

**LCH.CLEARNET
COLLATERAL MANAGEMENT SYSTEM ACCESS AGREEMENT**

This Access Agreement is between:

- (1) LCH.Clearnet Limited, a company incorporated in England and Wales under company number 00025932, whose registered address is Aldgate House, 33 Aldgate High Street, London EC3N 1EA ("**LCH**"); and
- (2) the Member (as defined below).

1. BACKGROUND

- 1.1 LCH is (i) a recognised clearing house under the Financial Services and Markets Act 2000 and is subject to oversight by the Bank of England; (ii) authorised as a central counterparty to offer services and activities in the Union in accordance with the European Markets Infrastructure Regulation (EMIR); and (iii) registered as a derivatives clearing organisation in the United States and subject to oversight by the United States' Commodity Futures Trading Commission. Details about the extent of such oversight are available from LCH at the request of the Member.
- 1.2 This Access Agreement is intended by the parties to operate as an addendum to the Membership Agreement entered into between them. As such, the Member shall be at the time of entering into this Access Agreement and throughout the term of this Access Agreement a party to a Membership Agreement with LCH and shall at all times satisfy the "Criteria for Admission" as defined therein. The Member now also wishes to use LCH's:
 - (a) collateral management application ("**CMS**"); and
 - (b) user administration application ("**Administration System**"),which are both accessible via LCH's web portal ("**Portal**").
- 1.3 The Member's access to and use of the Administration System (solely for the purposes of managing access to CMS) and CMS shall be on the terms and conditions of this Access Agreement. By entering into this Access Agreement the Member agrees and undertakes that it and its Users (defined below) will comply with this Access Agreement. If the Member does not enter into this Access Agreement neither it nor any of its Users are authorised to access or use, or attempt to access or use, CMS or the Administration System.
- 1.4 For the avoidance of doubt, the provision of the Underlying Services by LCH to the Member shall at all times be governed by the terms and conditions of the Membership Agreement.

2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Access Agreement the following terms and expressions shall have the following meanings:

"**Access Agreement**" means the terms and conditions of this agreement as it may be amended from time to time in accordance with its terms;

"**Access Details**" means in respect of each User, the login name, password and/or such other details issued by LCH to the User from time to time in order to enable them to access and use the Portal, CMS or Administration System (as appropriate);

"**Admin User**" means an individual Member Personnel who is authorised under clause 3.2 to access and use the Administration System;

"**Applicable Laws**" means in respect of any relevant jurisdiction, legislation, statute, statutory provision or subordinate legislation (and shall be deemed to include any bye laws, licences, statutory instruments, rules, regulations, orders, notices, directions, consents or permissions made under such legislation, statute, statutory provision or subordinate legislation) and regulations, codes of practice and other similar requirements of any relevant government, governmental or competent regulatory body;

"**Authorised Signatory**" means an individual employee of the Member who is authorised by the Member to enter into agreements with LCH on the Member's behalf and the details of whom are already known to LCH and for whom LCH already holds on a record a copy of their signature;

"**Authorised System**" means a system registered with LCH and operated by the Member for the purposes of sending and receiving messages, Instructions and reports in CMS via a secure network.

"**Authorised User**" means an individual Member Personnel authorised by the Member to: access CMS; and/or to send Instructions to CMS via an Authorised System;

"**CMS**" shall have the meaning given in clause 1.2;

"**CMS Content**" means information, data and other content made available on, through or via CMS;

"**Collateral**" means the collateral identified on CMS from time to time as being eligible for lodgement and/or release utilising CMS and in respect of which the Member has completed and has in place a current and valid Consent Form which has been received by LCH;

"**Confidential Information**" means all information of a confidential nature relating to the business and/or operations of a party (and in the case of LCH, and/or the LCH Group) (whether such information is disclosed in writing, by delivery of items, orally, by visual presentation, by means of providing access to such information (when, for example, the information is contained on a database) or otherwise) including but not limited to:

- (a) any such information subsisting in any Intellectual Property Rights of the relevant party (and in the case of LCH, and/or the LCH Group);
- (b) any such information which is commercially sensitive; and
- (c) the provisions and subject matter of this Access Agreement;

"**Consent Form**" means a "client consent form" (in the form supplied to the Member by LCH from time to time) in which the Member's client authorises LCH to use and dispose of the securities identified therein;

"**Data Protection Laws**" means the Data Protection Act 1998, the EU Data Protection Directive (95/46/EC), the EU Electronic Communications Data Protection Directive (2002/58/EC) and all applicable laws and regulations relating to the processing of personal data and privacy;

"**Effective Date**" means the date on which this Access Agreement [signed by the Authorised Signatory];

"**Form for Notification of Admin User for CMS**" means the application form (a pro-forma of which is attached in **Appendix 1** of this Access Agreement or available to download at <http://www.lch.com/risk-collateral-management/cms>) to be signed by an Authorised Signatory and submitted by the Member to LCH in respect of Admin User requests pursuant to clause 3.2;

