Member's CREST central sponsor as a CREST sponsor is suspended or terminated (in whole, or in part in relation to any particular function or to the Member) unless prior to such suspension or termination the Member has, in accordance with paragraph 2.2.1, appointed a replacement CREST central sponsor in relation to the central sponsor services concerned;

5.1.2 if EUI has any reason to believe that the appointment of the Member's CREST central sponsor, or the authority of the Member's CREST central sponsor to act as CREST sponsor for the Member, in relation to central sponsor services has been or is to be suspended or terminated unless prior to such suspension or termination the Member has, in accordance with paragraph 2.2.1, appointed a replacement CREST central sponsor in relation to the central sponsor services concerned.

5.2 The Member acknowledges and agrees that the provisions of clauses 16.2 to 16.6 inclusive of these Terms and Conditions shall apply (with all appropriate changes of detail) in relation to any suspension or termination pursuant to paragraph 5.1. This paragraph 5.2 shall survive any termination of the Member's membership pursuant to paragraph 5.1.

## **6 Netting procedures and direct input services**

6.1 The Member undertakes to EUI that it will not permit the settlement under the netting procedures of any transaction which is attributable to the Member unless it has

obtained the authority and consent to such net settlement of each person who has rights and/or obligations as a contracting party in respect of that transaction, and by electing to use the netting procedures in relation to any particular transaction which is attributable to it the Member represents and warrants that such authority and consent are present and effective in respect of that transaction.

6.2 (Without prejudice to paragraph 2.2.12) the Member acknowledges, agrees and accepts that to the extent that they do not form part of the CREST system, the netting procedures and the direct input services form part of the CREST services.

## Schedule 5: Definitions and interpretation

1.1 In these Terms and Conditions the following expressions have the meanings set against them below:

'Appropriate Regulator'	any of the Bank of England, the Financial Conduct Authority and the Prudential Regulation Authority when exercising, or proposing to exercise, a power given to it under the Financial Services and Markets Act 2000;
'Associate'	in relation to a person, any other person at any time: <ul style="list-style-type: none"><li>(a) who exercises, or is able to exercise or is entitled to acquire, direct or indirect control over the affairs of the first person;</li><li>(b) whose affairs are or are capable of being controlled directly or indirectly by the first person;</li><li>(c) whose affairs are or are capable of being controlled directly or indirectly by the same person who exercises, or is able to exercise or is entitled to acquire, direct or indirect control over the affairs of the first person;</li></ul>
'authenticated CM electronic instruction'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'Authorised Person'	any person authorised by the Member to access and/or use the CREST Software in accordance with these Terms and Conditions;
'BoE'	the Bank of England;
'BoE's systems'	the systems and associated equipment and services operated or provided by the BoE under the DvP Service to send Liquidity Earmark Notifications (and other electronic messages) to the EUI-Bank link network and to receive CREST Settlement Notifications (and other electronic messages) from the EUI-Bank link network, as described in the BoE's RTGS Reference Manual;

'CBI'	the Central Bank of Ireland;
'CCP'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'CCP services'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'CCSS'	the CREST Courier and Sorting Service established by EUI to facilitate inter alia the deposit and withdrawal of certificated securities;
'CDI'	a depository interest of a particular series representing a particular class of International Securities constituted pursuant to a Deed Poll;
'central counterparty functions'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'central counterparty security'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'central counterparty service'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'central counterparty transaction'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'central sponsor services'	the systems, services and procedures described in the CREST Manual as being operated or provided by a particular CREST central sponsor;
'central sponsor transaction'	a transaction (whether gross or net) which is initiated or implemented by a properly authenticated dematerialised instruction attributable to a CREST central sponsor (and which, at the election of a system-member made in accordance with the procedures described in the CREST Manual, may or may not in addition be attributable to that system-member without that system-member (or, if different from its CREST central sponsor, its CREST sponsor) sending a dematerialised

	instruction by means of its (or its CREST sponsor's) gateway computer);
'clearing member'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'clearing sponsor'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'CM electronic instruction'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'CM Gateway'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'CM Network'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'CM Network Services'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'CM services'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'CM system'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'CM undertaking'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'CM user'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'CREST CCP Agreement'	an agreement between a CCP and EUI relating to the CCP's admission as a 'CCP' participant;
'CREST Central Counterparty Service Manual'	the document (which forms part of the CREST Manual) entitled the 'CREST Central Counterparty Service Manual' issued by EUI;
'CREST central sponsor'	a CREST sponsor permitted by EUI to send properly authenticated dematerialised instructions attributable to other persons and to receive properly authenticated

dematerialised instructions on behalf of other persons in relation to:

- (a) certain trades executed on the trading system, or cleared through the clearing service, for which that CREST sponsor is designated by EUI, in accordance with the CREST Manual, as a CREST central sponsor;
- (b) orders placed through an order routing system, for which that CREST sponsor is designated by EUI, in accordance with the CREST Manual, as a CREST central sponsor; or
- (c) certain operations of a collateral management service (provided by a person other than EUI) for which that CREST sponsor is designated by EUI, in accordance with the CREST Manual, as a CREST central sponsor,

and who provides central sponsor services; and references to central sponsorship shall be construed accordingly;

'CREST CM Software'

has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;

'CREST IPA'

a person who is permitted by EUI to perform the functions of either or both of an issuing agent and a paying agent in relation to eligible debt securities which are from time to time admitted to the CREST relevant system;

'CREST Manual'

the document entitled the 'CREST Manual' issued by EUI;

'CREST member'

a person who has been admitted by EUI as a system-member;

'CREST membership agreement'

an agreement between a person and EUI relating inter alia to that person's membership;

'CREST Regulations'

the Guernsey Regulations, the Irish Regulations, the Isle of Man Regulations, the Jersey Regulations and/or the UK Regulations as the context may require;

'CREST relevant system'

the relevant system which is operated by EUI under the UK Regulations;

- 'CREST Requirements'
- all requirements of EUI for the time being applicable to a CREST member and includes, without limiting the generality of the foregoing, all the obligations, conditions and operating procedures for the time being applicable to a CREST member under or by virtue of:
- (a) the CREST Admission Agreement;
  - (b) these Terms and Conditions;
  - (c) the CREST Rules;
  - (d) the CREST Manual; and
  - (e) any directions for the time being in force given by or for EUI in accordance with the CREST Manual;
- 'CREST Rules'
- (a) rules within the meaning of the relevant CREST Regulations and/or the Financial Services and Markets Act 2000 made by EUI;
  - (b) rules made by EUI as operator of a designated system under or pursuant to Directive 98/26/EC on settlement finality in payment and securities settlement systems (and/or the respective national laws which implement that Directive) and the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999 No. 2979) as amended from time to time); and
  - (c) rules made by EUI as operator of a recognised payment system under or pursuant to Part 5 of the Banking Act 2009;
- 'CREST Securities'
- securities which are participating securities within the meaning of the CREST Regulations, other than CDIs;
- 'CREST services'
- the services provided by EUI (whether to the Member or any other person) which are referred to in the CREST Manual but which do not form part of the CREST system, and such services include:
- (a) the CREST CCP information services;
  - (b) the CM services;



- (c) the netting procedures and the direct input services to the extent that such procedures and services do not form part of the CREST system; and
- (d) where EUI is acting as CREST central sponsor, the central sponsor services provided by EUI to the extent that such services do not form part of the CREST system;

'CREST Software'

the software built by or on behalf of EUI, including any upgrades, updates, modifications and patches for;

- (a) use with the Gateway, comprising the Graphical User Interface, the Message Definition File and the Client Services Layer; or
- (b) use with the Investment Funds Service, comprising the Euroclear Connections Client.

