

Arrow Energy Markets (UK) Limited
Terms and Conditions of Business

Table of Contents

Page	
1.	Defined terms and Interpretation..... 3
2.	Application and Scope..... 4
3.	Our Services..... 5
4.	Client Categorisation 5
5.	Instructions and Communications 6
6.	Fees/charges..... 8
7.	Fees, commissions or non-monetary benefits 8
8.	Representations and Warranties..... 9
9.	Execution of orders 10
10.	Confirmations 11
11.	Changes to these Terms of Business 11
12.	Termination..... 11
13.	Liability and Indemnity..... 12
14.	Conflicts of Interests 13
15.	Supply of Data 13
16.	Confidentiality 13
17.	Complaints..... 14
18.	Data Protection..... 14
19.	Reporting and Disclosure 15
20.	Time of the Essence..... 15
21.	Anti-terrorism, Anti-bribery and Anti-corruption..... 15
22.	Sanctions..... 16
23.	Assignment..... 17
24.	Notices..... 17
25.	Illegality..... 17
26.	Entire Agreement 17
27.	Rights of Third Party..... 17
28.	Governing Law and Jurisdiction 18

1. Defined terms and Interpretation

- 1.1 **"AEM"** means Arrow Energy Markets (UK) Limited (CRN:15039862);
- 1.2 **"Affiliate"** means any entity controlled, directly or indirectly, by us, any entity that controls, directly or indirectly, us, or any entity directly or indirectly under common control with us. For this purpose, **"control"** of any entity or person means ownership of a majority of the voting power of the entity or person;
- 1.3 **"Agreement"** means any agreement other than these Terms of Business in place between you and us;
- 1.4 **"Applicable Privacy Law"** means all applicable national data protection laws and regulations to which you or we are subject, including the General Data Protection Regulation (EU) 2016/679 as incorporated into the law of the United Kingdom by virtue of section 3 of the United Kingdom's European Union (Withdrawal) Act 2018 (the **"UK GDPR"**), the UK Data Protection Act 2018 and the UK Privacy and Electronic Communications Regulations 2003;
- 1.5 **"Applicable Regulations"** means:
 - 1.5.1 all applicable laws, rules, regulations and instruments;
 - 1.5.2 the rules of a relevant market, exchange, clearing house or otherwise on which, or under whose rules we may carry on business on your behalf; and
 - 1.5.3 rules, principles and codes of practice of any regulatory authority to which any of the parties are subject, including the Rules,

each as in force from time to time;
- 1.6 **"Business Day"** means a day which is not a Saturday or Sunday and upon which banks are open for business in London;
- 1.7 **"Eligible Counterparty"** has the meaning given in the Rules;
- 1.8 **"Eligible Counterparty Business"** has the meaning given to it in the Rules;
- 1.9 **"FCA"** or **"Financial Conduct Authority"** means the Financial Conduct Authority of the United Kingdom and any successor body thereto;
- 1.10 **"FCA Rules"** means the rules, guidance, principles and regulations made by the FCA from time to time;
- 1.11 **"PRA"** means the Prudential Regulation Authority of the United Kingdom and any successor body thereto;
- 1.12 **"PRA Rules"** means the rules, guidance, principles and regulations made by the PRA from time-to-time;
- 1.13 **"Professional Client"** has the meaning given in the Rules;
- 1.14 **"Retail Client"** has the meaning given in the Rules;
- 1.15 **"Rules"** means the FCA Rules;
- 1.16 **"Services"** has the meaning given to it in Clause 3.1; and

- 1.17 **"Terms of Business"** means these AEM Terms and Conditions of Business, as amended from time to time.
- 1.18 In these Terms of Business, a reference to:
- 1.18.1 a "Clause" or "paragraph" will be construed as a reference to, respectively, a clause of or a paragraph of these Terms of Business, unless the context requires otherwise;
 - 1.18.2 any statute or statutory instrument or Applicable Regulations includes any modification, amendment, extension or re-enactment thereof, as in force from time to time;
 - 1.18.3 "include" will be construed to be without limitation;
 - 1.18.4 a person may refer to either a natural or legal person and includes a reference to that person's legal personal representatives, successors and permitted assigns and transferees;
 - 1.18.5 the masculine includes the feminine and the neuter and the singular includes the plural and vice versa as the context admits or requires;
 - 1.18.6 words and phrases defined in the Rules have the same meaning in these Terms of Business unless expressly defined in these Terms of Business; and
 - 1.18.7 any power or right conferred upon AEM may be exercised by AEM in its sole and absolute discretion, subject only to Applicable Regulations.