"**Form for Notification of Super User for CMS**" means the application form to be signed by an Authorised Signatory and submitted by the Member to LCH in respect of Super User requests pursuant to clause 3.4;

"**Group**" means in relation to any company, that company, its subsidiaries, its holding companies and every subsidiary of each such holding company from time to time. A "subsidiary" or "holding company" is to be construed in accordance with section 1159 of the Companies Act 2006;

"**Instruction**" means an instruction sent by the Member, utilising a mechanism made available on CMS or using an Authorised System, to LCH to carry out a Transaction;

"**Intellectual Property Rights**" means:

- (a) patents, designs, trade marks and trade names (whether registered or unregistered), copyright and related rights, database rights, knowhow and confidential information;
- (b) all other intellectual property rights and similar or equivalent rights anywhere in the world which currently exist or are recognised in the future; and
- (c) all applications, extensions and renewals in relation to any such rights;

"**Member**" means the entity which has entered into this Access Agreement with LCH and which is a party to a Membership Agreement (and defined as the "Firm" therein);

"**Member ID**" means the Member's clearing mnemonic, the short form "nickname" (usually, but not always, comprising three letters) that LCH allocates to the Member from time to time;

"**Member Personnel**" means any employee, director, officer or contractor of the Member;

"**Membership Agreement**" means a "Clearing Membership Agreement" between LCH and the Member which sets out the terms and conditions applicable to the Member's membership of the clearing house facility provided by LCH and its ability to clear certain categories of "Contract" (as defined therein) agreed by LCH with the Member;

"**Minimum Specification**" means the minimum specification of the browser software (currently Microsoft Internet Explorer version 7) and any other software, hardware or system specifications as notified to the Member from time to time by LCH on the Portal or LCH website;

"**Permitted Purpose**" means for the purpose of giving Instructions to LCH, applying for certain Access Details, registering Authorised Users and, in each case, carrying out related administrative tasks;

"**Portal**" shall have the meaning given in clause 1.2;

"**Procedures**" shall have the meaning given in the Membership Agreement;

"**Rulebook**" shall have the meaning given in the Membership Agreement;

"**Super User**" shall have the meaning given in clause 3.4;

"**Systems and Contents**" means CMS, the Administration System and CMS Content;

"**Third Party Supplier**" means a third party supplier whose products and/or services are used by LCH in providing CMS and/or CMS Content;

"**Transaction**" means a transaction for Collateral lodgement or release by the Member;

"**Underlying Services**" means the services provided by LCH in connection with the clearing of a contract or transaction eligible for registration in the Member's name by LCH in accordance with the Rulebook, including the Transactions;

"**User**" means any Admin User, Authorised User, Super User or Authorised System; and

"**Virus**" any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data; or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

2.2 In this Access Agreement: (a) headings are for ease of reference only; (b) references to the singular shall include the plural and vice versa; (c) words importing a gender include any other gender; (d) references to "including" or "includes" will be deemed to refer to including or includes "without limitation"; (e) references to the "parties" shall be to the parties to this Access Agreement and references to "party" shall be construed accordingly; (f) reference to writing include typing, printing, lithography, photography, facsimile transmission and other modes representing or reproducing words in visible form; and (g) references to statutes, statutory instruments, the Rulebook, or provisions thereof, are to those statutes, statutory instruments, Rulebook, or provisions thereof as amended, modified or replaced from time to time.

2.3 If there is any conflict or inconsistency between this Access Agreement and the Membership Agreement then this Access Agreement shall take precedence to the extent necessary to resolve the conflict or inconsistency.

3. **USERS, ACCESS, USE AND SECURITY**

3.1 The Member accepts and agrees to be bound by the terms and conditions of this Access Agreement by returning a copy of this Access Agreement signed by an Authorised Signatory to LCH via email. For the avoidance of doubt and notwithstanding clause 3.2, 3.3 and 3.4 below, access to, and rights to use, the Systems and Contents will not be granted without a copy of this Access Agreement signed by the relevant Member's Authorised Signatory.

3.2 Admin Users

- (a) The Member shall request for Administration System access rights for its first Admin User or a replacement Admin User in the event all registered Admin Users have been removed pursuant to clause 3.2(b)(iii) by submitting a copy of the Form for Notification of Admin User for CMS signed by its Authorised Signatory to LCH via email. LCH shall check the signed Form for Notification of Admin User for CMS received from the Member and, provided LCH accepts the Member's request to register the Admin User, LCH shall register the Admin User to access and use the Administration System and send the relevant Access Details to the Admin User. Access to the Administration System for subsequent and additional Admin Users may be requested by an existing Admin User via the Administration System.
- (b) Once registered, the Admin User can access the Administration System solely for the following purposes:
 - (i) To request registration of another Admin User (excluding Super Users) using the online registration form in the Administration System;
 - (ii) To request registration of an Authorised User using the online registration form in the Administration System; or
 - (iii) To terminate an Admin User's right to access and use the Administration System or Authorised User's right to access and use CMS. In the event there is only one Admin User, at least one additional Admin User must be registered before terminating the former Admin User's right to access and use the Administration System.
- (c) Save for Admin Users who are Super Users, Admin Users shall not have access to CMS.