'CREST sponsor'

a system-participant permitted by EUI to send properly authenticated dematerialised instructions attributable to another person and to receive properly authenticated dematerialised instructions on another person's behalf and references to sponsorship shall be construed accordingly;

'CREST system'

the meaning given in the Glossary of the CREST Manual;

'CREST Voting Service'

the meaning given in the Glossary of the CREST Manual;

'CREST VSP'

a sponsoring system-participant permitted by EUI (in accordance with the CREST Requirements) to send properly authenticated dematerialised instructions attributable to and to receive properly authenticated dematerialised instructions on behalf of a CREST member in connection with its participation in the CREST Voting Service; and references to participation as a CREST VSP (and similar references) shall be construed accordingly;

'CSD'	a central securities depository, or a person which is a participant in such a depository and provides services as a custodian or sub-custodian, with which EUI has established an international settlement link (or, where the context admits, a nominee acting on behalf of such central securities depository or person);
'Custodian'	CREST International Nominees Limited or CIN Belgium Limited, both wholly owned subsidiaries of the Depository, or such other person as may be appointed by the Depository to hold International Securities on behalf of the Depository as Custodian in accordance with the provisions of a particular Deed Poll including, if the circumstances require, the Depository itself;
'Deed Poll'	a Deed Poll to be entered into by the Depository substantially in the form from time to time appearing in the CREST Manual, relating to classes of International Securities of a kind to be defined in that Deed Poll;
'Depository'	CREST Depository Limited or such other person as may be appointed as Depository in accordance with the terms of the relevant Deed Poll;
'direct input services'	the systems, services and procedures described in the CREST Manual as being operated or provided by EUI:  (a) to enable or facilitate the creation of a central sponsor transaction; and  (b) to verify whether a particular transaction may properly be created as a central sponsor transaction attributable to a particular system-member and/or may properly be processed as part of the netting procedures;
'ECB'	the European Central Bank;
'ECB's systems'	the systems, facilities and arrangements operated or used by the ECB under the rules, regulations, guidelines and operational procedures of TARGET2 to support CREST settlement in euro;

'eligible debt security'	the meaning given in the UK Regulations;
'EUI' or 'Euroclear UK & Ireland'	Euroclear UK & Ireland Limited (formerly known as CRESTCo Limited) incorporated in England and Wales under number 2878738 and whose registered office is at 33 Cannon Street, London EC4M 5SB;
'EUI-Bank link network'	the network and associated equipment and services used by EUI under the DvP Service to receive Liquidity Earmark Notifications (and other electronic messages) from the BoE's systems and to send CREST Settlement Notifications (and other electronic messages) to the BoE's systems, as described in the CREST Manual, and which form part of the relevant Liquidity Management Services;
'EUI Marks'	means EUI's name, and any of its logos, graphics, trade names and/or taglines, whether registered or not, including without limitation EUI's trademarks and service marks;
'EUI systems'	any or all of the CREST system, the CM system and the CREST LM system;
'EUI Trust Account'	a separate designated sterling account opened and maintained in the name of EUI (or its nominee) at the Bank of England under or in connection with the US dollar payments mechanism, which receives and holds pre-funding payments from USD settlement banks and performs certain other functions as described in Chapter 6, section 4A of the CREST Reference Manual;
'Euroclear Connections Client'	the software which EUI may supply to CREST Investment Funds Service (only) users to enable them to communicate with the CREST system.
'Euroclear SA'	Euroclear SA/NV or any successor in title;
'Federal Reserve Banks'	any or all of the Federal Reserve Bank of New York and the other regional Federal Reserve Banks that together form part of the Federal Reserve System;
'Federal Reserve System'	the United States central bank comprised of:  (a) the Federal Reserve Banks;

- (b) the Board of Governors of the Federal Reserve System; and
- (c) the Federal Open Market Committee;

'Gateway'	the hardware and software comprising the Member's (or its Sponsor's) gateway at which dematerialised instructions are authenticated;
'GCM'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'Guernsey Regulations'	the Uncertificated Securities (Guernsey) Regulations 2009 (Guernsey S.I. 48 of 2009) and such other regulations having force within Guernsey as are applicable to EUI and/or the CREST relevant system and are from time to time in force;
'ICM'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'International Securities'	securities which are not participating securities and are held within or through a CSD but excluding such securities or classes of securities as the CREST Depository may from time to time determine;
'International Settlement Links Service'	each of (or where the context requires all of) the services provided by EUI which enables CREST members indirectly to hold, and to settle transactions in, securities held in a CSD (and to transfer CREST Securities to, or receive CREST Securities from, participants in a CSD) as more particularly described in, or prescribed pursuant to, the CREST Manual;
'Investment Funds Service'	has the meaning given to that term in the Glossary of the CREST Manual;
'Irish Regulations'	the Irish Companies Act, 1990 (Uncertificated Securities) Regulations, 1996 as amended by the Irish Companies Act, 1990 (Uncertificated Securities) (Amendment) Regulations 2005 (SI No 693 of 2005) and such other regulations made under Section 239 of the Companies Act 1990 having force within Ireland as are

	applicable to EUI and/or the relevant system and are from time to time in force;
'Isle of Man Regulations'	the Isle of Man Companies Act 1992 Uncertificated Securities Regulations 2005;
'Intellectual Property Rights'	means all intellectual property rights in any part of the world and shall include, without limitation, and in each case whether registered or unregistered, patents (including, without limitation, supplementary protection certificates) utility models, trade and service marks, business and trade names, rights in domain names, designs, (including, without limitation, in relation to semiconductor products), copyrights and neighbouring rights, database rights, trade secrets, know how, inventions, technical or commercial knowledge, manufacturing or business processes methods and procedures and in each case rights of a similar or corresponding character and all applications and rights to apply for or for the protection of any of the foregoing;
'Jersey Regulations'	the Companies (Jersey) Law 1991 Companies (Uncertificated Securities) (Jersey) Order 1999;
'Liabilities'	any liability, damage, loss, cost, claim or expense of any kind or nature, whether direct, indirect, special, consequential or otherwise;
'Liability Cap'	shall be £40,000,000 except that where the liability of EUI arises out of any act, omission or event in relation to the CREST relevant system and/or CREST services which is related to an act, omission or event prior to 3 July 2000 it shall be £20,000,000;
'netting procedures'	the systems, services and procedures described in the CREST Manual as being operated or provided by EUI in order to enable or facilitate, at the election of a system-member made in accordance with such procedures, the termination of certain gross transactions attributable to that system-member and their replacement upon taking a settlement netting account by a single net transaction; (but such procedures do not include the creation of a net transaction attributable to a system-member which occurs

