

**Dated:** \_\_\_\_\_

**ETFs Metal Securities Limited**

**ETFs Management Company (Jersey) Limited**

and

***[name of Authorised Participant]***

---

**Authorised Participant Agreement**

---

This **AGREEMENT** is dated the \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_\_\_

**BETWEEN**

**ETFS Metal Securities Limited**, a company incorporated and registered in Jersey with registered number 95996, of Ordnance House, 31 Pier Road, St Helier, Jersey JE4 8PW, Channel Islands (“**MSL**”);

**ETFS Management Company (Jersey) Limited**, a company incorporated and registered in Jersey with registered number 106921, of Ordnance House, 31 Pier Road, St Helier, Jersey JE4 8PW, Channel Islands (“**ManJer**”);

and

[*name of Authorised Participant*], a company incorporated and registered in England with registered number [\_\_\_\_], of [*address of Authorised Participant*], London [*postcode*] (“**AP**”).

**WHEREAS**

- A. MSL has established a programme for the issuance of Metal Securities to be admitted to trading on the Main Market of the London Stock Exchange plc; and
- B. MSL wishes to appoint AP as one of the Authorised Participants.

**IT IS AGREED** as follows:

**1. Definitions**

- (a) Words and expressions defined in the Prospectus, unless otherwise defined herein, have the same meanings when used in this Agreement. In addition, in this Agreement, unless there is anything in the subject or context inconsistent therewith the following expressions shall have the following meanings:

**Application Amount** means the amount determined in accordance with paragraph 7 of Schedule 4;

**Application Date** means the date which an Application is confirmed by MSL in accordance with paragraph 4 of Schedule 4;

**Application Order** means an application for the issue of a number of Metal Securities given through the System in accordance with the Internet Order Procedures and as described in paragraph 2 of Part A of Schedule 5;

**Approved Person** has the meaning set out in clause 5(a);

**AP User Guide** means the document entitled the Authorised Participant User Guide issued by or on behalf of MSL on or about [ ] 2015; **Authorised Individual** means the individual/s nominated by the Authorised Participant and MSL to confirm an Application;

**Clearing Cut-Off Time** means:

- (i) in respect of any Bullion being transferred pursuant to an application for any Initial Metal Securities, the earlier of (i) the clearing cut-off time set by the LPPM for platinum and palladium, currently 12 noon Zurich time, (11.00am London time); and (ii) the clearing cut-off time set by the LBMA for silver and gold, currently 4.00pm London time; or

- (ii) in respect of any Bullion being transferred pursuant to an application for ETFs Physical Swiss Gold Securities, 12 noon Zurich time (11am London time);

**Confidential Information** means (subject as provided in Clause 15):

1. with respect to AP only, the business rules dated on or about December 2009 produced by ManJer relating to Metal Securities, as the same may be amended from time to time; and
2. with respect to AP, MSL and ManJer, any documentation or other materials sent by such party (the “**Sending Party**”) to another party (the “**Receiving Party**”) in connection with this Agreement marked as “**Confidential**” and which the Receiving Party has prior to such materials being sent, agreed in writing to treat as Confidential Information for the purposes of this Agreement;

**Confirmation of Application** means a notice in the form prescribed from time to time by the Issuer and sent by the Registrar for the purposes of confirming an Application and stipulating the Metal Entitlement, the Application Amount and the Application Payment Date (in accordance with Clause 8 of Schedule 4);

**Internet Order Procedures** means the procedures for Applications for and Redemptions of Metal Securities set out in Schedule 5;

**Party** means a party to this Authorised Participant Agreement including that party's successors in title and assignees or transferees permitted in accordance with the terms of this Authorised Participant Agreement;

**Pricing Notice** means an Application, a Redemption Form, or any other notice required to be given or sent in accordance with Clause 8(a);

**Primary Fax Number** means a fax number set out in Clause 9(a), or any replacement thereof notified in accordance with Clause 9(d);

**Programme Limit** means the maximum number of Metal Securities that are permitted to be issued due to the maximum Programme size filed with the UK Listing Authority;

**Prospectus** means the prospectus dated [06 August 2015], relating to Metal Securities as the same may be modified, supplemented, amended or replaced from time to time;

**Redemption Order** means a request for the redemption of a number of Metal Securities given through the System in accordance with the Internet Order Procedures and as described in paragraph 2 of Part B of Schedule 5;

**Selling Restrictions** has the meaning given in Clause 3(b);

**System** means the system for requesting the issue and redemption of Metal Securities via the Website; and

**Website** means the secure website maintained on behalf of MSL at <http://www.etfsecuritiesorders.co.je> or at such other internet address as may be notified from time to time by MSL to the AP in the manner provided for Pricing Notices in Clause 8.

- (b) The following rules shall apply to the interpretation of this Agreement unless the context otherwise requires:
- (i) Headings to Clauses, paragraphs, and other provisions of this Agreement are inserted for ease of reference only and shall not affect the interpretation of this Agreement.
  - (ii) Any reference to a person or persons includes reference to any individual, corporation, partnership, joint venture, association, public body, governmental authority or other entity.
  - (iii) Words in the singular shall also include the plural and vice versa.
  - (iv) Any reference to a Clause or Schedule is a reference to a clause or Schedule of this Agreement.
  - (v) Any reference in a Schedule to a paragraph is (unless otherwise specified) a reference to a paragraph of that Schedule.
  - (vi) Any reference to this Agreement or to any other agreement or document includes a reference to this Agreement, or, as the case may be, such other agreement or document, as amended, varied, novated, supplemented or replaced from time to time.
  - (vii) Any reference in this Agreement to any statute or any provision of any statute includes a reference to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under any such modification or re-enactment.
  - (viii) Unless otherwise indicated, any reference in this Agreement to a time is a reference to local time in London, England.

**2. Appointment of AP as Authorised Participant**

- (a) This agreement is an Authorised Participant Agreement as defined in the Prospectus.
- (b) For the purposes of the definition of an Authorised Participant, MSL hereby approves AP as an Authorised Participant.
- (c) AP is hereby appointed as an Authorised Participant and is authorised to create and redeem Metal Securities in accordance with the terms hereof.

