



Re: Mandatory Variation Margin for OTC Derivatives Transactions subject to Prime Brokerage Margin Methodologies

To Whom It May Concern:

Reference is made to (i) the ISDA Master Agreement(s), as amended from time to time (together with any Credit Support Annex ("**CSA**"), an "**ISDA Agreement**"), and (ii) the prime brokerage agreement and related agreements (including, without limitation, any Master Netting and Cross-Collateralization Agreement (the "**Prime Brokerage Agreements**," and together with the ISDA Agreement, the "**Master Agreements**")), each between Goldman Sachs International ("**GSI**") and/or Goldman, Sachs & Co. ("**GSCO**" and, together with GSI, "**GS**"), as applicable, and the undersigned counterparty ("**Counterparty**"). Terms used but not otherwise defined in this letter shall have the meaning ascribed to them in the relevant Master Agreement, as applicable.

Beginning in March 2017, counterparties to certain uncleared over-the-counter derivative transactions will be required to calculate and collect variation margin pursuant to new laws and/or regulations ("**OTC Derivative VM Rules**"). As part of a separate effort, GS and Counterparty have created (or intend to create) a CSA for each ISDA Agreement that is compliant with the OTC Derivative VM Rules (each, a "**Regulatory VM CSA**"), either by (i) amending an existing CSA that will govern both variation and initial margin for all Transactions under the relevant ISDA Agreement or (ii) entering into a new CSA alongside the existing CSA that will generally only govern variation margin for Transactions subject to the OTC Derivative Rules.

The purpose of this letter is to create for each ISDA Agreement an additional CSA based on the Regulatory VM CSA to govern the exchange of variation margin for Transactions that GS margins in accordance with the margin methodology under the Prime Brokerage Agreements (each, a "**PB VM CSA**").

1. CREATION OF PB VM CSA

- 1.1 Each ISDA Agreement is amended by adding a PB VM CSA with the same terms as the corresponding Regulatory VM CSA, with the elections and amendments set out in Annex 1 to this letter. All Covered Transactions (as defined in the PB VM CSA) shall be excluded from the definition of "Exposure" and shall not be considered when determining the "Credit Support Amount" or any "Independent Amount" under any CSA other than the relevant PB VM CSA.
- 1.2 The parties agree that variation margin in respect of Covered Transactions (as defined the PB VM CSA) shall be calculated and transferred between GS and Counterparty in accordance with the terms of the relevant PB VM CSA and not any other CSA or any Prime Brokerage Agreement. Other than with respect to variation margin, Covered Transactions (as defined in the PB VM CSA) shall be margined and collateralized pursuant to the Prime Brokerage Agreements.
- 1.3 The terms of this letter amend and supplement the Master Agreements. If the terms of a Master Agreement are inconsistent with letter, this letter takes precedence over such Master Agreement, and such Master Agreement shall be construed accordingly. The parties hereto agree that the terms and provisions set forth in this letter are not exclusive and nothing herein shall prevent either party hereto from exercising any right such party may have under applicable law and/or any Master Agreement. Each Master Agreement shall remain in full force and effect and shall not be affected by this letter except to the extent explicitly provided herein.

2. EFFECTIVENESS OF AMENDMENTS

The amendments to the Master Agreements set out in this letter shall take effect from the later of: (i) March 1, 2017, and (ii) the date on which this letter has been duly executed by both parties.

3. OTHER PROVISIONS

- 3.1 **Counterparts.** This letter may be executed in any number of counterparts, and this has the same effect as if the signatures of the counterparts were on a single copy of this letter.
- 3.2 **Governing Law, Jurisdiction and Submission.**

Where the Regulatory VM CSA is governed by English law, this letter and any non-contractual obligations arising out of or in connection with it, shall be governed by, and interpreted in accordance

with, English law and each party irrevocably submits to the English courts, which shall have exclusive jurisdiction to settle any dispute which may arise in connection with this letter.

