

## Sale and Licensing Terms and Conditions with Institutional User

PLEASE READ THE FOLLOWING TERMS AND CONDITIONS OF USE (THESE “**TERMS AND CONDITIONS**”) CAREFULLY BEFORE USING the CreateiQ platform (“**CreateiQ**”), including for the negotiation of documents made available on CreateiQ by International Swaps and Derivatives Association, Inc. (“**ISDA**”) for this purpose (“**ISDA Document Sets**”). Access and use of CreateiQ is subject to your understanding of and compliance with these Terms and Conditions set forth below. This document should be examined carefully before accessing any ISDA Document Sets.

By registering on CreateiQ, and by accessing or using CreateiQ, you represent to us that you are lawfully able to enter into contracts and that you assent to these Terms and Conditions. You also agree, represent and warrant (and understand that such representation and warranty is a material term of these Terms and Conditions) with regard to your access, generation, negotiation and any other use of any ISDA Document Sets that you are either a member of ISDA classified as "Member Subscriber - Financial Company", "Member Subscriber - Global Investment Trading Firm", "Member Subscriber - Investment & Trading Firm", or "Member Subscriber - Regular" (as those terms are defined by ISDA and detailed on ISDA's website here: <https://www.isda.org/membership/>) or would qualify as such if you were to obtain ISDA membership (“**Authorized Users**”).

### 1. Definitions and Interpretation

“**Content**” means any information, images, links, text, software, graphics, database, sounds, video and other material provided by ISDA on CreateiQ.

“**Covered Party**” means ISDA or any officer, director, employee, subcontractor, agent, successor or assign of ISDA.

“**Data Protection Legislation**” means the following legislation to the extent applicable from time to time: (a) national laws implementing the Data Protection Directive (95/46/EC) and the Directive on Privacy and Electronic Communications (2002/58/EC); (b) the General Data Protection Regulation (2016/679) and any national law issued under that Regulation; and (c) any other applicable privacy law.

“**Intellectual Property Rights**” means trademarks, service marks, rights in trade names, business names, logos or get-up, patents, rights in inventions, registered and unregistered design rights, copyrights, semiconductor topography rights, database rights, rights in domain names and URLs, and all other similar rights in any part of the world (including in know-how) including, where such rights are obtained or enhanced by registration, any registration of such rights and applications and rights to apply for such registrations.

“**Law**” means any laws, regulations or regulatory constraints applicable to ISDA's provision of Your access to CreateiQ from time to time.

“**Login Credentials**” has the meaning given in clause 2.3.

“**Sanctions**” means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the government of the United States of America, including the Office of Foreign Assets Control of the US Department of the

Treasury and the US Department of State; the United Nations Security Council; the European Union and/or any of its member states; Her Majesty's Treasury of the United Kingdom or other relevant sanctions authority; and/or the government(s) of the jurisdiction(s) in which You are registered to operate.

“**Party**” means You or ISDA, as the context requires, and Parties means both.

“**Personal Data**” means any personal data or personal information, as applicable, (as such term is defined in Data Protection Legislation) that is processed on CreateiQ.

“**Term of Use**” means the period from the date on which these Terms and Conditions are accepted to the date on which these Terms and Conditions terminate or expire in accordance with these Terms and Conditions.

“**You**” means you and the organisation for which, or on behalf of which, you are using or will use CreateiQ.

## 2. Access and Use of CreateiQ

2.1 Access. The International Swaps and Derivatives Association, Inc. grant You access to CreateiQ from the date of your assent to these Terms and Conditions until access is terminated in accordance with these Terms and Conditions.

2.2 User Requirements. Whenever you access CreateiQ, You must have a version of Microsoft Edge, Mozilla Firefox or Google Chrome internet browsers updated or downloaded no less than six months prior to that time. ISDA may update these requirements from time to time by notice to You on CreateiQ or by email.

2.3 Individual users. Individuals who access CreateiQ on Your behalf will create a user-ID and password or will use their own login credentials (collectively “**Login Credentials**”) in order to access CreateiQ. You may not allow any individual who is not the individual to whom the Login Credentials relate to access CreateiQ using such Login Credentials. You are solely responsible for ensuring that any individuals who access CreateiQ on Your behalf comply with these Terms and Conditions.