2. Application and Scope

- 2.1 These Terms of Business set out the terms of the business relationship between you (being the person, entity or undertaking which is requesting the provision of or to whom AEM is providing the Services) and AEM.
- 2.2 These Terms of Business apply only in regard to the Services, as described in Clause 3.
- 2.3 In the event of any inconsistency between the provisions of any applicable Rules and these Terms of Business, the terms of the Rulebook shall prevail to the extent of the conflict.
- 2.4 The Services that we provide you pursuant to these Terms of Business are subject to Applicable Regulations so that:
- 2.4.1 if there is a conflict between these Terms of Business and any Applicable Regulations, the latter will apply;
 - 2.4.2 nothing in these Terms of Business shall exclude or restrict any duty or liability which we may have to you under the Applicable Regulations;
 - 2.4.3 we may take or omit to take any action which we consider necessary to ensure compliance with any Applicable Regulations and that we are not required to do anything which would in our opinion infringe any such Applicable Regulation;
 - 2.4.4 all Applicable Regulations and whatever we do or fail to do in order to comply with them will be binding on you;
 - 2.4.5 such actions that we take or fail to take for the purpose of compliance with any Applicable Regulations shall not render us or any of our directors, officers, employees or agents liable; and

- 2.4.6 you agree to comply with all Applicable Regulations.
- 2.5 These Terms of Business create a contractual relationship between you and us and are legally binding. These Terms of Business will take effect when you first undertake business with us after having received them and you will be deemed to accept and consent to these Terms of Business for as long as we are providing a service to you.
- 2.6 Any reference in any documentation between you and us to an earlier version of these Terms of Business, shall, from the date these Terms of Business take effect, be read as a reference to these Terms of Business or to the relevant or corresponding part thereof.
- 2.7 The Terms of Business shall apply to you regardless of your jurisdiction to the extent that they are not incompatible with your local legal and regulatory requirements.

3. Our Services

- 3.1 The services we may provide under these Terms of Business may include investment services in relation to financial instruments or other investments, such as but not limited to the provision of broking services, arranging services, and the arrangement of deals, in respect of derivatives – in all cases subject to Applicable Regulations (the “**Services**”).
- 3.2 We may also provide other services if agreed between us, either under these Terms of Business or under other terms of business and/or subject to such additional terms and/or Agreements as may be agreed.
- 3.3 In respect of all the above, if we enter into any transactions in connection with the Services provided under these Terms of Business, it shall be as your agent and not as principal or in any other capacity.
- 3.4 Subject to the foregoing (including Applicable Regulations), and unless agreed otherwise in writing between you and AEM, there are no restrictions on the markets or types of investment in which we may carry on business on your behalf.

4. Client Categorisation

- 4.1 Based on the information available to us and as permitted by the Rules, we shall categorise you as either an “**Eligible Counterparty**” or as a “**Professional Client**” and notify you of this in the covering letter or electronic mail (as appropriate) that accompanies these Terms of Business (the “**Client Categorisation Notice**”).
- 4.2 You have the right to request a different client categorisation:
- 4.2.1 If you request categorisation as an Eligible Counterparty and we agree to such categorisation, we would no longer be required by the Rules to provide with respect to Eligible Counterparty Business certain protections granted to a Professional Client. However, notwithstanding the absence of applicable regulatory rules, we would endeavour to provide a service which is overall effective and commercially reasonable. The regulatory protections concerned include formal requirements with respect to Eligible Counterparty Business in the following areas: (i) to act in accordance with your best interests; (ii) not to give or receive inducements; (iii) to achieve best execution in respect of your orders; and (iv) to execute orders subject to other constraints as regards timing and handling relative to other clients’ orders. If you have been classified as an Eligible Counterparty with respect to Eligible Counterparty Business, you have the right to request a different client categorisation offering a greater level of regulatory protection.
- 4.2.2 If you request to be categorised as a Retail Client, thereby requiring the highest level of regulatory protection, we would not be able to continue to provide our Services to you.

- 4.2.3 We can only treat you as an elective Professional Client if certain criteria are met and certain procedures are followed. For example, we would need to carry out an adequate assessment of your expertise, experience and knowledge in order to satisfy ourselves that, in light of the nature of the transactions or Services envisaged, you are capable of making your own investment decisions and understanding the risks involved.
- 4.3 If we receive a request for a different client categorisation from you, we will inform you of whether or not we accept it. However, until we receive such a request, we shall deal with you on the basis of our original categorisation as set out in the Client Categorisation Notice.
- 4.4 You agree and acknowledge that you are responsible for keeping us informed about any change that could affect your categorisation as an Eligible Counterparty or Professional Client.
- 4.5 Even where you are categorised as an Eligible Counterparty, we may, at our initiative, treat you as a Professional Client for the purposes of the Rules. Where we do so, we will notify you of this accordingly.
- 4.6 If you are categorised as a Professional Client, in accordance with the Rules, we are entitled to assume that you have the necessary experience and knowledge in order to understand the risks involved in relation to the particular investment services or transactions, or types of transaction or product, for which we have classified you as a Professional Client. If you are an Eligible Counterparty, we are not required to consider whether a service, product or transaction is appropriate for you.
- 4.7 Unless otherwise agreed by us, if you are acting on behalf of any other person when dealing with us, we will continue to treat you alone (rather than any such other person) as our client for the purposes of the Rules. However, if you act as agent on behalf of another person, you acknowledge and accept that you and your principal will be jointly and severally liable, each as if a principal, to us in respect of all of your obligations and liabilities pursuant to these Terms of Business.
- 4.8 If you are acting on behalf of any other person when dealing with us, you agree that you will comply at all times with all relevant Applicable Regulations and you will be responsible for and will have undertaken all necessary identification and verification checks for the purposes of complying with all applicable statutory and regulatory anti-money laundering requirements in respect of each principal for whom you act.