Where the Regulatory VM CSA is governed by New York law, this letter and any non-contractual obligations arising out of or in connection with it, shall be governed by, and interpreted in accordance with, the law of the State of New York, without reference to its choice of law doctrine. In such case, each party irrevocably submits to the exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City to settle any dispute which may arise in connection with this letter.

3.3 **Scope of Agreement.** This letter constitutes the entire and exclusive understanding and agreement by the parties with respect to the matters addressed herein.

Please sign and return a copy of this letter to acknowledge your agreement to its terms.

Yours faithfully,

GOLDMAN, SACHS & CO.

GOLDMAN SACHS INTERNATIONAL

By:
Name:
Title:
Date:

By:
Name:
Title:
Date:

We agree to the terms of this letter.

Counterparty: _____

By:
Name:
Title:
Date:

Annex 1 – PB VM CSA Elections and Amendments

The following elections and amendments shall apply to the PB VM CSA. To the extent an election or amendment set out in this Annex 1 is inconsistent with the terms of the Regulatory VM CSA, this Annex 1 shall prevail for purposes of the PB VM CSA.

1) General Provisions

- a) **Transfers to Counterparty.** The parties agree that, where GS is required to transfer any amount to Counterparty under this PB VM CSA, GS will transfer the required amount to Counterparty's account with GS established under the prime brokerage agreement between GS and Counterparty (the "**PBA**"). All amounts so transferred will be subject to the rights and protections afforded by Rules 15c3-3, 8c-1 and 15c2-1 under the Securities Exchange Act of 1934, the Securities Investor Protection Act of 1970 and any "Excess SIPC" coverage GS may maintain.
- b) **Transfers to GS.** Counterparty agrees, if on any day Counterparty is required to transfer any amount to GS under this PB VM CSA, GS or its agent (including its affiliates) may transfer from any of Counterparty's accounts held at GS or any of its affiliates such amount of "Eligible Credit Support (VM)", "Eligible Credit Support" or "Eligible Collateral", as applicable, as GS determines necessary to satisfy Counterparty's obligation to transfer such amount to GS (including a transfer cash from any such account that may create or increase a debit balance in such account or otherwise constitute financing by GS to Counterparty). GS shall maintain an account (the "**Variation Margin Account**") to hold the variation margin of Customer posted to GS. COUNTERPARTY ACKNOWLEDGES THAT ALL ASSETS MAINTAINED IN THE VARIATION MARGIN ACCOUNT ARE NOT SUBJECT TO THE RIGHTS AND PROTECTIONS AFFORDED BY RULES 15C3-3, 8C-1 AND 15C2-1 UNDER THE SECURITIES EXCHANGE ACT OF 1934, THE SECURITIES INVESTOR PROTECTION ACT OF 1970 AND ANY "EXCESS SIPC" COVERAGE GS MAY MAINTAIN.
- c) Where the Regulatory VM CSA was created (or is being created) by entering into a Credit Support Annex substantially in the form of the 2016 Credit Support Annex for Variation Margin (VM) (English Law) or the 2016 Credit Support Annex for Variation Margin (VM) (New York Law), as applicable (a "**New VM CSA**"), Credit Support Offsets shall be inapplicable.
- d) The PB VM CSA will be an "Other CSA" for purpose of the New VM CSA (if any) other than for purposes of Paragraph 9(h) (Credit Support Offsets) or Paragraph 11(h) (Credit Support Offsets), as applicable.

2) Credit Support.

- a) "Base Currency" means USD or the currency notified by GS to Counterparty from time to time (by means of a margin statement or other written notice).
- b) "Eligible Credit Support (VM)", "Eligible Credit Support" or "Eligible Collateral", as relevant, means cash in the Base Currency.
- c) "Valuation Percentage" means 100%.

3) Covered Transactions and Exposure.