**3. Representations, Warranties and Covenants AP**

AP represents, warrants and covenants that:

- (a) it is an Authorised Person, an Exempt Person or an Overseas Person and is a participant of CREST and will maintain any such registrations, qualifications and membership in good standing and in full force and effect throughout the term of this Agreement; and
- (b) it will comply with the agreements and undertakings set out in Schedule 1 (the “Selling Restrictions”) when making any offers, selling efforts, promotions or similar activities with respect to Metal Securities.

#### 4. Representations, Warranties and Covenants by MSL and ManJer

MSL and ManJer represent, warrant and covenant that:

- (a) MSL will comply with the Listing Rules and the Prospectus Rules of the UK Listing Authority made under section 74 of the Financial Services and Markets Act 2000 and any rules of the London Stock Exchange;
- (b) they will conduct their operations and marketing activities in a professional manner and comply with all applicable laws and regulations in any jurisdiction in which they carry on business or undertake any other activities;
- (c) they will develop and maintain a web-site and marketing materials of a high standard and comparable to those used by other exchange traded funds that are true, accurate and not misleading and are distributed, maintained and operated in accordance with, and conform with, all applicable laws and regulations and, if required, approved for the purposes of section 21 of the Financial Services and Markets Act 2000;
- (d) they will promptly inform AP of any significant developments with respect to MSL and Metal Securities;
- (e) where AP notifies MSL that demand exists for Metal Securities in a jurisdiction where Metal Securities are not issued or sold at such time, they will at their own cost use reasonable endeavours to obtain legal and tax advice in such jurisdiction, provided that the anticipated demand for Metal Securities is sufficient to cover the anticipated cost of the advice and in accessing the demand;
- (f) the representations and warranties contained in Schedule 2 are true and accurate and shall remain so throughout the term of this Agreement;
- (g) they will comply with the undertakings in Schedule 2;
- (h) MSL will fulfil its Redemption Obligations to AP on Redemption of Metal Securities in respect of which it is the Security Holder in accordance with the Trust Instrument and the Conditions;
- (i) they will not amend or agree to amend any of the provisions of any Authorised Participant Agreement without first having given to all other Authorised Participants prior written notice of the amendments and of the date on which such amendments are to become effective; and
- (j) they will appoint any further or additional Authorised Participants only on substantially the same terms as are set out herein.

#### 5. Creation and Redemption Procedures

- (a) Concurrent with the execution of this Agreement and from time to time thereafter, AP shall deliver to the Administrator and MSL, and MSL shall deliver to AP, duly certified as appropriate by its secretary or other duly authorised official, a certificate in the form of Schedule 3 setting forth the names and signatures of all persons approved to give instructions relating to activity contemplated hereby or by any other notice, request or instruction given on behalf of AP or MSL (each such person an “**Approved Person**”).
- (b) Each of AP and MSL will comply with the creation procedures set out in Schedule 4, the redemption procedures set out in the Trust Instrument and the Conditions and, in relation to Application Orders and Redemption Orders, the provisions of Schedule 5 and any transfer of

Bullion to be made pursuant to any Application or Redemption Notice will be made in accordance with those procedures, Schedule 5 and the Conditions.

- (c) AP agrees that for every Application it gives to MSL as provided in Schedule 4, it will pay to the Issuer a fee, in such manner as the Issuer may direct, of an amount equal to £500 or such lesser amount as may be accepted by MSL either generally or on any particular occasion. AP further agrees that for the purposes of Condition 9.2, the Redemption Fee shall be £500 or such lesser amount as may be accepted by MSL either generally or on any particular occasion and shall be payable in such manner as the Issuer may direct.
- (d) To the extent that certain provisions of Schedule 4 are expressed in Schedule 5 not to apply in relation to Application Orders and Redemption Orders, such provisions shall not apply thereto. Subject to the foregoing, Schedule 4 and the Trust Instrument and the Conditions (respectively) shall apply to Application Orders and Redemption Orders as they do to other Applications and Redemption Notices. MSL will use its reasonable endeavours to make the System available on each Business Day but shall not have any liability to AP for any failure by MSL or its agents to maintain the availability or utility of the System. AP agrees to comply with its obligations under the AP User Guide and to operate the System in accordance with the AP User Guide. In the event of any conflict between the AP User Guide and the provisions of this Agreement, the provisions of this Agreement shall prevail.
- (e) The following provisions relating to the System shall apply:
  - (i) AP shall following execution hereof notify MSL by means of a duly executed authorisation letter in the form from time to time prescribed by MSL or otherwise in a form reasonably satisfactory to MSL and in each case completed to the reasonable satisfaction of MSL, of the names of its employees (“**Authorised Users**”) who are to have access to the Website, the authorisation level applicable to that Authorised User (as described in the AP User Guide), each internet protocol (IPv4 or IPv6) address (“**IP Address**”) from which such Authorised Users may access the Website and the means of communication of usernames and passwords to them and shall be responsible for the security of such usernames and passwords provided by such means;
  - (ii) AP agrees that each Authorised User shall be deemed to be duly authorised to act for and on behalf of AP for the purpose of the System with the authority applicable to his authorisation level as described in the AP User Guide;
  - (iii) AP shall notify MSL in writing by means of a Revocation of Access Form in the form from time to time prescribed by MSL or otherwise in a form reasonably satisfactory to MSL and in each case completed to the reasonable satisfaction of MSL:
    - (A) in the event that any person’s status as an Authorised User is to be revoked or terminated;
    - (B) if any such Authorised User’s authorisation level is to be changed to a lower level; or
    - (C) if the Authorised User(s) should no longer be able to access the System from any IP Address (specifying the relevant IP Address),

in each case as soon as possible, in order to give MSL a reasonable opportunity to:

- I. terminate such Authorised User's access to the System;
- II. amend the authorisation level applicable to such Authorised User; or
- III. amend the IP Addresses from which such Authorised Users may access the Website,

whichever is applicable;