5. Instructions and Communications

- 5.1 We may rely and act on any instructions, notices or requests of any person who is, or whom we reasonably believe to be, a person designated or authorised by you to give such instructions, notices or requests (whether given in writing or by email, telephone, computer-based systems or other media) but we will not be obliged to do so. We will not be liable for any action we take in good faith, pursuant to receipt of instructions from you, nor will we be responsible for verifying the accuracy of instructions received from you. We may require (but shall not be obliged to require) written confirmation before acting on oral instructions. You shall provide us with a list of persons who are authorised, either alone or with others, to act on your behalf in the giving of instructions and performance of any other acts, discretions or duties under these Terms of Business together (if we so request) with specimens of their signatures if written instructions are to be given. You warrant that any such list(s) of persons named by you will be correct at the date thereof. You shall notify us immediately of any amendments to such list(s) and provide specimen signatures of new signatories.
- 5.2 You shall promptly give us confirmation of any instructions to us which we may require in respect of any transaction or proposed transaction. If (a) you do not provide confirmation of such instructions promptly; or (b) we are unable to contact you following reasonable efforts by us, we may, in our absolute discretion, take such steps at your cost as we

consider necessary or desirable for our or your protection. If you do not provide us with notice of your intention to exercise an option at the time stipulated by us, we may treat the option as abandoned by you and will notify you accordingly.

- 5.3 If, after instructions are received, we believe it is not reasonably practicable to act upon such instructions within a reasonable time, we may (a) defer acting upon those instructions until it is, in our reasonable opinion, practicable to do so, or (b) notify you that we are refusing to act upon such instructions. We can only cancel instructions if we have not acted upon them. Instructions may only be withdrawn or amended by you with our consent. We shall not be liable for any losses resulting from such deferral, cancellation, amendment or refusal.
- 5.4 We are not obliged to accept any particular order or agree to enter into a transaction with you or carry out an instruction received from you. If we decline to enter into a proposed transaction, we shall not be obliged to give a reason but shall promptly notify you accordingly.
- 5.5 By providing us with an order you are deemed to have provided your consent for AEM to engage in pre-execution communications on your behalf in accordance with Applicable Regulations to assist in fulfilling your order.
- 5.6 Any prices we provide to you in relation to orders or potential transactions are indicative only until such time as they result in the execution of a transaction.
- 5.7 We have, at our absolute discretion, the right (but no obligation) to set limits and/or parameters to control your ability to place orders. Such limits and/or parameters may be amended, increased, decreased, removed or added to by us at our absolute discretion and without prior notice to you. Any limits and/or parameters are solely for our protection and we have no responsibility for monitoring or ensuring your compliance with limits and/or parameters. You agree and acknowledge that such limits and/or parameters are not a guide or recommendation of acceptable trading levels for you and that you rely on your own financial and risk assessments to determine internal limits and/or parameters. Furthermore, we have no responsibility for monitoring or ensuring your compliance with your internal policies and procedures, including in respect of risk.
- 5.8 We shall not be liable for any loss, expense, cost or liability (including consequential loss) suffered or incurred by you as a result of instructions being given, or any other communications being made, via the internet, email or other electronic medium. You will be solely responsible for all orders, and for the accuracy of all information, sent via the internet or other electronic medium using your name or personal identification number. We will not execute an order until we have verified the order with you. Transmission of an order by you shall not give rise to a binding contract between us and you.

- 5.9 You agree and consent to the following:
- 5.9.1 We may minute face to face meetings and may use voice and messaging recording procedures for the purposes of monitoring, training, checking instructions, verifying your identity and ensuring that we are meeting our service standards and requirements under Applicable Regulations. Telephone conversations may also be recorded with or without the use of an automatic warning device.
 - 5.9.2 Subject to Applicable Regulations, any electronic communication between us shall be binding as if it were in writing and will be recorded.
 - 5.9.3 These recordings and minutes, including orders or instructions given by you via e-mail or other electronic means, shall be and remain our sole property and will be conclusive evidence of any communications, orders or instructions so recorded. Such recordings and minutes may be used if there is a dispute.
 - 5.9.4 A copy of the recording will be available for a period of five years and, where requested by the FCA or other relevant regulatory authority, for a period of up to seven years. You agree that we may charge you a commercially reasonable cost for providing such records.
- 5.10 You will not object to the admission of our records or minutes as evidence in any legal proceedings because such records are not originals, are not in writing or are documents produced by a computer. You will not rely on us to comply with your record keeping obligations, although records may be made available to you on request at our absolute discretion.
- 5.11 You agree to keep adequate records in accordance with Applicable Regulations to demonstrate the nature of orders submitted and the time at which such orders are submitted.
- 5.12 Under Applicable Regulations, we may be obliged to make information about certain transactions public and/or to report them to a competent authority, such as the FCA. You agree and acknowledge that any and all proprietary rights in such transaction information are owned by us and you waive any duty of confidentiality attaching to the information which we reasonably disclose.