3.3 Authorised Users

- (a) To register an Authorised User, an Admin User shall submit a request to add the Authorised User through the online registration form accessible on the Administration System. LCH shall check the online registration form submitted by the Admin User and, provided LCH accepts the request to register the Authorised User, LCH shall register the Authorised User to access and use CMS and send the relevant Access Details to the Authorised User.
- (b) Once registered, the Authorised User shall have access to CMS.
- (c) Save for Authorised Users who are Super Users, Authorised Users shall not have access to the Administration System.

3.4 Super Users

- (a) In the event the Member wishes LCH to grant a Member Personnel access to both CMS and the Administration System, therefore, making such Member Personnel a "**Super User**", the Member shall request a Form for Notification of Super User for CMS from LCH. Subject to LCH's prior approval, the Member shall submit the Form for Notification of Super User for CMS signed by an Authorised Signatory and sent to LCH via email. LCH shall check the signed Form for Notification of Super User for CMS received from the Member and, provided LCH accepts the Member's request to register the Super User, LCH shall register the Super User to access and use both CMS and the Administration System and send the relevant Access Details to the Super User. Once registered by LCH, the Super User will have read-only access to CMS; to activate full CMS access the Super User or another Admin User must access the Administration System and select the Super User's CMS permissions via the Administration System.
- (b) The Super User shall only access:
 - (i) CMS to perform its tasks as an Authorised User;
 - (ii) the Administration System to perform its tasks as an Admin User.
- (c) Save for clauses 3.2(a), 3.2(c), 3.3(a) and 3.3(c), all references to "Admin User" in this Access Agreement shall include any Super User acting in its capacity of an Admin User; and all references to "Authorised User" in this Access Agreement shall include any Super User acting in its capacity as an Authorised User.

3.5 Where the Member wishes to use an Authorised System the Member must register the system with LCH by completing a separate registration process, details of which will be made available to the Member on request.

3.6 The Member shall procure that its Users shall comply with the terms of this Access Agreement and shall ensure that only Users to whom valid Access Details have been issued will access or use (or attempt to access or use) CMS or the Administration System (as appropriate) and that Access Details are at all times kept confidential. If a User ceases to be an authorised User, the Member shall ensure such User ceases to access or use (or attempt to access or use) CMS or the Administration System (as appropriate) immediately from when such User's rights are terminated pursuant to clause 3.2(b)(iii).

- 3.7 The Member shall treat the Access Details as Confidential Information and, subject to clause 9, must not disclose them to any third party. The Member shall immediately notify LCH on becoming aware of any unauthorised access or use, or if any of its Access Details are lost, stolen, misused or become known by any other person.
- 3.8 The Member shall have in place all necessary security measures and procedures to prevent any unauthorised access to, or use of, the Systems and Contents and the Member shall immediately notify LCH in the event of any such unauthorised access or use, or if any Access Details are lost, stolen, misused or become known by any person other than the relevant Admin User or Authorised User.
- 3.9 LCH shall be entitled to: (i) suspend and/or terminate access to CMS or the Administration System by the Member and/or its User; and (ii) amend any or all Access Details, in each case from time to time and without prior notice to the Member or any User. Where LCH notifies the Member that it is suspending or terminating a User's right to access the Systems and Contents, the Member shall ensure that such User ceases to access the Systems and Contents until, in the case of suspension, LCH advises it that its or its User's access to the Systems and Contents is no longer so suspended.
- 3.10 The Member shall be liable for all acts and omissions of its Users. Where any use of or access to the Systems and Contents, or any Instructions or other communications made through CMS, are undertaken using any Access Details then: (i) the Member shall be responsible and liable for such Instructions and communications, including in respect of any action taken by LCH in reliance on such Instructions and communications; and (ii) the Member acknowledges that LCH has no way of identifying if those Instructions or communications are given by an Authorised User and/or an Authorised System, as appropriate, outside the scope of their actual authority to act for the Member if such authority has been reduced or terminated since the Access Details were issued or whether, although purporting to be given by an Authorised User or an Authorised System, as appropriate, such Instructions or communications are actually given by an unauthorised third party who has obtained the relevant Access Details and that the Member accordingly acknowledges that it shall nonetheless be liable in respect of any Instructions or communications given using Access Details as if given by the Authorised User or Authorised System whom they purport to be given within the scope of such person's actual authority.
- 3.11 The Member acknowledges that there are risks inherent in accessing and using CMS and CMS Content which may result in failures or delays in respect of Instructions, Transactions and/or other communications and/or the performance by each party of its obligations under this Access Agreement. The Member hereby acknowledges and agrees to accept such risks when accessing and using CMS and the CMS Content.
- 3.12 The Member shall not and shall procure that its Users shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Systems and Contents that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence; is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or causes damage or injury to any person or property; (together the "**Harmful Material**") and LCH reserves the right, without liability to the Member, to disable Member's access to Systems and Contents if the Member or any User breaches the obligations set out in this clause. The Member shall use an up-to-date, industry standard anti-virus software to check for and delete Viruses in respect of all material it accesses, stores, distributes or transmits using the Systems and Contents.
- 3.13 LCH will not be liable for any costs, claims, damages, losses or expenses caused by any Virus or any Harmful Material that may infect or be transmitted on to the Member's or its Admin Users' or Authorised Users' hardware, software, data or other material as a result of its or their use of the Systems and Contents. LCH agrees that in respect of the Portal it will have in place at all times that the Portal is available reasonable commercially available anti-virus protection software.
- 3.14 The Systems and Contents may contain links to other sites and/or internet resources provided by third parties which LCH has no control over. The links are provided for the Member's and its Admin Users' and Authorised Users' information only and LCH accepts no responsibility for them or for any loss or damage that may arise from the Member's and its Admin Users' and Authorised Users' use of them.
- 3.12 The parties acknowledge and agree that the functionality, purpose and content of CMS and the Administration System may change over time and that this Access Agreement may need to be amended to take account of such changes. Such amendments shall be made in accordance with clause 23.2.