- (iv) AP shall from time to time notify MSL in such form as MSL may reasonably require if:
    - (A) any additional or alternative Authorised Users are to have access to the Website;
    - (B) any such Authorised User's authorisation level is to be changed to a higher level; or
    - (C) the IP address(es) applicable to any Authorised User changes;
  - (v) MSL reserves the right to terminate the Authorised User's access to the System immediately and without notice upon any breach by AP of this Agreement or any breach by the Authorised User of the conditions referred to in paragraph (h) or otherwise as MSL may determine;
  - (vi) MSL shall provide AP with or procure the provision to AP of a username and initial password for access to the Website for each of such Authorised Users. It shall be the responsibility of AP to ensure that each Authorised User logs into the System through the website as soon as practicable on receipt of such username and initial password and changes his or her password. Passwords may not be shared and are to be used for access to the Website only by employees of AP who are authorised to do so. AP shall ensure that all usernames and passwords (including all replacement passwords) are kept confidential and not divulged to any person except to the relevant Authorised User. As soon as is practicable after becoming aware, or having a reasonable suspicion of the occurrence, of the unauthorised disclosure of a username or password, or of circumstances in which a username or password may be so disclosed, AP shall notify MSL and the Administrator of the same; and
  - (vii) AP will limit access to the Website using its usernames and passwords to those persons authorised by it for the purposes of this Agreement and will implement procedures to monitor, and will monitor, such access to ensure compliance with the terms of this Agreement.
- (f) Subject to compliance by AP with paragraphs (b) to (e) (inclusive), AP shall not be responsible for any unauthorised use of its passwords by any person, other than its officers, employees or agents or those of its Affiliates, who has obtained such passwords due to a failure by MSL or the Administrator to maintain the security of those passwords.
  - (g) AP acknowledges that the AP User Guide and any other user manuals or other documentation marked confidential (whether in hard copy or electronic form) (collectively, the "**Material**") which is delivered or made available to AP or any Authorised User regarding the System is

the exclusive and confidential property of ManJer and its suppliers. AP shall keep the Material confidential by using the same care and discretion that AP uses with respect to its own confidential property and trade secrets. AP may make such copies of the Material as are reasonably necessary for the Authorised Users to use the System and shall reproduce the proprietary markings of ManJer and/or its suppliers on any such copy (if applicable). The foregoing shall not in any way be deemed to affect the copyright status of any of the Material which may be copyrighted and shall apply to all Material whether or not copyrighted. MSL, ManJer AND ITS SUPPLIERS MAKE NO WARRANTIES (EXPRESS OR IMPLIED) CONCERNING THE MATERIAL OR ANY PRODUCT OR SERVICE INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Upon termination of this Agreement for any reason, AP shall, provided that such documents and Materials are in a form which is capable of delivery, return to MSL all copies of the Material which are in AP's possession or under its control, ***provided that*** AP may retain any automatically generated back-up copies and any back-up copy required for the purpose of, and for so long as required by, any law, court or regulatory agency or authority or stock exchange or its internal compliance and diligence procedures and policies, such back-up copies to be subject to the confidentiality requirements set out in this paragraph (g).

- (h) AP acknowledges that in using the System each Authorised User will be required to accept certain conditions including:
- (i) that he represents warrants and undertakes to MSL and to ManJer that he is authorised on behalf of his employer to access the System with the authority applicable to his authorisation level as described in the AP User Guide;
  - (ii) that he represents warrants and undertakes to MSL and to ManJer that he is the person to whom the username and password used to access the System were properly issued;
  - (iii) that he acknowledges that his access to the System may be terminated at any time without notice in the event that his employer breaches its agreement with MSL or he breaches any of the conditions of his access to the System or otherwise as MSL may determine;
  - (iv) that he agrees to use reasonable efforts to prevent the transmission by him through the System of any software or file which contains any viruses, worms, harmful component or corrupted data and agrees not to use any device, software, or routine to interfere or attempt to interfere with the proper working of the System; and
  - (v) that he acknowledges that any Material which is delivered or made available to AP or any Authorised User regarding the System is the exclusive and confidential property of ManJer and its suppliers and that he shall keep the Material confidential by using the same care and discretion that he uses with respect to his employer's confidential property and trade secrets; ***provided that*** AP may disclose the Material if and to the extent required to do so by any law, court or regulatory agency or authority or stock exchange or in connection with any legal proceedings. Upon termination of his access to the System for any reason, he shall, provided that such documents and Materials are in a form which is capable of delivery, return to MSL all copies of the Material which are in his possession or under his control, ***provided that*** AP may retain any automatically generated back-up copies and any back-up copy required for the purpose of, and for so long as required by, any law, court or regulatory agency or authority or stock exchange or its internal compliance

and diligence procedures and policies, such back-up copies to be subject to the confidentiality requirements set out in this paragraph (v),

and such other conditions as MSL shall reasonably determine from time to time; *provided that* MSL shall provide AP with not less than thirty Business Days' notice of any additional conditions to be imposed under this paragraph (h).

## 6. Indemnification

[AP may elect to delete clauses (a) – (c) in whole  
(with consequential amendments to 10(b) and 2.1 in Sch 2)]

