

**DATED:** \_\_\_\_\_

**Gold Bullion Securities Limited**

**ETFS Management Company (Jersey) Limited**

and

***[name of Approved Applicant]***

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**Approved Applicant Agreement**

**relating to**

**Gold Bullion Securities**

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**THIS AGREEMENT** is dated

**BETWEEN**

**Gold Bullion Securities Limited**, a company incorporated and registered in Jersey with registered number 87322, of Ordnance House, 31 Pier Road, St Helier, Jersey JE4 8PW, Channel Islands (“**GBS**”);

**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 Approved Applicant*], a company incorporated and registered in [*England*] with registered number [ ], of [*address of Approved Applicant*] (“**AA**”).

**WHEREAS**

- A. GBS has established a programme for the issuance of Gold Bullion Securities to be admitted to the Official List of the UK Listing Authority and traded on the London Stock Exchange; and
- B. GBS wishes to appoint AA as one of the Approved Applicants.

**IT IS AGREED** as follows:

**1. Definitions**

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:

**Administrator** means R&H Fund Services (Jersey) Limited of Ordnance House, 31 Pier Road, St. Helier, Jersey JE4 8PW, Channel Islands or such other person as may be appointed by GBS from time to time to perform administration services;

**Affiliate** means, with respect to any person, entity or organisation, any other person, entity or organization which directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such person, entity or organization; and for this purpose, “control” means the direct or indirect ownership of fifty per cent or more in aggregate of voting capital;

**Application** means the making of an offer to subscribe for Gold Bullion Securities on the terms prescribed from time to time by GBS in the Prospectus and the Application Form;

**Application Date** means the date which an Application is confirmed by GBS in accordance with the provisions of the Prospectus and the Application Form;

**Application Order** means an application for the issue of a number of Gold Bullion Securities given through the System in accordance with the Internet Order Procedures and as described in paragraph 2 of Part A of Schedule 4;

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

**AA User Guide** means the document entitled the Approved Applicants User Guide issued by

or on behalf of GBS on or about November 2016;

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

- (i) with respect to AA only, any spreadsheet forwarded by ManJer and/or GBS to AA which details the methodology for pricing of or valuing Gold Bullion Securities, and
- (ii) with respect to AA, GBS 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;

**Internet Order Procedures** means the procedures for Applications for and Redemptions of Gold Bullion Securities set out in Schedule 4;

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

**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 Gold Bullion Securities that are permitted to be issued due to the maximum Programme size filed with the UK Listing Authority;

**Prospectus** means the prospectus issued by GBS dated on or about *[insert date of most recent prospectus, along with any supplementary prospectus]*, relating to Gold Bullion Securities;

**Redemption Order** means a request for the redemption of a number of Gold Bullion Securities given through the System in accordance with the Internet Order Procedures and as described in paragraph 2 of Part B of Schedule 4;

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

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

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

- a. 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 AA as Approved Applicant**

- a. For the purposes of the definition of an Approved Applicant, GBS hereby approves AA as an Approved Applicant.
- b. AA is hereby appointed as an Approved Applicant and is authorised to create and redeem Gold Bullion Securities in accordance with the terms hereof, provided that AA may delegate the carrying out of any of its obligations hereunder to any Affiliate of AA, and further provided that any such Affiliate to which the creation and/or redemption of any Gold Bullion Security is/are delegated is an Authorised Person, an Exempt Person or an Overseas Person.

## **3. Representations, Warranties and Covenants AA**

AA 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 Gold Bullion Securities.

## **4. Representations, Warranties and Covenants by GBS and ManJer**

GBS and ManJer represent, warrant and covenant that:

- a. GBS 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 (the “**FSMA**”) 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 FSMA;