4. **SYSTEMS AND CONTENTS AVAILABILITY AND SUPPORT**

- 4.1 Subject to the Member's compliance with the Minimum Specification, LCH shall use reasonable endeavours to make the Systems and Contents available 24 hours a day, seven days a week, except for during any periods of:
- (a) scheduled maintenance, which LCH shall use reasonable endeavours to notify Member of, via the Portal, in advance; and
 - (b) unscheduled maintenance.
- 4.2 Where CMS is unavailable and where the Member's access to or use of the Portal has been suspended or terminated, then provided the Member continues to be party to a valid Membership Agreement the Member will be able to access information and give Instructions and carry out Transactions without using CMS by the methods set out in and in accordance with the Membership Agreement and the Rulebook. Accordingly, the Member acknowledges that it will not incur any loss by virtue of any unavailability of CMS or where the Member is unable to access or use CMS for any reason.
- 4.3 LCH may change, restrict access to, suspend or discontinue any aspect of the Systems and Contents at any time at LCH's discretion without notice or liability to the Member or any Authorised User and/or Authorised System, as appropriate.
- 4.4 LCH shall provide a helpdesk which can be contacted by the Member or its Users for:
- (a) queries in connection with Access Details; and/or
 - (b) technical and functional support in connection with CMS or the Administration System.
- The contact details for such helpdesk will be made available to the Member by LCH from time to time. LCH will use its reasonable endeavours to ensure that the helpdesk is available 24 hours a day Monday to Friday except for public holidays in England and Wales and during any periods of maintenance.
- 4.5 Prior to contacting the helpdesk the Member shall carry out all reasonable diagnosis and take all reasonable steps to ascertain that any issue is actually an issue with CMS or the Administration System or the Access Details. When contacting the helpdesk the Member must provide any relevant Access Details, a detailed description of the issue and such other information and co-operation as LCH may reasonably request. Except where investigation into the issue reveals the cause is the Member's systems or an act or omission of the Member or its User, LCH will use its reasonable endeavours to deal with and correct all such issues.
- 5. INSTRUCTIONS AND TRANSACTIONS**
- 5.1 Each Instruction given by the Member and each Authorised User and/or Authorised System, as appropriate, shall be in accordance with this Access Agreement and also with the Membership Agreement unless expressly stated otherwise in this Access Agreement. The provision of the Underlying Services by LCH to the Member shall at all times be governed by the terms and conditions of the Membership Agreement. The Member is only permitted to enter Instructions in connection with those Transactions which it is permitted to carry out pursuant to the Membership Agreement.
- 5.2 The Member shall input, read and/or authorise Instructions on CMS by following the on screen guide. For any such Instruction to be valid, and before LCH will act upon it, it will need to be confirmed by two separate Authorised Users both of which must have a level of access authorising them to input Instructions and the second of which must have a level of access authorising them to authorise Instructions. The Member acknowledges that all Instructions issued by an Authorised User shall be treated as an authorised instruction to LCH.
- 5.3 Members can send Instructions to CMS directly via an Authorised System.
- 5.4 For Instructions sent to CMS directly, an Instruction shall only be treated as inputted to CMS once the Instruction has been inputted by an Authorised User which is registered to input Instructions and LCH has received such Instruction. LCH will confirm that this has been received by sending that Authorised User email confirmation of the same unless that Authorised User has requested not to receive such emails. An Instruction shall only be treated as authorised by the Member on CMS once the Instruction has been authorised by an Authorised User which is registered to authorise Instructions and LCH has received that authorisation. LCH will confirm that this has been received by sending that Authorised User email confirmation of the same unless that Authorised User has requested not to receive such emails. Such emails are not confirmation that any Transaction has been entered into and the Member shall not treat it as such or place any such reliance upon it.
- 5.5 For Instructions sent to CMS via an Authorised System, an Instruction shall be treated as inputted to CMS once the Instruction has been inputted by an Authorised System which is registered to input Instructions and LCH has received this. An Instruction shall only be treated as authorised by the Member on CMS once the Instruction has been authorised by an Authorised User which is registered to authorise Instructions and LCH has received that authorisation.