- (a) AP hereby agrees to indemnify and hold harmless ManJer and MSL, each holding company and subsidiary of each of ManJer and MSL (as defined in section 1159 of the Companies Act 2006) if they, or any of their respective direct or indirect Affiliates, and their respective directors, officers, employees and agents (each, an “**AP Indemnified Party**”) suffers any loss, liability, damages, costs and expenses (including legal fees) incurred by such AP Indemnified Party as a result of or in connection with any breach by AP of any of the Selling Restrictions.
- (b) MSL and ManJer, jointly and severally hereby agree to indemnify and hold harmless AP, each holding company and subsidiary of AP (as defined in section 1159 of the Companies Act 2006), or any of their respective direct or indirect Affiliates, and their respective directors, officers, employees, agents or any person who controls AP for the purpose of Section 15 of the Securities Act of 1933 of the United States (each a “**ManJer Indemnified Party**”) suffers any loss, liability, damages, cost and expense (including legal fees) as a result of any:
  - (i) breach or alleged breach by ManJer or MSL of any provision of this Agreement that relates to ManJer or MSL;
  - (ii) failure or alleged failure on the part of ManJer or MSL to perform any of their obligations set forth in this Agreement; or
  - (iii) failure or alleged failure by ManJer or MSL to comply with applicable laws.
- (c) This Clause 6 shall not apply to the extent that any such loss, liability, damages, costs and expenses are incurred as a result or in connection with any gross negligence, bad faith or wilful misconduct on the part of the AP Indemnified Party or the ManJer Indemnified Party, as the case may be.
- (d) Save in respect of the provisions set out in Schedule 4 and Schedule 5 hereto none of ManJer, MSL and AP shall be liable to each other or to any other person, including any party claiming by, through or on behalf of AP, for any loss, liability, damages, costs or expenses arising out of any mistake or error in data or other information provided to any of them by each other or any other person or out of any interruption or delay in the electronic means of communications used by them.
- (e) Notwithstanding anything to the contrary, no party hereunder shall be liable towards any other party for indirect, consequential or special losses or damages which may be incurred or experienced as a result of entering into this Agreement and the transactions contemplated herein.

**7. Termination**

This Agreement may be terminated at any time by any party upon thirty days' prior written notice to the other parties *provided that* in each case Clauses 6 and 8 shall survive such termination.

**8. Notices**

***Pricing Notices***

- (a) Any Pricing Notice shall be in writing in English and shall be signed by or on behalf of the Party giving it (or its duly authorised representative). Any Pricing Notice shall be sent by fax to the recipient's Primary Fax Number.
- (b) Any Pricing Notice shall be deemed to have been received upon sending, subject to confirmation of uninterrupted and error-free transmission by a transmission report.
- (c) MSL will be entitled to assume that each Pricing Notice is genuine and will not be required to make any investigation or enquiry into the authenticity of any such notice.

***General Notices***

- (d) Any General Notice shall be in writing in English and shall be signed by or on behalf of the Party giving it (or its duly authorised representative). Any General Notice shall be delivered by hand, sent by prepaid recorded delivery or registered post (or registered airmail in the case of an address outside the United Kingdom), to the address given in Clause 10(f) (or such other address as the receiving Party has specified to the sending Party on at least five Business Days' notice) or sent by fax to the recipient's Primary Fax Number.
- (e) Any General Notice shall, in the absence of earlier receipt, be deemed to have been received as follows:
  - (i) if delivered by hand, at the time of actual delivery;
  - (ii) if sent by prepaid recorded delivery or registered post (or registered airmail in the case of an address outside the United Kingdom), on the date it is delivered or its delivery is attempted; or
  - (iii) if sent by fax, upon sending, subject to confirmation of uninterrupted and error-free transmission by a transmission report.
- (f) The addresses and numbers of the parties for the purposes of Clause 8(d) are:

<b>Name of party</b>	<b>Address</b>	<b>Facsimile No.</b>	<b>Marked for the attention of</b>
<b>MSL and ManJer</b>	Ordnance House 31 Pier Road St Helier Jersey JE4 8PW		Steven Ross
<b>AP</b>	<b>[address of AP]</b> <b>with a copy to</b>	<b>[fax of AP]</b> <b>[fax]</b>	<b>[name]</b> <b>[title]</b>

**9. Contact Details**

*Primary Fax Numbers*

- (a) The Primary Fax Numbers of AP and MSL for the purpose of this Agreement are as follows:

MSL:

Fax: [REDACTED]

AP:

Fax: [REDACTED]

Registrar:

Fax: [REDACTED]

- (b) Each Party shall at all times maintain for the purposes of this Agreement a working fax number as its Primary Fax Number, with a working fax machine attached thereto.

*Change of Primary Fax Numbers*

- (c) AP may notify a change to its Primary Fax Number, and MSL may notify a change to its or to the Registrar's Primary Fax Number, by giving notice thereof to the other Party, provided that such notice shall only be effective on the later to occur of:
- (i) the date specified in the notice as the date on which such change is to take place; or
  - (ii) the day which is five Business Days following the day on which notice of such change was given.

*Alternate Means of Communication*

- (d) Where this Agreement or the Conditions provide that a Notice must or may be sent to the Primary Fax Number of a Party or the Registrar, the notice may be sent in such other manner as the Parties or their duly authorised representatives may agree in writing from time to time, in lieu of or in addition to sending it to the Primary Fax Number as provided herein.

**10. Third Party Beneficiaries**

- (a) A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- (b) [The parties to this Agreement do not require the consent of any AP Indemnified Party or ManJer Indemnified Party that is not a party to this Agreement to rescind or vary this Agreement at any time. ]

**11. Governing law and Jurisdiction**

- (a) This Agreement and any non-contractual obligations arising out of or in relation to this Agreement shall be governed by and shall be construed in accordance with the laws of England and Wales.
- (b) Each party hereby irrevocably agrees that the English courts shall have non-exclusive jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes,

which may arise out of or in connection with this Agreement (respectively, “**Proceedings**” and “**Disputes**”) and, for such purposes, irrevocably submit to the jurisdiction of such courts.

- (c) Each party hereto, other than AP, agrees that the documents which start any Proceedings and any other documents required to be served in relation to those Proceedings may be served on it by being delivered on its behalf to its agent (“**Process Agent**”) as notified to the other party in writing from time to time. At the date hereof the Process Agent of each of ManJer and MSL is ETF Securities (UK) Limited, whose registered office is currently at 3 Lombard Street, London EC3V 9AA. If for any reason the Process Agent of any party ceases to be able to act as such or no longer has an address in London, that party irrevocably agrees to appoint a substitute process agent acceptable to the other party and shall immediately notify the other party of such appointment. Nothing contained in this clause 11(c) affects the right to serve documents and process in any other matter permitted by law. This clause applies to Proceedings in England and to Proceedings elsewhere.
- (d) Each party hereto irrevocably waives any objection which it might at any time have to the courts of England being nominated as the forum to hear and determine any Proceedings, and to settle any Disputes, which may arise out of or in connection with this Agreement and agrees not to claim that the courts of England are an inconvenient or inappropriate forum.