6. Fees/charges

- 6.1 Our rates, fees and charges ("**Fees**") for the Services described in these Terms of Business will be disclosed to you, either on your onboarding form or in a separate fee letter. Any alteration to such Fees shall be notified to you prior to the change.
- 6.2 Fees are exclusive of value-added tax ("VAT") or any other applicable taxes.
- 6.3 Fees are payable within thirty (30) days from the date of the applicable invoice. You shall pay us Fees and any other sums owed to us promptly upon such sums becoming due and in the currency and to the accounts that we specify, and without making any set-off, counterclaim, deductions or withholding whatsoever.
- 6.4 You acknowledge that AEM may receive commission from a counterparty to a transaction as well as from you.
- 6.5 Unless otherwise agreed in writing, you will be responsible for the payment of any brokerage, clearing and exchange and similar fees.

7. Fees, commissions or non-monetary benefits

- 7.1 We may, to the extent permitted by the Applicable Regulations, pay or receive fees, commissions or non-monetary benefits to and from intermediaries introducing business to

us, associated companies or other third parties. We will provide separate disclosure of the essential arrangements relating to such fees, commissions or non-monetary benefits to you (where such disclosure is required by law or Applicable Regulations), unless we have categorised you as an Eligible Counterparty.

8. Representations and Warranties

8.1 You warrant and represent that:

- 8.1.1 you are duly organised and validly existing under the laws of the jurisdiction of your organisation or incorporation and, if the relevant under that law, are in good standing;
- 8.1.2 you have the capacity and have obtained all necessary consents, authorities, powers, licences and authorisations under Applicable Regulations and you have taken all necessary action to lawfully enter into and perform your obligations under these Terms of Business;
- 8.1.3 investments or other property supplied by you shall, subject to these Terms of Business, at all times be free from any charge, lien, pledge or encumbrance other than one which is routinely imposed on all securities in a clearing system in which such investments or property may be held;
- 8.1.4 unless otherwise agreed by us, you act as principal and sole beneficial owner (but not as trustee) under these Terms of Business and each transaction;
- 8.1.5 these Terms of Business, each transaction contemplated by them and the obligations created under them are binding upon you and enforceable against you in accordance with their terms (subject to applicable principles of equity) and do not and will not violate the terms of any regulation, order, charge or agreement by which you are bound, or any internal policy or procedure that you have in place;
- 8.1.6 any information which you provide or have provided to us in respect of your financial position, domicile or other matters, including but not limited to your LEI, is accurate and not misleading in any material respect;
- 8.1.7 you are willing and financially able to sustain a total loss of funds resulting from transactions under these Terms of Business and trading in such transactions is a suitable investment vehicle for you;
- 8.1.8 to the best of your knowledge and belief, you are in compliance with all laws to which you are subject including, without limitation, all tax laws and regulations, exchange control requirements and registration requirements that would affect the enforceability of these Terms of Business or the transactions contemplated by them; and
- 8.1.9 you have full responsibility for monitoring and ensuring your compliance with your internal policies and procedures, including in respect of risk.

8.2 The warranties and representations in this Clause 8 shall be deemed to be repeated each time you provide instructions, or investments to us and also on the date of each transaction.

8.3 You covenant to us that:

- 8.3.1 you will at all times obtain and comply with, and do all that is necessary to maintain in full force and effect, all authorities, powers, consents, licences and authorisations referred to in this Clause 8;
- 8.3.2 you will (i) comply with all Applicable Regulations in relation to these Terms of Business and any transaction, so far as they are applicable to you; and (ii) use all

reasonable steps to comply with all Applicable Regulations in relation to these Terms of Business and each transaction, where such Applicable Regulations do not apply to you but your cooperation is needed to help us comply with our obligations;

- 8.3.3 you will not send orders or take any action that could create a false impression of the demand for or value of a financial instrument or commodity, or send orders which you have reason to believe are in breach of Applicable Regulations;
- 8.3.4 you shall observe the standard of behaviour reasonably expected of persons in your position and not take any step which would cause us to fail to observe the standard of behaviour reasonably expected of persons in our position;
- 8.3.5 upon demand, you will provide us with such information as we may reasonably require to evidence the matters referred to in this Clause 8 or to comply with any Applicable Regulations; and
- 8.3.6 where we or our Affiliates have received an enquiry from a relevant regulatory authority, a market, exchange or clearing house, you agree to, immediately upon request by us, provide such regulatory authority, market, exchange or clearing house (or provide us, to provide it to such regulatory authority, market, exchange or clearing house) with any information requested by such regulatory authority, market, exchange or clearing house, including but not limited to the identity, address, occupation, contact and other details of (i) the person for whose account or with whom the transaction was effected and (ii) the person with the ultimate beneficial interest in the transaction and/or of the person who was ultimately responsible for originating the transaction.

9. Execution of orders

- 9.1 Our current Order Execution Policy (which may be revised and updated from time to time) is available on our website and upon request. By agreeing to these Terms of Business and by providing instructions to us, you confirm that you have read and agree to the terms of our Order Execution Policy. In particular you expressly consent to us effecting transactions on your behalf outside a Regulated Market, Multilateral Trading Facility or Organised Trading Facility.
- 9.2 Orders may be executed by us or passed to any Affiliate, third party broker or agent for execution. Transactions are subject to, where relevant, the following matters (and in the event of any conflict between such matters, those higher in the list below shall take precedence over those lower in the list):
 - 9.2.1 Applicable Regulations;
 - 9.2.2 the terms and conditions of any Affiliate, third party broker or agent;
 - 9.2.3 the customs and procedures of the relevant market, exchange and clearing house ("**Market Rules**");
 - 9.2.4 any other terms covering any particular transaction under the rules of any market, exchange, clearing house or other trading platform we may use from time to time;
 - 9.2.5 any separate agreement between you and us.
- 9.3 We shall take all sufficient steps to execute each order promptly, but in accepting your orders we do not represent or warrant that it will be possible to execute such order or that execution will be possible according to your instructions. We shall execute an order only when the relevant market or exchange is open for dealings, and shall deal with any instructions received outside market hours as soon as possible when that relevant market

or exchange is next open for business (in accordance with the rules of that market or exchange).

- 9.4 Where you provide us with specific instructions, including specifying the characteristics of a bespoke product, either relating to an order or a particular aspect of an order, we will execute the order in accordance with those instructions. You should be aware that providing specific instructions to us in relation to the execution of a particular order may prevent us from taking steps that we have designed and implemented in the Order Execution Policy to give best execution.
- 9.5 In the event of any conflict or inconsistency between this Clause 9 and the Order Execution Policy the terms of the Order Execution Policy shall prevail.

10. Confirmations

- 10.1 Unless (i) we carry on Eligible Counterparty Business with you and subsequently enter into a separate agreement with you regarding content and timing of confirmations, or (ii) a confirmation is provided to you by an Affiliate or a third party, we will provide you with confirmations as soon as possible after execution, but in any event no later than as required by the Applicable Regulations. You have the right to receive confirmations and other statements either in paper form or in another durable medium. In this respect, you specifically request that we send confirmations to you via an electronic platform, an electronic portal or via such other durable electronic media as we may, from time to time, agree.
- 10.2 In addition to providing you with confirmations, you may request information about the status of any of your orders.
- 10.3 It is your responsibility to inform us of any change to your e-mail address, the non-receipt of any confirmations, or whether any confirmations are incorrect before settlement. Subject to Applicable Regulations, we may send you a single confirmation in respect of a series of transactions unless agreed otherwise. Each confirmation and other statement which we send to you will be conclusive and binding on you unless you notify us in writing within five (5) Business Days of despatch to you that you disagree with its contents, or we notify you of an error in the confirmation or statement within the same period.

11. Changes to these Terms of Business

- 11.1 We may, from time to time, amend these Terms of Business as we consider necessary or desirable, including such changes as are required in order to comply with Applicable Regulations, by sending you a written notice describing the relevant changes or identifying the place on our website where such changes are described. Such changes will become effective on a date to be specified in the notice.
- 11.2 Subject to Clause 11.1, any other changes to these Terms of Business will become effective only once they have been agreed by you and us in writing.

12. Termination

- 12.1 Unless otherwise required by Applicable Regulations, either party may terminate these Terms of Business (and the relationship between us) by giving five (5) days' written notice of termination to the other. Notwithstanding the preceding sentence, at any time after we have determined, in our absolute discretion, that you have not performed (or we reasonably believe that you will not be able or willing in the future to perform) any of your obligations to us, we shall be entitled without prior notice to you, to terminate these Terms of Business immediately.
- 12.2 Upon terminating these Terms of Business, all amounts payable by you to us will become immediately due and payable including (but without limitation): all outstanding fees,

charges and commissions; any dealing expenses incurred by terminating these Terms of Business;

- 12.3 Termination of these Terms of Business will not affect any outstanding order or transaction under these Terms of Business or any legal rights or obligations which may already have arisen.