- 5.6 All Instructions are irrevocable once they have been acted upon by LCH and are settled. LCH will use reasonable endeavours to indicate that Instructions are settled by promptly updating the status of those Instructions on CMS. Prior to an Instruction being settled, if a Member gives an instruction attempting to amend or revoke that Instruction then LCH shall use reasonable endeavours to give effect to such amendment or revocation within a reasonable time of its receipt provided that doing so would not be materially prejudicial to LCH in any way.
- 5.7 The Member recognises and agrees that LCH is not providing any investment advice, recommendation, endorsement or any other advice to the Member in relation to any Instruction or any Transaction or other Underlying Services.
- 5.8 The Member warrants, represents and undertakes to LCH that it and the Authorised Users and/or any users of the Authorised System, as appropriate, shall have the full capacity and authority to give the Instructions and enter into the related Transactions.

6. COMPLIANCE WITH APPLICABLE LAW

- 6.1 The Member and its Users may be able to access and use the Systems and Contents throughout the world from time to time. LCH is not responsible for ensuring that the Systems and Contents comply with the Applicable Laws in any jurisdiction worldwide. The Member agrees that it shall make all necessary checks to ensure that it and its Authorised Users are allowed to access and use the Systems and Contents in each jurisdiction before it or any Authorised User does so.
- 6.2 The Member warrants, represents and undertakes to LCH that it and its Users will at all times be in compliance with all Applicable Laws in entering into or performing its obligations under this Access Agreement, using and/or accessing the Systems and Contents, giving any Instruction and/or it entering into any Transaction.

7. LICENCE AND INTELLECTUAL PROPERTY RIGHTS

- 7.1 LCH hereby grants the Member and its Users a non-exclusive, non-transferable licence for the term of this Access Agreement to access and use the Systems and Contents, and in each case the Intellectual Property Rights therein, for the Permitted Purpose at all times strictly subject to the terms and conditions of this Access Agreement.
- 7.2 LCH and/or its Third Party Suppliers and/or its other licensors own all the Intellectual Property Rights in the Systems and Contents. Except as expressly stated herein, neither this Access Agreement nor the Membership Agreement grants the Member any rights to, or in, any Intellectual Property Rights or any other rights or licences in respect of the Systems and Contents.
- 7.3 The Member shall not: (a) except as may be allowed by any Applicable Laws which are incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Access Agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Systems and Contents in any form or media or by any means; (b) except to the extent expressly permitted under this Access Agreement, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Systems and Contents available to any third party except its Authorised Users; or (c) use or access the Systems and Contents in any manner which may cause damage to the proper working of CMS or the Administration Systems or adversely affects the reputation of LCH.
- 7.4 The Member shall be permitted to download and export records of its Instructions where and only to the extent that this functionality is expressly made available on CMS by LCH.

8. DATA PROTECTION

- 8.1 For the purposes of this clause, “data controller”, “data processor”, “data subject”, “personal data” and “processing” shall have the meanings ascribed to them in the Data Protection Laws.
- 8.2 Each party acknowledges that it is a data controller in relation to the personal data processed pursuant to this Access Agreement.
- 8.3 The Member warrants, represents and undertakes that it has complied with all Data Protection Laws when collecting any personal data that it transfers to LCH and in transferring that personal data to LCH. The Member shall also ensure that its Users are aware that their personal data (including their name, business address, business telephone number and position) will be collected by LCH or by the Member and transferred to LCH and used by LCH, in each case as set out below, and that the Users consent to such collection and use:

- (a) LCH and other members of the LCH Group may use such personal data to administer the Member's account and the Member's and each User's use of the Systems and Contents and for identity, security and verification purposes. LCH and the LCH Group may also use such personal data for research and statistical analysis with the aim of improving its services;
- (b) LCH may pass such personal data to other members of the LCH Group or to third parties who provide it a service or are acting as its agents, on the understanding that they will keep the information confidential. If LCH transfers such personal data to a member of its Group, service provider or agent located in another country, LCH will make sure that they agree to apply the same levels of protection as LCH is required to apply to such personal data and to use such personal data strictly in accordance with LCH's instructions. LCH may also pass such personal data to its regulators from time to time, but shall only do so where this is in accordance with the law; and
- (c) LCH may transfer such personal data to other members of the LCH Group or to third parties who provide it a service or are acting as its agents in the United States and/or India for the purposes of administering, maintaining and supporting the Member's account, the Systems and Contents. LCH may also transfer such personal data to its regulators in the United States so that it can comply with its regulatory requirements. Some of these countries may not have equivalent data protection legislation protecting the use of such personal data.