- a) "**Covered Transaction**" means a Transaction that GS margins in accordance with the margin methodology under the PBA, including, for the avoidance of doubt, if such Transaction was entered into prior to effectiveness of the relevant OTC Derivative VM Rules.
- b) Any assets or other instruments subject to a security interest, right of set-off or similar right under the PBA shall also secure (or otherwise apply with respect to) any obligation of Customer under the Agreement with respect to Covered Transactions. Any "Event of Default", "Termination Event" or "Additional Termination Event" under the Agreement shall constitute a "Close-out Event" or "Event of Default" under the PBA and any "Close-out Event" or "Event of Default" under the PBA shall constitute an "Event of Default" under the Agreement with respect to Covered Transactions.
- c) Where the Regulatory VM CSA was created (or is being created) by amending an existing CSA (an "**Amended CSA**"), "Exposure" shall be calculated as if the only Transactions under the Agreement are Covered Transactions.

4) Thresholds.

- a) If relevant, "Independent Amount" and "Threshold" mean, with respect to GS and Counterparty, zero (0).
- b) "Minimum Transfer Amount" means, with respect to GS and Counterparty, zero (0).
- c) *Rounding.* Not applicable to either GS or Counterparty.

- 5) **Valuation Date.** "Valuation Date" means, with respect to GS and Counterparty, a day on which GS calculates margin in accordance with the **PBA**.

- 6) **Valuation Agent.** The Valuation Agent shall be GS in all circumstances.

- 7) **Notification Time.** "Notification Time" means 12 noon, New York time, on a Local Business Day, or if earlier, the time specified as the cut off time for margin calls under the PBA.

8) Dispute Resolution.

- a) Any dispute resolution provision in the Regulatory VM CSA shall be amended by removing any requirements for the Valuation Agent to seek quotations from Reference Market-makers or use alternative procedures for determining Value.
- b) Where a party fails to raise a dispute by the Resolution Time, the calculation(s) made by the Valuation Agent will apply.

- c) "Resolution Time" means 5pm New York time on the Local Business Day immediately following the Valuation Date to which the dispute relates (or if notice to the Disputing Party setting out the calculations being disputed was effective after the Notification Time for the relevant Valuation Date, 5pm New York time on the Local Business Day immediately following the date on which the notice setting out such calculations was effective).

9) Distributions and Interest.

Where the Regulatory CSA is a New VM CSA, then:

- a) The Interest Rate (VM) will be the Overnight Reference Rate for the Base Currency as disclosed on the GS Prime Brokerage Client Web Portal;
- b) "Interest Adjustment" and "Negative Interest" shall be applicable and "Daily Interest Compounding" shall be not applicable; and
- c) The Credit Support Balance (VM) or Posted Collateral (VM), as applicable, will be adjusted on the last Local Business Day of each calendar month.

Where the Regulatory CSA is an Amended CSA, then:

- a) The Interest Rate will be the Overnight Reference Rate for the Base Currency as disclosed on the GS Prime Brokerage Client Web Portal.
- b) In lieu of the Transferee transferring the accrued Interest Amount to the Transferor (or where the accrued Interest Amount is negative, the Transferor transferring such amount to the Transferee), the Credit Support Balance (if the PB VM CSA is governed by English law) or Posted Collateral (if the PB VM CSA is governed by New York law) will be adjusted as follows:
 - i) The accrued Interest Amount, if positive, will constitute an addition to the Credit Support Balance or Posted Collateral and will be subject to any security interest granted under Paragraph 2 of the PB VM CSA, as applicable; and
 - ii) The accrued Interest Amount, if negative, will constitute a reduction to the Credit Support Balance or of Posted Collateral, as applicable, in an amount equal to the absolute value of the Interest Amount

(in each case, the "Interest Adjustment Reduction Amount"), provided that if the Credit Support Balance or Posted Collateral, as applicable, is less than the Interest Adjustment Reduction Amount, such reduction will be will only be to the extent of the amount of the Credit Support Balance or Posted Collateral, as applicable, and the Transferor will be obliged to transfer the remainder of the Interest Adjustment Reduction Amount to the Transferee on the day that such reduction occurred.

Any such adjustments under this paragraph (b) will occur on the Last Business Day of each calendar month and, where the PB VM CSA is governed by English law, any Early Termination Date referred to in Paragraph 6.

10) Addresses for demands and notices; Addresses for Transfers. For each of GS and Counterparty, as notified by such party to the other party in writing from time to time.