## **12. Miscellaneous**

- (a) The development rights and property in existing and all new products developed by ManJer and MSL remain the exclusive property of ManJer.
- (b) A variation of this Agreement is valid only if it is in writing and signed by and on behalf of each party.
- (c) A party may not assign, transfer or create any trust in respect of, or purport to assign, transfer or create any trust in respect of, a right or obligation under this Agreement provided that AP may assign or transfer its rights and/or obligations hereunder to an Affiliate of AP and ManJer may assign or transfer its rights and/or obligations hereunder to an affiliate of ManJer.
- (d) Nothing in this Agreement shall make any Party a partner or an agent of another Party.
- (e) This Agreement may be executed in any number of counterparts, which may be evidenced by facsimile transmission. All counterparts will be taken to constitute one instrument.

## **13. Limited Recourse and Non-Petition**

AP hereby agrees that it shall have recourse in respect of any claim under this Agreement only to sums derived from the Secured Property relating to the relevant Pool, subject always to the Security (as defined in the relevant Security Deed) and any such claim by AP shall be reduced *pro rata* so that the total of all such claims does not exceed the aggregate value of the Secured Property relating to the relevant Pool after meeting claims secured on it. The Trustee (or any other secured party) having realised the same, neither AP nor any person acting on its behalf shall be entitled to take any further steps against MSL to recover any further sums and no debt shall be owed by MSL to such person in respect of any such further sum. In particular, AP shall not be entitled to institute, or join with any other person in bringing, instituting or joining, insolvency proceedings (whether court based or otherwise) in relation to MSL, nor shall it have any claim in respect of any sum arising in respect of the Secured Property for any other Pool.

**14. Publication of Prospectus**

- (a) Subject to Clause 14(b) below, AP will during the term of this Agreement make available, free of charge, printed copies of the Prospectus and any pricing supplement or supplementary prospectus in accordance with PR3.2.2, PR3.2.4(2), PR3.2.5 and PR3.2.8 of the Prospectus Rules and/or Article 14(2)(b) of the Prospectus Directive.
- (b) For the purposes of the foregoing, MSL will during the term of this Agreement deliver to AP, free of charge, such number of copies of the Prospectus as AP may from time to time reasonably request, including any pricing supplement or supplementary prospectus.

**15. Confidentiality**

- (a) Each of AP, MSL and ManJer shall treat all Confidential Information as confidential and shall not disclose or transmit Confidential Information to any third party, except to their professional advisers. Confidential Information shall not include:
  - (i) any information that is available to the public or to the receiving party hereunder from sources other than the providing party;
  - (ii) any information that becomes public other than by a breach of this provision by the receiving party; or
  - (iii) any information that is independently developed by the receiving party without knowingly using or referencing Confidential Information received from the providing party.
- (b) Notwithstanding the foregoing, either party may disclose Confidential Information if such disclosure is:
  - (i) requested by any regulatory authority or court; or
  - (ii) required by law or court order to be disclosed by the receiving party,provided, if permitted by law, that the receiving party makes its best commercial effort to inform the providing party of such disclosure.

**EXECUTED** by the parties:

SIGNED by )  
for and on behalf of )  
**ETFs METAL SECURITIES** )  
**LIMITED** )

SIGNED by )  
for and on behalf of )  
**ETFs MANAGEMENT COMPANY** )  
**(JERSEY) LIMITED** )

SIGNED by )  
for and on behalf of )  
[*name of AP*] )  
)

## Schedule 1

*Pursuant to clause 3(b), the Selling Restrictions are as follows:*

### 1 General

#### No action to permit public offering

- 1.1 AP acknowledges that, save for the approval of the Prospectus by the UK Listing Authority in accordance with Part VI of the Financial Services and Markets Act 2000 (the “FSMA”) having been obtained, no action has been or will be taken (without the prior written consent of MSL) in any jurisdiction by it that would permit a public offering of Metal Securities, or possession or distribution of any offering material in relation thereto, in any country or jurisdiction where action for that purpose is required.

AP acknowledges that MSL does not (i) represent that Metal Securities may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction other than the United Kingdom, or pursuant to any exemption available thereunder, nor (ii) assume any responsibility for facilitating such sale.

The Authorised Person will not offer or sell any Metal Securities in any jurisdiction other than the United Kingdom in circumstances that would result in any legal or regulatory requirement being imposed on MSL save as expressly provided for in this Agreement.

#### 1.2 AP’s compliance with applicable laws

AP undertakes to MSL that it will comply (and procure compliance) with all applicable laws and regulations in each country or jurisdiction in which it purchases, offers, sells or delivers Metal Securities or has in its possession or distributes offering material, in all cases at its own expense.

### 2 United States

In relation to the Metal Securities AP represents, warrants and undertakes to MSL that neither it nor any of its Affiliates (including any person acting on behalf of AP or any of its Affiliates):

- (a) has knowingly offered or sold or will knowingly offer or sell, except in a transaction exempt from the registration requirements of the Securities Act to a Qualified Purchaser, Metal Securities within the United States or to a U.S Person, whether before, on or after the relevant Application date; or
- (b) has engaged or will engage in any “directed selling efforts” with respect to Metal Securities.

### 3 European Economic Area

#### 3.1 AP represents, warrants and undertakes to MSL:

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “**Relevant Member State**”), that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the “**Relevant Implementation Date**”) it has not made and will not make an offer of Metal Securities to the public in that Relevant Member State, except that it may,

with effect from and including the Relevant Implementation Date, make an offer of Metal Securities to the public in that Relevant Member State:

- (a) if the final terms in relation to the Metal Securities specify that an offer of those Metal Securities may be made other than pursuant to Article 3(2) of the Prospectus Directive in that Relevant Member State (a “**Non-exempt Offer**”), following the date of publication of a prospectus in relation to such Metal Securities which has been approved by the competent authority in that Relevant Member State in accordance with the Prospectus Directive or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, in accordance with the Prospectus Directive, provided that any such prospectus has subsequently been completed by the final terms contemplating such Non-exempt Offer, in accordance with the Prospectus Directive, during the period beginning and ending on the dates specified in such prospectus or final terms, as applicable and provided further that MSL has consented in writing to its use for the purpose of that Non-exempt Offer;
- (b) at any time to any legal entity which is a qualified investor as defined in the Prospectus Directive;
- (c) at any time to fewer than 100, or if the Relevant Member State has implemented the relevant provision of the 2010 PD Amending Directive, 150, natural or legal persons (other than qualified investors as defined in the Prospectus Directive); or
- (d) at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,

*provided that* no such offer of Metal Securities referred to in (b) to (d) above shall require MSL or any Authorised Participant to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplemental prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this paragraph 3, the expression an “**offer of Metal Securities to the public**” in relation to any Metal Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Metal Securities to be offered so as to enable an investor to decide to purchase or subscribe for Metal Securities, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State and the expression “**Prospectus Directive**” means Directive 2003/71/EC (and amendments thereto including the 2012 PD Amending Directive, to the extent implemented in the Relevant Member State) and includes any relevant implementing measure in each Relevant Member State and the expression “**2010 PD Amending Directive**” means Directive 2010/73/EU.

#### 4 **United Kingdom**

- 4.1 *Financial promotion:* it has only communicated or caused to be communicated, and will only communicate or cause to be communicated, any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of any Metal Securities in circumstances in which section 21(1) of the FSMA does not apply to MSL or any Affiliate of MSL.

- 4.2 *General compliance:* it has complied and will comply with all applicable provisions of the FSMA and the United Kingdom financial services regime (including, without limitation, the obligation to treat customers fairly) with respect to anything done by it in relation to any Metal Securities in, from or otherwise involving the United Kingdom.

## Schedule 2

*Pursuant to clauses 4(f) and 4(g), the Representations, Warranties and Undertakings of MSL and ManJer are as follows:*

### 1 Representations and Warranties of MSL and ManJer

MSL and ManJer do, on the date of this Agreement, and shall on each date on which AP makes an Application and on each date on which the Application Amount is paid in respect of Metal Securities be deemed, jointly and severally, to represent to, warrant to and agree with AP that:

- 1.1 **Due Incorporation:** MSL is duly incorporated and validly existing under the laws of Jersey, with full power and authority to conduct its activities as described in the Prospectus
- 1.2 **Residence:** MSL has complied and is in compliance with Clause 19(W) of the Trust Instrument
- 1.3 **Validity of Documents:** the execution and delivery of the Documents by MSL has been duly authorised by MSL and the Documents constitute, and upon due execution, authentication, issue and delivery, the Metal Securities will constitute valid and legally binding obligations of MSL
- 1.4 **Consents:** all actions or things required to be taken, fulfilled or done (including without limitation the obtaining of any consent or licence or the making of any filing or registration) for the issue of the Metal Securities, the carrying out of the other transactions contemplated by the Documents or the compliance by MSL and/or ManJer (as the case may be) with the terms of the Metal Securities and the Documents, as the case may be, have been obtained and are in full force and effect
- 1.5 **Compliance:** the execution and delivery of the Documents, the issue of the Metal Securities, the carrying out of the other transactions contemplated by the Documents and compliance with their terms do not and will not (i) conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, the documents constituting MSL or any agreement or instrument to which MSL is a party or by which it or any of its properties is bound, or (ii) infringe any existing applicable law, rule, regulation, judgment, order or decree of any government, governmental body or court, domestic or foreign, having jurisdiction over MSL, or any of its properties
- 1.6 **Prospectus:** (i) the Prospectus contains all information with respect to MSL, the Metal Securities and any related contract entered into by MSL that is material in the context of the issue and offering of the Metal Securities (including all information required by applicable laws of Jersey and English law and the information that is necessary to enable investors and their professional advisers to make an informed assessment of the condition of MSL and the rights attaching to the Metal Securities), (ii) the statements contained in it relating to MSL are in every material particular true and accurate and not misleading, (iii) there are no other facts in relation to MSL or the Metal Securities the omission of which would, in the context of the issue and offering of the Metal Securities, make any statement in the Prospectus misleading in any material respect, and (iv) all reasonable enquiries have been made by MSL to ascertain such facts and to verify the accuracy of all such information and statements
- 1.7 **Litigation:** there are no pending actions, suits or proceedings against or affecting MSL or any of its properties

- 1.8 **Events of Default:** no event has occurred or circumstance arisen that might (whether or not with the giving of notice, lapse of time and/or issue of a certificate) constitute an event described under the definitions of “Counterparty Event of Default”, “Insolvency Event” and “Defaulted Obligation” in the Conditions
- 1.9 **Substantial U.S. Market Interest:** MSL reasonably believes that there is no substantial U.S. market interest (as defined in Regulation S under the Securities Act) in its debt securities
- 1.10 **Directed Selling Efforts:** neither MSL nor any of its affiliates nor any persons acting on their behalf have engaged or will engage in any directed selling efforts (as defined in Regulation S under the Securities Act) with respect to the Metal Securities and each of them has complied and will comply with the offering restrictions requirement of such Regulation
- 1.11 **Collective Investment Scheme:** to the best of MSL’s knowledge and belief, and on the basis of appropriate legal advice and in the absence of any contradictory notices from the Financial Conduct Authority or the Financial Services Authority, MSL does not constitute a “collective investment scheme” or an “open-ended investment company” for the purposes of the Financial Services and Markets Act 2000 and any applicable secondary legislation made under it; and
- 1.12 **SETS and CREST:** the Metal Securities qualify for settlement and trading within the SETS and CREST settlement and trading systems.

## 2 Undertakings of MSL and ManJer

Each of MSL and ManJer jointly and severally agree with AP that:

- 2.1 **Representations and Warranties:** it shall notify the AP promptly of any change affecting any of its representations, warranties, agreements and indemnities in this Agreement at any time and take such steps as may be reasonably requested by the AP, to remedy and/or publicise the same
- 2.2 **Restrictions:** it shall at all times comply with Clause 19 of the Trust Instrument
- 2.3 **Information:** it shall furnish to AP such information concerning MSL as AP may from time to time reasonably request or as would be required to be disclosed in the Prospectus
- 2.4 **Prospectus:** whenever it amends, supplements or replaces the Prospectus it shall furnish to AP copies of the Prospectus, each amendment to, supplement to or replacement thereof, each Supplementary Prospectus and, upon request, each document incorporated by reference and any additional marketing information
- 2.5 **CREST:** it will ensure that the Metal Securities are at all times eligible for settlement in CREST and will comply with the rules of CREST from time to time
- 2.6 **Maximum Aggregate Amount:** it will ensure that as of (i) each date on which AP makes an Application and (ii) each date on which the Application Amount is paid in respect of Metal Securities, the aggregate number of Metal Securities outstanding will not exceed the Programme Limit (after giving effect to the issuance of such Metal Securities and of any other Metal Securities to be issued, and to the redemption of Metal Securities to be redeemed on or prior to such date)

- 2.7 **Monitoring:** it shall deliver, register and furnish such documents, instruments, information and undertakings to, and obtain any consent from, any relevant agency, authority, central bank, department, government, minister, official, public or statutory corporation, or self-regulating organisation or Stock Exchange as may be necessary or advisable from time to time to comply with all relevant laws and directives that are relevant to any Metal Securities or the Documents
- 2.8 **Authorised Representative:** it shall notify AP immediately in writing if any of the persons so named in Schedule 3 hereto shall cease to be authorised to take action on behalf of MSL or if any additional person shall be so authorised and, unless and until notified of any such change, AP shall be entitled to rely upon the certificate(s) delivered to them most recently and all instructions given in accordance with such certificate(s) shall be binding upon MSL
- 2.9 **Securities Act:** it shall not issue, offer or sell any securities under circumstances that would require the registration of any of the Metal Securities under the Securities Act
- 2.10 **Meetings of Security Holders:** it shall give AP notice of any meeting of Security Holders (as defined in the Trust Instrument) as soon as reasonable practicable, and in any event, no later than the date on which notice is provided to the Security Holders and shall permit AP and its advisers to attend and speak at any such meeting

**Schedule 3**

*Pursuant to clause 5(a), the names and signatures of all persons approved to give instructions relating to activity contemplated hereby, by the Business Rules or by any other notice, request or instruction given on behalf of MSL or AP (each, an “Approved Person”) are as follows:*

**Signature verification for [Name of AP]**

I, [name of person], [title] for the above mentioned, confirm that the persons specified below are authorised signatories of [name of Authorised Participant] and that the signatures set out beside the names below are their true and exact signatures:

\_\_\_\_\_  
[name] [name]  
[title] [title]

\_\_\_\_\_  
[name] [name]  
[title] [title]

Signed: \_\_\_\_\_  
[name]  
[title]

## Schedule 4

*Pursuant to clause 5(b), the creation procedures and the applicable provisions of the Programme and any transfer of Bullion to be made pursuant to any Application are as follows:*

*All times are in London time unless otherwise stated.*

### **Application**

1. AP may on any Business Day between 8.00am and 4.30pm give (or cause to be given on its behalf) to MSL a notice in the form prescribed from time to time by the Issuer for the purposes of this paragraph (an “**Application**”) for the issue by MSL of a specific number and type of Metal Securities. The giving of such application shall constitute an Application.
2. An Application shall be invalid:
  - (a) if it does not specify a number and type of Metal Securities to be issued by MSL;
  - (b) if it relates to the issue of more than one type of Metal Security;
  - (c) if it is not signed by an Approved Person;
  - (d) if it is not confirmed in accordance with paragraph 4 below; or
  - (e) in the case of an Application for Swiss Gold Metal Securities, if it does not specify whether the Application Amount will be transferred to the loco London or loco Zurich Swiss Gold Subscription Unallocated Account,and, save as provided under paragraph 4, no Metal Securities shall be issued in respect of or under that Application.
3. An Application which is received by MSL after 4.30pm shall be deemed to be received by MSL at 8.00am on the following Business Day unless MSL agrees to treat the Application as having been received prior to 4.30pm in which case the Application shall be deemed to have been received on that Business Day.

### **Confirmation of Application**

4. AP's Authorised Individual shall, within 30 minutes of any Application having been sent by AP, try to contact MSL by telephone to seek confirmation by MSL of such Application. MSL shall generally be available from 8.00am to 4.30pm and must be available from 4.30pm to 5.00pm (the “**Application Required Time**”). MSL shall confirm such Application during the Application Required Time (or earlier), except where such Application is not valid under paragraph 2 above and if the Application was deemed received by MSL after 4.30pm MSL may, but shall not be obliged to, agree that such Application should be treated as though received prior to 4.30pm (and in any event, MSL shall inform AP whether MSL has confirmed or rejected such Application).
5. Where MSL confirms its acceptance of an Application, that Application shall be a valid Application and MSL will cause the Registrar to issue a Confirmation of Application to AP in accordance with paragraph 8 below.
6. If MSL considers that a purported Application is invalid, it shall notify AP of that fact as soon as reasonably possible.

### **Application Amount**

7. The amount of Bullion due with respect to an Application (the “**Application Amount**”) shall be equal to the aggregate Metal Entitlement of the Metal Securities applied for, calculated as at the Settlement Date (rounded up to the nearest 0.001 troy ounce, or fine troy ounce in the case of gold).
8. On the day the Application has been received by MSL, the Registrar shall issue a Confirmation of Application notifying AP of the Metal Entitlement, the Application Amount payable and the Settlement Date in respect of that Application.

### **Payment of Application Amount**

9. AP shall not later than the Clearing Cut-off Time on the Settlement Date transfer the Application Amount in respect of that Application to the relevant Subscription Unallocated Account. On the Settlement Date, upon receiving confirmation from the Custodian that the transfer has been received and, in the case of an Application for the creation of Swiss Gold Metal Securities by deposit of unallocated Bullion in London, subject to the AP giving confirmation that it has agreed with the Swiss Gold Custodian the cost of any loco swap or other transfer arrangement to be entered into and has agreed to reimburse the Swiss Gold Custodian for the costs of such loco swap or other transfer arrangement, MSL shall:
  - (a) instruct the Custodian to transfer the Application Amount to the relevant Secured Unallocated Account (and thereafter, as soon as practicable to the Secured Allocated Account); and
  - (b) cause such Metal Securities to be issued and delivered to AP through CREST free of payment by 1.00pm, save if and to the extent that AP or MSL has given a notice to withdraw in respect of any such Application in accordance with paragraph 10 below.

### **Non-Payment of Application Amount**

10. Subject to paragraph 11, MSL may give a notice to withdraw in respect of an Application for any Metal Securities at any time after one hour after the Clearing Cut-off Time on the first Business Day following the Settlement Date in respect of such Application, by sending such notice to AP, if and to the extent that MSL has not at such time received the Application Amount in respect of such Application.
11. Where a notice to withdraw is duly given in respect of any Application, then:
  - (a) such Application shall be cancelled, and the Parties shall have no further obligations to each other under or in respect of it;
  - (b) no interest shall be payable to MSL in respect of such Application Amount; and
  - (c) the number and classes of Metal Securities issued pursuant to that Application shall be cancelled (without any payment obligation arising under this Agreement).

### **Listing Failure**

12. If the UK Listing Authority refuses to admit to the Official List any Metal Securities issued under this Agreement, MSL shall promptly upon becoming aware of that fact notify the AP thereof in accordance with the procedure for sending notices under Clause 8(a).

13. If the Metal Securities in question have not been issued or have been issued but not transferred to AP:
  - (a) If not yet issued MSL shall not issue such Metal Securities and if issued MSL shall immediately cancel such Metal Securities; and
  - (b) No amount shall be paid or payable by or on behalf of AP to MSL in respect of those Metal Securities.
  
14. If the Metal Securities in question have been both issued and transferred to AP:
  - (a) MSL shall treat the Metal Securities in question as non-transferable except back to MSL and shall not accept or register any transfer thereof except back to MSL, and shall so instruct the Registrar;
  - (b) All amounts received by MSL on account of the Application Amount for the Metal Securities, shall be transferred by MSL from the relevant Subscription Unallocated Account to the relevant Security Holder Account;
  - (c) All Metal Securities received by AP shall be delivered free of payment to MSL (through CREST, in the case of Metal Securities in Uncertificated Form); and
  - (d) The Parties shall, and MSL shall procure that the Registrar shall, give all necessary delivery instructions to CREST for settlement of that transaction to take place on the Payment Date.
  
15. Where paragraph 12 above applies a Redemption Form shall be deemed to have been received by MSL in respect of such Metal Securities (without the need for AP to send any such Redemption Form) at 11.00 am on the day on which notice is given under paragraph 12 above.

## Schedule 5

### Web-based Order System

#### Part A Application Orders

MSL shall give AP written notice of the date from which the System will be used for Application Orders in accordance with this Part A.

1. Application Orders may be given through the System. Application Notices shall not be given other than if the System is affected by a breakdown or other problem such that it is not possible to give Application Orders in accordance with this Part A or in such other circumstances as MSL may reasonably determine from time to time upon written notice to AP.
2. An Application Order given through the System in accordance with the AP User Guide shall (subject as provided in this Part A) have the same effect as if an Application with the same particulars had been delivered to MSL in accordance with paragraph 1 of Schedule 4.
3. AP shall, subject to Clause 5(f), be deemed for the purposes of this Agreement to have given an Application Order if it has been inputted and approved by an Authorised User on the Website using a username and password belonging to AP by the user clicking "Approve".
4. An Application Order given through the System shall be invalid in the circumstances specified in paragraphs 2(a), 2(c) and 2(e) of Schedule 4 and if it is not confirmed in accordance with paragraph 2(d) and 4 of Schedule 4.
5. Without prejudice to paragraph 3 of Schedule 4, an Application Order given on a day which is not a Business Day or after 4.30 p.m. on a Business Day will be treated for the purposes of this Agreement as though it had been given at 8.00 a.m. on the next Business Day unless MSL agrees to treat the Application as having been received prior to 4.30pm, in which case the Application shall be deemed to have been received on that Business Day.

**Part B**  
**Redemption Orders**

MSL shall give AP written notice of the date from which the System will be used for Redemption Orders in accordance with this Part B.

1. Redemption Orders may be given through the System. Redemption Notices shall not be given other than if the System is affected by a breakdown or other problem such that it is not possible to give Redemption Orders in accordance with this Part B or in such other circumstances as MSL may reasonably determine from time to time upon written notice to AP.
2. A Redemption Order given through the System in accordance with the AP User Guide shall (subject as provided in this Part B) have the same effect as if a Redemption Notice with the same particulars had been delivered to MSL in accordance with Condition 6.2.
3. AP shall, subject to Clause 5(f), be deemed for the purposes of this Agreement to have given a Redemption Order if it has been inputted and approved by an Authorised User on the Website using a username and password belonging to AP by the user clicking "Approve".
4. A Redemption Order given through the System shall be invalid in the circumstances specified in Condition 6.6.
5. Without prejudice to Condition 6.8 a Redemption Order given on a day which is not a Business Day or after 4.30 p.m. on a Business Day will be treated for the purposes of this Agreement as though it had been given at 8.00 a.m. on the immediately following Business Day.
6. The notification referred to in Condition 7.1, 7.2 and 7.3 may be given through the System.