	either as part of the central sponsor services provided by the CREST central sponsor concerned as agent for that system-member or by reason of that system-member (or, if different from its CREST central sponsor, its CREST sponsor) sending a dematerialised instruction by means of its (or its CREST sponsor's) gateway computer);
'Network'	the network and associated equipment and services which enable properly authenticated dematerialised instructions to be sent and received by means of the CREST relevant system;
'Network Services'	the supply of a Network;
'NSS'	the multilateral settlement service known as the 'NSS' owned and operated by the Federal Reserve Banks;
'NSS CREST services'	the CREST services described in Chapter 6, section 4A of the CREST Reference Manual as being provided by EUI to or for an NSS settlement participant to enable or facilitate the performance of its functions as a Settler in relation to one or more USD settlement banks;
'NSS settlement participant'	a person whom EUI has admitted to participation as an NSS settlement participant and, accordingly, to whom EUI agrees to provide NSS CREST services;
'non-clearing member'	has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;
'Parent'	the person identified as such in relation to a Sponsored Member in an Admission Agreement or other agreement between such person, EUI and a Sponsored Member;
'recognised CSD'	any central securities depository which is recognised as such under the Financial Services and Markets Act 2000;
'recognised clearing house'	any clearing house which is recognised as such under the Financial Services and Markets Act 2000;
'Relevant Central Bank'	either or both of the BoE and the ECB;

'Relevant NCB's systems'	either or both of the BoE's systems and the ECB's systems;
'Restricted Securities'	has the meaning given to that term in the Glossary of the CREST Manual;
'SAT file'	a file compiled by a SAT Sending Participant in relation to gross trades executed by SAT Settlement Participants (or their principals) who use the SAT Sending Participant to create SAT instructions on their behalf under the Stamp Duty Assessment Service;
'SAT instruction' or 'SAT'	an instruction created for a SAT Sending Participant acting on behalf of a SAT Settlement Participant, which relates to a gross trade put forward in a SAT file for assessment to, and (where so assessed) initiates a process for the collection of, stamp duty reserve tax or stamp duty under the Stamp Duty Assessment Service;
'SAT Sending Participant'	a user whose User ID is flagged as being that of a SAT Sending Participant under and for the purposes of the Stamp Duty Assessment Service;
'SAT Settlement Participant'	a CREST member who has elected to use a SAT Sending Participant or SAT Sending Participants to create SAT instructions on its behalf under the Stamp Duty Assessment Service.
'Securities Act'	has the meaning given to that term in the Glossary of the CREST Manual;
'settlement agent'	any CREST member (other than a CSD participant) who is appointed or is otherwise authorised (whether directly or indirectly) by a non-clearing member or a CM undertaking to act as the settlement counterparty to a 'CCP' participant under a central counterparty transaction in respect of which the non-clearing member (and/or its principal) or (as the case may be) the CM undertaking has rights and/or obligations as a contracting party;
'Settlement File'	the instructions submitted by EUI as an NSS settlement agent (and as part of the CREST services) in connection with a settlement day in accordance with Chapter 6, section 4A of the CREST Reference Manual;

'Settler'	<p>in relation to a USD settlement bank, a person who:</p> <ul style="list-style-type: none"><li>(a) maintains an account with a Federal Reserve Bank;</li><li>(b) is permitted by that Federal Reserve Bank to settle through the NSS the balance(s) specified in a Settlement File as payable by or to the Settler; and</li><li>(c) agrees to settle through the NSS the multilateral net amount that is due to or from that USD settlement bank in respect of CREST payments denominated in US dollars made and received for the account of CREST members in connection with a settlement day (as represented by the relevant balance specified in the related Settlement File),</li></ul> <p>and a <b>Settler</b> includes a USD settlement bank when performing the functions of a Settler in relation to itself;</p>
'Sponsor'	<p>in relation to a Sponsored Member the CREST sponsor identified in the CREST Admission Agreement or such other CREST sponsor as has been accepted by EUI from time to time as the Sponsored Member's CREST sponsor (other than a CREST central sponsor) in accordance with the CREST Requirements;</p>
'Sponsored CM'	<p>has the meaning given to that term in the Glossary of the CREST Central Counterparty Service Manual;</p>
'Sponsored Member'	<p>a CREST member who has appointed a CREST sponsor (other than a CREST central sponsor) to send properly authenticated dematerialised instructions attributable to it and to receive properly authenticated dematerialised instructions on its behalf;</p>
'Stamp Duty Assessment Service'	<p>has the meaning given to that term in the Glossary of the CREST Manual;</p>
'stock account'	<p>an account maintained within the CREST system in relation to each class of security held by a CREST member as described in the CREST Manual;</p>



'system transfer'	the book-entry transfer effected by the debiting and crediting of stock accounts;
'TARGET2'	the Trans-European Automated Real-time Gross settlement Express Transfer system, which provides RTGS for payments in euro with settlement in central bank money, and is established and functions on the basis of a single technical platform infrastructure known as the "Single Shared Platform";
'T2 link network'	the network and associated services used by EUI under the DvP Service to receive Liquidity Earmark Notifications (and other electronic messages) from TARGET2 and to send to TARGET2 CREST Settlement Notifications (and other electronic messages), as described in the CREST Manual, and which form part of the relevant Liquidity Management Services;
'UK Regulations'	the Uncertificated Securities Regulations 2001 (SI 2001 No. 3755), as amended from time to time, and such other regulations made under section 207 of the Companies Act 1989 or section 785 of the Companies Act 2006 as are applicable to EUI and/or the CREST relevant system and are from time to time in force;
'US CREST member'	has the meaning given to that term in the Glossary of the CREST Manual;
'USD settlement bank'	in relation to a CREST member, a settlement bank which makes and/or receives payments denominated in US dollars for the account of that member by means of the CREST system; and
'VSP Voting Member'	a CREST member which has appointed a CREST VSP to send properly authenticated dematerialised instructions attributable to it and receive properly authenticated dematerialised instructions on its behalf in connection with the CREST member's participation in the CREST Voting Service.

1.2 In these Terms and Conditions, any reference to:

1.2.1 a '**person**' shall be construed as a reference to any individual, firm, company, corporation, government, state or agency of a state or any association or

partnership (whether or not having separate legal personality) of two or more of the foregoing;

- 1.2.2 **'these Terms and Conditions'** shall be construed as a reference to the Admission Agreement incorporating the Terms and Conditions (including any Schedules) concerning CREST membership issued by EUI as the same may from time to time be amended, varied, supplemented, novated or replaced 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, the Terms and Conditions issued by EUI;
- 1.2.3 **'the CREST Manual'** or **'the CREST Rules'** or any other agreement or document shall be construed as a reference to the CREST Manual or the CREST Rules or such other agreement or document as the same may from time to time be amended, varied, supplemented, novated or replaced 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 CREST Manual or the CREST Rules or, as the case may be, such other agreement or document;
- 1.2.4 **'membership'** shall be construed as a reference both to membership as a system-member and membership of EUI in its capacity as a recognised CSD or as a recognised clearing house;
- 1.2.5 **'bad delivery'** shall be construed in clauses 14.2 and 16.1.2 as including references to a purported registration of a transfer of title to units of a security on an Operator-register of securities which is of no effect;
- 1.2.6 **'maintenance of a register'** (or a similar reference) shall be construed as including (but not being limited to) a reference to the maintenance, keeping and entering up of a register and any other act in connection with the making, alteration of and deletion of entries on a register;
- 1.2.7 the Member's **'CREST central sponsor'** and/or the **'central sponsor services'** provided by its CREST central sponsor shall be construed as a reference to any or all of the CREST central sponsors appointed by the Member under paragraph 2.2.1 of Schedule 4 and/or any or all of the central sponsor services provided by any such CREST central sponsor; and
- 1.2.8 a **'CREST VSP'** shall, if the Member has appointed more than one CREST VSP, be construed as a reference to all or any of the CREST VSPs appointed by the Member.
- 1.3 References in these Terms and Conditions to **'Member'** include references to a 'Sponsored Member', being in each case the person(s) named as such in the Admission Agreement, and where the Member participates under a Sponsored Member (Nominee) Admission Agreement the provisions of Schedule 1 which involve the undertaking of

obligations for the payment of money shall be taken to be obligations of the Parent to the extent that EUI from time to time so agrees.

1.4 References in clauses 3.2, 5.3, 6.2, 6.4, 6.5, 19.3.2 and Schedule 2 to '**Sponsored Member**' and '**Sponsor**' or '**CREST sponsor**' shall, if the Member has appointed a CREST VSP, be deemed to include separate and additional references to 'VSP Voting Member' and 'CREST VSP' respectively.

1.5 Terms relating to the CREST relevant system or the EUI systems or the CREST services which are used in these Terms and Conditions, but not defined in this clause, have the meanings given to them in the Glossary of the CREST Manual.

1.6 Subject to paragraph 1.7 below terms defined or used in the UK Regulations which are used in these Terms and Conditions shall have the meanings given to them in the UK Regulations.

1.7 EUI may permit the functions and facilities comprised in the CREST relevant system to be used for certain purposes which are outside the scope of the UK Regulations. Accordingly references in these Terms and Conditions to the CREST relevant system shall be taken to refer to the functions or facilities comprised in the CREST relevant system, irrespective of whether, in any particular case, those functions or facilities are used for purposes within or outside the scope of the UK Regulations; and terms defined in the UK Regulations which are used in these Terms and Conditions shall be taken to have a corresponding meaning when used in relation to those functions or facilities of the CREST relevant system when used for purposes that are not within (or to the extent that the same are not within) the scope of the UK Regulations, and in particular:

- 1.7.1 the provisions of these Terms and Conditions are also applicable in relation to the relevant systems established under the Guernsey Regulations, the Irish Regulations, the Isle of Man Regulations and the Jersey Regulations subject to paragraphs 1.7.2 to 1.7.6 below;
- 1.7.2 in relation to any security which is or is to be a participating security under the Guernsey Regulations, terms which are defined by reference to the UK Regulations shall have the same meaning as ascribed to them in the Guernsey Regulations;
- 1.7.3 in relation to any security which is or is to be a participating security under the Irish Regulations, terms which are defined by reference to the UK Regulations shall have the meanings ascribed to them in the Irish Regulations;
- 1.7.4 in relation to any security which is or is to be a participating security under the Isle of Man Regulations, terms used which are defined by reference to the UK Regulations shall have the meanings ascribed to them in the Isle of Man Regulations;

1.7.5 in relation to any security which is or is to be a participating security under the Jersey Regulations, terms used which are defined by reference to the UK Regulations shall have the meanings ascribed to them in the Jersey Regulations; and

1.7.6 save where stated to the contrary, references to particular provisions of the UK Regulations shall be taken to include the corresponding provision (where one exists) in the other CREST Regulations.

1.8 The clause and paragraph headings in these Terms and Conditions are for ease of reference only and shall not affect their interpretation. In the event of any conflict between the terms of these Terms and Conditions and the CREST Manual, these Terms and Conditions shall prevail. In the event of any conflict between these Terms and Conditions and the CREST Rules, the CREST Rules shall prevail.

1.9 References in these Terms and Conditions to numbered clauses, paragraphs or Schedules are to clauses of, paragraphs of or Schedules to these Terms and Conditions.

1.10 Any reference in these Terms and Conditions to any statute or statutory provision (other than the CREST Regulations) shall, unless the context otherwise requires, be construed as a reference to such statute or statutory provision (including all instruments, orders or regulations made thereunder or deriving validity therefrom) as in force at the date of these Terms and Conditions and as subsequently re-enacted or consolidated.

1.11 In construing these Terms and Conditions, general words whether or not introduced by the word 'other' shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things and general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words.

1.12 Words importing one gender shall (where appropriate) include any other gender and words importing the singular shall (where appropriate) include the plural and vice versa.

1.13 In these Terms and Conditions any provision to the effect that EUI shall not be liable in respect of a particular matter shall be construed to mean that EUI shall not have any liability which EUI might, in the absence of such a provision, incur, whether EUI could incur such a liability:

1.13.1 under the terms of these Terms and Conditions (whether such terms are express or implied by statute, law or otherwise);

1.13.2 in tort;

1.13.3 for misrepresentation;

1.13.4 for breach of any other duty imposed by law; or

1.13.5 in any other way,

provided that nothing in these Terms and Conditions shall be construed as (i) excluding or limiting liability on the part of EUI for death or personal injury resulting from its negligence or as (ii) excluding liability for fraud or as (iii) limiting any liability of EUI below the amount of any benefit EUI has itself received by reason of the act, omission or event giving rise to such liability or as (iv) excluding or limiting its liability under UK Regulation 36 or as (v) excluding or limiting any rights under the Human Rights Act 1998.

1.14 In these Terms and Conditions any reference to EUI's negligence, wilful default or fraud shall be construed to include the negligence, wilful default or fraud of any person for which EUI is vicariously liable. For this purpose any act or omission on the part of the Bank of England when performing a task concerning the day to day operation of the EUI systems or the CREST services (being part of its role under the arrangements referred to in clause 17.16) which would otherwise have to be performed by EUI shall be treated as if it were an act or omission of EUI.