- d. they will promptly inform AA of any significant developments with respect to GBS and Gold Bullion Securities;
- e. the representations and warranties contained in Schedule 2 are true and accurate and shall remain so throughout the term of this Agreement;
- f. they will comply with the undertakings in Schedule 2;
- g. they will not amend or agree to amend any of the provisions of any Approved Applicant Agreement without first having given to all other Approved Applicants prior written notice of the amendments and of the date on which such amendments are to become effective; and
- h. they will appoint any further or additional Approved Applicants 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, AA shall deliver to the Administrator and GBS, and GBS shall deliver to AA, 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 AA or GBS (each such person an “**Approved Person**”).
- b. Each of AA and GBS will comply with the creation procedures set out in the Prospectus and the Application Form, and 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 4 and any transfer of gold to be made pursuant to any Application or Redemption Notice will be made in accordance with those procedures, Schedule 4 and the Conditions.
- c. AA agrees that for every Application it gives to GBS for the creation of less than 350,000 Gold Bullion Securities, it will pay to GBS a fee, in such manner as GBS may direct, of an amount equal to US\$500 or such lesser amount as may be accepted by GBS either generally or on any particular occasion. No fee will be charged for Applications made for the creation of 350,000 or more Gold Bullion Securities. AA further agrees that for the purposes of Condition 2.8, the Redemption Fee shall be US\$750 (including VAT) or such lesser amount as may be accepted by GBS either generally or on any particular occasion and shall be payable in such manner as GBS may direct.
- d. To the extent that certain provisions of the Prospectus and the Application Form are expressed in Schedule 4 not to apply in relation to Application Orders and Redemption Orders, such provisions shall not apply thereto. Subject to the foregoing, the Prospectus, the Application Form, the Trust Instrument and the Conditions (respectively) shall apply to Application Orders and Redemption Orders as they do to other Applications and Redemption Notices. GBS will use its reasonable endeavours to make the System available on each Business Day but shall not have any liability to AA for any failure by GBS or its agents to maintain the availability or utility of the System. AA agrees to comply with its obligations under the AA User Guide and to operate the System in accordance with the AA User Guide. In the event of any conflict between the AA 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. AA shall following execution hereof notify GBS by means of a duly executed authorisation letter in the form from time to time prescribed by GBS or otherwise in a form reasonably satisfactory to GBS and in each case completed to the reasonable satisfaction of GBS, 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 AA 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. AA agrees that each Authorised User shall be deemed to be duly authorised to act for and on behalf of AA for the purpose of the System with the authority applicable to his authorisation level as described in the AA User Guide;
- iii. AA shall notify GBS in writing by means of a Revocation of Access Form in the form from time to time prescribed by GBS or otherwise in a form reasonably satisfactory to GBS and in each case completed to the reasonable satisfaction of GBS:
  - 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 GBS 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. AA shall from time to time notify GBS in such form as GBS 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. GBS reserves the right to terminate the Authorised User's access to the System immediately and without notice upon any breach by AA of this Agreement or any breach by the Authorised User of the conditions referred to in paragraph (h) or otherwise as GBS may determine;
  - vi. GBS shall provide AA with or procure the provision to AA of a username and initial password for access to the Website for each of such Authorised Users. It shall be the responsibility of AA 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 AA who are authorised to do so. AA 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, AA shall notify GBS and the Administrator of the same; and
  - vii. AA 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 AA with paragraphs (b) to (e) (inclusive), AA 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 GBS or the Administrator to maintain the security of those passwords.
- g. AA acknowledges that the AA 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 AA or any Authorised User regarding the System is the exclusive and confidential property of ManJer and its suppliers. AA shall keep the Material confidential by using the same care and discretion that AA uses with respect to its own confidential property and trade secrets. AA 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. GBS, 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, AA shall, provided that such documents and Materials are in a form which is capable of delivery, return to GBS all copies of the Material which are in AA's possession or under its control, *provided that* AA 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. AA 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 GBS 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 AA User Guide;
- ii. that he represents warrants and undertakes to GBS 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 GBS or he breaches any of the conditions of his access to the System or otherwise as GBS 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 AA 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*** AA 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 GBS all copies of the Material which are in his possession or under his control, ***provided that*** AA 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 GBS shall reasonably determine from time to time; ***provided that*** GBS shall provide AA with not less than thirty Business Days' notice of any additional conditions to be imposed under this paragraph (h).

## **6. Indemnification**

***[AA may elect to delete Clauses (a) –(d) (with consequential amendments to Clause 7 and Clause 10(b).]***

- a. AA hereby agrees to indemnify and hold harmless ManJer and GBS, each holding company and subsidiary of each of ManJer and GBS (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 “**AA Indemnified Party**”) suffers any loss, liability, damages, costs and expenses (including legal fees) incurred by such AA Indemnified Party as a result of or in connection with any breach by AA of any of the Selling Restrictions.



- b. GBS and ManJer, jointly and severally hereby agree to indemnify and hold harmless AA, each holding company and subsidiary of AA (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 AA 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 GBS of any provision of this Agreement that relates to ManJer or GBS;
  - (ii) failure or alleged failure on the part of ManJer or GBS to perform any of their obligations set forth in this Agreement; or
  - (iii) failure or alleged failure by ManJer or GBS to comply with applicable laws or regulation.
- 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 AA Indemnified Party or the ManJer Indemnified Party, as the case may be.
- d. Save in respect of the provisions set out in the Prospectus, the Application Form, the Conditions dealing with procedures for creations and redemptions of Gold Bullion Securities and Schedule 4, none of ManJer, GBS and AA shall be liable to each other or to any other person, including any party claiming by, through or on behalf of AA, 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.

## **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 Clause[s 6 and] 8 shall survive such termination.

## **8. Notices**

- a. Except as specified in Clause 11(c), a notice given under or in connection with this Agreement (a “**Notice**”):
- (i) shall be in writing, in English and signed by an Approved Person; and
  - (ii) delivered personally or sent by first class post pre paid recorded delivery (and air mail if overseas) or by fax to the party due to receive the Notice to the address set out in Clause 9(a) or to another address, person or fax number specified by that party by not less than seven days' written notice to the other party received before the Notice was despatched.
- b. Unless there is evidence that it was received earlier, a Notice is deemed given if:
- (i) delivered by hand, at the time of actual delivery;
  - (ii) sent by mail, except air mail, two Business Days after posting it;
  - (iii) sent by air mail, six Business Days after posting it; and

- (iv) sent by fax, when confirmation of its transmission has been recorded by the sender's fax machine.

c. The addresses and numbers of the parties for the purposes of Clause 8(a)(ii) are:

Name of party	Address	Facsimile No.	Marked for the attention of
GBS and ManJer	Ordnance House 31 Pier Road St Helier Jersey JE4 8PW		
AA	[Address of AP]	[Fax of AP]	[name and title]

## 9. Contact Details

### *Primary Fax Numbers*

a. The Primary Fax Numbers of AA and GBS for the purpose of this Agreement are as follows:

GBS:

Fax:

AA:

Fax: [to be inserted]

Administrator:

Fax:

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. AA may notify a change to its Primary Fax Number, and GBS may notify a change to its or to the Administrator'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 Administrator, 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 AA 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 construed in accordance with the laws of England.
- b. Each party hereby irrevocably agrees that the courts of England 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 including without limitation disputes in relation to any non-contractual obligations arising 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 AA, 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 GBS is ETF Securities (UK) Limited, 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 GBS 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 AA may assign or transfer its rights and/or obligations hereunder to an Affiliate of AA 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**

AA hereby agrees that it shall have recourse in respect of any claim under this Agreement only to sums derived from the Secured Property, subject always to the Security (as defined in the Security Deed) and any such claim by AA shall be reduced *pro rata* so that the total of all such claims does not exceed the aggregate value of the Secured Property after meeting claims secured on it. The Trustee (or any other secured party) having realised the same, neither AA nor any person acting on its behalf shall be entitled to take any further steps against GBS to recover any further sums and no debt shall be owed by GBS to such person in respect of any such further sum. In particular, AA 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 GBS.

### **14. Publication of Prospectus**

- a. Subject to Clause 14(b) below, AA 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, GBS will during the term of this Agreement deliver to AA, free of charge, such number of copies of the Prospectus as AA may from time to time reasonably request, including any pricing supplement or supplementary prospectus.

### **15. Confidentiality**

- (a) Each of AA, GBS and ManJer shall treat as confidential and shall not disclose or transmit to any third party except to their Affiliates, employees, officers directors, agents and professional advisers Confidential Information. 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 disclosed by a third party or that becomes public other than by a breach of this provision by the receiving party or of any confidentiality obligation owed by that third party; (iii) any information that is independently developed by the receiving party without knowingly using or referencing Confidential Information received from the providing party; or (iv) any information that is already known to or in possession of the receiving party prior to its disclosure by the providing party pursuant to this Agreement, unless such information, when received, was subject to separate confidentiality obligations.
- (b) Notwithstanding the foregoing, either party may disclose Confidential Information if such disclosure is (i) requested (orally or in writing) by any regulatory authority or court or (ii) required by law, regulation, interrogatory, administrative proceedings, inspection, audit, civil investigative demand, court order or other legal, governmental or regulatory process to be disclosed by the receiving party.
- (c) The Receiving Party shall use commercially reasonable efforts to notify the Sending Party of such disclosure as provided at Clause 15(b) and shall, at the request and expense of the Sending Party, to obtain reasonable assurance that confidential treatment will be accorded to the Confidential Information.
- (d) Notwithstanding Clause 15(c) or anything else contrary contained herein, AA and its Affiliates may disclose Confidential Information, without notice to GBS or ManJer, to any governmental agency, regulatory authority or self-regulatory authority (including, without limitation, bank and securities examiners) having or claiming to have authority to regulate or

oversee any aspect of AA's business or that of its Affiliates in connection with the exercise of such authority or claimed authority.

**EXECUTED** by the parties:

SIGNED by )  
for and on behalf of )  
**GOLD BULLION SECURITIES** )  
**LIMITED** )

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

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

## Schedule 1

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

### 1 General

#### No action to permit public offering

- 1.1 AA acknowledges that, save for the approval of the Prospectus by the UK Listing Authority in accordance with Part VI of the FSMA having been obtained, no action has been or will be taken (without the prior written consent of GBS) in any jurisdiction by it that would permit a public offering of Gold Bullion Securities, or possession or distribution of any offering material in relation thereto, in any country or jurisdiction where action for that purpose is required.

AA acknowledges that GBS does not (i) represent that Gold Bullion 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 Gold Bullion Securities in any jurisdiction other than the United Kingdom in circumstances that would result in any legal or regulatory requirement being imposed on GBS save as expressly provided for in this Agreement.

#### 1.2 *AA's compliance with applicable laws*

AA undertakes to GBS 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 Gold Bullion Securities or has in its possession or distributes offering material, in all cases at its own expense.

### 2 United States

In relation to the Gold Bullion Securities AA represents, warrants and undertakes to GBS that neither it nor any of its Affiliates (including any person acting on behalf of AA 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, Gold Bullion Securities within the United States or to a United States 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 Gold Bullion Securities.

Terms used above have the meanings given to them by Regulation S under the Securities Act.

### 3 European Economic Area

#### 3.1 AA represents, warrants and undertakes to GBS:

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 Gold Bullion 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 Gold Bullion Securities to the public in that Relevant Member State:

- (a) if the final terms in relation to the Gold Bullion Securities specify that an offer of those Gold Bullion 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 Gold Bullion 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 GBS 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 Gold Bullion Securities referred to in paragraphs (b) to (d) require GBS or the AA to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this paragraph 3, the expression an “**offer of Gold Bullion Securities to the public**” in relation to any Gold Bullion 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 Gold Bullion Securities to be offered so as to enable an investor to decide to purchase or subscribe for Gold Bullion Securities, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State, the expression “**Prospectus Directive**” means Directive 2003/71/EC (and amendments thereto including the 2010 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**

4.1.1 *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 Gold Bullion Securities in circumstances in which section 21(1) of the FSMA does not apply to GBS or any Affiliate of GBS.

4.1.2 *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 Gold Bullion 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 GBS and ManJer are as follows:*

### 1 Representations and Warranties of GBS and ManJer

GBS and ManJer do, on the date of this Agreement, and shall on each date on which AA makes an Application and on each date on which the amount of gold due with respect to an Application for Gold Bullion Securities is delivered be deemed, jointly and severally, to represent to, warrant to and agree with AA that:

- 1.1 **Due Incorporation:** GBS 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 **Validity of Documents:** the execution and delivery of the Documents by GBS has been duly authorised by GBS and the Documents constitute, and upon due execution, authentication, issue and delivery, the Gold Bullion Securities will constitute valid and legally binding obligations of GBS
- 1.3 **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 Gold Bullion Securities, the carrying out of the other transactions contemplated by the Documents or the compliance by GBS and/or ManJer (as the case may be) with the terms of the Gold Bullion Securities and the Documents, as the case may be, have been obtained and are in full force and effect
- 1.4 **Compliance:** the execution and delivery of the Documents, the issue of the Gold Bullion 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 GBS or any agreement or instrument to which GBS 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 GBS, or any of its properties
- 1.5 **Prospectus:** (i) the Prospectus contains all information with respect to GBS, the Gold Bullion Securities and any related contract entered into by GBS that is material in the context of the issue and offering of the Gold Bullion 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 GBS and the rights attaching to the Gold Bullion Securities), (ii) the statements contained in it relating to GBS are in every material particular true and accurate and not misleading, (iii) there are no other facts in relation to GBS or the Gold Bullion Securities the omission of which would, in the context of the issue and offering of the Gold Bullion Securities, make any statement in the Prospectus misleading in any material respect, and (iv) all reasonable enquiries have been made by GBS to ascertain such facts and to verify the accuracy of all such information and statements
- 1.6 **Litigation:** there are no pending actions, suits or proceedings against or affecting GBS or any of its properties
- 1.7 **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 definition of “Defaulted Obligation” in the Prospectus

- 1.8 Directed Selling Efforts:** neither GBS 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 Gold Bullion Securities and each of them has complied and will comply with the offering restrictions requirement of such Regulation
- 1.9 Collective Investment Scheme:** to the best of GBS’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, GBS does not constitute a “collective investment scheme” or an “open-ended investment company” for the purposes of the FSMA and any applicable secondary legislation made under it
- 1.10 SETS and CREST:** the Gold Bullion Securities qualify for settlement and trading within the SETS and CREST settlement and trading systems.

## **2 Undertakings of GBS and ManJer**

Each of GBS and ManJer jointly and severally agree with AA that:

- 2.1 Representations and Warranties:** it shall notify the AA 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 AA, to remedy and/or publicise the same
- 2.2 Restrictions:** it shall at all times comply with Clause 15 of the Trust Instrument
- 2.3 Information:** it shall furnish to AA such information concerning GBS as AA 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 AA 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 Gold Bullion 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 AA makes an Application and (ii) each date on which the amount of gold due with respect to an Application for Gold Bullion Securities is delivered, the aggregate number of Gold Bullion Securities outstanding will not exceed the Programme Limit (after giving effect to the issuance of such Gold Bullion Securities and of any other Gold Bullion Securities to be issued, and to the redemption of Gold Bullion 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 Gold Bullion Securities or the Documents

- 2.8 Authorised Representative:** it shall notify AA 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 GBS or if any additional person shall be so authorised and, unless and until notified of any such change, AA 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 GBS
- 2.9 Securities Act:** it shall not issue, offer or sell any securities under circumstances that would require the registration of any of the Gold Bullion Securities under the Securities Act
- 2.10 Meetings of Security Holders:** it shall give AA notice of any meeting of Security Holders 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 AA 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 GBS or AA (each, an “Approved Person”) are as follows:*

#### **Signature verification for [Insert name of AA] in relation to Gold Bullion Securities**

I, [name of person], [title] for the above mentioned, confirm that the persons specified below are authorised signatories of [Insert name of AA] 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]

Date \_\_\_\_\_

**Schedule 4**  
**Web-based Order System**  
**Part A**  
**Application Orders**

GBS shall give AA written notice of the date from which the System will be used for Applications in accordance with this Part A.

- a. Applications may be made through the System. Applications in any other form 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 Applications in accordance with this Part A or in such other circumstances as GBS may reasonably determine from time to time upon written notice to AA.
- b. An Application made through the System in accordance with the AA User Guide shall have the same effect, and other than the requirement to be made by way of Application Form, shall be subject to the same conditions as if an Application with the same particulars had been delivered to GBS in accordance with the provisions of the Prospectus and the Application Form.
- c. AA shall, subject to Clause 5(f), be deemed for the purposes of this Agreement to have made an Application if it has been inputted and approved by an Authorised User on the Website using a username and password belonging to AA by the user clicking “Approve”.

## **Part B**

### **Redemption Orders**

GBS shall give AA written notice of the date from which the System will be used for the submission of Redemption Notices for Redemptions to be satisfied by the Gold Delivery Method in accordance with this Part B.

1. Redemption Notices for Redemptions to be satisfied by the Gold Delivery Method may be given through the System. Gold Delivery Method Redemption Notices shall not be given other than through the System unless the System is affected by a breakdown or other problem such that it is not possible to give such Redemption Notices in accordance with this Part B or in such other circumstances as GBS may reasonably determine from time to time upon written notice to AA.
2. A Redemption Notice given through the System in accordance with the AA 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 GBS in accordance with Condition B.1.
3. AA shall, subject to Clause 5(f), be deemed for the purposes of this Agreement to have given a Redemption Notice if it has been inputted and approved by an Authorised User on the Website using a username and password belonging to AA by the user clicking "Approve".
4. Without prejudice to Condition B.1(c), a Redemption Notice given through the System shall only be valid if it meets the requirements specified in paragraphs (i) to (iv) of Conditions B.1(c) and shall be irrevocable in accordance with paragraph (vii) of Condition B.1(c).
5. Without prejudice to Condition B.1(d), a Redemption Notice given on a day which is not a Business Day or after 3.00 p.m. on a Business Day will be treated for the purposes of this Agreement as though it had been lodged on the following Business Day.