2.4 Unauthorized access. You are solely responsible for any access to, compliance with these Terms and Conditions, and actions undertaken on, CreateiQ whenever an individual accesses CreateiQ on Your behalf. ISDA is under no obligation to verify or confirm the identity of any individual who accesses CreateiQ with Your Login Credentials or who accesses CreateiQ on Your behalf. If You reasonably consider that a third party has had unauthorized access to CreateiQ, You shall promptly notify ISDA at: support@isdacreate.org. Upon receipt of such notification, ISDA shall cancel the relevant password and provide You or the individual whose Login Credentials are associated with that password with a replacement password.

2.5 Suspension. In addition to ISDA's rights under 11.1, ISDA has the right to limit, suspend or revoke Your access to CreateiQ if ISDA reasonably determines that Your use, or the use of an individual whom You have authorized to access CreateiQ on Your behalf, is in breach of these Terms and Conditions.

2.6 Maintenance. From time to time, ISDA may need to suspend access to CreateiQ to carry out technical maintenance, updates or repairs. ISDA shall endeavor to provide You with one week's notice where the suspension of access to CreateiQ is for scheduled reasons

and ISDA shall carry out any necessary maintenance, updates or repairs. However, ISDA may not be able to provide You with any notice, including where such suspension is necessary because of an emergency or circumstances that ISDA cannot control.

- 2.7 Technical assistance. ISDA may need to provide technical assistance from time to time to ensure proper functioning of CreateiQ. ISDA may need, or may need to provide its suppliers with, access to Your commercial data in order to provide such technical assistance, and, You consent to ISDA and its suppliers accessing Your commercial data solely for this purpose.
- 2.8 Right to Transfer Data. ISDA may need access to Your commercial and other data stored on CreateiQ in order to upgrade or migrate CreateiQ and/or the ISDA Document Sets to a different technical architecture. You consent to ISDA and its suppliers accessing this data for this purpose.
- 3. Fees.
  - 3.1 Fees. You are responsible for determining whether You are an Authorized User. You are required to pay a fee for Your access to and use of CreateiQ if You do not qualify as an Authorized User. If You determine that You should be paying a fee for Your access to and use of CreateiQ, You shall notify ISDA immediately at the address designated in clause 13.3.
  - 3.2 Failure to pay Fee: ISDA reserves the right to terminate Your access to CreateiQ and remove Your data from CreateiQ if it determines that You should have been, but have not been, paying a fee for Your access to and use of CreateiQ.
- 4. License and Restrictions on Use.
  - 4.1 ISDA License. You are granted a nonexclusive, nontransferable and, subject to clauses 4.2 and 4.7, non-sublicensable license to access and to use CreateiQ and the Content for the Term of Use and for Your internal business purposes in accordance with these Terms and Conditions. Your use of CreateiQ to access, generate and negotiate ISDA Document Sets is governed solely by these Terms and Conditions. The license includes: (a) the right to access CreateiQ; and (b) the right to access, generate and negotiate ISDA Document Sets on CreateiQ. You are also granted a perpetual, nonexclusive, nontransferable right to download and archive each version of the document that You negotiate on CreateiQ and then utilize such documents solely for Your own internal business purposes or in connection with the documenting of specific transactions.
  - 4.2 Sub-license. The license granted pursuant to clause 4.1 shall be sublicensable to Your financial and legal advisors for the purposes of negotiating the ISDA Document Sets.
  - 4.3 Your License. You hereby grant ISDA a nonexclusive, nontransferable, sublicensable license to use Your Intellectual Property Rights (i) to the extent the use of such Intellectual Property Rights is required or useful for the operation or functioning of CreateiQ from time to time; and (ii) when combined with other Users' data in an aggregated and anonymized fashion for analytical or advocacy purposes.