8.4 Each party shall comply with the Data Protection Laws which are applicable to it in transferring personal data to the other party, any members of its Group, regulatory bodies and third parties and/or in processing personal data received from the other party, in each case in connection with this Access Agreement.

8.5 The Member authorises the disclosure and transfer of personal data to and between members of the LCH Group and third parties selected by any of them for the purposes of administering this Access Agreement, the Membership Agreement, the Systems and Contents. The Member also authorises the disclosure and transfer of personal data to any regulatory body which regulates LCH or a member of LCH's Group from time to time.

9. **CONFIDENTIALITY**

9.1 Each party undertakes to keep confidential any Confidential Information relating to the other party (and in the case of LCH and/or any member of the LCH Group) which it obtains under or in connection with this Access Agreement and not to use such information or disclose it to any other person, other than as permitted under this clause 9.

9.2 Each party may disclose any Confidential Information which relates to the other party (and in the case of LCH and/or any member of the LCH Group) to any member of its Group and any of its, or members of its Group's, directors, officers and employees, in each case, that need to know such Confidential Information, provided that such information is disclosed solely for the purposes of this Access Agreement and provided that the party ensures that such recipient is subject to confidentiality obligations on terms which are no less restrictive than those set out in this clause 9.

9.3 Clause 9.1 shall not apply to the disclosure of Confidential Information:

- (a) with the consent of the person to whom the information relates;
- (b) if and to the extent required by law, any competent regulatory authority or recognised stock exchange (provided that any Confidential Information shall only be disclosed after notification to the other party and that the disclosing party shall assist that other party in seeking to limit disclosure);
- (c) if and to the extent that such information is in the public domain other than through breach of the provisions of this clause 9.

10. **LIMITATIONS OF LIABILITY**

10.1 Nothing in this Access Agreement shall operate to limit or exclude either party's liability to the other for:

- (a) death or personal injury caused by that party's negligence;
- (b) fraudulent misrepresentation or fraudulent concealment; or
- (c) any liability which cannot be limited or excluded by law.

10.2 Subject to clause 10.1, the total aggregate liability of LCH, LCH Group and its and their directors, officers and employees for all claims arising under or in connection with this Access Agreement regardless of form of action and whether in contract, tort, warranty, or other legal or equitable grounds (including in each case negligence), shall under no circumstances exceed the sum of £100,000 (one hundred thousand pounds).

10.3 Subject to clause 10.1, the total aggregate liability of the Member for all claims arising under or in connection with this Access Agreement regardless of form of action and whether in contract, tort, warranty, or other legal or equitable grounds (including in

each case negligence), excluding any liability under clause 11, shall under no circumstances exceed the sum of £100,000 (one hundred thousand pounds).

- 10.4 Subject to clause 10.1, none of LCH, LCH Group or its and their directors, officers or employees will be liable to the Member or any User for any of the following types of loss or damage arising under or in connection with this Access Agreement:
- (a) any loss of profits, business, contracts, anticipated savings, goodwill, or revenue;
 - (b) any loss or corruption of data;
 - (c) any indirect or consequential loss or damage whatsoever;
- even if any of LCH, any member of the LCH Group or its and their directors, officers or employees was advised in advance of the possibility of such loss or damage.
- 10.5 Notwithstanding any other provision of this Access Agreement, LCH will not be liable for a failure to comply or delay in complying with its obligations under this Access Agreement to the extent that such failure arises as a result of any act or omission or delay by the Member, any User or any Member Personnel.
- 10.6 The express provisions of this Access Agreement are in place of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, (including but not limited to implied undertakings of satisfactory quality, conformity with description and fitness for purpose) all of which are hereby excluded to the maximum extent permitted by law.
- 10.7 LCH and the Member agree that nothing in this Access Agreement is intended to affect any limitations or exclusions of liability set out in the Membership Agreement. Further, it is not the intention that a party making a claim under or in connection with this Access Agreement or the Membership Agreement in connection with certain subject matter should be able to make a claim in respect of the same subject matter under the other agreement and the parties agree that they will not be able to recover both under this Access Agreement and the Master Agreement in respect of the same loss.

11. **INDEMNITY**

- 11.1 The Member will indemnify and keep indemnified each of LCH, LCH Group and its and their directors, officers and employees from and against all costs, claims, damages, losses and expenses incurred by each of them in connection with: (a) any breach of clause 6, 7.3, 8 and/or 9 of this Access Agreement; and (b) the introduction into or onto the Portal or CMS Content by the Member or any Authorised User of any Virus or Harmful Material.