1.15 The Contracts (Rights of Third Parties) Act 1999 shall not apply to these Terms and Conditions and accordingly nothing in them shall be directly or indirectly enforceable by any third party, nor are they intended to confer a benefit on any third party, save that:

1.15.1 any provision which expressly refers to the Depository or the Custodian or is expressed as entered into by EUI as agent for the Depository and/or the Custodian shall be construed as conferring a benefit on, and be enforceable by virtue of The Contracts (Rights of Third Parties) Act 1999 by, any person who falls within the definition of 'Depository' or 'Custodian' (as the case may be);

1.15.2 clause 17.16 shall operate for the benefit of the BoE and be enforceable by it accordingly;

1.15.3 clause 17.17 shall operate for the benefit of each participating issuer and be enforceable by it accordingly (whether or not it is a participating issuer at the time of such enforcement);

1.15.4 clause 17.19 shall operate for the benefit of each relevant Associate and be enforceable by it accordingly;

1.15.5 clause 17.20 shall operate for the benefit of each relevant Associate and be enforceable by it accordingly; and

1.15.6 (without affecting the operation of paragraphs 2 and 3 of Schedule 4 for the benefit of EUI where it is acting as the Member's CREST central sponsor) paragraphs 2 and 3 of Schedule 4 and paragraphs 4.4 and 4.5 of Schedule 6 shall, where any person other than EUI is acting as the Member's CREST central

sponsor, operate for the benefit of any such person and be enforceable by it accordingly (whether or not it is a CREST central sponsor at the time of such enforcement),

provided always that these Terms and Conditions may be varied or rescinded without the consent of any Depository or Custodian, the BoE, any participating issuer, Euroclear SA, each Associate relevant for the purposes of clause 17.20 or any such third party CREST central sponsor.

1.16 Nothing in these Terms and Conditions shall be construed as inferring that the services provided by the Depository and the Custodian are provided otherwise than under the arrangements operated by EUI as described in Schedule 1 and in the CREST International Manual.

## **Schedule 6: Investment Funds Service**

### **1 Scope of the Investment Funds Service**

1.1 The Investment Funds Service comprises the arrangements the principal details of which are described from time to time in the CREST Manual.

1.2 The terms and conditions contained in this Schedule, together with the provisions of the CREST Manual, make additional provision in relation to the certain aspects of the Investment Fund Service.

1.3 In relation to the Investment Funds Service, the provisions of these Terms and Conditions apply as if:

1.3.1 references to securities, or participating securities, were, as the context requires, to units of an investment fund participating in the Investment Funds Service and/or to the related notional units;

1.3.2 references to a participating issuer were to an investment fund participating in the Investment Funds Service;

1.3.3 references to securities, or participating securities, being held through or by means of the CREST system or being held in uncertificated form were to units, notional records of which are reflected in or by means of the CREST system;

1.3.4 references to transfers of units include acquisition or disposal (as the case may be) by any means, including without limitation by issue or cancellation.

1.4 Terms defined or used in Chapter 13 of the CREST Reference Manual which are used in the Admission Agreement or this Schedule 6 shall have the meanings given to them in that Chapter.

1.5 The provisions of clauses 5.3, 8.2, 10.1.1 and 11.1.1 shall not apply in relation to the Investment Funds Service.

### **2 Notional units**

2.1 The Member acknowledges that:

2.1.1 the CREST system does not maintain the legal register of title to units issued by investment funds participating in the Investment Funds Service;

2.1.2 a stock account entry in relation to a participating investment fund does not constitute an entry on an Operator register of securities; and

2.1.3 such an entry does not constitute or evidence a proprietary interest in units issued by such an investment fund.

2.2 In the circumstances referred to in the CREST Manual, or where required or permitted to do so by law, by a court order or by any UK or other governmental or regulatory body or authority from time to time, EUI may issue an Operator-instruction or record a transfer of notional units held by the Member in relation to the Member or any notional units of a participating investment fund held or to be held by the Member without having received an instruction in relation thereto from the Member (or, in the case of Sponsored Members, from the Sponsor and attributable to the Sponsored Member). In particular (but without limiting the generality of the foregoing), EUI may, whether or not in connection with suspension or termination of the membership, delete stock account entries in relation to notional units.

2.3 When EUI permits an investment fund (and a class of units of an investment fund) to participate in the Investment Funds Service, it does so in reliance on confirmation by the investment fund (or its agent) that all necessary conditions to the admission of such units (whether imposed by the CREST Rules, the CREST Regulations or otherwise howsoever) have been fulfilled and EUI does not monitor compliance with such conditions. EUI shall not incur any liability for any Liabilities suffered or incurred by the Member as a result of the admission of an investment fund (or a particular class of units of an investment fund) to participate in the Investment Funds Service or as a result of entry into the CREST relevant system of units of a participating investment fund, whether such Liability suffered or incurred by the Member arises as a result of some defect in the constitution of the units concerned or because of some want of or defect in title to any unit of a particular investment fund or otherwise howsoever. The Member further acknowledges that it is responsible for ascertaining the terms of issue of any investment fund and the mode of exercise of any privilege, benefit or right attaching to it, and for ascertaining the terms of any corporate event facilitated by the CREST relevant system.

### **3 Transfers of investment fund units**

3.1 The Member acknowledges, agrees and accepts that there is no guarantee that a participating investment fund will register a transfer of title to units of a participating investment fund in response to an Operator-instruction and that where registration is not so effected the bad delivery rules set out in the CREST Rules may be applied.

3.2 The Member undertakes to EUI that it will only transfer units of an investment fund participating in the Investment Funds Service where it is able to so transfer free from any proprietary, equitable or other similar interest (including without limitation any unpaid vendor's lien) of any person (including the Member or person for whom, directly or indirectly, the Member acts as nominee or agent).

### **4 Electronic communications**

4.1 The Member acknowledges and agrees that EUI does not act as agent for the Member or any other person in relation to any electronic communications, sent by means of the EUI systems or CREST services, which the Member or any other third party may



seek to either send, or to rely upon, in place of a written instrument in respect of the transfer of units in an investment fund.

4.2 The Member acknowledges and agrees that EUI does not in any manner or to any extent warrant or represent the validity, genuineness or correctness of any electronic communication, including any electronic communication which may be relied upon by the Member or a third party in place of a written instrument in respect of the transfer of units in an investment fund.

4.3 The Member acknowledges that it is the responsibility of the participating investment fund to ensure that any transfers of units can be lawfully effected, including where done so in reliance upon electronic communications in place of a written instrument in relation to that transfer. EUI shall have no responsibility to the Member for the effectiveness in law of any transfer of a unit in reliance upon electronic communications sent by means of the EUI systems or CREST services.

4.4 The Member agrees that a CREST central sponsor appointed by it is authorised on behalf of the Member to send electronic communications by means of the EUI systems or CREST services which may be relied upon in place of a written instrument in respect of the transfer of units in an investment fund.

4.5 The Member acknowledges and agrees that a CREST central sponsor does not in any manner or to any extent warrant or represent the validity, genuineness or correctness of any electronic communication, including any electronic communication which may be relied upon by the Member or a third party in place of a written instrument in respect of the transfer of units in an investment fund.

4.6 To the extent that the Member or any third party seeks to rely upon electronic communications sent by means of the EUI systems or CREST services in place of a written instrument in respect of the transfer of units in an investment fund, the Member acknowledges and agrees that it (or a third party) will only seek to do so where any and all agents acting on behalf of the Member in connection with that electronic communication are authorised in writing to send such communications on which reliance may be so placed.

## **Schedule 7: Stamp Duty Assessment Service**

### **1 Scope of the Stamp Duty Assessment Service**

1.1 The Stamp Duty Assessment Service comprises the systems, services and procedures the principal details of which are described from time to time in the CREST Manual. The systems, services and procedures are intended to enable or facilitate the assessment and collection of stamp duty reserve tax and stamp duty on gross trades in

the circumstances described in Chapter 8, sections 1 and 10 of the CREST Reference Manual.

1.2 The terms and conditions contained in paragraphs 2 to 4 (inclusive) of this Schedule 7, together with the provisions of the CREST Manual, make additional provision in relation to the participation of the Member in the Stamp Duty Assessment Service (whether in its capacity as a SAT Settlement Participant or as a SAT Sending Participant).

1.3 The Stamp Duty Assessment Service may be terminated by not less than 30 days' prior written notice from EUI to the Member (or such other period of notice, which may be more or less than 30 days, as is necessary to comply with any agreement made between EUI and each of the SAT Sending Participants that participate in the Stamp Duty Assessment Service).

## **2 Acknowledgements, consents and authorities from the Member**

*When acting as a SAT Settlement Participant or as a SAT Sending Participant*

2.1 The Member (whether in its capacity as a SAT Settlement Participant or as a SAT Sending Participant) acknowledges, agrees and accepts that:

- 2.1.1 EUI is not responsible for any functions performed by a SAT Sending Participant in connection with the Stamp Duty Assessment Service, and EUI only accepts responsibility to the Member for the CREST services which are described in the CREST Manual from time to time as being provided by it to the Member (whether as a SAT Settlement Participant or as a SAT Sending Participant) under the Stamp Duty Assessment Service;
- 2.1.2 EUI has no responsibility for information contained in any SAT files until they reach the systems identified in the CREST Manual as being the point at which EUI's responsibility for SAT files commences, through the secure internet connection used with the Stamp Duty Assessment Service;
- 2.1.3 the systems, services and procedures operated or provided by EUI under the Stamp Duty Assessment Service do not form part of the CREST relevant system, but form part of the CREST services;
- 2.1.4 EUI does not undertake or assume any responsibility towards any person other than the Member (whether as a SAT Settlement Participant or as a SAT Sending Participant) under or in connection with the Stamp Duty Assessment Service and where the Member acts as agent or otherwise on behalf of any other person and any provision of these Terms and Conditions or function comprised in the CREST services provided under the Stamp Duty Assessment Service may affect such person the Member is responsible for advising such person of any such matter and obtaining any requisite permission; and

- 2.1.5 notwithstanding any other obligation imposed on it, whether under these Terms and Conditions or otherwise, EUI shall not be obliged to take any action upon any information received by the systems referred to in paragraph 2.1.2 above, or any SAT instruction or other instruction or transaction generated or created on behalf of or attributable to a CREST member in response to such information or to any SAT instruction, to the extent that any such action or any result of it would be (or, in EUI's reasonable opinion, would be likely to be) in breach of:
- (a) any relevant law;
  - (b) any order of a court;
  - (c) any requirement of the Bank of England, or any other regulatory or governmental authority or body having jurisdiction over EUI and/or any part of the CREST services; or
  - (d) any requirement of any taxing authority, body or agency.

*When acting as a SAT Settlement Participant*

- 2.2 The Member (in its capacity as a SAT Settlement Participant):
- 2.2.1 acknowledges and agrees that the CREST services provided by EUI to SAT Settlement Participants under the Stamp Duty Assessment Service may be suspended or terminated in whole, or in part in relation to any particular function, with immediate effect, or (as applicable) with effect from such time and date as EUI may determine, if the participation in the Stamp Duty Assessment Service by any SAT Sending Participant used by the Member is suspended or terminated for any reason in accordance with EUI's agreement with the SAT Sending Participant concerned;
  - 2.2.2 acknowledges, agrees and accepts that EUI does not owe any duty to the Member (as a SAT Settlement Participant) in relation to the opting-in by any user as a SAT Sending Participant or in relation to the exercise or non-exercise of EUI's powers of termination or suspension of such a user as a SAT Sending Participant in the Stamp Duty Assessment Service;
  - 2.2.3 consents to and authorises the use or disclosure of:
    - (a) any information which is received by EUI under the Stamp Duty Assessment Service in relation to the Member (as a SAT Settlement Participant) or its activities (or the activities of its principal);
    - (b) any SAT instructions (or any part of them) created on behalf of the Member (as a SAT Settlement Participant) under the Stamp Duty Assessment Service;

- (c) any STP transactions (and any constituents of such transactions) generated in the systems operated by EUI in response to SAT instructions created on behalf of the Member (as a SAT Settlement Participant) under the Stamp Duty Assessment Service; and
- (d) such other information (or any part of such other information) processed, created or made available by EUI under the Stamp Duty Assessment Service in relation to the Member (as a SAT Settlement Participant) or its activities (or the activities of its principal),

in each such case for such purposes, to such persons and in such manner as may be specified in the CREST Manual from time to time;

- 2.2.4 warrants and represents to EUI that it has full power to give and maintain the consents and authorities set out in paragraph 2.2.3 above;
- 2.2.5 agrees to indemnify EUI and keep it indemnified against all Liabilities suffered or incurred by EUI arising directly or indirectly from EUI taking any action authorised by or permitted or provided for under these Terms and Conditions or the CREST Manual under or in connection with the Stamp Duty Assessment Service, provided always that this indemnity shall not apply to the extent that:
  - (a) the Liabilities suffered or incurred by EUI are suffered or incurred by reason of EUI's negligence, wilful default or fraud; or
  - (b) EUI has acted outside the scope of the authorities, consents or permissions given by the Member to or in favour of EUI under these Terms and Conditions;
- 2.2.6 agrees that the authorities, consents and permissions given by it to EUI under these Terms and Conditions are irrevocable during its participation (as a SAT Settlement Participant) in the Stamp Duty Assessment Service and for so long after termination of its participation as is necessary to:
  - (a) ensure the full and proper discharge of its obligations to EUI; and
  - (b) give full effect to EUI's rights,under and in accordance with these Terms and Conditions; and
- 2.2.7 acknowledges and agrees that any SAT instruction which is created on its behalf, and any instruction or transaction generated or created by EUI under the Stamp Duty Assessment Service in response to any such SAT instruction, shall be irrevocable except to the extent (if at all) that the instruction or transaction may be revoked or amended in accordance with the CREST Manual.