13. Liability and Indemnity

- 13.1 You shall fully indemnify us and keep us fully indemnified against all losses, expenses, costs and liabilities (together "**Losses**") which arise as a result of or in connection with your breach of these Terms of Business, the proper provision by us of the Services, or the exercise of any rights envisaged by these Terms of Business (including, for the avoidance of doubt, any fines or penalties which may be imposed upon us as a result of late settlement of any transaction and any costs incurred in enforcing our rights or defending any action or claim brought by a third party or any losses arising from acting on your instructions, or instructions reasonably believed to be given by you or on your behalf).
- 13.2 Neither we nor our directors, officers, employees or agents shall be liable for any Losses whether arising out of negligence, breach of contract, misrepresentation or otherwise, suffered or incurred by you under these Terms of Business (including any transaction or where we have declined to enter into a proposed transaction). In no circumstance shall we have any liability for losses suffered by you or any third party for any special or consequential damage, loss of profits, loss of goodwill or loss of business opportunity arising under or in connection with these Terms of Business, whether arising out of negligence, breach of contract, misrepresentation, the failure of any third party to perform its obligations to us, or otherwise. Nothing in these Terms of Business will limit any of our liability for death or personal injury resulting from our negligence.
- 13.3 Without limitation, we do not accept liability:
- 13.3.1 for any tax implications of any transaction whatsoever;
- 13.3.2 by reason of any delay or change in market conditions before any particular transaction is effected; or
- 13.3.3 by reason of any processes, systems or controls that you may operate, or any failure thereof.
- 13.4 We shall not be in breach of these Terms of Business and shall not be liable or have responsibility of any kind for any loss or damage incurred by you as a result of our failure to perform any or all of our obligations, where such failure arises from or is attributable to either acts, events or omissions or accidents beyond our reasonable control, including but without limitation any breakdown, delay, malfunction or failure of transmission, act of God, war, terrorism, malicious damage, civil commotion, failure of any communication or computer system, interruptions of power supplies, industrial action, acts and regulations of any governmental or supra national bodies or authorities or the failure by the relevant intermediate broker or agent, agent or principal of our custodian, sub-custodian, dealer, market, or regulatory or self-regulatory organisation, for any reason, to perform its obligations. Nothing in these Terms of Business will exclude or restrict any duty or liability we may have to you under Applicable Regulations which may not be excluded or restricted thereunder.
- 13.5 You acknowledge that you have not relied on or been induced to enter into these Terms of Business by a representation other than that expressly set out in these Terms of Business. We will not be liable to you (in equity, contract, tort, under the Misrepresentation Act 1967 or otherwise) for a representation that is not set out in these Terms of Business and that is not fraudulent.

- 13.6 Without prejudice to this Clause 13, the total aggregate liability of AEM arising from and/or in connection with any specific transaction and this Agreement, shall not in aggregate exceed the higher of: (i) US\$1,000,000 and (ii) the aggregate amount of the Fees paid by you to us for the provision of our Services in the preceding twelve (12) month period. Nothing in this Clause 13.6 seeks to exclude or restrict liability that cannot be excluded or restricted under Applicable Regulations.

14. Conflicts of Interests

- 14.1 AEM has established and implemented a conflicts policy (which may be revised and updated from time to time) (the "**Conflicts Policy**") pursuant to the Rules, which sets out how we must seek to identify, manage and prevent all potential or actual conflicts of interest (available upon request or on our website).
- 14.2 You agree that we may, without prior reference to you, transact business in circumstances where we have, or which give rise to, and may maintain, an interest, relationship or arrangement which may give rise to a potential or actual conflict of interest and may retain all benefits received therefrom. In addition, we may provide advice and other services to third parties whose interests may be in conflict or competition with your interests. We will not deliberately favour any person over you but will not be responsible for any loss which may result from such competition. Where we are unable to manage a conflict of interest, we will disclose that conflict to you before providing the relevant service. We may also decline to act where we believe that there is no other practicable way of treating you (or, where applicable, your principal or principals) and our other clients fairly. If you object to us acting where we have disclosed that we have a conflict, you should notify your usual contact at AEM in writing. Unless so notified, we will assume that you do not object to our so acting.
- 14.3 Such conflicting interests or duties may arise because (without limitation):
- 14.3.1 we may be dealing as agent in the investments that are the subject of a transaction or providing services to other persons with interests in or proposing to acquire such investments; or
- 14.3.2 we may be dealing as agent on your behalf with a person connected with us or conducting an "agency cross" by matching your order with the order of another party (who may be a person connected with us) or receive a commission or other payment from the counterparty or broker to any transaction which we carry out on your behalf.

15. Supply of Data

- 15.1 If you, through whatever medium, receive non-live pricing data or other information about pricing (the "**Data**") from us and/or our Affiliates which you use for the purpose of trading, for revaluation, mark-to-market revaluation or any other similar purpose, you will be receiving the Data subject to Clause 16 of these Terms of Business, and such Data shall not be relied upon as authoritative.

16. Confidentiality

- 16.1 Subject to Clauses 18 and 19 of these Terms of Business, neither party to these Terms of Business shall, without the prior written consent of the other, use or disclose any information relating to the business, investments, customers and their data or data relating to them or about them, finances or other matters of a confidential nature of the other party (including data derived from such data) except to the extent that such use or disclosure:
- 16.1.1 is required by Applicable Regulations or is necessary or desirable for the purposes of enabling the disclosing party to properly perform its obligations under these Terms of Business;
- 16.1.2 is to an Affiliate of the disclosing party;

16.1.3 in our case only:

16.1.3.1 to any actual or potential assignee or transferee of our rights or obligations under these Terms of Business (and any of their professional advisers);

16.1.3.2 to any person with (or through) whom we enter into (or may enter into), whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, these Terms of Business and/or you (and any of their professional advisers); provided that, prior to the disclosure by us of any information relating to these Terms of Business pursuant to this Clause 16.1.3.2, we shall enter into a non-disclosure agreement (in a form acceptable to us acting reasonably) with the person to whom the information is to be disclosed. Notwithstanding the foregoing, there shall be no requirement for a non-disclosure agreement where the recipient is subject to professional obligations to maintain the confidentiality of the information.

16.1.4 in the case of our use or disclosure of your information, is reasonably necessary to the provision of our Services to you or on your instructions; or

16.1.5 is disclosure to any person acting on our behalf or providing a service to us (including any person to whom we are permitted to delegate any of our functions under these Terms of Business), a credit reference or fraud prevention agency, a person to whom we transfer our relationship with you, or any regulatory authority or governmental agency (where there is a public duty to disclose or our interests, as determined by us, require disclosure), in each case in any jurisdiction.

16.2 Neither we nor any of our Affiliates is obliged to disclose to you or to take into consideration or utilise for your benefit any fact, matter or thing:

16.2.1 if in our or its opinion disclosure of the information would or might be a breach of duty or confidence owed to any other person or render our or its employees liable to criminal or civil proceedings; or

16.2.2 which comes to the notice of an officer, employee or agent of ours or of any of our Affiliates but does not come to the actual notice of the individual or individuals with whom you are dealing.

16.3 The obligations in this Clause 16 shall not apply to any confidential information lawfully in a party's possession otherwise than as a result of these Terms of Business or coming into the public domain otherwise than by breach by any party of its obligations contained in these Terms of Business.

16.4 The provisions of this Clause 16 shall continue to bind you and us after termination of these Terms of Business.

17. Complaints

17.1 AEM's complaints policy is available on our website and upon request.

18. Data Protection

18.1 For the purposes of this Clause 18, the terms "**data controller**", "**personal data**", "**processing**" and "**sensitive personal data**" shall have the meaning given in the Applicable Privacy Laws.

18.2 You acknowledge that we may process information (including personal data and sensitive personal data) about you in the course of providing the Services to you pursuant to these

Terms of Business. Each party acknowledges that, for the purposes of Applicable Privacy Laws, it is a data controller of personal data and that it, in common (but not jointly) with other party, determines the manner and purposes for which personal data is processed. Each party shall comply with its obligations under Applicable Privacy Laws.

- 18.3 As between the parties, you represent to us that you will ensure that any of your directors, employees, officers, agents or clients whose personal data we process pursuant to these Terms of Business is aware of the use of such data, and you agree to indemnify us against any loss, costs or expenses arising out of any breach of this representation.

19. Reporting and Disclosure

- 19.1 Notwithstanding anything to the contrary in these Terms of Business or any other Agreement between you and us, you hereby consent to the disclosure of information, either directly or via a third party service provider:
- 19.1.1 to the extent required or permitted by any Applicable Regulations which mandates reporting and/or retention of transaction and similar information or to the extent required by any order or directive regarding reporting and/or retention of transaction and similar information issued by any authority or body or agency in accordance with which we are required or accustomed to act ("**Reporting Requirements**"); or
- 19.1.2 to and between our head office, branches or Affiliates, or any persons or entities who provide services to us or our head office, branches or Affiliates, in each case, in connection with such Reporting Requirements.
- 19.2 You waive any rights you may have to confidential treatment of the information provided by you under Applicable Regulations, these Terms of Business or under any Agreement, to the extent necessary to enable us or any third party service provider to make such reports or to provide such information to a trade repository or regulatory authority.
- 19.3 You acknowledge that pursuant to global regulatory reform initiatives, regulators require reporting of trade data to increase market transparency and enable regulators to monitor systemic risk to ensure safeguards are implemented globally.
- 19.4 You represent and warrant that any third party to whom you owe a duty of confidence in respect of the information which may be disclosed pursuant to this Clause 19 has consented to the disclosure of that information.

20. Time of the Essence

- 20.1 Time shall be of the essence in respect of all your obligations under these Terms of Business (including any transaction).

21. Anti-terrorism, Anti-bribery and Anti-corruption

- 21.1 You undertake to provide as soon as reasonably practicable such KYC information as we may reasonably require to comply with any Applicable Regulations.
- 21.2 Each party represents and warrants that in relation to the performance of its obligations under these Terms of Business:
- 21.2.1 it is in compliance with all laws, rules and regulations applicable to anti-corruption, anti-money laundering and terrorist financing and anti-bribery, including, but not limited to, the Bribery Act 2010 and Proceeds of Crime Act 2002 (as applicable), and has instituted and maintains policies and procedures designed to prevent terrorism, bribery and corruption by it and by persons associated with it;

- 21.2.2 it has not, and no officers, employees, shareholders, representatives or agents associated with it, directly, or indirectly, has, either in dealings with the public or private sector in any territory or jurisdiction, offered, given, received or agreed to offer, give or receive (either itself or in agreement with others) any payment, gift or other advantage with respect to any matters which are the subject of these Terms of Business, or engaged in any other activity or conduct, which would violate any anti-corruption, anti-money laundering and terrorism financing, and anti-bribery laws, rules or regulations applicable to it, including (without limitation) the Bribery Act 2010 and Proceeds of Crime Act 2002 (as applicable); and
- 21.2.3 it shall ensure that all persons associated with the party or other persons who are performing Services in connection with these Terms of Business comply with this Clause 21.
- 21.3 Each of these representations and warranties is deemed to be given on each date that these Terms of Business are in effect.

22. Sanctions

- 22.1 The terms of this Clause 22 shall apply to any agreement between you and us and shall prevail and take precedence over any other agreement between you and us.
- 22.2 You represent that neither you nor any of your Affiliates (collectively, the "**Company**") or, to the knowledge of the Company, any director, officer, employee, affiliate, agent or representative of the Company, or any client or other third party on whose behalf the Company is acting in connection with the transactions, is an individual or entity ("**Person**") that is, or is owned or controlled by a Person that is:
 - 22.2.1 currently a target of, or otherwise a subject of, any economic or financial sanctions or trade embargoes administered or enforced by the Office of Foreign Assets Control of the U.S. Department of Treasury (OFAC), the U.S. Departments of State or Commerce or any other U.S. government authority, or any other U.S. economic or financial sanctions, or any European Union, United Nations, United Kingdom or Singapore economic or financial sanctions ("**Sanctions**");
 - 22.2.2 located, organised or resident in a country or territory that is the subject of Sanctions; or
 - 22.2.3 engaged in any activity or conduct that might reasonably be foreseen to cause it to become a subject of Sanctions.
- 22.3 The Company represents that, to the knowledge of the Company, no Person, country or territory that is a target of, or otherwise a subject of, Sanctions has any participation in or derives any other financial or economic benefit from any activity or transactions that the Company undertakes with AEM.
- 22.4 The Company covenants that it will not engage in any activity or conduct that might reasonably be foreseen to cause it to become a subject of Sanctions.
- 22.5 Each of these representations and covenants is deemed to be given on each date that these Terms of Business are in effect.
- 22.6 If at any time we are aware, or suspect on reasonable grounds, that you are in breach of any of the representations, warranties or covenants in Clause 21 of these Terms of Business or this Clause 22: (i) we are entitled to without prior written notice to you, suspend provision of any or all Services under these Terms of Business or such applicable agreement until we are satisfied that the breach has been remedied; (ii) we shall have no liability for the consequences of any suspension of Services in accordance with this Clause 22.6; and (iii) for the avoidance of doubt, we shall be entitled to claim under Clause 13 of these Terms of Business or equivalent provision under the applicable agreement for any

losses incurred by us as a result of any such breach, suspected breach, or suspension of Services occurring pursuant to this Clause 22.6.

23. Assignment

- 23.1 These Terms of Business shall be for the benefit of and binding upon you and us, and our respective successors and assigns. You may not assign, charge, delegate or otherwise transfer or purport to assign, charge, delegate or otherwise transfer any of your rights or obligations under these Terms of Business or any interest in these Terms of Business, without our prior written consent, and any purported assignment, charge, delegation or transfer in violation of this Clause 23 shall be void.
- 23.2 We may assign, subcontract or transfer our rights and obligations under these Terms of Business to any of our Affiliates without your consent.

24. Notices

- 24.1 Notices, instructions and other communications given in accordance with these Terms of Business shall only be effective on the date indicated below (or, if that day is not a Business Day or the notice is given after 17:00 in the place of receipt, the immediately following Business Day):
 - 24.1.1 if in writing and delivered in person or by courier, on the date it is delivered;
 - 24.1.2 if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date it is delivered or its delivery is attempted;
 - 24.1.3 if sent by email:
 - 24.1.3.1 if the email travels directly to the recipient, on the date it enters the recipient's system: or
 - 24.1.3.2 in all other cases, on the date the email enters the first system outside the control of the sender; and
 - 24.1.4 if sent by any other electronic messaging system, on the date it is received.

25. Illegality

- 25.1 If at any time any provision of these Terms of Business is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of these Terms of Business under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected.

26. Entire Agreement

- 26.1 These Terms of Business contain the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes all other prior agreements, understandings and negotiations between the parties relating to the subject matter hereof. Except as otherwise provided herein, these Terms of Business may not be amended, modified or superseded, unless expressly agreed in writing by the parties.

27. Rights of Third Party

- 27.1 No person who is not a party to these Terms of Business may enforce any of these Terms of Business or rely on any exclusion of limitation contained in these Terms of Business whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

28. Governing Law and Jurisdiction

- 28.1 These Terms of Business and all non-contractual obligations and other matters arising from them or in connection with them shall be governed by and construed in accordance with English law and each party submits to the exclusive jurisdiction of the courts of England and Wales.