12. **MONITORING, AUDITING AND RECORD KEEPING**

- 12.1 The Member shall provide LCH with all information (which shall be accurate and complete) requested by it, and shall comply with such systems and procedures as LCH may put in place from time to time, including the review and retention of records (and shall permit LCH (and/or its representative) access to the same), in each case as is reasonably necessary for LCH to monitor the Systems and Contents for quality of service and for compliance by it, the Member and the Authorised Users with Applicable Laws, this Access Agreement and the Membership Agreement.
- 12.2 The Member shall co-operate to the extent required by LCH in relation to any requests from any regulatory or legal authorities received by LCH in relation to the Systems and Contents and/or the Member's or any Authorised User's access and use of the Systems and Contents. Such co-operation shall include the provision of all information that LCH may be required to provide to a regulatory or legal authority.
- 12.3 The Member shall to the extent reasonably necessary :
- (a) provide LCH and/or its representative with access to its premises and systems for the purpose of LCH performing its obligations under this Access Agreement; and
 - (b) provide LCH with all co-operation and access to all information (which shall be accurate and complete) required by LCH for the purpose of performing its obligations under this Access Agreement.

13. **WARRANTIES**

- 13.1 The Member warrants, represents and undertakes that:
- (a) it has all requisite corporate power and authority to enter into this Access Agreement and to carry out the transactions contemplated therein;

- (b) the entering into and performance of its obligations under this Access Agreement have been duly authorised by all necessary corporate action on its part; and
- (c) it has obtained all consents, permissions and licences necessary to enable it to perform its obligations under this Access Agreement.

14. **TERMINATION**

- 14.1 Without affecting any other rights and remedies which LCH may have and without liability to the Member, this Access Agreement shall terminate immediately on any expiry or termination of the Membership Agreement.
- 14.2 Without affecting any other rights and remedies which LCH may have and without liability to the Member, LCH may terminate this Access Agreement:
- (a) immediately on written notice to the Member if the Member commits a material breach of any term of this Access Agreement or the Membership Agreement;
 - (b) if LCH is entitled to terminate the Membership Agreement in accordance with its terms. Where this is the case LCH shall comply with the requirements for notice specified in the Membership Agreement as being applicable to such entitlement to terminate;
 - (c) at any time by giving 10 days' written notice to the Member.
- 14.3 The Member may terminate this Access Agreement at any time by giving 10 days' notice in writing to LCH.

15. **CONSEQUENCES OF TERMINATION**

- 15.1 On any termination or expiry of this Access Agreement:
- (a) the Member's and Authorised Users' right to access and use the Systems and Contents shall cease;
 - (b) LCH may terminate the Member's and the Authorised Users' access to and use of the Systems and Contents and invalidate any or all relevant Access Details; and
 - (c) the Member will promptly at LCH's election return to LCH or destroy any Confidential Information (and certify to LCH that it has done so) except, where the Membership Agreement continues, to the extent it is reasonably required to be retained in connection with the continuation of the Membership Agreement and the performance of its obligations thereunder.
- 15.2 Termination or expiry for whatever reason of this Access Agreement, shall not affect any rights, liabilities or obligations which accrued before such termination or expiry.
- 15.3 The termination or expiry of this Access Agreement shall not affect any provision of this Access Agreement that is intended to continue to have effect after such termination or expiry, which shall include: clauses 2, 3.10, 7.2, 8, 9, 10, 15, 16, 17 and 19 to 24 (inclusive).

16. **ENTIRE AGREEMENT**

- 16.1 This Access Agreement, the Membership Agreement, and the Rulebook shall contain the entire agreement between the parties in relation to its subject matter, and replaces and extinguishes all prior agreements, draft agreements, undertakings, collateral contracts or arrangements of any nature made by the parties, whether oral or written, in relation to such subject matter.
- 16.2 Each party acknowledges that in entering into this Access Agreement it has not relied upon and shall have no rights or remedies (whether in tort, including negligence, under statute or otherwise) in respect of any statements, collateral or other warranties, assurances, undertakings or representations (whether innocently or negligently made) by the other party to this Access Agreement.
- 16.3 Nothing in this clause 16 shall limit or exclude the liability of either party arising out of fraudulent misrepresentation or fraudulent concealment.

17. **ASSIGNMENT AND USE OF SUB-CONTRACTORS**

- 17.1 The obligations under this Access Agreement bind, and the rights will be enforceable by, the Member and LCH and their respective successors and permitted assigns.