- 4.4 No storage. You shall not rely on CreateiQ to store any draft, agreed form or executed documents on CreateiQ and shall ensure that You download or otherwise take and retain archived copies of each version of the documents You negotiate on CreateiQ, as well as any of Your data on CreateiQ, for Your records. While ISDA does not intend to delete documents from CreateiQ, ISDA cannot guarantee retention.
- 4.5 Execution of ISDA Document Sets. You will satisfy Yourself that You and any counterparty have executed any ISDA Document Sets You have negotiated on CreateiQ validly and in accordance with the Law.
- 4.6 No Proprietary Interest. You acknowledge that You have no Intellectual Property Rights in CreateiQ and that all Intellectual Property Rights subsisting or otherwise embodied in CreateiQ belong to ISDA, the provider of CreateiQ or its third-party suppliers of materials. You may not remove or obscure the copyright or trademark notices or other notices contained in any ISDA Document Sets or Content.
- 4.7 Copyright Protection. CreateiQ is protected by copyright pursuant to U.S. and international copyright laws. You may not copy, reproduce, disassemble, modify, decompile, reverse engineer any object code, publish, transmit, participate in the transfer or sale of, distribute, display or in any way exploit, in print, machine-readable or any other form, any aspect of CreateiQ, in whole or in part, or create any derivative works, except in accordance with these Terms and Conditions. You have a limited right to generate and negotiate through CreateiQ certain ISDA Document Sets and forms of confirmation, schedules and supplements related thereto for which reproduction is necessary in order to use such documents solely in connection with the completion of specific commercial transactions between You and a Counterparty. Otherwise You may not reproduce, distribute, offer for sale or create derivative works of any documents that You obtain or create on or through CreateiQ.
- 4.8 No Legal Advice. CreateiQ, ISDA Document Sets and the Content is not intended to be, or to contain, legal advice. You acknowledge that the provision of access to and the use of CreateiQ, ISDA Document Sets and the Content does not constitute legal advice. To the extent you deem legal advice appropriate, you should consult with independent counsel.
5. Data Protection and Privacy. To the extent that ISDA processes any Personal Data on behalf of You, the remainder of this clause 5 shall apply.
- 5.1 Data Protection.
- 5.1.1 General. ISDA shall:
- 5.1.1.1 only process Personal Data on Your documented instructions, unless required to process that Personal Data for other purposes by Law. Where such a requirement is placed on ISDA, it shall provide prior notice to You unless the relevant Law prohibits the giving of notice;

- 5.1.1.2 reasonably seek to inform You if, in its opinion, Your instructions would be in breach of Data Protection Legislation;
- 5.1.1.3 provide reasonable assistance to You to respond to requests from individuals exercising their rights under Data Protection Legislation; and
- 5.1.1.4 provide reasonable assistance to You to conduct privacy impact assessments where required under Data Protection Legislation.
- 5.1.2 Evidence of compliance. At Your request, ISDA shall provide reasonably required evidence of its compliance with this clause 5 and, upon receiving reasonable written notice from You, allow You to audit that compliance (either itself or by using an auditor nominated by You) at Your sole cost, and at all times directed and supervised by ISDA or ISDA's nominee to protect the Intellectual Property Rights of ISDA and ISDA's confidentiality obligations to its clients. All results of any such audit shall be treated as ISDA's confidential information and a copy of the results shall promptly be delivered to ISDA.
- 5.1.3 Retainage. On termination of these Terms and Conditions, ISDA shall delete any Personal Data. ISDA may retain a copy of such Personal Data only to the extent it is obliged to do so by Law.
- 5.1.4 Transfers. ISDA shall not transfer Personal Data processed under these Terms and Conditions to a country which does not provide the level of protection for Personal Data required by the Data Protection Legislation except with Your consent or otherwise using a valid method of transfer.
- 5.2 Data security. ISDA shall, or shall direct that its sub-contractors shall, implement appropriate technical and organizational measures to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access. This shall include:
  - 5.2.1 provisions reasonably devised to ensure that its employees, agents or other persons to whom it provides access to Personal Data are obliged to keep it confidential;
  - 5.2.2 the use of pseudonymization and encryption of Personal Data, where appropriate;
  - 5.2.3 measures reasonably calculated to ensure the ongoing confidentiality, integrity, availability and resilience of ISDA's, or its sub-contractors' systems and services;
  - 5.2.4 the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident;
  - 5.2.5 a process for reasonable periodic testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing of Personal Data; and
  - 5.2.6 providing reasonable assistance to You to comply with Your own data security obligations under Data Protection Legislation.

- 5.3 Security breaches. ISDA shall promptly notify You should it become aware of a security breach affecting the Personal Data.
- 5.4 Use of sub-processor
- 5.4.1 Authorization. You provide a general authorization to ISDA to engage further processors to process Personal Data (“**Further Processors**”).
- 5.4.2 Changes to processors. ISDA shall give You prior notice of any intended addition to or replacement of those Further Processors. If You reasonably object to that change, You may terminate these Terms and Conditions on 30 days’ written notice to ISDA.
- 5.4.3 Contracts with processors. ISDA shall ensure that it has a written contract with any Further Processors which it engages to process Personal Data. That contract must impose obligations on any such Further Processor equivalent to those set out in this clause 5.
6. Confidentiality: You shall treat as strictly confidential and not disclose or use any information received or obtained in connection with these Terms and Conditions. However, this shall not prohibit the disclosure of such information to the extent: (i) required by law, (ii) it becomes publicly available other than as a result of a breach of an obligation of confidentiality, (iii) the information is already in Your possession or is independently developed by You; or (iv) ISDA has given prior written approval to the disclosure.
7. Website and Privacy.
- 7.1 Website. ISDA and its suppliers may publish Your name on their websites to identify You as a user of CreateiQ.
- 7.2 Privacy. You acknowledge that prior to using CreateiQ that You have read and agree to the CreateiQ Privacy Notice (<app.createiq.tech/privacy>) existing as of the date You enter this Agreement, as made available on CreateiQ, and are urged to consult ISDA’s website from time to time to familiarize Yourself with future revisions of the Privacy Notice.
8. Warranty Disclaimer.
- 8.1 As is. CreateiQ, and the ISDA Document Sets and Content contained on CreateiQ, are provided on an “as is” and “as available” basis. ISDA, on behalf of itself and any third-party supplier, expressly disclaims all warranties, including the warranties of merchantability, fitness for a particular purpose and noninfringement.
- 8.2 No warranties. ISDA does not warrant that CreateiQ is or will be free of errors, defects, viruses, malicious, destructive or corrupting code, program, macros or malfunctions.
9. Limitation of Liability.
- 9.1 No Liability for Covered Party. A Covered Party shall not be liable for any loss, injury, claim, liability or damage of any kind whatsoever resulting from, arising out of or in any

- way related to: (a) any errors in or omissions from CreateiQ; (b) Your use of CreateiQ; (c) Your use of any equipment or software in connection with CreateiQ; (d) the ISDA Document Sets and the Content; or (e) any delay or failure in performance.
- 9.2 Aggregate Liability. The aggregate liability of the Covered Parties in connection with any other claim arising out of or relating to CreateiQ (whether under contract, tort, equity or otherwise) shall not exceed \$500 USD.
- 9.3 No Liability for Special Damages. None of the Covered Parties shall be liable for any special, indirect, incidental, punitive or consequential damages of any kind whatsoever (including, without limitation, attorneys fees), expectation damages lost profits or lost savings in any way due to, resulting from or arising in connection with CreateiQ, regardless of any negligence of any Covered Party.
- 9.4 No Liability for Technical Issues. ISDA shall not be liable for any damage or loss that may be caused due to any errors, defects, viruses, malicious, destructive or corrupting code, program, macros or malfunctions on CreateiQ.
- 9.5 No Liability for Incorrect Access to CreateiQ. ISDA shall not be liable for any losses, damages, costs or expenses incurred by You in the event that any Login Credentials are used by an unauthorized third party to access CreateiQ.
10. User Representations. You hereby represent and warrant that: (a) You have read these Terms and Conditions in their entirety before accessing CreateiQ; (b) You will at all times comply with applicable Law, including, but not limited to, all applicable Sanctions, with respect to Your use of CreateiQ and Your performance of Your obligations under these Terms and Conditions; (c) You will not, and You will ensure that any person who accesses CreateiQ with Your authorization does not, use CreateiQ to infringe, misappropriate or violate the rights of ISDA or third parties; (d) You or the organization on whose behalf You access CreateiQ for the purpose of accessing, generating and/or negotiating ISDA Document Sets are a member of ISDA; and (e) You will, and You will ensure that any person who accesses CreateiQ under your authorization will, comply at all times with these Terms and Conditions, as they may be amended from time to time.
11. Term and Termination
- 11.1 Term of License. These Terms and Conditions will apply to Your use of CreateiQ from time to time. ISDA may, in its sole discretion, terminate Your access to CreateiQ at any time and reason. ISDA will endeavor to provide as much notice as is reasonably practicable prior to terminating Your access.
- 11.2 Effect of termination. On the termination or expiry of these Terms and Conditions, Your right to access CreateiQ, and the access of any person who accesses CreateiQ on Your behalf, shall cease.
- 11.3 Survival of Rights. Termination or expiry of these Terms and Conditions shall not affect any rights or obligations which may have accrued prior to termination or expiry. The obligations of each Party set out in any clause intended to survive such termination or expiry, including clauses 1, 4.1, 4.6, 4.7, 4.8, 6, 8, 9, and 13 shall continue in full force and effect notwithstanding termination or expiry of these Terms and Conditions.

12. Force majeure. No party shall be liable to the other party for any failure to fulfil its duties hereunder (other than a duty to pay any fees) if and to the extent that such failure results from an act or event affecting the performance by a party of its obligations hereunder arising from events beyond its reasonable control.
13. Miscellaneous.
- 13.1 Amendment of Terms and Conditions. These Terms and Conditions may be amended by ISDA from time to time on 45 days' prior written notice, which may be provided either in the form of a notice via CreateiQ and/or an announcement on ISDA's website that is in a format and a form reasonably designed to provide notice to users of CreateiQ.
- 13.2 Precedence. If there is any conflict between the provisions set out in these Terms and Conditions and any agreement You may have signed with ISDA for the use of CreateiQ and/or the use, generation and/or negotiation of ISDA Document Sets on CreateiQ (including as previously known as ISDA Create) (an "**Existing Agreement**"), the provisions of the Existing Agreement shall take precedence.
- 13.3 Notices. Except as otherwise provided herein, all notices and other communications hereunder shall be in writing or sent and displayed electronically. Notices shall be deemed to have been properly given on the date deposited in the U.S. mails, if mailed, or on the date received, if delivered in any other manner. Notices to You may be sent to any or all of Your registered email addresses on CreateiQ. **Notices to ISDA should be sent to Head of Administration, ISDA, 10 East 53<sup>rd</sup> Street, 9<sup>th</sup> Floor, New York, New York 10022 or by e-mail to [isdacreate@isda.org](mailto:isdacreate@isda.org) or as otherwise notified to ISDA from You in writing.**
- 13.4 No Waiver. The failure of ISDA to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.
- 13.5 No Assignment. You may not assign Your rights or delegate Your obligations under these Terms and Conditions.
- 13.6 Entire Agreement. These Terms and Conditions constitute the entire agreement between the parties with respect to the subject matter hereof. All prior agreements, understandings, negotiations or representations, whether oral or in writing, relating to the subject matter hereof are superseded and canceled in their entirety.
- 13.7 Invalidity of Any Provision. If any provision hereof is adjudged to be invalid, void or unenforceable, the parties agree that the remaining provisions hereof will not be affected thereby, that the provision in question may be replaced by a lawful provision that most nearly embodies the original intention of the parties and that these Terms and Conditions will in any event remain valid and enforceable.
- 13.8 Governing Law. These Terms and Conditions have been made in and shall be construed and enforced in accordance with New York law, without regard to its conflicts of laws principles. The parties agree that the exclusive venue for all proceedings relating to the interpretation, administration or enforcement of this Agreement shall be in the Supreme Court Courts of the State of New York (Manhattan), County of New York, or if the



jurisdictional elements are satisfied, the United States District Court for the Southern District of New York.

**THIS AGREEMENT IS NOT BINDING ON ISDA, AND YOU MAY NOT USE CreateiQ TO ACCESS, GENERATE AND/OR NEGOTIATE ANY ISDA DOCUMENT SETS, UNLESS YOUR FIRM IS AN AUTHORIZED USER (AS DEFINED ABOVE).**