### **3 EUI's reliance on information**

3.1 The Member (whether in its capacity as a SAT Settlement Participant or as a SAT Sending Participant) agrees that EUI shall be entitled without further enquiry to execute, rely or otherwise act upon instructions or information or purported instructions or information received by the systems referred to in paragraph 2.1.2 above notwithstanding that it may afterwards be discovered that any such instruction or information or purported instruction or information was not genuine or was not correct or was not sent with the authority of any person on whose behalf it was expressed to have been sent or was not initiated by the SAT Sending Participant expressed to give it or was not compiled or initiated by or through the systems or equipment operated or used by the SAT Sending Participant expressed to give it.

3.2 Without prejudice to paragraph 3.1, the Member (whether in its capacity as a SAT Settlement Participant or as a SAT Sending Participant) agrees that EUI shall be entitled without further enquiry to act upon any written information or purported information relating to a CREST member (in its capacity as a SAT Settlement Participant) received in accordance with the CREST Manual from a SAT Sending Participant used by the CREST member (as a SAT Settlement Participant) under the Stamp Duty Assessment Service or any person reasonably believed by EUI to be such a SAT Sending Participant or a person notified to EUI as having authority to act on behalf of such a SAT Sending Participant in relation to the CREST member (as a SAT Settlement Participant) notwithstanding that it may afterwards be discovered that any such information was not genuine or was not correct or was not authorised.

3.3 Nothing in paragraph 3.1 or 3.2 shall entitle EUI to execute, rely or otherwise act upon an instruction or information or purported instruction or information if at the time it received it or at any time thereafter EUI had actual notice that:

- 3.3.1 it was not genuine;
- 3.3.2 any information contained in it was incorrect;
- 3.3.3 it was not sent with the authority of the person on whose behalf it was expressed to have been sent;
- 3.3.4 it was not initiated by the SAT Sending Participant expressed to give it; or
- 3.3.5 it was not compiled or initiated by or through the systems or equipment operated or used by the SAT Sending Participant expressed to give it,

and at the time it received the actual notice it was practicable for EUI to halt the processing of the instruction or information or purported instruction or information.

3.4 EUI shall not be liable to the Member (whether in its capacity as a SAT Settlement Participant or as a SAT Sending Participant) for any Liabilities suffered or incurred by the Member as a result of EUI having executed, relied or otherwise acted upon any instruction or information or purported instruction or information that it was entitled to execute, rely or act upon pursuant to paragraph 3.1 or 3.2.

#### **4 CREST services based on information provided by SAT Sending Participants**

4.1 The Member (whether in its capacity as a SAT Settlement Participant or as a SAT Sending Participant) acknowledges that the CREST services provided by EUI under the Stamp Duty Assessment Service are dependent upon the provision to and maintenance by EUI of information from a SAT Sending Participant or SAT Sending Participants used by a SAT Settlement Participant under the Stamp Duty Assessment Service ("**relevant SDAS information**") and EUI does not check the accuracy or completeness (or continuing accuracy or completeness) of relevant SDAS information.

4.2 Subject to paragraph 3 above, the Member (whether in its capacity as a SAT Settlement Participant or as a SAT Sending Participant) accordingly acknowledges and agrees that EUI shall not be liable to the Member for any Liabilities suffered or incurred by the Member as a result of any inaccuracy or incompleteness in any relevant SDAS information or as a result of any instruction, service or other facility initiated, created, provided or made available by EUI under the Stamp Duty Assessment Service drawing on any relevant SDAS information which is (or has become) inaccurate or incomplete, provided always that EUI has:

4.2.1 accurately reproduced the relevant SDAS information provided to it; and

4.2.2 taken reasonable care to process the relevant SDAS information,

in each case in all material respects in the manner described in the CREST Manual.

4.3 EUI agrees that it will take reasonable care to terminate its processing of or reliance upon relevant SDAS information if it receives notice from the Member (acting as a SAT Sending Participant) or (where the Member is acting as a SAT Settlement Participant) from its SAT Sending Participant (in either case in the form and in the manner required by the CREST Manual) that such relevant SDAS information is (or has become) inaccurate or incomplete and at the time it receives such notice it is practicable for EUI to halt the processing of or its reliance upon the relevant SDAS information.

4.4 Nothing in clause 7.5 of these Terms and Conditions shall exclude liability on the part of EUI for any Liabilities suffered or incurred by the Member (in its capacity as a SAT Settlement Participant) as a result of EUI having executed, relied or otherwise acted upon any instruction or information or purported instruction or information which was generated or created by EUI under the Stamp Duty Assessment Service in breach of EUI's obligations to the Member under these Terms and Conditions (but any such liability or obligations on

the part of EUI shall be subject to the limitations on the scope of EUI's obligations to the Member, and the limitations on, and exemptions from, EUI's liability to the Member provided for in the other provisions of these Terms and Conditions).

## Schedule 8: Data Protection

### 1 Definitions

The following expressions have the meanings as explained below for the purposes of this Schedule 8:

"Applicable Data Protection Law" shall have the meaning given in the Glossary of the CREST Manual;

"controller", "data subject", "personal data", "personal data breach", "process", "processor" and "processing" shall have the meanings given in the GDPR;

"GDPR" shall have the meaning given in the Glossary of the CREST Manual;

### 2 GDPR Categorisation

The Member agrees and acknowledges to the categorisation of EUI as controller or processor under the GDPR with regards to the personal data processing activities related to the Member in respect of the Member's participation in the CREST system and in the context of EUI operating the CREST system and otherwise providing the CREST services, as outlined in Chapter 1, section 10 of the CREST Reference Manual.

### 3 Data Processing by EUI

3.1 In respect of the personal data processing activities by EUI acting as a processor for the purposes of the GDPR, described at Chapter 1, section 10 of the CREST Reference Manual in relation to the Member, EUI shall:

3.1.1 process such personal data in accordance with:

- (a) the instructions of the Member **unless** such instructions are contrary to (i) the CREST Requirements; and/or (ii) applicable law or regulation, provided that EUI shall (to the extent permitted by law and regulation) give the Member notice of (i) or (ii); or
- (b) any law or regulation applicable to EUI, provided that EUI shall (to the extent permitted by law and regulation) give the Member prior notice of such processing;

3.1.2 notify the Member after becoming aware of a personal data breach by EUI of Applicable Data Protection Law. Such notification shall be made in accordance with clause [21 of these Terms and Conditions]. EUI shall take all reasonable steps to resolve such breach and to mitigate the effects of such breach on the relevant data subjects. EUI shall notify the Member of any material developments in the mitigation and remediation of such personal data breach;



3.1.3 ensure that any person that it authorises to process such personal data is aware of the terms of paragraphs 3.1.1 and 3.1.2 above and is subject to a duty of confidentiality;

3.1.4 implement appropriate technical and organisational measures to ensure the security and confidentiality of such personal data, provided that EUI may take into account the following factors when determining such measures (without limitation): the state of the art, costs of implementation and the nature, scope, context, purposes of processing together with the risks presented by such processing;

3.1.5 provide reasonable assistance to the Member (at the expense of the Member) in order for the Member to:

- (a) respond to a request from a data subject to exercise any of its data subject rights under Applicable Data Protection Law;
- (b) undertake any necessary data protection impact assessments or data protection consultations pursuant to Applicable Data Protection Law; or
- (c) respond to any complaint made against the Member pursuant to Applicable Data Protection Law by a regulatory authority or a data subject;

3.1.6 upon the termination of the Member's participation in the CREST system, and upon the Member's written request, return or destroy any such personal data, unless:

- (a) (in the opinion of EUI) the return or destruction of such data would have a detrimental impact on the integrity of the CREST system and/or the securities or the data subject to which the personal data relates;
- (b) such data must be retained in accordance with any law or regulation applicable to EUI; and/or
- (c) such data has been automatically backed up in EUI's information security system, to the extent that such data is not readily retrievable by EUI but remains subject to paragraph 3.1.4 of this schedule 8;

3.1.7 following notification to the Member of a personal data breach in accordance with paragraph 3.1.2 above, permit the Member (or its appointed third party auditor, who in any case shall not be a competitor of EUI and shall be bound by industry standard duties of confidentiality) to audit EUI's compliance with this paragraph 3. Any such audit must comply with paragraph 3.2 below;

3.1.8 subject to paragraph 3.1.7 above and upon the written request of the Member, provide evidence of EUI's compliance with this paragraph 3. If, in the reasonable opinion of the Member, such evidence is not sufficient to demonstrate EUI's compliance with this paragraph 3, and the Member has provided EUI with a report outlining the deficiencies in the evidence provided and given EUI a reasonable period of time to address such deficiencies, EUI shall permit the Member (or its appointed third party auditor, who in any case shall not be a competitor of EUI and shall be bound by industry standard duties of confidentiality) to audit EUI's compliance with this paragraph 3. Any such audit must comply with paragraph 3.2 below;

3.1.9 other than the sub-contracting of any processing activities to Associates of EUI or third party suppliers of services to EUI as described in chapter 1, section 6 of the CREST Reference Manual, not sub-contract any processing of the personal data to a third party sub-processor without the prior written consent of the Member. For the purposes of this schedule 8, such consent shall be deemed granted by the Member in accordance with clause 19 of these Terms and Conditions. EUI shall ensure that its contract with each sub-processor complies with Applicable Data Protection Law.

3.1.10 not transfer such personal data outside of the EEA unless EUI has taken such measures as are necessary to ensure such transfer is in compliance with Applicable Data Protection Law.

3.2 For the purposes of paragraphs 3.1.7 and 3.1.8 above, a reference to an audit shall include the right to inspect. Any such audit shall be subject to the Member:

- (a) providing reasonable, prior written notice to EUI of its intention to perform such audit (which shall include the scope of such audit and the steps to be taken);
- (b) taking all reasonable measures to prevent unnecessary disruption to EUI's operations;
- (c) conducting such audit during normal business hours;
- (d) bearing its own costs of such audit (including, for the avoidance of doubt, any costs associated with the appointment of third party auditor).

The Member shall not exercise its right to audit more than once in any twelve (12) month period, unless it is required to do so pursuant to Applicable Data Protection Law.

## **Schedule 9: Investment Funds Service – Euroclear Connection Client Users**

### **1 Scope of the Euroclear Connections Client**

1.1 The Euroclear Connections Client (ECC) comprises the arrangements the principal details of which are described from time to time in the CREST Manual.

1.2 The terms and conditions contained in this Schedule, together with the provisions of the CREST Manual, make additional provision in relation to certain aspects of the Euroclear Connections Client.

1.3 In relation to the Euroclear Connections Client, the provisions of these Terms and Conditions apply as if:

- 1.3.1 references to dematerialised instructions and properly authenticated dematerialised instructions were, as the context requires, to a dematerialised instruction that has been authenticated in accordance with the requirements described in Chapter 13, section 6 of the CREST Reference Manual;
- 1.3.2 references to networks and network providers were, as the context requires, to networks provided by a network provider that EUI agrees may from time to time act as a Euroclear Connections Client network provider; and
- 1.3.3 references to the Euroclear Connections Client includes as the context requires, a Euroclear Connections Client network provider.

1.4 Terms defined or used in Chapter 13 of the CREST Reference Manual which are used in the Admission Agreement or this Schedule 9 shall have the meanings given to them in that Chapter.

1.5 The provisions of clauses 6.1, 6.3, 6.4, 6.4.1, 6.4.2, 6.4.3 and 6.5.3 shall not apply in respect of their use of the Investment Funds Service via the Euroclear Connections Client to any Member to whom clause 2.1 of this Schedule 9 applies.

### **2 Use of the Euroclear Connections Client**

2.1 The provisions of this Schedule 9 shall apply to any Member is eligible and elects to use the Euroclear Connections Client (instead of an accredited network provider) to send and receive properly authenticated dematerialised instructions and who is not a Sponsored Member. The eligibility requirements to be a Euroclear Connections Client user are described in Chapter 13, section 6 of the CREST Reference Manual.

2.2 The Member acknowledges and agrees the CREST Software is designed and built by or on behalf of EUI and is supplied to the Member on the terms and conditions set out in Schedule 2.

### **3 Euroclear Connections Client networks**

3.1 EUI has specified the requirements in relation, inter alia, to functionality, security and performance to be met by networks through which dematerialised instructions are sent. EUI permits, at its absolute discretion, network providers which satisfy the functionality, security and performance requirements specified by EUI, the services of which the Member may use to send and receive properly authenticated dematerialised instructions. The Member acknowledges and agrees that EUI may change the requirements Euroclear Connections Client network providers are required to meet at any time.

3.2 Euroclear Connections Client network providers provide their services as principal and not as agent or delegate for EUI, and EUI reviews network providers ability to satisfy the requirements to be a Euroclear Connections Client network provider from time to time.

3.3 Where the Member is not a Sponsored Member, the Member warrants, represents and undertakes that it will install the Euroclear Connections Client and will enter into and keep in force a contract with a Euroclear Connections Client network provider pursuant to which it is able to send and receive properly authenticated dematerialised instructions.

3.4 The Member acknowledges and agrees that its network provider (or, in the case of Sponsored Members, the network provider used by its Sponsor) and not EUI is responsible for the supply, upkeep and security of the network and the service levels to which the Network Services are provided and that it is the responsibility of the network provider and not EUI:

3.4.1 to supply hardware and software which is required in order to provide Network Services (except for the CREST Software);

3.4.2 to provide such other services as are described in the CREST Manual as being the responsibility of a network provider.

and that the basis on which the network provider provides its services is a matter for agreement between the Member and the network provider.

3.5 The Member acknowledges and agrees that other than the Euroclear Connections Client, it is responsible for the design and build of any file transfer system used by it to assist with the creation of dematerialised instructions.

3.6 The Member acknowledges and agrees to secure their private key information and to inform EUI immediately in writing if the Member has any reason to suspect their private key information has been compromised. Upon receiving notification the Member's private

key may have been compromised, EUI shall take reasonable steps to prevent access to the EUI gateway application by the Member.

Euroclear is the marketing name for the Euroclear System, Euroclear plc, Euroclear SA/NV and their affiliates.