- 17.2 LCH may at any time assign or transfer any or all of its rights, benefits and/or obligations under this Access Agreement to any third party. The Member will enter into any further documents or deeds reasonably required by LCH to effect such assignment or transfer.
- 17.3 LCH may subcontract the performance of any of its obligations or functions under this agreement to any Third Party Supplier or other third party and reserves the right to use any agents on such terms as it may think fit.
- 17.4 The Member's rights under this Access Agreement are personal to it and are not capable of assignment or transfer without the prior written consent of LCH. Any purported assignment or transfer in breach of this clause 17.4 shall be void.
- 17.5 The Member's obligations under this Access Agreement may not, without LCH's prior written agreement, be subcontracted to any third party or otherwise performed by anybody else.
18. **FORCE MAJEURE**
- 18.1 If any event beyond the reasonable control of LCH occurs which prevents it from performing any of its obligations to the Member, or causes a delay in performance, LCH shall not be liable to the Member and shall be released from its obligation to perform its obligations under this Access Agreement to the extent that its ability to perform them has been affected by such event.
19. **THIRD PARTY RIGHTS**
- 19.1 Except where expressly provided to the contrary and subject to clause 19.2, this Access Agreement is not intended to be for the benefit of, and shall not be enforceable by any person who is not a party to it, under of the Contracts (Rights of Third Parties) Act 1999 or otherwise and neither party can declare itself a trustee of the rights under it for the benefit of any third party.
- 19.2 It is intended that each member of the LCH Group and their and LCH's directors, officers and employees from time to time may enforce the benefits conferred on it under this Access Agreement in accordance with the terms of the Contracts (Rights of Third Parties) Act 1999. The consent of the members of the LCH Group is not necessary for any variation (including any release or compromise in whole or in part of any liability) or termination of this Access Agreement or any one or more clauses of it.
20. **SEVERABILITY**
- 20.1 If any provision of this Access Agreement, is found by any court or administrative body of competent jurisdiction to be illegal, invalid or unenforceable, and the provision in question is not of a fundamental nature to this Access Agreement as a whole, the legality, validity or enforceability of the remainder of this Access Agreement (including the remainder of the provision which contains the relevant provision) shall not be affected.
21. **FURTHER ASSURANCE**
- 21.1 The Member shall at its own cost and expense execute, or use all reasonable endeavours to ensure the execution of, whatever further documents or deeds LCH reasonably requires from time to time for the purpose of giving LCH the full benefit of the provisions of this Access Agreement.
22. **WAIVERS AND RIGHTS CUMULATIVE**
- 22.1 The failure to exercise, or delay in exercising, a right, power or remedy provided by this Access Agreement or by law shall not constitute a waiver of that right, power or remedy. If a party waives a breach of any provision of this Access Agreement this shall not operate as a waiver of a subsequent breach of that provision, or as a waiver of a breach of any other provision.
- 22.2 The rights, powers and remedies provided in this Access Agreement are (except as expressly provided) cumulative and not exclusive of any rights, powers and remedies provided by law, or otherwise.
23. **GENERAL**
- 23.1 All notices or other communications to be made under or in connection with this Access Agreement shall be made in accordance with clause 12 of the Membership Agreement

- 23.2 LCH may amend this Access Agreement by giving notice to the Member. Such notice may be in writing or made available to the Member on LCH's website or the Portal. Any amendment will take effect on such date as LCH specifies in such notice. Any access or use of any part of the Systems and Contents after such date shall be deemed to be acceptance of such amendment.
- 23.3 Nothing in this Access Agreement shall be deemed to constitute a partnership, or create a relationship of principal and agent for any purpose between LCH and the Member.
- 23.4 Each party shall bear its own costs and expenses in connection with the preparation, negotiation, and execution of this Access Agreement.
24. **LAW**
- 24.1 This Access Agreement and any dispute or claim arising out of or in connection with this Access Agreement or its subject matter or formation (including any dispute or claim relating to non-contractual obligations) shall be governed by, construed and take effect in accordance with English law.
- 24.2 Save that LCH and/or any member of the LCH Group may elect to bring proceedings before an alternative jurisdiction at its sole discretion, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to hear and determine any action or dispute which may arise out of or in connection with this Access Agreement or its subject matter or formation (including any dispute or claim relating to non-contractual obligations). LCH and the Member each irrevocably submit to such jurisdiction and waive any objection which it might otherwise have to such courts being a convenient and appropriate forum.
- 24.3 The Member irrevocably waives, with respect to itself and its revenues and assets, all immunity on the grounds of sovereignty or other similar grounds from suit, jurisdiction of any court, relief by way of injunction, order for specific performance or for recovery of property, attachment of its assets (whether before or after judgment) and execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction and irrevocably agrees that it will not claim any such immunity in any proceedings.

IN CONFIRMATION OF ITS ACCEPTANCE OF THE TERMS OF THIS ACCESS AGREEMENT:

Signed by Authorised Signatory:

Full name (capitals):

Position:

Clearing Member name (capitals):

Date:

FOR AND ON BEHALF OF THE MEMBER

Appendix 1

[On Member's Letterhead]

Form for Notification of Admin User for CMS

To:

LCH.Clearnet Limited

From:

[Insert member name here]

Date: *[insert date]*

Defined terms in this Form for Notification of Admin Users for CMS have the meaning given in the Collateral Management System Access Agreement.

We, *[member name]*, hereby notify LCH that the individuals listed below are Admin Users for CMS for the following mnemonic(s):

Name	E-Mail Address	Mnemonic(s)

Signed by an authorised signatory of *[member name]*:

Name:

Signature:

Form for Notification of removal of Admin Users for CMS

To:

LCH.Cleartnet Limited

From:

[*Insert member name here*]

Date: [*insert date*]

Defined terms in this Form for Notification of removal of Admin Users for CMS have the meaning given in the Collateral Management System Access Agreement.

We, [*member name*], hereby notify LCH that the individuals listed below are no longer Admin Users for CMS:

Name	E-Mail Address

Signed by an authorised signatory of [*member name*]:

Name:

Signature: