

Disclosure of movement of 1% or more in substantial holding or change in nature of relevant interest, or both

Sections 277 and 278, Financial Markets Conduct Act 2013

To: NZX Limited

and

To: Metlifecare Limited

Relevant event being disclosed: Movement of 1% or more in substantial holding

Date of relevant event: 22 October 2020

Date this disclosure made: 28 October 2020

Date last disclosure made: 28 October 2020

Substantial product holder(s) giving disclosure

Full name(s): **UBS Group AG and its related bodies corporate**

Summary of substantial holding

Class of quoted voting products: **Ordinary shares**

Summary for: **UBS Group AG and its related bodies corporate**

For this disclosure,—

(a) total number held in class: 42,277,509

(b) total in class: 213,304,722

(c) total percentage held in class: 19.82%

For **last** disclosure,—

(a) total number held in class: 40,005,657

(b) total in class: 213,304,722

(c) total percentage held in class: 18.76%

Details of transactions and events giving rise to relevant event

Details of the transactions or other events requiring disclosure: Please see Appendix B.

Details for: UBS AG Singapore Branch

Nature of relevant interest(s): Broker has the right to use over this position under a Securities Lending agreement

For that relevant interest,—

(a) number held in class: 790

(b) percentage held in class: 0.0004%

(c) current registered holder(s): Not applicable

(d) registered holder(s) once transfers are registered: UBS AG Singapore Branch

For a derivative relevant interest, also —

- (a) type of derivative: Not applicable
- (b) details of derivative: Not applicable
- (c) parties to the derivative: Not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

Details for: UBS Asset Management (Australia) Ltd

Nature of relevant interest(s): Fund Manager with power to exercise control over voting shares

For that relevant interest,—

- (a) number held in class: 224,243
- (b) percentage held in class: 0.11%
- (c) current registered holder(s): Not applicable
- (d) registered holder(s) once transfers are registered: UBS Asset Management (Australia) Ltd

For a derivative relevant interest, also—

- (a) type of derivative: Not applicable
- (b) details of derivative: Not applicable
- (c) parties to the derivative: Not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

Details for: UBS Asset Management (Deutschland) GmbH

Nature of relevant interest(s): Fund Manager with power to exercise control over voting shares

For that relevant interest,—

- (a) number held in class: 51,506
- (b) percentage held in class: 0.02%
- (c) current registered holder(s): Not applicable
- (d) registered holder(s) once transfers are registered: UBS Asset Management (Deutschland) GmbH

For a derivative relevant interest, also—

- (a) type of derivative: Not applicable
- (b) details of derivative: Not applicable
- (c) parties to the derivative: Not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

Details for: UBS Asset Management (Singapore) Ltd

Nature of relevant interest(s): Fund Manager with power to exercise control over voting shares

For that relevant interest,—

- (a) number held in class: Not applicable
- (b) percentage held in class: Not applicable
- (c) current registered holder(s): Not applicable
- (d) registered holder(s) once transfers are registered: Not applicable

For a derivative relevant interest, also—

- (a) type of derivative: swap
- (b) details of derivative: 192,104 cash-settled swap (0.09% held in class)
- (c) parties to the derivative: various clients entering into equity swap transactions through UBS Asset Management (Singapore) Ltd. Please see Appendix A
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

Details for: UBS Asset Management Trust Company

Nature of relevant interest(s): Fund Manager with power to exercise control over voting shares

For that relevant interest,—

- (a) number held in class: 6,925
- (b) percentage held in class: 0.003%
- (c) current registered holder(s): Not applicable
- (d) registered holder(s) once transfers are registered: UBS Asset Management Trust Company

For a derivative relevant interest, also—

- (a) type of derivative: Not applicable
- (b) details of derivative: Not applicable
- (c) parties to the derivative: Not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

Details for: UBS Asset Management (UK) Limited

Nature of relevant interest(s): Fund Manager with power to exercise control over voting shares

For that relevant interest,—

- (a) number held in class: 52,142
- (b) percentage held in class: 0.02%
- (c) current registered holder(s): Not applicable
- (d) registered holder(s) once transfers are registered: UBS Asset Management (UK) Limited

For a derivative relevant interest, also—

- (a) type of derivative: Not applicable
- (b) details of derivative: Not applicable
- (c) parties to the derivative: Not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

Details for: UBS Fund Management (Switzerland) AG

Nature of relevant interest(s): Fund Manager with power to exercise control over voting shares

For that relevant interest,—

- (a) number held in class: 102,107
- (b) percentage held in class: 0.05%
- (c) current registered holder(s): Not applicable
- (d) registered holder(s) once transfers are registered: UBS Fund Management (Switzerland) AG

For a derivative relevant interest, also—

- (a) type of derivative: Not applicable
- (b) details of derivative: Not applicable
- (c) parties to the derivative: Not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

Details for: UBS O'Connor LLC

Nature of relevant interest(s): Fund Manager with power to exercise control over voting shares

For that relevant interest,—

- (a) number held in class: Not applicable
- (b) percentage held in class: Not applicable
- (c) current registered holder(s): Not applicable
- (d) registered holder(s) once transfers are registered: Not applicable

For a derivative relevant interest, also—

- (a) type of derivative: swap
- (b) details of derivative: 7,275,850 cash-settled swap (3.41% held in class)
- (c) parties to the derivative: various clients entering into equity swap transactions through UBS O'Connor LLC. Please see Appendix A
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

Details for: UBS New Zealand Limited

Nature of relevant interest(s): Beneficial Owner

For that relevant interest,—

- (a) number held in class: 1,899,416
- (b) percentage held in class: 0.89%
- (c) current registered holder(s): Not applicable
- (d) registered holder(s) once transfers are registered: UBS New Zealand Limited

For a derivative relevant interest, also—

- (a) type of derivative: Not applicable
- (b) details of derivative: Not applicable
- (c) parties to the derivative: Not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

Details for: UBS AG London Branch

Nature of relevant interest(s): Beneficial Owner

For that relevant interest,—

- (a) number held in class: 20,651,227
- (b) percentage held in class: 9.682%
- (c) current registered holder(s): Not applicable
- (d) registered holder(s) once transfers are registered: UBS AG London Branch

Nature of relevant interest(s): Prime Broker that has the right to exercise its borrowing right in respect of shares pursuant to a Prime Broking Agreement

For that relevant interest,—

- (a) number held in class: 11,821,199
- (b) percentage held in class: 5.54%
- (c) current registered holder(s): Not applicable
- (d) registered holder(s) once transfers are registered: UBS AG London Branch

For a derivative relevant interest, also—

- (a) type of derivative: Not applicable
- (b) details of derivative: Not applicable
- (c) parties to the derivative: Not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

Additional information

Address(es) of substantial product holder(s):

Name	Addresses
UBS AG Singapore Branch	One Raffles Quay,#50-01 North Tower, Singapore 048583
UBS Asset Management (Australia) Ltd	Level 16, Chifley Tower, 2 Chifley Square, Sydney, Australia
UBS Asset Management (Deutschland) GmbH	Bockenheimer Landstrasse 2-4, Frankfurt am Main, Germany
UBS Asset Management (Singapore) Ltd	One Raffles Quay #50-01 North Tower, Singapore
UBS Asset Management Trust Company	Illinois Corporation Service Company 801 Adlai Stevenson Drive, Springfield, IL, USA
UBS Asset Management (UK) Limited	5 Broadgate, London, United Kingdom
UBS Fund Management (Switzerland) AG	Aeschenplatz 6, Basel, Switzerland
UBS O'Connor LLC	Maples Fiduciary Services (Delaware) Inc.Ltd, 4001 Kennett Pike, Suite 302, Wilmington, USA
UBS New Zealand Limited	Level 17,PWC Tower,188 Quay Street, Auckland, New Zealand
UBS AG London Branch	5 Broadgate, London, United Kingdom

Contact details: **Andrew Costley**Tel: **+852 3712 3707**Email: andrew.costley@ubs.com

Nature of connection between substantial product holders:

UBS AG Singapore Branch: Related body corporate

UBS Asset Management (Australia) Ltd: Related body corporate

UBS Asset Management (Deutschland) GmbH: Related body corporate

UBS Asset Management (Singapore) Ltd: Related body corporate

UBS Asset Management Trust Company: Related body corporate

UBS Asset Management (UK) Limited: Related body corporate

UBS Fund Management (Switzerland) AG: Related body corporate

UBS O'Connor LLC: Related body corporate

UBS New Zealand Limited: Related body corporate

UBS AG London Branch: Related body corporate

Name of any other person believed to have given, or believed to be required to give, a disclosure under the Financial Markets Conduct Act 2013 in relation to the financial products to which this disclosure relates: Not applicable

Certification

We, certify that, to the best of our knowledge and belief, the information contained in this disclosure is correct and that we are duly authorised to make this disclosure by all persons for whom it is made.

SIGNATURE

Print Name: Andrew Costley

Capacity: Authorised signatory

Sign Here:



Date: 28 October 2020

Print Name: Joanne Chan

Capacity: Authorised signatory

Sign Here:



Date: 28 October 2020

Appendix A - For a derivative relevant interest

Details for	Type of Derivative (A)	Details of Derivative (A)				Parties to the Derivative (C)
		Notional value of the Derivative	Settlement Type	Expiry date of Derivative (B)	Prices Specified in the terms of the derivative (if any)	
UBS Asset Management (Singapore) Ltd	Swap Agreement	1,137,256	Cash	11-Jun-21	5.92	N/A
		8,008,031				
		505,876				
		1,569,818				
UBS O'Connor LLC		2,287,056				
		3,053,595				
	27,648,656					

Date of change	Person whose relevant interest changed	Nature of Change	Consideration given in relation to change	Number of securities	Class
21-Oct-20	UBS AG London Branch	Sell	3,210	(537)	Ordinary
21-Oct-20	UBS AG London Branch	Sell	12,749	(2,132)	Ordinary
21-Oct-20	UBS AG London Branch	Sell	31,885	(5,332)	Ordinary
21-Oct-20	UBS New Zealand Limited	Sell	1,795,500	(300,000)	Ordinary
22-Oct-20	UBS AG London Branch	Buy	347,052	57,987	Ordinary
22-Oct-20	UBS AG London Branch	Buy	897,469	149,963	Ordinary
22-Oct-20	UBS AG London Branch	Buy	1,424,083	237,958	Ordinary
22-Oct-20	UBS AG London Branch	Buy	550,698	92,013	Ordinary
22-Oct-20	UBS AG London Branch	Sell	120	(20)	Ordinary
22-Oct-20	UBS AG London Branch	Buy	897,750	150,000	Ordinary
22-Oct-20	UBS AG London Branch	Sell	87,912	(22,000)	Ordinary
22-Oct-20	UBS AG London Branch	Buy	87,912	22,000	Ordinary
22-Oct-20	UBS AG London Branch	Buy	122,896,260	20,482,710	Ordinary
22-Oct-20	UBS AG London Branch	Buy	24,006	4,001	Ordinary
22-Oct-20	UBS AG London Branch	Buy	132,000	22,000	Ordinary
22-Oct-20	UBS AG London Branch	Sell	44,635	(7,464)	Ordinary
22-Oct-20	UBS AG London Branch	Buy	87,912	22,000	Ordinary
22-Oct-20	UBS AG London Branch	Sell	87,912	(22,000)	Ordinary
22-Oct-20	UBS AG London Branch	Sell	122,896,260	(20,482,710)	Ordinary
22-Oct-20	UBS AG London Branch	Sell	24,006	(4,001)	Ordinary
22-Oct-20	UBS AG London Branch	Sell	132,000	(22,000)	Ordinary
22-Oct-20	UBS New Zealand Limited	Buy	11,377,502	1,899,416	Ordinary

(Multicurrency—Cross Border)

ISDA[®]

International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of August 28, 2000



("Party A")

and

Quantum Partners LDC

("Party B")

have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement, which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows:—

1. Interpretation

- (a) **Definitions.** The terms defined in Section 14 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.
- (b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.
- (c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

(a) General Conditions.

- (i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement
- (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.
- (iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

[Redacted]

("Party A")

[Redacted]

Quantum Partners LDC

("Party B")



By:
Name: Douglas M. Reid
Title: Attorney-in-Fact
Date: August 28, 2000

SCHEDULE

to the

MASTER AGREEMENT

Dated as of

August 28, 2000

between



("Party A")

and

QUANTUM PARTNERS LDC,

a limited duration company organized under the laws of the Cayman Islands

("Party B")

PART 1

Termination Provisions

- (a) **"Specified Entity"** means in relation to Party A for the purpose of:

Section 5(a)(v), Credit Suisse First Boston International, Credit Suisse First Boston (Europe) Limited.

Section 5(a)(vi), none.

Section 5(a)(vii), none.

Section 5(b)(iv), none.

and in relation to Party B for the purpose of:

Section 5(a)(v), none.

Section 5(a)(vi), none.

Section 5(a)(vii), none.

Section 5(b)(iv), none.

- (b) **"Specified Transaction"** has the meaning specified in Section 14.

- (c) The **"Cross-Default"** provisions of Section 5(a)(vi) will apply to Party A and Party B.

"Specified Indebtedness" shall mean any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money other than indebtedness in respect of deposits received.

"Threshold Amount" means (i) with respect to Party A, an amount equal to 3% of the stockholders' equity (or the equivalent thereof in any combination of currencies) as set forth in its latest available annual audited financial statements and (ii) with respect to Party B, 3% of Net Asset Value as of last Business Day of the immediately preceding calendar month (or the equivalent thereof in any combination of currencies).

- (d) The **"Credit Event Upon Merger"** provisions of Section 5(b)(iv) will apply.
- (e) The **"Automatic Early Termination"** provision of Section 6(a) will not apply to Party A or Party B.
- (f) **Payments on Early Termination.** For the purpose of Section 6(e):
 - (i) **Market Quotation** will apply.
 - (ii) **Second Method**, incorporating the Set-off provision set out in Part 5 of this Schedule, will apply.
- (g) **"Termination Currency"** means United States Dollars.
- (h) **Additional Termination Event** will apply. The following event shall constitute an Additional Termination Event with respect to a party as specified:
"Party B Termination Event" means the following for which Party B shall be the Affected Party:

Soros Fund Management LLC or a successor investment advisor controlled by George Soros as to which prior written notice shall have been provided to Party A by Party B shall cease to be the investment advisor for Party B ("the Investment Advisor").

PART 2

Tax Representations

- (a) **Payer Representations.** For the purposes of Section 3(e) of this Agreement, Party A and Party B will make the following representation:

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e)) to be made by it to the other party under this Agreement. In making this representation, it may rely on:

- (i) the accuracy of any representation made by the other party pursuant to Section 3(f) of this Agreement;
- (ii) the satisfaction of the agreement of the other party contained in Section 4(a)(i) or 4(a)(iii) and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement; and
- (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement;

provided that it shall not be a breach of this representation where reliance is placed on clause (ii), and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.

- (b) **Payee Representations.** For the purpose of Section 3(f) of this Agreement, Party A makes the following representation:

With respect to Transactions through Party A's New York Office:

Each payment received or to be received by it in connection with this Agreement will be effectively connected with its conduct of a trade or business in the United States.

With respect to Transactions through Party A's London Office:

It is a party to the Transaction otherwise than as agent or nominee of another person and is entering into the Transaction solely for the purposes of a trade or part of a trade carried on by it in the United Kingdom through a branch or agency.

The following representation will apply to Party B:

None

PART 3

Agreement to Deliver Documents

For the purpose of Sections 4(a)(i) and (ii) of this Agreement, each party agrees to deliver the following documents, as applicable:

- (a) Tax forms, documents or certificates to be delivered are:

Party A and Party B will, promptly upon the earlier of (i) reasonably demand by the other party and (ii) learning that the form or document is required, provide any document required or reasonably requested to allow the other party to make payments under this Agreement without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate.

- (b) Other documents to be delivered are:

Party A and Party B will, upon execution of this Agreement, deliver to the other party a Certificate of an authorized officer of the party, certifying the names, true signatures and authority of the officers of the party signing this Agreement.

Party A and Party B will, upon execution of this Agreement, deliver the Credit Support Annex attached hereto.

Party A and Party B will, upon execution of this Agreement, deliver to the other party a certificate of an authorized officer of the party, and any Credit Support Provider certifying the names, true signatures and authority of the officers of the party and any Credit Support Provider signing this Agreement and each Credit Support Document.

Party B will deliver to Party A: (a) within 15 days after each calendar month end, copies of its financial statements for such calendar month end; (b) within 90 days after each of the first three fiscal quarters in each fiscal year of the party, copies of its quarterly financial statements for such fiscal quarter, if publicly available; and (c) within 180 days after each fiscal year of the party, copies of its annual audited financial statements for such fiscal year.

Each of the foregoing documents, other than any legal opinion or Credit Support Annex required pursuant to this Part 3, is covered by the representation contained in Section 3(d) of this Agreement.

PART 4

Miscellaneous

- (a) **Addresses for Notices.** For the purpose of Section 12(a) of this Agreement:

Address for notices or communications to Party A:



Address for notices or communications to Party B:

Address specified in the relevant Confirmation or otherwise by the acting Office sending the same. Any notice or communications sent to Party B in connection with any matter arising under Section 5 or 6 shall be copied to the following addresses:

For notices to the Counterparty:

ORIGINAL: Quantum Partners LDC
c/o Curacao International Trust Company N.V.
Kaya Flamboyan 9
PO Box 812
Willemstad, Curacao
Netherlands Antilles
Telex: 3445 CITCO NA
Phone: 599-9732-2422
Fax: 599-9732-2420

DUPLICATES:
(Investment Manager)

Jonathan Seligson
Soros Fund Management LLC
888 Seventh Avenue, 33rd Floor
New York, NY 10106
Phone 212-603-2640
Fax: 917-206-4107

**FOR TRADE REFERENCE/FUNDING REQUIREMENTS, PLEASE CALL
JONATHAN SELIGSON AT SOROS FUND MANAGEMENT LLC ON 212-603-
2640.**

- (b) **Process Agent.** For the purpose of Section 13(c):

Party A appoints as its Process Agent in the State of New York:

Its New York Branch

Party B appoints as its Process Agent in the State of New York:

Soros Fund Management LLC
888 Seventh Avenue, 33rd Floor
New York, New York 10106
Attn: General Counsel

- (c) **Offices.** The provisions of Section 10(a) will apply to Party A.

- (d) **Multibranch Party.** For the purpose of Section 10:

Party A is a Multibranch Party and will act through the following Offices:

Hong Kong, London, Melbourne, New York, Singapore, Tokyo and Zurich

Party B is not a Multibranch Party.

- (e) **Calculation Agent.** The Calculation Agent is Party A, unless otherwise specified in a Confirmation in relation to the relevant Transaction, whose calculations shall at all times be made in good faith and a commercially reasonable manner.

- (f) **Credit Support Document.** Details of any Credit Support Document:

With respect to both parties, the Credit Support Annex shall be a Credit Support Document for all purposes hereunder.

- (g) **Credit Support Provider.** Not applicable.

- (h) **GOVERNING LAW.** THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE.

- (i) **Netting of Payments.** Section 2(c)(ii) of this Agreement will apply to any Transactions from the date of this Agreement provided that the parties hereto agree that they will

endeavor to agree that Section 2(c)(ii) of this Agreement will not apply to all Transactions should it be administratively possible to do so.

- (j) **"Affiliate"** will have the meaning specified in Section 14 of this Agreement.

PART 5

Other Provisions

- (a) **Scope of Agreement.** Any Specified Transaction (whether now existing or hereafter entered into) between the parties, the confirmation of which fails by its terms expressly to exclude application of this Agreement, shall be governed by and be subject to this Agreement. Any such confirmation shall be a "Confirmation", and any such Specified Transaction shall be a "Transaction", for all purposes of this Agreement.
- (b) **Conflicts with Related Terms.** Party A and Party B hereby acknowledge that in the Confirmations of certain Transactions it may be market practice to refer to or incorporate agreements other than the Agreement or to certain defined terms other than ISDA sponsored terms (such other agreements and terms, "Related Terms"). Accordingly, Section 1(b) of the Agreement is hereby amended to provide that in the event of any inconsistency or other conflict between the Related Terms of any Transaction and either the Agreement or any defined terms incorporated by reference or referred to therein, such Related Terms shall prevail solely with regard to the calculation and determination of the amount of the parties' respective payment obligations under such Transaction (and the due dates therefor) for purposes of Section 2(a)(i) and (ii) of the Agreement. In every other respect, in the event of any inconsistency or other conflict, the terms of the Agreement shall prevail. For the avoidance of doubt and without prejudice to the generality of the foregoing, the parties agree that Sections 5 and 6 of the Agreement and all other provisions of the Agreement relating to termination, termination payments or enforcement generally, shall prevail over any inconsistent Related Terms of any Transaction.
- (c) **Definitions.** Unless otherwise specified in a Confirmation, this Agreement incorporates, and is subject to and governed by the 1991 ISDA Definitions (as supplemented by the 1998 Supplement) (the "1991 Definitions") published by the International Swap and Derivatives Association, Inc. ("ISDA") (i) the 1998 FX and Currency Option Definitions (the "1998 Definitions") published by ISDA, the Emerging Markets Traders Association ("EMTA") and the Foreign Exchange Committee with respect to FX Transactions and Currency Options (as defined in the 1998 Definitions") and (ii) the 1997 Bullion Definitions (the "1997 Definitions") with respect to Bullion Transactions, without regard to amendments subsequent to the date thereof, except that references in the 1991 Definitions to "Swap Transaction" shall be deemed references to a "Transaction" for purposes of this Agreement."
- (d) **Confirmations.** Each Confirmation shall be substantially in the form of one of the Exhibits to the ISDA Definitions in existence from time to time which are specifically relevant to the Transaction, or in such other form as the parties may agree. Any documents or other confirming evidence (including electronic messages) exchanged between the parties confirming any such Specified Transaction shall be deemed a "Confirmation", even if not described as such.
- (e) **Additional Representations.** Section 3 of this Agreement is amended by the addition at the end thereof of the following additional representations:-

- (1) **No Agency.** It is entering into this Agreement and each Transaction as principal (and not as agent or in any other capacity, fiduciary or otherwise).
- (2) **No Reliance.** In connection with the negotiation of, the entering into, and the confirming of the execution of, this Agreement, any Credit Support Document, each Transaction, and any other documentation relating to this Agreement to which it is a party or that it is required by this Agreement to deliver: (i) the other party hereto or thereto is not acting as a fiduciary or financial or investment advisor for it; (ii) it is not relying (for purposes of making any investment decision or otherwise) upon any advice, counsel or representations (whether written or oral) of the other party hereto or thereto other than the representations expressly set forth in this Agreement, in such Credit Support Document, and in any Confirmation; (iii) the other party hereto or thereto has not given to it (directly or indirectly through any other person) any assurance, guaranty, or representation whatsoever as to the expected or projected success, profitability, return, performance, result, effect, consequence, or benefit (either legal, regulatory, tax financial, accounting, or otherwise) of this Agreement, such Credit Support Document, such Transaction, or such other documentation; (iv) it has consulted with its own legal, regulatory, tax, business, investment, financial, and accounting advisors to the extent it has deemed necessary, and it has made its own investment, hedging, and trading decisions (including decisions regarding the suitability of any Transaction pursuant to this Agreement) based upon its own judgment and upon any advice from such advisors as it has deemed necessary and not upon any view expressed by the other party hereto or thereto; (v) it has determined that the rates, prices, or amounts and other terms of each Transaction and the indicative quotations (if any) provided by the other party hereto or thereto reflect those in the relevant market for similar transactions, and all trading decisions have been the result of arm's length negotiations between the parties; (vi) it is entering into this Agreement, such Credit Support Document, and each Transaction, and any other documentation relating to this Agreement with a full understanding of all of the terms, conditions and risks hereof and thereof (economic and otherwise), and it is capable of assuming and willing to assume (financially and otherwise) those risks. "
- (f) **Additional Representations and Warranties.** Party B additionally represents and warrants to Party A as of the date hereof and as of the date of each Transaction: (i) it understands that the foreign exchange and other commodity markets are subject to complex risks, which may arise without warning and may at times be volatile, and that losses may occur quickly and in unanticipated magnitude; (ii) it is prepared to bear and is capable of bearing (financially and otherwise) all risks associated with each Transaction; (iii) it will enter into each Transaction hereunder for business or investment purposes only; (iv) the Investment Advisor has the full power and authority to commit Party B to Transactions and conclude Transactions on behalf of Party B on such terms and conditions as the Investment Advisor may determine in its absolute discretion; (v) it has sufficient assets (and in the applicable Currencies or Bullion) as necessary to effect settlement of all Transactions governed by the Agreement (assuming all commodity options are exercised); and (vi) Party B is not required to registered as an investment company under the U.S. Investment Company Act of 1940, as amended.

- (g) **Notice of Event of Default.** Each of Party A and Party B agree on behalf of itself to promptly notify the other Party of the occurrence of any Event of Default with respect to itself.
- (h) **Time is of the essence.** Time is of the essence of the parties' agreement.
- (i) **Early Termination.** Section 6 is revised by adding the following subsection:

“(f) Set-off. Any amount (the “Early Termination Amount”) payable to one party (the Payee) by the other party (the Payer) under Section 6(e), in circumstances where there is a Defaulting Party or one Affected Party in the case where a Termination Event under Section 5(b)(iv) has occurred, will, at the option of the party (“X”) other than the Defaulting Party or the Affected Party (and without prior notice to the Defaulting Party or the Affected Party), be reduced by its set-off against any amount(s) (the “Other Agreement Amount”) payable (whether at such time or in the future or upon the occurrence of a contingency) by the Payee to the Payer (irrespective of the currency, place of payment or booking office of the obligation) under any other agreement(s) between the Payee and the Payer or instrument(s) or undertaking(s) issued or executed by one party to, or in favor of, the other party (and the Other Agreement Amount will be discharged promptly and in all respects to the extent it is so set-off). X will give notice to the other party of any set-off effected under this provision.

For this purpose, either the Early Termination Amount or the Other Agreement Amount (or the relevant portion of such amounts) may be converted by X into the currency in which the other is denominated at the rate of exchange at which such party would be able, acting in a commercially reasonable manner and in good faith, to purchase the relevant amount of such currency.

If an obligation is unascertained, X may in good faith and a commercially reasonable manner estimate that obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained.

Nothing in this provision shall be effective to create a charge or other security interest. This provision shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise).”

- (i) **Escrow Payments.** If by reason of the time difference between the cities in which payments are to be made, it is not possible for simultaneous payments to be made on any date on which both parties are required to make payments hereunder, Party A may at its option and in its sole discretion notify the other party that payments on that date are to be made in escrow. In this case deposit of the payment due earlier on that date shall be made by 2:00 p.m. (local time at the place for the earlier payment) on that date with an escrow agent selected by Party A, accompanied by irrevocable payment instructions (i) to release the deposited payment to the intended recipient upon receipt by the escrow agent of the required deposit of the corresponding payment from the other party on the same date accompanied by irrevocable payment instructions to the same effect or (ii) if the required deposit of the corresponding payment is not made on that same date, to return the payment deposited to the party that paid it into escrow. The party that elects to

have payments made in escrow shall pay the costs of the escrow arrangements and shall cause those arrangements to provide that the intended recipient of the payment due to be deposited first shall be entitled to interest on that deposited payment for each day in the period of its deposit at the rate offered by the escrow agent for that day for overnight deposits in the relevant currency in the office where it holds that deposited payment (at 11:00 a.m. local time on that day) if that payment is not released by 5:00 p.m. local time on the date it is deposited for any reason other than the intended recipient's failure to make the escrow deposit it is required to make hereunder in a timely fashion.

- (k) **Telephonic Recording.** The parties agree that, with respect to Transactions, each party may electronically record all telephonic conversations between them and that any such tape recordings may be submitted in evidence to any court or in any proceedings relating to this Agreement.
- (l) **Waiver of Jury Trial.** Each party hereto hereby irrevocably waives any and all right to trial by jury in any Proceedings.
- (m) **Additional Defined Terms.** For purposes of Section 14 the following terms shall have the following meanings, unless otherwise defined herein:

"Investment Advisor" means Soros Fund Management LLC or any successor investment advisor.

"Net Asset Value" or **"NAV"** means, as of any date of determination, Total Assets minus Total Adjusted Liabilities, as of such date. **"Total Assets"** means, as of such date, all assets of Party B which in accordance with generally accepted accounting principles would be classified as assets upon the balance sheet of Party B prepared as of such date. **"Total Adjusted Liabilities"** means, as of such date, all liabilities of Party B which in accordance with generally accepted accounting principles would be classified as liabilities upon the balance sheet of Party B prepared as of such date.

"Net Asset Value Per Share" means, as of any date of determination, Total Assets minus Total Adjusted Liabilities then divided by the number of shares outstanding, as of such date. **"Total Assets:"** means, as of such date, all assets of Quantum Fund N.V. which in accordance with generally accepted accounting principles would be classified as assets upon the balance sheet of Quantum Fund N.V. prepared as of such date. **"Total Adjusted Liabilities"** means, as of such date, all liabilities of Quantum Fund N.V. which in accordance with generally accepted accounting principles would be classified as liabilities upon the balance sheet of Quantum Fund N.V. prepared as of such date.

- (n) The parties agree that the definitions and provisions contained in Annexes 1 to 5 and Section 6 of the EMU Protocol published by the International Swaps and Derivatives Association, Inc. on 6th May, 1998 are incorporated into and apply to this Agreement. References in those definitions and provisions to any "ISDA Master Agreement" will be deemed to be references to this Agreement.
- (o) **Change of Account.** Section 2(b) of this Agreement is hereby amended by the addition of the following after the word "delivery" in the first line thereof:

"to another account in the same legal and tax jurisdiction as the original account, unless no adverse tax consequences would result for either party."

(p) **Eligible Swap Participant.** Each party represents to the other that it is an "eligible swap participant" as defined under the regulations of the Commodity Futures Trading Commission, currently at 17 C.F.R. ̄35.1(b)(2).

(q) **FDICIA Representation.** The following representation shall apply to the Agreement:

Party A hereto hereby represents and warrants to Party B that it is a "financial institution" for purposes of Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended (12 U.S.C. ̄4402) and the regulations promulgated pursuant thereto.

(r) **Investment Advisor as Agent.** Unless previously notified in writing by the Counterparty, Party A may rely on all representations and warranties of and actions by Soros Fund Management LLC (or any successor Investment Advisor) in relation to any Transaction. For these purposes, Party B agrees to fully and unconditionally indemnify Party A for any and all losses, damages, costs and expenses directly sustained by Party A (including those incurred in unwinding any Transaction and any relevant hedging transaction, but excluding those incurred as a result of Party A's gross negligence or willful misconduct) by reason of (i) its bona fide reliance on the appointment by instructions, actions or ostensible authority given to Soros Fund Management LLC (or any successor Investment Advisor) as the Party B's investment advisor and agent to enter into Transactions on its behalf which losses, damages, costs and expenses are directly related to (i) the invalidity, unenforceability, termination or revocation of such appointment (unless previously notified in writing by Party B) or (ii) breach by Soros Fund Management LLC (or any successor Investment Advisor), of the terms and obligations set forth in any applicable advisory agreement entered into between Party B and any successor Investment Advisor. Notwithstanding anything to the contrary herein, Part 5(r) of the Schedule shall survive any termination of the Agreement.

(s) **Amendment and Restatement of Prior Agreements.** The parties agree that this Agreement replaces Amended and Restated International Foreign Exchange Master Agreement, dated February 23, 1995 and the International Bullion Master Agreement, dated February 23, 1995 between Credit Suisse First Boston, New York branch (formerly known as Credit Suisse, New York branch) and Quantum Partners LDC (the "Prior Agreement") and that every transaction covered by the Prior Agreement will be deemed a Transaction for the purposes of this Agreement and will be governed by this Agreement.

(t) Parties further agree that the Credit Support Annex which constitutes a Credit Support Document with respect to Party B under this Agreement shall replace the Amended and Restated Security Agreement, dated February 23, 1995 (the "Security Agreement") and that every transaction covered by the Security Agreement will have the benefits of the Credit Support Annex under this Agreement.

- (u) **Potential Event of Default.** The following shall be inserted at the end of the definition of "Potential Event of Default" in Section 14 of the Agreement:

“, and has not been waived or otherwise resolved to the other party's satisfaction.”

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.



QUANTUM PARTNERS LDC


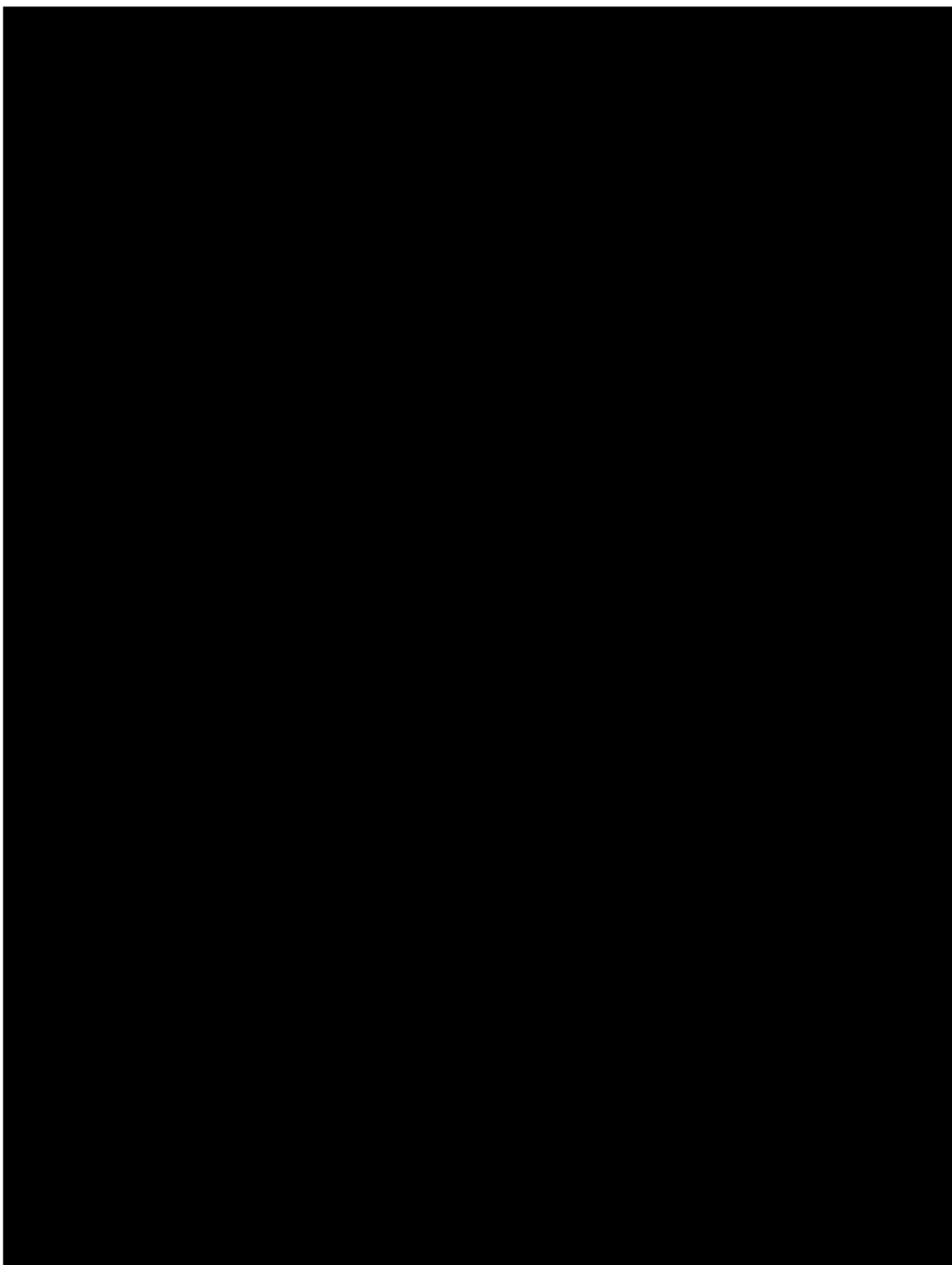
By: 
Name: Douglas M. Reid
Title: Attorney-in-Fact
Date: August 28, 2000

EXHIBIT I



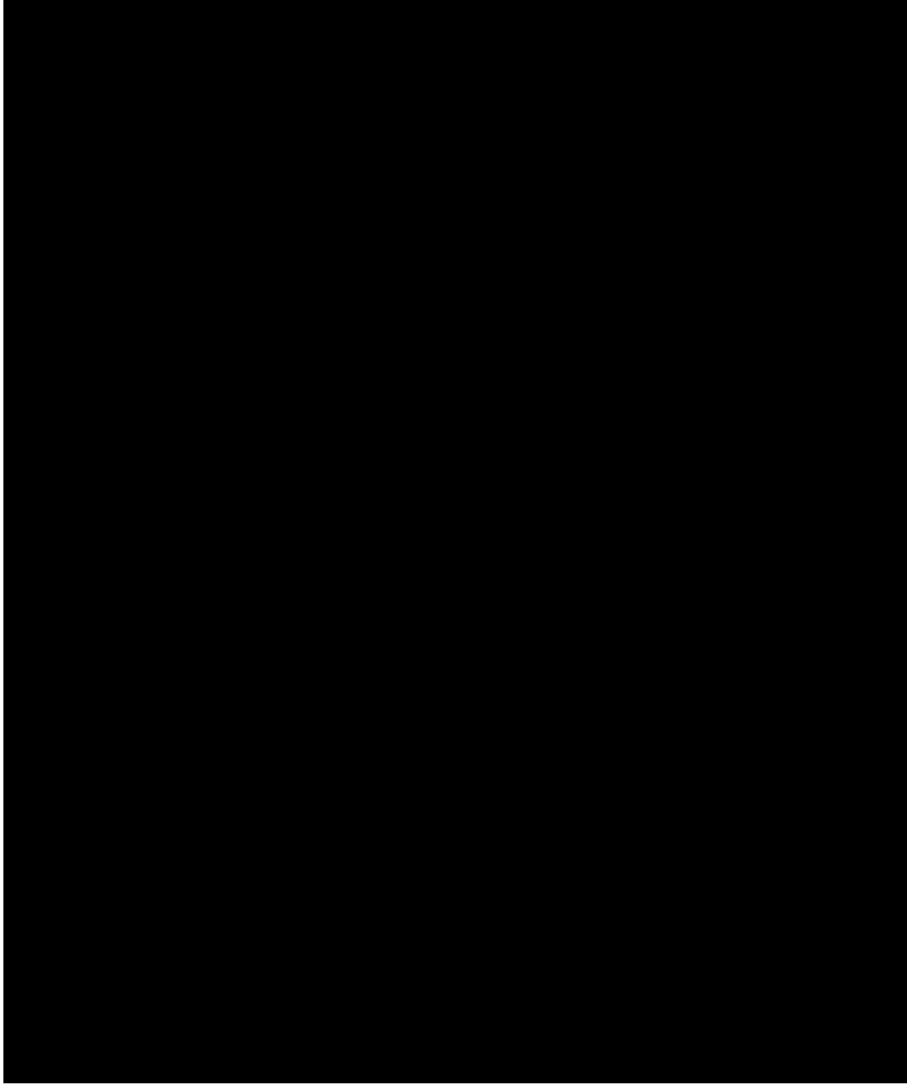


EXHIBIT II

Addresses for Party B

Confirmation relating to Transactions shall be forwarded by Party A to Party B and its agents as follows:

ORIGINAL: Quantum Partners LDC
c/o Curacao International Trust Company N.V.
Kaya Flamboyan 9
PO Box 812
Willemstad, Curacao
Netherlands Antilles
Telex: 3445 CITCO NA
Phone: 599-9732-2422
Fax: 599-9732-2420

DUPLICATES: Jonathan Seligson
(Investment Manager) Soros Fund Management LLC
888 Seventh Avenue, 33rd Floor
New York, NY 10106
Phone 212-603-2640
Fax: 917-206-4107

FOR TRADE REFERENCE/FUNDING REQUIREMENTS, PLEASE CALL JONATHAN SELIGSON AT SOROS FUND MANAGEMENT LLC ON 212-603-2640.

(Bilateral Form)

(ISDA Agreements Subject to New York Law Only)

ISDA®

International Swaps and Derivatives Association, Inc.

CREDIT SUPPORT ANNEX

to the Schedule to the

ISDA Master Agreement

dated as of August 28, 2009

between



("Party A")

and

Quantum Partners LDC

("Party B")

This Annex supplements, forms part of, and is subject to, the above-referenced Agreement, is part of its Schedule and is a Credit Support Document under this Agreement with respect to each party.

Accordingly, the parties agree as follows:—

Paragraph 1. Interpretation

(a) **Definitions and Inconsistency.** Capitalized terms not otherwise defined herein or elsewhere in this Agreement have the meanings specified pursuant to Paragraph 12, and all references in this Annex to Paragraphs are to Paragraphs of this Annex. In the event of any inconsistency between this Annex and the other provisions of this Schedule, this Annex will prevail, and in the event of any inconsistency between Paragraph 13 and the other provisions of this Annex, Paragraph 13 will prevail.

(b) **Secured Party and Pledgor.** All references in this Annex to the "Secured Party" will be to either party when acting in that capacity and all corresponding references to the "Pledgor" will be to the other party when acting in that capacity; *provided, however*, that if Other Posted Support is held by a party to this Annex, all references herein to that party as the Secured Party with respect to that Other Posted Support will be to that party as the beneficiary thereof and will not subject that support or that party as the beneficiary thereof to provisions of law generally relating to security interests and secured parties.

Paragraph 2. Security Interest

Each party, as the Pledgor, hereby pledges to the other party, as the Secured Party, as security for its Obligations, and grants to the Secured Party a first priority continuing security interest in, lien on and right of Set-off against all Posted Collateral Transferred to or received by the Secured Party hereunder. Upon the Transfer by the Secured Party to the Pledgor of Posted Collateral, the security interest and lien granted hereunder on that Posted Collateral will be released immediately and, to the extent possible, without any further action by either party.

Paragraph 13. Elections and Variables

(a) *Security Interest for "Obligations".*

The term "*Obligations*" as used in this Annex includes the following additional obligations:

With respect to Party A: None.

With respect to Party B: None.

(b) *Credit Support Obligations.*

(i) *Delivery Amount, Return Amount and Credit Support Amount.*

(A) "*Delivery Amount*" has the meaning specified in Paragraph 3(a).

(B) "*Return Amount*" has the meaning specified in Paragraph 3(b).

(C) "*Credit Support Amount*" has the meaning specified in Paragraph 3.

(ii) *Eligible Credit Support.*

The following items will qualify as "*Eligible Credit Support*" for the party specified:

		Party A	Party B	Valuation Percentage
(A)	cash	X	X	100%
(B)	negotiable debt obligations issued by the U.S. Treasury Department having a residual maturity as at the date of Transfer of one year or less	X	X	100%
(C)	negotiable debt obligations issued by the U.S. Treasury Department having a residual maturity as at the date of Transfer equal to or greater than one year but less than 5 years	X	X	98%
(D)	negotiable debt obligations issued by the U.S. Treasury Department of the having a residual maturity as at the date of Transfer equal to or greater than 5 years but less than 10 years	X	X	98%

		Party A	Party B	Valuation Percentage
(E)	negotiable debt obligations issued and/or guaranteed as to principal and interest by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association, including mortgage-backed securities ("Agency Securities") issued thereby, but excluding interest only or principal only stripped securities, securities representing residual interests in mortgage pools, securities that are not listed on a national securities exchange or regularly quoted on a national quotation service, or securities that constitute or include structured notes or structured debt instruments and any securities representing interests in derivatives	X	X	95%
(F)	In respect of a party, such other assets as the other party (in its capacity as the Transferee) may, from time to time, agree in writing as qualifying as Eligible Credit Support for the purpose of this Annex. For the avoidance of doubt there are no other assets which, as of the date of this Annex, qualify as Eligible Credit Support for either party	X	X	Such percentage as shall from time to time, be specified by the Valuation Agent as applying to such Eligible Credit Support.
(iii)	<i>Other Eligible Support.</i>			
	None.			
(iv)	<i>Thresholds.</i>			
(A)	"Independent Amount" means with respect to Party A:			Zero,
	unless otherwise specified in a Confirmation. Unless otherwise agreed, upon the occurrence and during the continuation of a Credit Rating Decline Event, the Independent Amount with respect to Party A for all Transactions will equal the sum of, for each Transaction or group of Transactions as the case may be, (a) the Independent Amounts specified			

in the related Confirmations (if any) plus (b) 2%, multiplied by the Net Notional Amount for such Transaction or group of Transactions.

"Independent Amount" means with respect to Party B: Zero, unless otherwise specified in a Confirmation. Unless otherwise agreed, upon the occurrence and during the continuation of a Net Asset Value Decline Event, the Independent Amount with respect to Party B for all Transactions will equal the sum of, for each Transaction or group of Transactions as the case may be, (a) the Independent Amounts specified in the related Confirmations (if any) plus (b) 2%, multiplied by the Net Notional Amount for such Transaction or group of Transactions.

- (B) "Threshold": means with respect to Party A: Zero
"Threshold": means with respect to Party B: Zero
- (C) "Minimum Transfer Amount" means with respect to Party A: \$500,000.00
"Minimum Transfer Amount" means with respect to Party B: \$500,000.00
- (D) *Rounding*. The Delivery Amount will be rounded up to the nearest integral multiple of the Rounding Amount.

The Return Amount will be rounded down to the nearest integral multiple of the Rounding Amount or, if the Return Amount is less than the Rounding Amount, rounded down to zero.

In this Paragraph 13(b)(iv)(D) "Rounding Amount" means \$10,000.00.

(c) *Valuation and Timing*.

- (i) "Valuation Agent" means Party A, subject to the following: Party B will automatically become the Valuation Agent (a) if Party A fails to perform its obligations as Valuation Agent in a timely manner, (b) an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing, or (c) an Early Termination Date has been designated in connection with any such event or a Specified Condition with respect to Party A, so long as no Event of Default with respect to Party B has occurred and is continuing and an Early Termination Date has not occurred or been designated in connection with any such event or a Specified Condition with respect to Party B.
- (ii) "Valuation Date" means each Local Business Day.
- (iii) "Valuation Time" means:
- (A) any time on the Valuation Date or other date of calculation, as applicable;
or
- (B) the close of business on the Local Business Day immediately preceding the Valuation Date or date of calculation, as applicable;

as selected by the Valuation Agent, in its discretion, provided that the calculations of Value and Exposure will, as far as reasonably practicable, be made as of approximately the same time on the same date.

(iv) *"Notification Time"* means 10:00 AM, New York time, on a Local Business Day.

(d) *Conditions Precedent and Secured Party's Rights and Remedies.*

No events shall constitute a *"Specified Condition"*.

(e) *Substitution.*

(i) *"Substitution Date"* means the day that the Secured Party becomes satisfied that it has received Substitute Credit Support from the Pledgor for the items of Posted Credit Support specified by the Pledgor in its notice under Paragraph 4(d)(i).

(ii) *Consent.* The Pledgor must obtain the Secured Party's prior consent to any substitution pursuant to Paragraph 4(d).

(f) *Dispute Resolution.*

(i) *"Resolution Time"* means 1:00 PM, New York time, on the Local Business Day following the date on which the notice of the dispute is given under Paragraph 5.

(ii) *Value.*

For the purpose of Paragraphs 5(i)(C) and 5(ii), the Value of Posted Credit Support will be calculated as follows:

(A) With respect to Cash, the face amount thereof.

(B) With respect to any other form of Eligible Collateral, the sum of (1) (x) the mean of the high bid and low asked prices quoted on such date by a mutually agreed principal market maker (the "Market Maker") for such Securities, or (y) if no quotations are available from the Market Maker on such date, the mean of such high bid and low asked prices as of the day, next preceding such date, on which such quotations were available, plus (2) the accrued interest on such Securities (except to the extent Transferred to a party pursuant to any applicable provision of this Agreement or included in the applicable price referred to in subclause (1) of this clause (B)) as of such date, multiplied by the applicable Valuation Percentage.

(iii) *Alternative.*

The provisions of Paragraph 5 will apply.

(g) *Holding and Using Posted Collateral.*

(i) *Eligibility to Hold Posted Collateral; Custodians.*

Party A or its Custodian will be entitled to hold Posted Collateral pursuant to Paragraph 6(b), provided that the following conditions applicable to it are satisfied:

- (A) if it is the Custodian that is holding Posted Collateral, the Custodian and the accounts in which it holds Posted Collateral, are located in the State of New York and shall be first approved by Party B; and
- (B) if it is the party that is holding Posted Collateral, that party is not a Defaulting Party.

Initially, the Custodian for Party A is Credit Suisse First Boston Corporation.

Party B or its Custodian will be entitled to hold Posted Collateral pursuant to Paragraph 6(b), provided that the following conditions applicable to it are:

- (A) if it is the Custodian that is holding Posted Collateral, are located in the State of New York and shall be first approved by Party A, and
- (B) if it is the party that is holding Posted Collateral, that party is not a Defaulting Party.

Initially, the Custodian for Party B is **To Be Advised**.

(ii) *Use of Posted Collateral.*

The provisions of Paragraph 6(c) will apply to Party A.

(h) *Distributions and Interest Amount.*

(i) *Interest Rate.* The "Interest Rate" on any day means the effective rate for Federal Funds as published on Telerate page 118, provided that if, for any reason, Telerate page 118 should be unavailable the Interest Rate shall be such equivalent rate as the Secured Party shall reasonably determine.

(ii) *Transfer of Interest Amount.* The Transfer of the Interest Amount will be made monthly in arrears and on any other Local Business Day on which Equivalent Credit Support in the form of Cash is transferred to the Pledgor pursuant to Paragraph 3(b).

(iii) *Alternative to Interest Amount.* The provisions of Paragraph 6(c)(ii) will apply.

(i) *Additional Representation(s).*

There are no additional representations by either party.

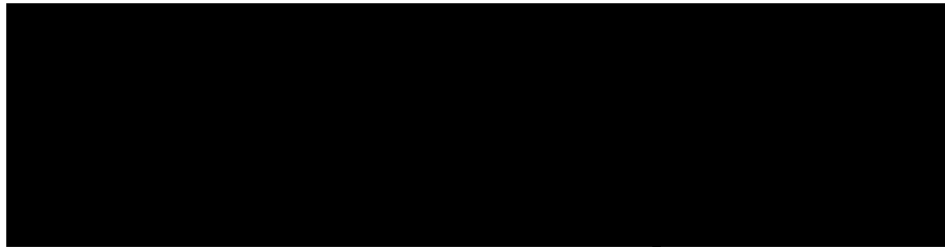
(j) *Other Eligible Support and Other Posted Support:*

Not applicable.

(k) *Demands and Notices.*

All demands, specifications and notices under this Annex will be made pursuant to the Notices Section of this Agreement, save that any demand, specification or notice:

(i) shall be given to or made at the following addresses:



or at such other address as the relevant party may from time to time designate by giving notice (in accordance with the terms of this paragraph) to the other party;

(ii) shall (unless otherwise stated in this Annex) be deemed to be effective at the time such notice is actually received unless such notice is received on a day which is not a Local Business Day or after the Notification Time on any Local Business Day in which event such notice shall be deemed to be effective on the next succeeding Local Business Day.

(l) *Addresses for Transfers.*

(i) *Party A:* to be notified to Party B by Party A at the time of the request for the transfer.

(ii) *Party B:* To be advised

(m) *Other Provisions.*

(i) *Dealings in relation to Posted Collateral - Paragraph 6*

The following new Paragraphs 6(e) and 6(f) are inserted immediately after Paragraph 6(d):

"(e) *Fungible Securities.* In lieu of returning to the Pledgor pursuant to Paragraphs 3(b),4(d),5 and 8(d) any Posted Collateral comprising "securities" (as defined in the Uniform Commercial Code of the State of New York) the Secured Party may return "securities" that are "fungible" (as such term is used in that Code) with such securities.

(f) *No further dealings by Pledgor.* So long as the Agreement is in effect, the Pledgor covenants that it:

(i) will keep the Posted Collateral free from all security interests or other encumbrances created by the Pledgor, except the security interest created hereunder and any security interests or other encumbrances created by the Secured Party;

(ii) will not sell, transfer, assign, deliver or otherwise dispose of, or grant any option with respect to any Posted Collateral or any interest therein, or create, incur or permit to exist any pledge, lien, mortgage, hypothecation, security interest, charge, option or any other encumbrance with respect to any Posted Collateral or any interest therein, without the prior written consent of the Secured Party.

(ii) *Addition and replacement of definitions.*

The following definitions are inserted into the appropriate place in Paragraph 12 and to the extent that the following definition relates to an expression for which there is an existing definition in Paragraph 12, that existing definition is deleted and replaced by the new definition of that expression in this Paragraph 13(m):

"Local Business Day" means any day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in:

(A) New York,

(B) the place where the account into which any Transfer required under this Annex is located, and

(C) either, in the case of Transfer of Cash, the principal financial center of the currency of such Cash or, in the case of a Transfer of other Eligible Collateral or Posted Collateral, the place where the account out of which such Transfer shall be made is located, and, if different, the place where the Transfer will be registered (if applicable).

"Net Asset Value Decline Event" means,

(1) Net Asset Value Per Share, as of the last Business Day of a calendar month, declines by 25% or more from the last Business Day of the immediately preceding calendar month;

- (2) Net Asset Value Per Share, as of the last Business Day of a calendar quarter, declines by 35% or more from the last Business Day of the immediately preceding calendar quarter;
- (3) Net Asset Value Per Share, as of the last Business Day of a calendar year, declines by 50% or more from the last Business Day of the immediately preceding calendar year; or
- (4) Net Asset Value, as of the last Business Day of a calendar month, declines by 50% or more from the last Business Day of the immediately preceding calendar year.

For the purposes of (1), (2), and (3) above, distributions by Quantum Fund N.V. to its shareholders (excluding distributions resulting from the redemption of shares or interests by shareholders of Quantum Fund N.V.) during any relevant period shall be excluded from the calculation of the amount of any decline in the Net Asset Value Per Share of Quantum Fund N.V.

"Credit Rating Decline Event" means,

If, at any time, the long term senior unsecured indebtedness of Credit Suisse First Boston is (A) not rated (1) "A-" or higher by Standard & Poor's Corporation, or (2) "A3" or higher by Moody's Investors Services, or (3) the nearest equivalent rating or higher which is then assigned to such indebtedness by any other nationally recognized rating service then rating such indebtedness, or (B) not rated at all by any nationally recognized rating service.

"Net Notional Amount" means,

With respect to a party, as of the relevant time of determination, and with respect to each group of Transactions of the same type and referencing the same underlying rate, currency, commodity, security, index, or other item, the absolute value of the difference between (a) the aggregate Notional Amounts of Transactions in such group for which the party has a long position in respect of such underlying, and (b) the aggregate Notional Amounts of Transactions in such group for which such party has a short position in respect of such underlying.

- (iii) *Transfer Timing.* Paragraph 4(b) is amended by (A) deleting the word "next" in the third line thereof and replacing it with the word "same"; and (B) deleting the words "second Local Business Day hereafter" in the fifth line thereof and replacing them with the words "next Local Business Day".
- (n) **Expenses.** Notwithstanding any provision of this Annex or the Agreement to the contrary, the costs, fees and expenses of any custodian employed by the Secured Party shall solely for the account of the Secured Party with respect to such Custodian, except that the Pledgor will be responsible for, and will reimburse the Secured Party for all such costs and

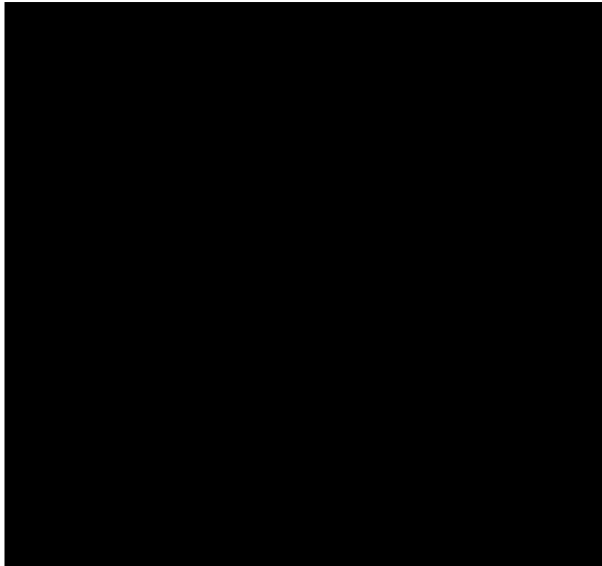
expenses incurred by the Secured Party in connection with performing its obligations under Paragraph 4(d)

- (o) **Certain Rights and Remedies.** The following section (e) shall be inserted in Paragraph 8 at the end thereof:

“(e) **Release of Collateral.** Notwithstanding any provision of this Annex or the Agreement to the contrary, unless otherwise agreed between the parties, if at any time the Secured Party shall hold Posted Credit Support that does not constitute Eligible Credit Support, then the Secured Party shall promptly release and Transfer such Posted Credit Support to the Pledgor, provided however, that the Secured Party shall not be required to transfer such Posted Credit Support to the Pledgor, if the Secured Party will not, as a result of such Transfer, retain Posted Credit Support consisting of Eligible Credit Support with a Value equal to or greater than the Credit Support Amount.”

- (p) **Further Assurances.** The following shall be inserted in Paragraph 11(b) at the end thereof:

“Notwithstanding any provision of this Annex, the Agreement or any Confirmation to the contrary, for so long as Party B shall not have an executive office located in the United States as described in the New York Uniform Commercial Code, as amended, Party A and each Custodian shall not, and shall not permit another to, execute or file, in the name of party B, and Uniform commercial Code financing statements or similar instruments, in any jurisdiction in the United States.”



QUANTUM PARTNERS LDC

By: _____
Name: Douglas M. Reid
Title: Attorney-in-Fact
Date: August 28, 2000

(Multicurrency – Cross Border)

ISDA[®]

International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of **18th September 2019**

Each party listed in Appendix I
hereto, severally and not jointly

and

**Nineteen77 Global Merger
Arbitrage Japan Limited**

have entered and/or anticipate entering into one of more transactions (each a "Transaction") that are or will be governed by this Master Agreement, which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows: —

I. Interpretation

(a) **Definitions.** The terms defined in Section 14 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.

(b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.

(c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

(a) General Conditions.

(i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.

(ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.

(iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

(b) **Change of Account.** Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) **Netting.** If on any date amounts would otherwise be payable: —

- (i) in the same currency; and
- (ii) in respect of the same Transaction,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of Offices through which the parties make and receive payments or deliveries.

(d) **Deduction or Withholding for Tax.**

(i) **Gross-Up.** All payments under this Agreement will be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, then in effect. If a party is so required to deduct or withhold, then that party ("X") will: —

- (1) promptly notify the other party ("Y") of such requirement;
- (2) pay to the relevant authorities the full amount required to be deducted or withheld (including the full amount required to be deducted or withheld from any additional amount paid by X to Y under this Section 2(d)) promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against Y;
- (3) promptly forward to Y an official receipt (or a certified copy), or other documentation reasonably acceptable to Y, evidencing such payment to such authorities; and
- (4) if such Tax is an Indemnifiable Tax, pay to Y, in addition to the payment to which Y is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by Y (free and clear of Indemnifiable Taxes, whether assessed against X or Y) will equal the full amount Y would have received had no such deduction or withholding been required. However, X will not be required to pay any additional amount to Y to the extent that it would not be required to be paid but for: —

(A) the failure by Y to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d); or

(B) the failure of a representation made by Y pursuant to Section 3(f) to be accurate and true unless such failure would not have occurred but for (i) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on

which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (II) a Change in Tax Law.

(ii) **Liability.** If: —

- (1) X is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, to make any deduction or withholding in respect of which X would not be required to pay an additional amount to Y under Section 2(d)(i)(4);
- (2) X does not so deduct or withhold; and
- (3) a liability resulting from such Tax is assessed directly against X,

then, except to the extent Y has satisfied or then satisfies the liability resulting from such Tax, Y will promptly pay to X the amount of such liability (including any related liability for interest, but including any related liability for penalties only if Y has failed to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d)).

(e) **Default Interest; Other Amounts.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(f), at all times until the termination of this Agreement) that: —

(a) **Basic Representations.**

- (i) **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;
- (ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorise such execution, delivery and performance;
- (iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;
- (iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and
- (v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws

affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

(e) **Payer Tax Representation.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(e) is accurate and true.

(f) **Payee Tax Representations.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(f) is accurate and true.

4. Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party: —

(a) **Furnish Specified Information.** It will deliver to the other party or, in certain cases under subparagraph (iii) below, to such government or taxing authority as the other party reasonably directs: —

(i) any forms, documents or certificates relating to taxation specified in the Schedule or any Confirmation;

(ii) any other documents specified in the Schedule of any Confirmation; and

(iii) upon reasonable demand by such other party, any form or document that may be required or reasonably requested in writing in order to allow such other party or its Credit Support Provider to make a payment under this Agreement or any applicable Credit Support Document without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of the party in receipt of such demand), with any such form or document to be accurate and completed in a manner reasonably satisfactory to such other party and to be executed and to be delivered with any reasonably required certification,

in each case by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

(b) **Maintain Authorisations.** It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) **Comply with Laws.** It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

(d) **Tax Agreement.** It will give notice of any failure of a representation made by it under Section 3(f) to be accurate and true promptly upon learning of such failure.

(e) **Payment of Stamp Tax.** Subject to Section 11, it will pay any Stamp Tax levied or imposed upon it or in respect of its execution or performance of this Agreement by a jurisdiction in which it is incorporated, organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting for the purpose of this Agreement is located ("Stamp Tax Jurisdiction") and will indemnify the other party against any Stamp Tax levied or imposed upon the other party or in respect of the other party's execution or performance of this Agreement by any such Stamp Tax Jurisdiction which is not also a Stamp Tax Jurisdiction with respect to the other party.

5. Events or Default and Termination Events

(a) **Events of Default.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an "Event of Default") with respect to such party: —

(i) **Failure to Pay or Deliver.** Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

(ii) **Breach of Agreement.** Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) or to give notice of a Termination Event or any agreement or obligation under Section 4(a)(i), 4(a)(iii) or 4(d)) to be complied with or performed by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) **Credit Support Default.**

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party; or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) **Misrepresentation.** A representation (other than a representation under Section 3(e) or (f)) made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) **Default under Specified Transaction.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) **Cross Default.** If "Cross Default" is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specific Indebtedness of any

of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

(vii) **Bankruptcy.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party:—

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) **Merger Without Assumption.** The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer: —

(1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) **Termination Events.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, a Tax Event if the event is specified in (ii) below or a Tax Event Upon Merger if the event is specified in (iii) below, and, if specified to be applicable, a Credit Event

Upon Merger if the event is specified pursuant to (iv) below or an Additional Termination Event if the event is specified pursuant to (v) below:—

- (i) **Illegality.** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):—
- (1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or
 - (2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;
- (ii) **Tax Event.** Due to (x) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (y) a Change in Tax Law, the party (which will be the Affected Party) will, or there is a substantial likelihood that it will, on the next succeeding Scheduled Payment Date (1) be required to pay to the other party an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount is required to be deducted or withheld for or on account of a Tax (except in respect of interest under Section 2(e), 6(d)(ii) or 6(c)) and no additional amount is required to be paid in respect of such Tax under Section 2(d)(i)(4) (other than by reason of Section 2(d)(i)(4)(A) or (B));
- (iii) **Tax Event Upon Merger.** The party (the "Burdened Party") on the next succeeding Scheduled Payment Date will either (1) be required to pay an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount has been deducted or withheld for or on account of any Indemnifiable Tax in respect of which the other party is not required to pay an additional amount (other than by reason of Section 2(d)(i)(4)(A) or (B)), in either case as a result of a party consolidating or amalgamating with, or merging with or into, or transferring all or substantially all its assets to, another entity (which will be the Affected Party) where such action does not constitute an event described in Section 5(a)(viii);
- (iv) **Credit Event Upon Merger.** If "Credit Event Upon Merger" is specified in the Schedule as applying to the party, such party ("X"), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); of
- (v) **Additional Termination Event.** If any "Additional Termination Event" is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).
- (c) **Event of Default and Illegality.** If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. Early Termination

(a) **Right to Terminate Following Event of Default.** If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party (the "Non-defaulting Party") may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

(b) **Right to Terminate Following Termination Event.**

(i) **Notice.** If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

(ii) **Transfer to Avoid Termination Event.** If either an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there is only one Affected Party, or if a Tax Event Upon Merger occurs and the Burdened Party is the Affected Party, the Affected Party will, as a condition to its right to designate an Early Termination Date under Section 6(b)(iv), use all reasonable efforts (which will not require such party to incur a loss, excluding immaterial, incidental expenses) to transfer within 20 days after it gives notice under Section 6(b)(i) all its rights and obligations under this Agreement in respect of the Affected Transactions to another of its Offices or Affiliates so that such Termination Event ceases to exist.

If the Affected Party is not able to make such a transfer it will give notice to the other party to that effect within such 20 day period, whereupon the other party may effect such a transfer within 30 days after the notice is given under Section 6(b)(i).

Any such transfer by a party under this Section 6(b)(ii) will be subject to and conditional upon the prior written consent of the other party, which consent will not be withheld if such other party's policies in effect at such time would permit it to enter into transactions with the transferee on the terms proposed.

(iii) **Two Affected Parties.** If an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.

(iv) **Right to Terminate. If:—**

(1) a transfer under Section 6(b)(ii) or an agreement under Section 6(b)(iii), as the case may be, has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

(2) an Illegality under Section 5(b)(i)(2), a Credit Event Upon Merger or an Additional Termination Event occurs, or a Tax Event Upon Merger occurs and the Burdened Party is not the Affected Party,

either party in the case of an Illegality, the Burdened Party in the case of a Tax Event Upon Merger, any Affected Party in the case of a Tax Event or an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then

continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) *Effect of Designation.*

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(e) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) *Calculations.*

(i) *Statement.* On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) *Payment Date.* An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment) in the Termination Currency, from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) *Payments on Early Termination.* If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss", and a payment method, either the "First Method" or the "Second Method". If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method", as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) *Events of Default.* If the Early Termination Date results from an Event of Default:—

(1) *First Method and Market Quotation.* If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party over (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party.

(2) *First Method and Loss.* If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the

Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party less (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(ii) *Termination Events.* If the Early Termination Date results from a Termination Event:---

(1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(i)(3), if Market Quotation applies, or Section 6(e)(i)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(2) *Two Affected Parties.* If there are two Affected Parties:—

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (i) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount ("X") and the Settlement Amount of the party with the lower Settlement Amount ("Y") and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (ii) the Termination Currency Equivalent of the Unpaid Amounts owing to Y; and

(B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss ("X") and the Loss of the party with the lower Loss ("Y").

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

(iii) *Adjustment for Bankruptcy.* In circumstances where an Early Termination Date occurs because "Automatic Early Termination" applies in respect of a party, the amount determined under this Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).

(iv) *Pre-Estimate.* The parties agree that if Market Quotation applies an amount recoverable under this Section 6(e) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.

7. Transfer

Subject to Section 6(b)(ii), neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that:—

(a) a party may make such a transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and

(b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(e).

Any purported transfer that is not in compliance with this Section will be void.

8. Contractual Currency

(a) *Payment in the Contractual Currency.* Each payment under this Agreement will be made in the relevant currency specified in this Agreement for that payment (the “Contractual Currency”). To the extent permitted by applicable law, any obligation to make payments under this Agreement in the Contractual Currency will not be discharged or satisfied by any tender in any currency other than the Contractual Currency, except to the extent such tender results in the actual receipt by the party to which payment is owed, acting in a reasonable manner and in good faith in converting the currency so tendered into the Contractual Currency, of the full amount in the Contractual Currency of all amounts payable in respect of this Agreement. If for any reason the amount in the Contractual Currency so received falls short of the amount in the Contractual Currency payable in respect of this Agreement, the party required to make the payment will, to the extent permitted by applicable law, immediately pay such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall. If for any reason the amount in the Contractual Currency so received exceeds the amount in the Contractual Currency payable in respect of this Agreement, the party receiving the payment will refund promptly the amount of such excess.

(b) *Judgments.* To the extent permitted by applicable law, if any judgment or order expressed in a currency other than the Contractual Currency is rendered (i) for the payment of any amount owing in respect of this Agreement, (ii) for the payment of any amount relating to any early termination in respect of this Agreement or (iii) in respect of a judgment or order of another court for the payment of any amount described in (i) or (ii) above, the party seeking recovery, after recovery in full of the aggregate amount to which such party is entitled pursuant to the judgment or order, will be entitled to receive immediately from the other party the amount of any shortfall of the Contractual Currency received by such party as a consequence of sums paid in such other currency and will refund promptly to the other party any excess of the Contractual Currency received by such party as a consequence of sums paid in such other currency if such shortfall or such excess arises or results from any variation between the rate of exchange at which the Contractual Currency is converted into the currency of the judgment or order for the purposes of such judgment or order and the rate of exchange at which such party is able, acting in a reasonable manner and in good faith in converting the currency received into the Contractual Currency, to purchase the Contractual Currency with the amount of the currency of the judgment or order actually received by such party. The term “rate of exchange” includes, without limitation, any premiums and costs of exchange payable in connection with the purchase of or conversion into the Contractual Currency.

(c) *Separate Indemnities.* To the extent permitted by applicable law, these indemnities constitute separate and independent obligations from the other obligations in this Agreement, will be enforceable as separate and independent causes of action, will apply notwithstanding any indulgence granted by the party to which any payment is owed and will not be affected by judgment being obtained or claim or proof being made for any other sums payable in respect of this Agreement.

(d) *Evidence of Loss.* For the purpose of this Section 8, it will be sufficient for a party to demonstrate that it would have suffered a loss had an actual exchange or purchase been made.

9. Miscellaneous

(a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.

(b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.

(c) **Survival of Obligations.** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.

(d) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.

(e) **Counterparts and Confirmations.**

(i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.

(ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex or electronic message constitutes a Confirmation.

(f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.

(g) **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.

10. Offices; Multibranch Parties

(a) If Section 10(a) is specified in the Schedule as applying, each party that enters into a Transaction through an Office other than its head or home office represents to the other party that, notwithstanding the place of booking office or jurisdiction of incorporation or organisation of such party, the obligations of such party are the same as if it had entered into the Transaction through its head or home office. This representation will be deemed to be repeated by such party on each date on which a Transaction is entered into.

(b) Neither party may change the Office through which it makes and receives payments or deliveries for the purpose of a Transaction without the prior written consent of the other party.

(c) If a party is specified as a Multibranch Party in the Schedule, such Multibranch Party may make and receive payments or deliveries under any Transaction through any Office listed in the Schedule, and the Office through which it makes and receives payments or deliveries with respect to a Transaction will be specified in the relevant Confirmation.

11. Expenses

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees and Stamp Tax, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document

to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

12. Notices

(a) *Effectiveness.* Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received;
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or
- (v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.

(b) *Change of Addresses.* Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

13. Governing Law and Jurisdiction

(a) *Governing Law.* This Agreement will be governed by and construed in accordance with the law specified in the Schedule.

(b) *Jurisdiction.* With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably:—

- (i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-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, if this Agreement is expressed to be governed by the laws of the State of New York; and
- (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) *Service of Process.* Each party irrevocably appoints the Process Agent (if any) specified opposite its name in the Schedule to receive, for it and on its behalf, service of process in any Proceedings. If for any

reason any party's Process Agent is unable to act as such, such party will promptly notify the other party and within 30 days appoint a substitute process agent acceptable to the other party. The parties irrevocably consent to service of process given in the manner provided for notices in Section 12. Nothing in this Agreement will affect the right of either party to serve process in any other manner permitted by law.

(d) **Waiver of Immunities.** Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

14. Definitions

As used in this Agreement: —

"**Additional Termination Event**" has the meaning specified in Section 5(b).

"**Affected Party**" has the meaning specified in Section 5(b).

"**Affected Transactions**" means (a) with respect to any Termination Event consisting of an Illegality, Tax Event or Tax Event Upon Merger, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions.

"**Affiliate**" means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"**Applicable Rate**" means: —

(a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate;

(b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate;

(c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate; and

(d) in all other cases, the Termination Rate.

"**Burdened Party**" has the meaning specified in Section 5(b).

"**Change in Tax Law**" means the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (or in the application or official interpretation of any law) that occurs on or after the date on which the relevant Transaction is entered into.

"**consent**" includes a consent, approval, action, authorisation, exemption, notice, filing, registration or exchange control consent.

"**Credit Event Upon Merger**" has the meaning specified in Section 5(b).

"**Credit Support Document**" means any agreement or instrument that is specified as such in this Agreement.

"**Credit Support Provider**" has the meaning specified in the Schedule.

"**Default Rate**" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum.

"*Defaulting Party*" has the meaning specified in Section 6(a).

"*Early Termination Date*" means the date determined in accordance with Section 6(a) or 6(b)(iv).

"*Event of Default*" has the meaning specified in Section 5(a) and, if applicable, in the Schedule.

"*Illegality*" has the meaning specified in Section 5(b).

"*Indemnifiable Tax*" means any Tax other than a Tax that would not be imposed in respect of a payment under this Agreement but for a present or former connection between the jurisdiction of the government or taxation authority imposing such Tax and the recipient of such payment or a person related to such recipient (including, without limitation, a connection arising from such recipient or related person being or having been a citizen or resident of such jurisdiction, or being or having been organised, present or engaged in a trade or business in such jurisdiction, or having or having had a permanent establishment or fixed place of business in such jurisdiction, but excluding a connection arising solely from such recipient or related person having executed, delivered, performed its obligations or received a payment under, or enforced, this Agreement or a Credit Support Document).

"*law*" includes any treaty, law, rule or regulation (as modified, in the case of tax matters, by the practice of any relevant governmental revenue authority) and "lawful" and "unlawful" will be construed accordingly.

"*Local Business Day*" means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

"*Loss*" means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, the Termination Currency Equivalent of an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except, so as to avoid duplication, if Section 6(c)(i)(1) or (3) or 6(e)(ii)(2)(A) applies. Loss does not include a party's legal fees and out-of-pocket expenses referred to under Section 11. A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets.

"*Market Quotation*" means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the "Replacement Transaction") that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have

been required after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

"Non-default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount.

"Non-defaulting Party" has the meaning specified in Section 6(a).

"Office" means a branch or office of a party, which may be such party's head or home office.

"Potential Event of Default" means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Reference Market-makers" means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable, from among such dealers having an office in the same city.

"Relevant Jurisdiction" means, with respect to a party, the jurisdictions (a) in which the party is incorporated, organised, managed and controlled or considered to have its seat, (b) where an Office through which the party is acting for purposes of this Agreement is located, (c) in which the party executes this Agreement and (d) in relation to any payment, from or through which such payment is made.

"Scheduled Payment Date" means a date on which a payment or delivery is to be made under Section 2(a)(i) with respect to a Transaction.

"Set-off" means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

"Settlement Amount" means, with respect to a party and any Early Termination Date, the sum of: -

(a) the Termination Currency Equivalent of the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and

(b) such party's Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result.

"Specified Entity" has the meaning specified in the Schedule.

"Specified Indebtedness" means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

"Specified Transaction" means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

"Stamp Tax" means any stamp, registration, documentation or similar tax.

"Tax" means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment under this Agreement other than a stamp, registration, documentation or similar tax.

"Tax Event" has the meaning specified in Section 5(b).

"Tax Event Upon Merger" has the meaning specified in Section 5(b).

"Terminated Transactions" means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if "Automatic Early Termination" applies, immediately before that Early Termination Date).

"Termination Currency" has the meaning specified in the Schedule.

"Termination Currency Equivalent" means, in respect of any amount denominated in the Termination Currency, such Termination Currency amount and, in respect of any amount denominated in a currency other than the Termination Currency (the "Other Currency"), the amount in the Termination Currency determined by the party making the relevant determination as being required to purchase such amount of such Other Currency as at the relevant Early Termination Date, or, if the relevant Market Quotation or Loss (as the case may be), is determined as of a later date, that later date, with the Termination Currency at the rate equal to the spot exchange rate of the foreign exchange agent (selected as provided below) for the purchase of such Other Currency with the Termination Currency at or about 11:00 a.m. (in the city in which such foreign exchange agent is located) on such date as would be customary for the determination of such a rate for the purchase of such Other Currency for value on the relevant Early Termination Date or that later date. The foreign exchange agent will, if only one party is obliged to make a determination under Section 6(e), be selected in good faith by that party and otherwise will be agreed by the parties.

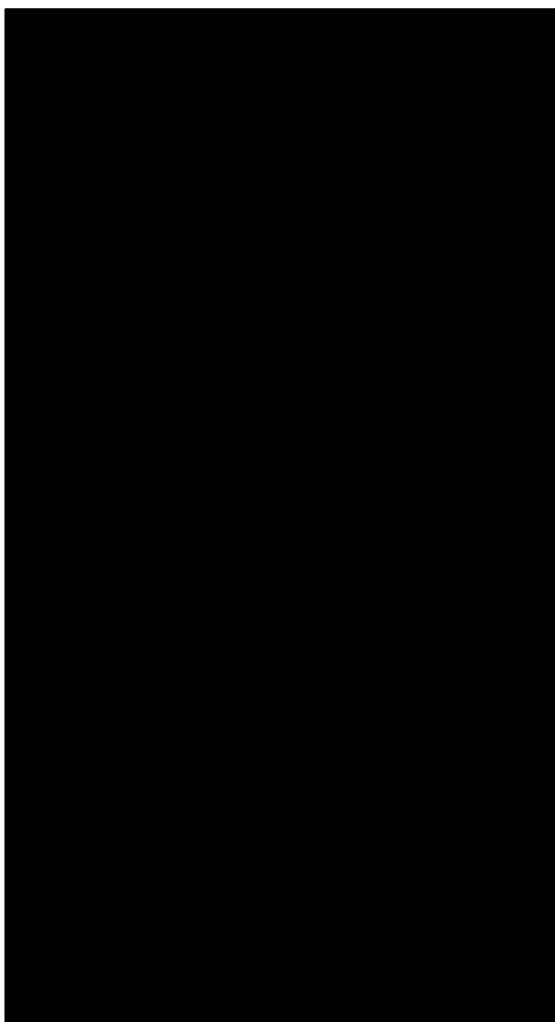
"Termination Event" means an Illegality, a Tax Event or a Tax Event Upon Merger or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.

"Termination Rate" means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts.

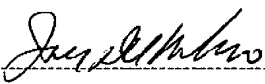
"Unpaid Amounts" owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market


value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.



Nineteen77 Global Merger Arbitrage Japan Limited

By: 
Name: _____
Title: **James DelMedico**
Date: **Executive Director 9-18-2019**

By: 
Name: _____
Title: **Connor Burke**
Date: **Director 9/18/19**

Schedule
to the
ISDA 1992 Master Agreement
dated as of 18th September 2019

between

**Each party listed in Appendix I hereto,
severally and not jointly**

("Party A")

**and Nineteen77 Global Merger Arbitrage Japan
Limited**

an exempted company incorporated
under the laws of the Cayman Islands

("Party B")

It is understood and agreed that the ISDA Master Agreement, including the Schedule and the Credit Support Annex, shall constitute a separate agreement with each party listed on Appendix I attached hereto and Party B as if each such party so listed had executed and delivered to Party B a separate agreement naming only itself as Party A, subject to the provisions of Appendix I as applicable to such party so listed, and that no party listed on Appendix I shall have any liability under this Agreement for the Obligations of any other party. With respect to any party listed on Appendix I, (i) only Confirmations of Transactions between such party so listed and Party B shall be part of the Agreement with such party so listed and Party B, and (ii) any references in the Agreement or a Confirmation to the Schedule shall be deemed to refer to the Schedule to the Agreement with such party so listed and Party B and any Annex applicable to such party so listed, and the term "this Agreement" shall be construed accordingly.

Part 1
Termination Provisions

In this Agreement:

(a) Specified Entity. "Specified Entity" means:

(I) In relation to Party A for the purpose of:

Section 5(a)(v), not applicable

Section 5(a)(vi), not applicable

Section 5(a)(vii), not applicable

Section 5(b)(iv), not applicable

(II) In relation to Party B for the purpose of:

Section 5(a)(v), not applicable

Section 5(a)(vi), not applicable

Section 5(a)(vii), not applicable

Section 5(b)(iv), not applicable

- (b) Specified Transaction.** Specified Transaction will have the meaning specified in Section 14.
- (c) Cross Default.** The "Cross Default" provision (Section 5(a)(vi)) will apply to Party A and Party B amended as follows:
- (i) Specified Indebtedness: Instead of the definition in Section 14 of this Agreement, "Specified Indebtedness" shall mean any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) (a) in respect of borrowed money, and/or (b) in respect of any Specified Transaction (except that, for this purpose only, the words "and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party)" where they appear in the definition of Specified Transaction will be replaced with the words "and any other entity".
 - (ii) Threshold Amount: With respect to Party A, three percent (3%) of the shareholders' equity of Party A, as shown in the most recent audited financial statements of Party A, and with respect to Party B, three percent (3%) of the Net Asset Value of Party B, as shown in the most recent audited financial statements of Party B.
- (d) Credit Event Upon Merger.** The "Credit Event Upon Merger" provision (Section 5(b)(iv)) will apply to Party A and Party B restated as follows:
- "Credit Event Upon Merger" means that a Designated Event (as defined below) occurs with respect to a party, any Credit Support Provider of such party or any applicable Specified Entity of such party (in each case, "X"), and such Designated Event does not constitute an event described in Section 5(a)(viii) of this Agreement but the creditworthiness of X or, if applicable, the successor, surviving or transferee entity of X after taking into account any applicable Credit Support Document, is materially weaker immediately after the occurrence of such Designated Event than that of X immediately prior to the occurrence of such Designated Event (and, in such event, such party or its successor, surviving or transferee entity, as appropriate, will be the Affected Party). A "Designated Event" with respect to X means that:
- (i) X consolidates or amalgamates with or merges with or into, or transfers all or substantially all its assets (or any substantial part of the assets comprising the business conducted by X as of the date of this Agreement) to, or reorganises, reconstitutes into or as, another entity;
 - (ii) any person, related group of persons or entity acquires directly or indirectly the beneficial ownership of (A) equity securities having the power to elect a majority of the board of directors (or its equivalent) of X or (B) any other ownership interest enabling it to exercise control of X; or
 - (iii) X effects any substantial change in its capital structure by means of the issuance, incurrence or guarantee of debt or the issuance of (A) preferred stock or other securities convertible into, or exchangeable for, debt or preferred stock or (B) in the case of entities other than corporations, any other form of ownership interest."
- (e) Automatic Early Termination.** The "Automatic Early Termination" provision of Section 6(a) of this Agreement will not apply to Party A and will not apply to Party B.

- (f) **Payments on Early Termination.** For the purpose of Section 6(e), Close-out Amount will apply.
- (g) **Termination Currency.** "Termination Currency" means the currency selected by the party which is not the Defaulting Party or the Affected Party, as the case may be, or where there is more than one Affected Party the currency agreed by Party A and Party B. However, the Termination Currency shall be one of the currencies in which payments are required to be made in respect of Transactions. If the currency selected is not freely available, or where there are two Affected Parties and they cannot agree on a Termination Currency, the Termination Currency shall be United States Dollars.
- (h) **Additional Termination Event.** The following Additional Termination Event(s) will apply:
- (i) **Net Asset Value Decline.** (A) As of the last Local Business Day of any calendar quarter, the Net Asset Value of Party B declines by twenty-five percent (25%) or more from the last Local Business Day of the preceding three-month period then ending (excluding redemption and subscription notices); or (B) as of any Local Business Day, the Net Asset Value of Party B declines by 50% or more from the highest Net Asset Value since the date of this Agreement.
- For purposes of (B), any decline in the Net Asset Value shall take into account all amounts set forth in redemption notices received by or on behalf of Party B (notwithstanding the date the actual redemption shall occur).
- "**Net Asset Value**", means, as of any day, the total value of assets less the total value of liabilities of Party B on such day as calculated and determined in accordance with generally accepted accounting principles in the United States of America with appropriate adjustments being made to reflect fairly the effect of all off-balance sheet assets and liabilities not required to be reflected on the balance sheet in accordance with generally accepted accounting principles.
- (ii) **Manager.** UBS O'Connor LLC or any affiliate of UBS O'Connor LLC acceptable to Party A (the "Investment Manager") ceases to act at any time as investment manager on behalf of Party B in the same or similar capacity as on the date of this Agreement.
- (iii) **Financials.** Party B shall fail to deliver within three (3) Local Business Days of Party A's notice to Party B of Party B's failure, any financial statements or financial information due annually or monthly, or Party B shall fail to deliver an estimate of Party B's Net Asset Value upon demand within one (1) Local Business Day after such information is due.
- (iv) **Event of Default under any of the Prime Broker Agreements.** The occurrence at any time, in respect of Party B, of an event specified as an Event of Default, default, potential default, termination event or similar event (however characterized) as defined in the relevant Prime Broker Agreement whether now existing or hereafter entered into.
- For purposes of this Additional Termination Event, the term **Prime Broker Agreement** shall mean the Customer Agreement (together with any and all annexes attached thereto) between Party B and Credit Suisse Securities (USA) LLC, each as amended from time to time.
- (v) **Prohibited Transaction.** If either Party reasonably determines, and (1) notifies the other Party in writing of such determination and (2) promptly provides to the other Party (in writing, if promptly requested by the other Party) the basis for the determination, that this Agreement or any Transaction hereunder constitutes a "prohibited transaction" under ERISA (as defined in Part 5)

and/or the Code (as defined in Part 5) and that no exemption from the "prohibited transaction" provisions of ERISA and the Code is available with respect to this Agreement and/or such Transaction. Such Additional Termination Event shall be deemed to have occurred when the condition of clause (1) has been satisfied, if clause (2) is eventually satisfied. If the required basis is provided to the other Party in accordance with clause (2) along with the initial notification, the Additional Termination Event occurs at the time of the initial notification.

Party B, in each such instance, shall be the sole Affected Party.

Part 2 Tax Representations

(a) Payer Tax Representations. For the purpose of Section 3(e) of this Agreement, Party A and Party B each makes the following representation:

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on:

- (i) The accuracy of any representation made by the other party pursuant to Section 3(f) of this Agreement;
- (ii) The satisfaction of the agreement of the other party contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement; and
- (iii) The satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement;

Except it will not be a breach of this representation where reliance is placed on clause (ii) above, and the other party does not deliver a form or document under Section 4(a)(iii) of this Agreement by reason of material prejudice to its legal or commercial position.

(b) Payee Tax Representations. For the purpose of Section 3(f) of this Agreement:

(i) Party A makes the following Payee Tax Representations:

(1) Party A is a "non-US branch of a foreign person" as that term is used in Treas. Reg. Section 1.1441-4(a)(3)(ii).

(2) Party A is a "foreign person" within the meaning of Treas. Reg. Section 1.6041-4(a)(4).

(ii) Party B makes the following Payee Tax Representations:

(1) Party B is a "non-US branch of a foreign person" (as that term is used in Section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for United States federal income tax purposes.

(2) Party B is a "foreign person" (as that term is used in Section 1.6041-4(a)(4) of United States Treasury Regulations) for United States federal income tax purposes.

Part 3
Agreement to Deliver Documents

Each party agrees to deliver the following documents as applicable:

(a) For the purpose of Section 4(a)(i) of this Agreement, tax forms, documents or certificates to be delivered are:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered
Party A & Party B	Any document required or reasonably requested to allow the other party to make payments under this Agreement without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate, including but not limited to an IRS form (e.g. W-8BEN-E, W-8IMY, W-9), as applicable.	(i) Before or upon execution of this Agreement and (ii) promptly upon reasonable demand by the other party

(b) For the purpose of Section 4(a)(ii) of this Agreement, other documents to be delivered are:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
Party A & Party B	Evidence reasonably satisfactory to the other party as to the names, true signatures and authority of the officers or officials signing this Agreement or any Confirmation on its behalf.	Upon execution of this Agreement and, if requested upon execution of any Confirmation.	Yes
Party A	A copy of the annual report for such party containing audited financial statements for the most recently ended financial year.	Upon request, as soon as publicly available.	Yes
Party B	A copy of the Memorandum and Articles of Association of Party B, the redacted Investment Management Agreement between Party B and the Investment Manager and any placement, offering and disclosure documents (the "Constituent Documents").	Promptly upon request	No

Execution copy

Additionally Party B agrees to deliver to Party A, c/o Credit Suisse Securities (USA) LLC, Attention: Hedge Fund Group – Credit Risk Management, email: hf.credit@credit-suisse.com

- | | | | |
|-------|---|--|-----|
| (i) | A copy of its monthly Net Asset Value report in the form provided to investors. | Within 20 days of the end of the relevant month. | Yes |
| (ii) | A copy of its annual audited financial statements for the most recently ended financial year. | Within 120 days after the end of the relevant fiscal year. | Yes |
| (iii) | A copy of any performance or other reports which Party B delivers to its shareholders and/or investors. | At the same time such reports are delivered to such shareholders and/or Investors. | Yes |

Such statements shall be deemed to be delivered once posted and available to Party A at www.ubs.com/alternatives.

**Part 4
Miscellaneous**

(a) Addresses for Notices. For the purpose of Section 12(a) of this Agreement:

Notwithstanding Section 12(a) of the Agreement all notices including those to be given under Section 5 or 6 may be given by facsimile transmission.

(i) Party A:

(1) Address for notices or communications to Party A:

The address set forth in Appendix II hereto.

(ii) Party B

Address for notices or communications to Party B:

c/o UBS O'Connor LLC
One North Wacker Drive, 32nd Floor
Chicago, IL 60606
Attn: Nicholas Vagra
Tel: 312-525-6275
Fax: 312-525-5040

and

NINETEEN77 GLOBAL MERGER ARBITRAGE JAPAN LIMITED
c/o Maples Corporate Services Limited
Ugland House
P.O. Box 309
Grand Cayman KY1-1104
Cayman Islands

(For all purposes.)

(b) Process Agent. For the purpose of Section 13(c) of this Agreement:

Party A appoints as its Process Agent: Credit Suisse Securities (USA) LLC, at Eleven Madison Avenue, New York, NY 10010, United States of America (Attention:- General Counsel, General Counsel Division).

Party B appoints as its Process Agent:
UBS O'Connor LLC
One North Wacker Drive, 32nd Floor
Chicago, IL 60606

Section 13(c) shall be amended by deleting the second sentence in its entirety and replacing it with the following:

"If for any reason any party's Process Agent is unable to act as such or such appointment is due to expire or terminate at any time on or prior to the Termination Date (as defined in the 2006 Definitions) of any Transaction, such party will promptly notify and renew that appointment or appoint a substitute process

agent acceptable to the other at least 60 days prior to the expiration or termination of such appointment. Written evidence of such appointment and renewal shall be provided, upon request, to the other party."

Party B agrees that service upon itself or this Process Agent by registered first class mail or air courier constitutes effective service as if personally served pursuant to Section 311 of the New York Civil Practice Law and Rules or Rule 4 of the U.S. Federal Rules of Civil Procedure, or any successor section thereof. Party B waives any right to contest the effectiveness of the service if done in accordance with the previous sentence.

(c) Offices. The provisions of Section 10(a) will apply to this Agreement.

(d) Multibranch Party. For the purpose of Section 10(c) of this Agreement:

Party A is not a Multibranch Party.

Party B is not a Multibranch Party.

(e) Calculation Agent. The Calculation Agent is Party A unless otherwise agreed in a Confirmation in relation to the relevant Transaction. In the case of an Event of Default with respect to Party A which has occurred and is continuing, Party B shall be entitled to appoint a substitute Calculation Agent. In such event, Party B shall give written notice to Party A, detailing the relevant Event of Default, indicating its reliance on this Part 4(e) to appoint a substitute Calculation Agent and nominating three (3) Leading Dealers as a potential substitute Calculation Agent (the "Substitute Calculation Agent Notice"). Party A shall either remedy the Event of Default or select one (1) of the three (3) Leading Dealers nominated by Party B as the substitute Calculation Agent, within five (5) Local Business Days of Party A's receipt of the Substitute Calculation Agent Notice; provided that if Party A fails to choose a Leading Dealer by the end of such period then Party B shall choose the Leading Dealer from the three (3) Leading Dealers identified by Party B in the Substitute Calculation Agent Notice. If Party A cures the relevant Event of Default before Party B designates an Early Termination Date in accordance with Section 6(a) of this Agreement, and no other Event of Default has occurred (and not been cured) by such time, then Party A shall recommence acting as the Calculation Agent provided that nothing herein shall affect any calculations already produced by any substitute Calculation Agent duly appointed in accordance with this provision. Party A and Party B shall split all costs and expenses in appointing a Leading Dealer for these purposes.

"Leading Dealer" means Bank of America, Citigroup, Deutsche Bank, Goldman Sachs, JP Morgan Chase, Morgan Stanley, Barclays Capital and UBS or any principal affiliate entity of such entities; provided that such entity is not an affiliate of Party A or Party B, does not act as Party B's prime broker or custodian and is a leading dealer in the relevant market.

(f) Credit Support Document. Details of any Credit Support Document:

(i) With respect to Party A and Party B: The ISDA Credit Support Annex attached hereto and made an integral part hereof.

(ii) In addition, the Credit Support Document set out in Appendix I with respect to Party A shall be a Credit Support Document to the relevant Party A.

(g) Credit Support Provider. Credit Support Provider means:

In relation to Party A: As specified in Appendix I.

In relation to Party B: Not applicable.

(h) Governing Law and Jurisdiction. This Agreement and, to the fullest extent permitted by applicable law, all matters arising out of or relating in any way to this Agreement will be governed by and construed in accordance with the laws of the State of New York. Section 13(b) of this Agreement is hereby amended by: (i) deleting in the second line of subparagraph (i) thereof the word, "non-"; (ii) adding in the third line before comma, "and each party irrevocably agrees to designate any Proceedings brought in the courts of the State of New York as 'commercial' on the Request for Judicial Intervention seeking assignment to the Commercial Division of the Supreme Court"; and (iii) inserting "in order to enforce any judgment obtained in any Proceedings referred to in the preceding sentence" immediately after the word, "jurisdiction," the first time it appears in the second sentence and deleting the remainder.

(i) Netting of Payments. Section 2(c)(ii) of this Agreement will apply to any Transactions from the date of this Agreement. Nevertheless, to reduce settlement risk and operational costs, the parties agree that they will endeavour to net across as many Transactions as practicable wherever the parties can administratively do so.

(j) Affiliate. Affiliate will have the meaning specified in Section 14 of this Agreement.

Part 5
Other Provisions

- (a) **Scope of Agreement.** Any Specified Transaction (whether now existing or hereafter entered into) between the parties, the confirmation of which fails by its terms expressly to exclude application of this Agreement, shall be governed by and be subject to this Agreement. Any such confirmation shall be a "Confirmation", and any such Specified Transaction shall be a "Transaction", for all purposes of this Agreement.
- (b) **Definitions.** Unless otherwise specified in a Confirmation, each Transaction between the parties shall be subject to the 2006 ISDA Definitions (the "2006 Definitions") and the 1998 FX and Currency Options Definitions (including Annex A thereto), each as published by the International Swaps and Derivatives Association, Inc. (collectively, the "Definitions"), and will be governed in all relevant respects by the provisions of the Definitions. The provisions of the Definitions are incorporated by reference in and shall be deemed a part of this Agreement except that references in the 2006 Definitions to a "Swap Transaction" shall be deemed references to a "Transaction" for purposes of this Agreement.
- (c) **Confirmations.** Each Confirmation shall be substantially in the form of one of the Exhibits to the 2006 Definitions or in any other form which is published by the International Swaps and Derivatives Association, Inc. or in such other form as the parties may agree.
- (d) **Additional Representation** will apply. For the purpose of Section 3 of this Agreement, the following will constitute an Additional Representation and marked as a new subsection (g).

"(g) Relationship Between the Parties. Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):

1. *Non-Reliance.* It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction, it being understood that information and explanations related to the terms and conditions of a Transaction will not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party will be deemed to be an assurance or guarantee as to the expected results of that Transaction.
2. *Assessment and Understanding.* It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.

3. *Status of Parties.* The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.
4. *No Agency.* It is entering into this Agreement, including each Transaction, as principal and not as agent of any person or entity."

(e) Recording of Conversation. Each party (i) consents to the recording of telephone conversations between the trading, marketing and other relevant personnel of the parties in connection with this Agreement or any potential Transaction and (ii) agrees that the recordings may be submitted in evidence in any Proceedings to the extent permitted by and subject to applicable law.

(f) Change of Account. Section 2(b) of this Agreement is hereby amended by the addition of the following after the word "delivery" in the first line thereof:

"to another account in the same legal and tax jurisdiction as the original account"

(g) Set-off. Section 6 of this Agreement is amended by addition of the following new subsection:-

"(f) Set-off. Without affecting the provisions of this Agreement requiring the calculation of certain net payment amounts, all payments under this Agreement will be made without set-off or counterclaim; provided, however, that upon the designation of any Early Termination Date, in addition to and not in limitation of any other right or remedy (including any right to set-off, counterclaim, or otherwise withhold payment) under applicable law:

the Non-defaulting Party or the party that is not the Affected Party (in either case, "X") may, without prior notice to any person, set off any sum or obligation (whether or not arising under this Agreement, whether matured unmatured or contingent and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by the Defaulting Party or Affected Party (in either case, "Y") to X or to any Affiliate of X, against any sum or obligation (whether or not arising under this Agreement, whether matured unmatured or contingent and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by X or any Affiliate of X to Y, and, for this purpose, may convert one currency into another. If any sum or obligation is unascertained, X may in good faith estimate that sum or obligation and set off in respect of that estimate, subject to X or Y, as the case may be, accounting to the other party when such sum or obligation is ascertained."

Nothing in Section 6(f) shall be effective or deemed to create any charge or other security interest.

(h) Incorporation of Close-out Amount Protocol. The parties to this Agreement agree that the amendments set out in the Attachment and Annexes 10 – 14 (inclusive) to the ISDA Close-out Amount Protocol published by ISDA on February 27, 2009 and available on the ISDA website (www.isda.org) shall be made to this Agreement and that the Loss Amended Election and the Annex 1 - 9 Applicable Election have been made. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the date this Agreement is entered into for the purposes of the amendments regardless of the definitions of such terms in the Protocol.

(i) Transfer and Restructuring. Notwithstanding any provisions of this Agreement to the contrary, the parties hereby agree that:

- (i) Consent by Party B shall not be required in connection with the transfer by Party A of all its interests and obligations under any Transaction entered into pursuant to this Agreement to any Affiliate of Party A, and of any further such transfer by any such Affiliate (the "Transferring Affiliate") to any other Affiliate of Party A, so long as (w) at the time of the proposed transfer of the Transactions by Party A, the transferee or its Credit Support Provider has a long term unsecured unsubordinated debt rating equal to or higher than that of Party A and is not subject to "Credit Watch" or its equivalent by S&P or credit review or its equivalent by Moody's; (x) a Termination Event, Event of Default or Potential Event of Default does not occur as a result of such transfer; (y) as a result of any such transfer Party B would not be required to make or receive any payment from which any Tax (including any Indemnifiable Tax) is required to be withheld or deducted; and (z) the Transaction is at the time of such transfer the legal, valid and binding obligations of the Affiliate or Transferring Affiliate;
- (ii) If, as a matter of law, Party B's consent is required for the purposes of perfecting any transfer contemplated in (i) above by Party A, Party B shall give its consent to the transfer;
- (iii) In the event of any transfer contemplated in (i) above by Party A, Party B will execute upon the demand of Party A the necessary documentation prepared by Party A;
- (iv) Consent by Party B shall not be required in the event Party A requires a restructuring of any Transaction that will ensure the same economic effect for Party B by subdividing such Transaction into two or more parts (each a Transaction); and
- (v) Party B will execute such revised documentation as Party A shall require to evidence any restructuring contemplated in (iv) above.

(j) Incorporation of ISDA 2012 FATCA Protocol. The parties to this Agreement agree that the amendments set out in the Attachment to the ISDA 2012 FATCA Protocol published by ISDA on August 15, 2012 and available on the ISDA website (www.isda.org) shall apply to this Agreement. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such Protocol amendments regardless of the definitions of such terms in the Protocol.

(k) Incorporation of ISDA 2015 Section 871(m) Protocol. The parties to this Agreement agree that the amendments set out in the Attachment to the ISDA 2015 Section 871(m) Protocol published by ISDA on November 2, 2015 and available on the ISDA website (www.isda.org) shall apply to this Agreement. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such Protocol amendments regardless of the definitions of such terms in the Protocol.

(l) Escrow Payments. If (whether by reason of the time difference between the cities in which payments are to be made or otherwise) it is not possible for simultaneous payments to be made on any date on which both parties are required to make payments hereunder, either party may at its option and in its sole discretion notify the other party that payments on that date are to be made in escrow. In this case deposit

of the payment due earlier on that date shall be made by 2:00 p.m. (local time at the place for the earlier payment) on that date with an escrow agent selected by the notifying party, accompanied by irrevocable payment instructions (i) to release the deposited payment to the intended recipient upon receipt by the escrow agent of the required deposit of the corresponding payment from the other party on the same date accompanied by irrevocable payment instructions to the same effect or (ii) if the required deposit of the corresponding payment is not made on that same date, to return the payment deposited to the party that paid it into escrow. The party that elects to have payments made in escrow shall pay all costs of the escrow arrangements.

(m) Commodity Exchange Act. The following representations are made on and as of the date hereof and will be deemed to be made on each date on which a Transaction is entered into:

- (i) Such party is an "eligible contract participant" as defined in the U.S. Commodity Exchange Act, as amended (the "CEA")
- (ii) Party A hereby represents and warrants that its Credit Support Provider is an "eligible contract participant" as defined in the CEA and the applicable regulations thereunder.

(n) Incorporation of Exclusionary Terms. The parties agree that the definitions and provisions contained in the ISDA Non-ECP Guarantor Exclusionary Terms published by the International Swaps and Derivatives Association, Inc., on April 18, 2013 are incorporated and apply to the Agreement.

(o) Waiver of Right to Trial by Jury. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Agreement or any Credit Support Document. Each party (i) certifies that no representative, agent or attorney of the other party or any Credit Support Provider has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into this Agreement and provide for any Credit Support Document, as applicable by, among other things, the mutual waivers and certifications in this Section.

(p) Credit Suisse Securities (USA) LLC as Agent. If Party A with respect to any Transaction hereunder, is relying on Rule 15a-6 ("Rule 15a-6") under the Securities Exchange Act of 1934 (the "Exchange Act") the following terms and conditions shall apply to such Transaction:

- (i) Credit Suisse Securities (USA) LLC, as a broker-dealer registered with the U.S. Securities and Exchange Commission ("SEC"), will arrange such Transaction as facilitating agent for each of the parties and will be responsible to the extent required under Rule 15a-6, for (a) effecting such Transaction, on behalf of Party A, (b) issuing all required confirmations and statements to Party A and Party B, (c) maintaining books and records relating to such Transaction as required by Rules 17a-3 and 17a-4 under the Exchange Act, and (d) if requested by Party A or Party B receiving, delivering and safeguarding such party's funds and securities in connection with such Transaction in compliance with Rule 15c3-3 under the Exchange Act. Notwithstanding the foregoing, the parties agree that Credit Suisse Securities (USA) LLC shall not be deemed by virtue of its role as facilitating agent hereunder to be holding any Securities on behalf of either party.
- (ii) Regardless of whether Party A is relying on Rule 15a-6 with respect to any Transaction hereunder, Credit Suisse Securities (USA) LLC is participating in such Transaction solely as facilitating agent

for the parties. Credit Suisse Securities (USA) LLC shall have no responsibility or personal liability to either party arising from any failure by a party to pay or perform any obligations hereunder, or to monitor or enforce compliance by a party with any obligation hereunder, including, without limitation, any obligation to maintain margin. Each party agrees to proceed solely against the other to collect or recover any securities or moneys owing to it in connection with or as a result of such Transaction or otherwise hereunder. Credit Suisse Securities (USA) LLC shall otherwise have no liability in respect of this Agreement or such Transaction except for its gross negligence or wilful misconduct, or its failure to comply with applicable U.S. securities laws and regulations, in performing its duties as facilitating agent hereunder.

- (q) FDICIA Representation.** Party A and Party B each represents to the other that it is a "financial institution" for purposes of Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended (the "Statute"), and the regulations promulgated pursuant thereto because either (i) it is a broker or dealer, a depository institution or a futures commission merchant (as such terms are defined in the Statute) or (ii) it will engage in financial contracts (as so defined) as a counterparty on both sides of one or more financial markets (as so defined) and either (1) had one or more financial contracts of a total gross dollar value of at least USD1 billion in notional principal amount outstanding on any day during the previous 15-month period with counterparties that are not its affiliates or (2) had total gross mark-to-market positions of at least USD100 million (aggregated across counterparties) in one or more financial contracts on any day during the previous 15-month period with counterparties that are not its affiliates.
- (r) ERISA Representations and Agreements by Party B and Investment Manager.** Party B and Investment Manager, in its individual and fiduciary capacity, represent that Party B is not and will not be a Benefit Plan which, for the purposes of this Agreement, means (1) an "employee benefit plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), (2) a 'Plan' within the meaning of Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), (3) an entity the underlying assets of which constitute assets of employee benefit plans or plans as a result of investments by such plans in the entity pursuant to Section 3(42) of ERISA or (4) assets of a governmental plan or other plan subject to restrictions similar or analogous to those contained in ERISA or the Code.
- (s) Investment Manager as Agent.** Party B represents and warrants (and such representation and warranty shall be deemed to have been repeated on each date that a Transaction is entered into) that the Investment Manager has the full power and authority to commit Party B to Transactions and conclude such Transactions on Party B's behalf on such terms and conditions as the Investment Manager may determine in its absolute discretion. Unless previously notified in writing by Party B, Party A may rely on all representations and warranties of and actions by the Investment Manager in relation to any such Transactions. For these purposes, Party B agrees to fully and unconditionally indemnify Party A for any and all losses, damages, costs and expenses directly sustained by Party A (including those incurred in unwinding any relevant hedging transactions) by reason of (i) its *bona fide* reliance on the appointment by Party B of the Investment Manager as Party B's agent to enter into Transactions on its behalf, irrespective of the invalidity, unenforceability, termination or revocation of such appointment (unless previously notified in writing by Party B) or breach by the Investment Manager of its terms or (ii) as a direct result of Party A's *bona fide* reliance upon the instructions, actions or ostensible authority of the Investment Manager.

(t) Additional Agreements. Section 4 of the Agreement is hereby amended in respect of Party B only by the addition of the following agreements:

" (f) Party B shall provide to Party A, upon request either verbally or in writing and within two (2) Local Business Days of such request, information the parties deem to be reasonable in view of credit and other risk management purposes which may include the unofficial Net Asset Value of Party B as determined in good faith as of the day on which Party A made such request.

(g) In the event that Party B materially amends, alters, modifies or changes its Constituent Documents, Party B shall notify Party A within 30 days of the effectiveness of such changes and provide copies of such changes to its Constituent Documents. Party B shall provide Party A with the current version of such Constituent Documents marked to show all changes from the prior version."

(u) European Market Infrastructure Regulation Protocol (EMIR).

(j) ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol published by ISDA on 19 July 2013.

(1) Party A and Party B agree that the provisions set out in the attachment to the ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol published by ISDA on 19 July 2013 and available on the ISDA website (www.isda.org) (the PR/DR Protocol) are incorporated into and apply to this Agreement as if this Agreement was a Protocol Covered Agreement. In respect of the attachment to the PR/DR Protocol, references to "the Implementation Date" shall mean the date of this Agreement and references to "any ISDA Master Agreement" shall mean this Agreement. For the purposes thereof:

(A) Portfolio reconciliation process status:

Party A is a Portfolio Data Sending Entity and Party B is a Portfolio Data Receiving Entity, in each case, subject to Part I(2)(a) of the PR/DR Protocol.

(B) Local Business Days:

Party A: London

Party B: George Town

(C) Party A and Party B may use a Third Party Service Provider.

(D) Contact details for Portfolio Data, discrepancy notices and Dispute Notices:

Party A agrees to deliver the following items to Party B at the contact details shown below:

Portfolio Data: ql-ubsoc-emir-doddfrank@ubs.com

Notice of a discrepancy and Dispute Notice: ol-ubsoc-emir-doddfrank@ubs.com

Party B agrees to deliver the following items to Party A at the contact details shown below:

Portfolio Data: portfolio.recon@credit-suisse.com

Notice of a discrepancy and Dispute Notice:

- i. Recognition or valuation of OTC trades: portfolio.recon@credit-suisse.com
- ii. Collateral: portfolio.recon@credit-suisse.com

(ii) ISDA 2013 NFC Representation Protocol published by ISDA on May 8, 2013.

- (1) Party A confirms that it is an adhering party to the ISDA 2013 EMIR NFC Representation Protocol published by ISDA on 8 March 2013 and available on the ISDA website (www.isda.org) (the NFC Protocol). Party A and Party B agree that the provisions set out in the attachment to the NFC Protocol and Party A's elections made in its adherence letter to the NFC Protocol are incorporated into and apply to this Agreement as if this Agreement were a Covered Master Agreement. In this regard, references to "the Implementation Date" shall mean the date of this Agreement and references to "the Agreement" shall mean this Agreement.
- (2) For the purposes of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR), Party B represents that would be a financial counterparty if it were established in the European Union.

(v) Incorporation of the ISDA 2016 Bail-in Art 55 BRRD Protocol (Dutch/ French/ German/ Irish/ Italian/ Luxembourg/ Spanish/ UK entity-in-resolution version). The parties to this Agreement agree that the terms of the ISDA 2016 Bail-in Article 55 BRRD Protocol (Dutch/ French/ German/ Irish/ Italian/ Luxembourg/ Spanish/ UK entity-in-resolution version) (the "ISDA Bail-in Protocol"), as published by ISDA on July 14, 2016 and available on the ISDA website (www.isda.org), are incorporated into and form part of this Agreement. The parties further agree that this Agreement shall be deemed to be a "Protocol Covered Agreement" and that the "Implementation Date" shall be the effective date of this Agreement, each for the purposes of such ISDA Bail-in Protocol, regardless of the definitions of such terms in such ISDA Bail-in Protocol. In the event of any inconsistencies between this Agreement and the ISDA Bail-in Protocol, the ISDA Bail-in Protocol will prevail.

(w) Incorporation of the ISDA UK (PRA Rule) Jurisdictional Module. The parties to this Agreement represent that the terms of the ISDA UK (PRA Rule) Jurisdictional Module to the ISDA Resolution Stay Jurisdictional Modular Protocol (the "UK Jurisdictional Module"), as published by ISDA on May 3, 2016 and available on the ISDA website (www.isda.org), are incorporated into and form part of this Agreement. The parties further agree that this Agreement will be deemed to be a "Covered Agreement" and that the Implementation Date shall be the effective date of this

Execution copy

Agreement as amended by the parties for the purposes of such UK Jurisdictional Module regardless of the definition of such terms in the UK Jurisdictional Module. In the event of any inconsistencies between this Agreement and the UK Jurisdictional Module, the UK Jurisdictional Module will prevail.

(x) **Incorporation of the ISDA Swiss Jurisdictional Module.** The parties to this Agreement agree that the terms of the ISDA Swiss Jurisdictional Module and the ISDA Resolution Stay Jurisdictional Modular Protocol (together, the "Swiss Jurisdictional Module"), as published by ISDA on October 31, 2017 and available on the ISDA website (www.isda.org), are incorporated into and form part of this Agreement. The parties further agree that this Agreement will be deemed to be a "Covered Agreement" and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such Swiss Jurisdictional Module regardless of the definition of such terms in the Swiss Jurisdictional Module. In the event of any inconsistencies between this Agreement and the Swiss Jurisdictional Module, the Swiss Jurisdictional Module will prevail.

(y) **Portfolio Swaps (Standard Terms) Annex.** Attached hereto as Annex I and made a part hereof is the [REDACTED]

Execution copy

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.



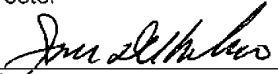
**NINETEEN77 GLOBAL MERGER ARBITRAGE
JAPAN LIMITED**

By: UBS O'Connor LLC, as investment manager

By: 

Name: Connor Burke

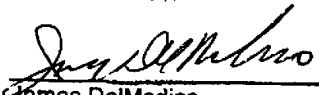
Title: Director

By: 

Name: James Del Medico

Title: Executive Director

**UBS O'CONNOR LLC (solely with respect to
Part 5(r))**

By: 

Name: James Del Medico

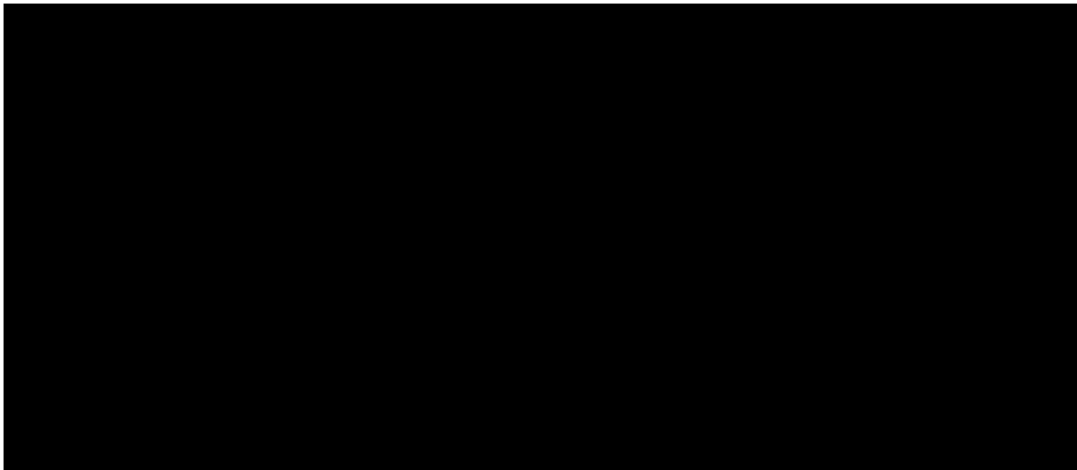
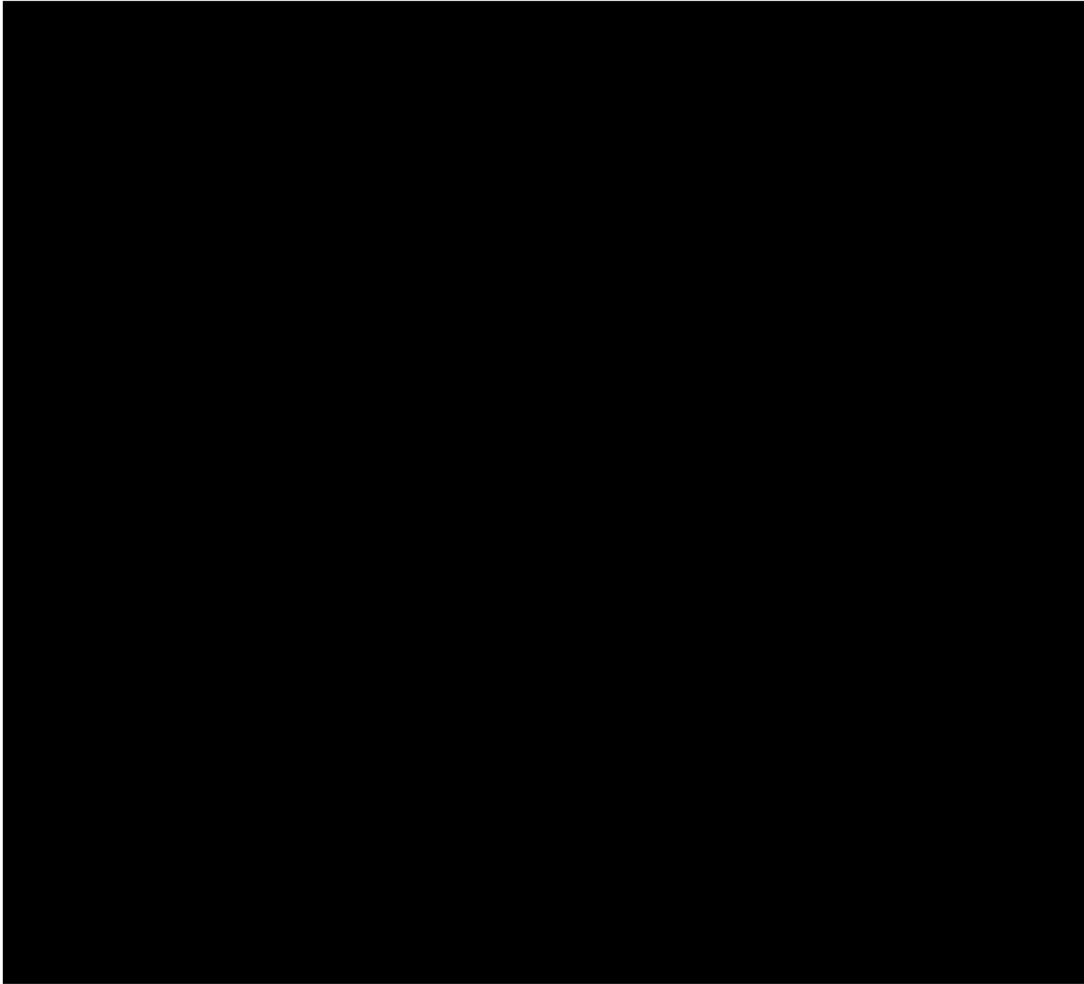
Title: Executive Director

Date:

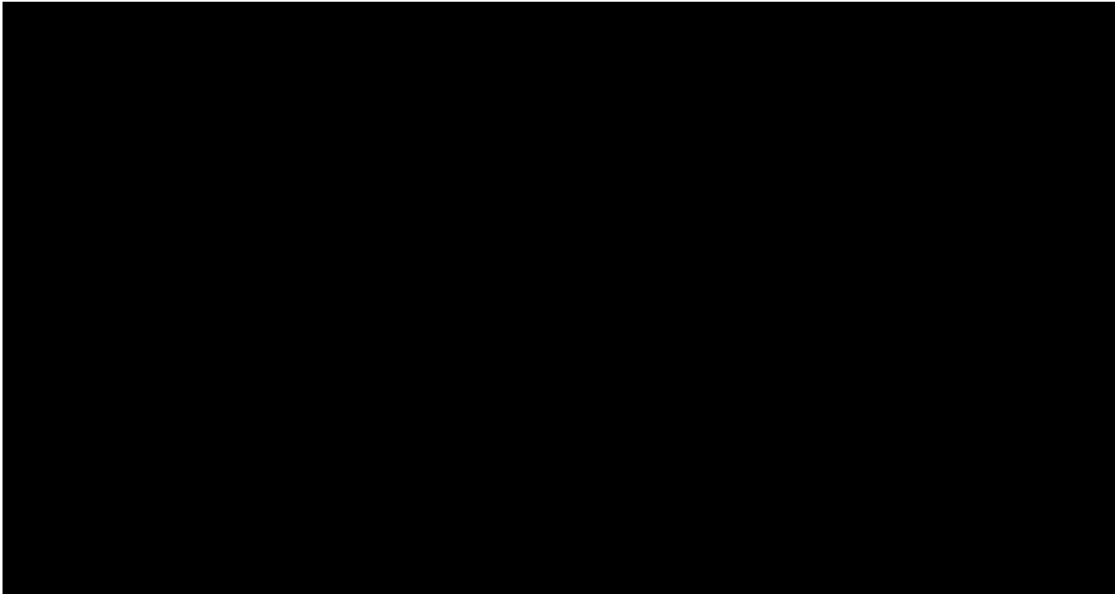
Appendix I

Party A	Part 4(f)(ii) – Credit Support Document	Part 4(g) – Credit Support Provider	Part 5(m) – Commodity Exchange Act	Part 5(x) - Incorporation of the ISDA Swiss Jurisdictional Module
[Redacted]	Not applicable	Not applicable	Not applicable	Not applicable
[Redacted]	[Redacted]	[Redacted]	Applicable	Applicable.

Appendix II



Execution copy



(Multicurrency – Cross Border)

ISDA[®]

International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of 18th September 2019

Each party listed in Appendix I
hereto, severally and not jointly

and

MA Hedge Fund Strategies
Limited

have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement, which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows: —

1. Interpretation

(a) *Definitions.* The terms defined in Section 14 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.

(b) *Inconsistency.* In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.

(c) *Single Agreement.* All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

(a) *General Conditions.*

(i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.

(ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.

(iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

(b) **Change of Account.** Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) **Netting.** If on any date amounts would otherwise be payable: —

- (i) in the same currency; and
- (ii) in respect of the same Transaction,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of Offices through which the parties make and receive payments or deliveries.

(d) **Deduction or Withholding for Tax.**

(i) **Gross-Up.** All payments under this Agreement will be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, then in effect. If a party is so required to deduct or withhold, then that party ("X") will: —

- (1) promptly notify the other party ("Y") of such requirement;
- (2) pay to the relevant authorities the full amount required to be deducted or withheld (including the full amount required to be deducted or withheld from any additional amount paid by X to Y under this Section 2(d)) promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against Y;
- (3) promptly forward to Y an official receipt (or a certified copy), or other documentation reasonably acceptable to Y, evidencing such payment to such authorities; and
- (4) if such Tax is an Indemnifiable Tax, pay to Y, in addition to the payment to which Y is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by Y (free and clear of Indemnifiable Taxes, whether assessed against X or Y) will equal the full amount Y would have received had no such deduction or withholding been required. However, X will not be required to pay any additional amount to Y to the extent that it would not be required to be paid but for: —

(A) the failure by Y to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d); or

(B) the failure of a representation made by Y pursuant to Section 3(f) to be accurate and true unless such failure would not have occurred but for (I) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on

which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (II) a Change in Tax Law.

(ii) **Liability.** If: —

- (1) X is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, to make any deduction or withholding in respect of which X would not be required to pay an additional amount to Y under Section 2(d)(i)(4);
- (2) X does not so deduct or withhold; and
- (3) a liability resulting from such Tax is assessed directly against X,

then, except to the extent Y has satisfied or then satisfies the liability resulting from such Tax, Y will promptly pay to X the amount of such liability (including any related liability for interest, but including any related liability for penalties only if Y has failed to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d)).

(e) **Default Interest; Other Amounts.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. **Representations**

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(f), at all times until the termination of this Agreement) that: —

(a) **Basic Representations.**

- (i) **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;
- (ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorise such execution, delivery and performance;
- (iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;
- (iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and
- (v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws

affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

(e) **Payer Tax Representation.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(e) is accurate and true.

(f) **Payee Tax Representations.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(f) is accurate and true.

4. Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party: —

(a) **Furnish Specified Information.** It will deliver to the other party or, in certain cases under subparagraph (iii) below, to such government or taxing authority as the other party reasonably directs: —

(i) any forms, documents or certificates relating to taxation specified in the Schedule or any Confirmation;

(ii) any other documents specified in the Schedule of any Confirmation; and

(iii) upon reasonable demand by such other party, any form or document that may be required or reasonably requested in writing in order to allow such other party or its Credit Support Provider to make a payment under this Agreement or any applicable Credit Support Document without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of the party in receipt of such demand), with any such form or document to be accurate and completed in a manner reasonably satisfactory to such other party and to be executed and to be delivered with any reasonably required certification,

in each case by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

(b) **Maintain Authorisations.** It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) **Comply with Laws.** It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

(d) **Tax Agreement.** It will give notice of any failure of a representation made by it under Section 3(f) to be accurate and true promptly upon learning of such failure.

(e) **Payment of Stamp Tax.** Subject to Section 11, it will pay any Stamp Tax levied or imposed upon it or in respect of its execution or performance of this Agreement by a jurisdiction in which it is incorporated, organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting for the purpose of this Agreement is located ("Stamp Tax Jurisdiction") and will indemnify the other party against any Stamp Tax levied or imposed upon the other party or in respect of the other party's execution or performance of this Agreement by any such Stamp Tax Jurisdiction which is not also a Stamp Tax Jurisdiction with respect to the other party.

5. Events or Default and Termination Events

(a) **Events of Default.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an "Event of Default") with respect to such party: —

(i) **Failure to Pay or Deliver.** Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

(ii) **Breach of Agreement.** Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) or to give notice of a Termination Event or any agreement or obligation under Section 4(a)(i), 4(a)(iii) or 4(d)) to be complied with or performed by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) **Credit Support Default.**

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party; or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) **Misrepresentation.** A representation (other than a representation under Section 3(e) or (f)) made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) **Default under Specified Transaction.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) **Cross Default.** If "Cross Default" is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specific Indebtedness of any

of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

(vii) **Bankruptcy.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party:—

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof, (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) **Merger Without Assumption.** The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer: —

(1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) **Termination Events.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, a Tax Event if the event is specified in (ii) below or a Tax Event Upon Merger if the event is specified in (iii) below, and, if specified to be applicable, a Credit Event

Upon Merger if the event is specified pursuant to (iv) below or an Additional Termination Event if the event is specified pursuant to (v) below:—

(i) **Illegality.** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):—

(1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or

(2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;

(ii) **Tax Event.** Due to (x) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (y) a Change in Tax Law, the party (which will be the Affected Party) will, or there is a substantial likelihood that it will, on the next succeeding Scheduled Payment Date (1) be required to pay to the other party an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount is required to be deducted or withheld for or on account of a Tax (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) and no additional amount is required to be paid in respect of such Tax under Section 2(d)(i)(4) (other than by reason of Section 2(d)(i)(4)(A) or (B));

(iii) **Tax Event Upon Merger.** The party (the "Burdened Party") on the next succeeding Scheduled Payment Date will either (1) be required to pay an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount has been deducted or withheld for or on account of any Indemnifiable Tax in respect of which the other party is not required to pay an additional amount (other than by reason of Section 2(d)(i)(4)(A) or (B)), in either case as a result of a party consolidating or amalgamating with, or merging with or into, or transferring all or substantially all its assets to, another entity (which will be the Affected Party) where such action does not constitute an event described in Section 5(a)(viii);

(iv) **Credit Event Upon Merger.** If "Credit Event Upon Merger" is specified in the Schedule as applying to the party, such party ("X"), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); of

(v) **Additional Termination Event.** If any "Additional Termination Event" is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).

(c) **Event of Default and Illegality.** If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. Early Termination

(a) **Right to Terminate Following Event of Default.** If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party (the "Non-defaulting Party") may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

(b) **Right to Terminate Following Termination Event.**

(i) **Notice.** If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

(ii) **Transfer to Avoid Termination Event.** If either an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there is only one Affected Party, or if a Tax Event Upon Merger occurs and the Burdened Party is the Affected Party, the Affected Party will, as a condition to its right to designate an Early Termination Date under Section 6(b)(iv), use all reasonable efforts (which will not require such party to incur a loss, excluding immaterial, incidental expenses) to transfer within 20 days after it gives notice under Section 6(b)(i) all its rights and obligations under this Agreement in respect of the Affected Transactions to another of its Offices or Affiliates so that such Termination Event ceases to exist.

If the Affected Party is not able to make such a transfer it will give notice to the other party to that effect within such 20 day period, whereupon the other party may effect such a transfer within 30 days after the notice is given under Section 6(b)(i).

Any such transfer by a party under this Section 6(b)(ii) will be subject to and conditional upon the prior written consent of the other party, which consent will not be withheld if such other party's policies in effect at such time would permit it to enter into transactions with the transferee on the terms proposed.

(iii) **Two Affected Parties.** If an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.

(iv) **Right to Terminate.** If:—

(1) a transfer under Section 6(b)(ii) or an agreement under Section 6(b)(iii), as the case may be, has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

(2) an Illegality under Section 5(b)(i)(2), a Credit Event Upon Merger or an Additional Termination Event occurs, or a Tax Event Upon Merger occurs and the Burdened Party is not the Affected Party,

either party in the case of an Illegality, the Burdened Party in the case of a Tax Event Upon Merger, any Affected Party in the case of a Tax Event or an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then

continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) *Effect of Designation.*

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(e) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) *Calculations.*

(i) *Statement.* On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) *Payment Date.* An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment) in the Termination Currency, from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) *Payments on Early Termination.* If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss", and a payment method, either the "First Method" or the "Second Method". If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method", as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) *Events of Default.* If the Early Termination Date results from an Event of Default:—

(1) *First Method and Market Quotation.* If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party over (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party.

(2) *First Method and Loss.* If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the

Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party less (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(ii) *Termination Events.* If the Early Termination Date results from a Termination Event:—

(1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(i)(3), if Market Quotation applies, or Section 6(e)(i)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(2) *Two Affected Parties.* If there are two Affected Parties:—

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount ("X") and the Settlement Amount of the party with the lower Settlement Amount ("Y") and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (II) the Termination Currency Equivalent of the Unpaid Amounts owing to Y; and

(B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss ("X") and the Loss of the party with the lower Loss ("Y").

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

(iii) *Adjustment for Bankruptcy.* In circumstances where an Early Termination Date occurs because "Automatic Early Termination" applies in respect of a party, the amount determined under this Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).

(iv) *Pre-Estimate.* The parties agree that if Market Quotation applies an amount recoverable under this Section 6(e) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.

7. Transfer

Subject to Section 6(b)(ii), neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that:—

(a) a party may make such a transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and

(b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(e).

Any purported transfer that is not in compliance with this Section will be void.

8. Contractual Currency

(a) *Payment in the Contractual Currency.* Each payment under this Agreement will be made in the relevant currency specified in this Agreement for that payment (the “Contractual Currency”). To the extent permitted by applicable law, any obligation to make payments under this Agreement in the Contractual Currency will not be discharged or satisfied by any tender in any currency other than the Contractual Currency, except to the extent such tender results in the actual receipt by the party to which payment is owed, acting in a reasonable manner and in good faith in converting the currency so tendered into the Contractual Currency, of the full amount in the Contractual Currency of all amounts payable in respect of this Agreement. If for any reason the amount in the Contractual Currency so received falls short of the amount in the Contractual Currency payable in respect of this Agreement, the party required to make the payment will, to the extent permitted by applicable law, immediately pay such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall. If for any reason the amount in the Contractual Currency so received exceeds the amount in the Contractual Currency payable in respect of this Agreement, the party receiving the payment will refund promptly the amount of such excess.

(b) *Judgments.* To the extent permitted by applicable law, if any judgment or order expressed in a currency other than the Contractual Currency is rendered (i) for the payment of any amount owing in respect of this Agreement, (ii) for the payment of any amount relating to any early termination in respect of this Agreement or (iii) in respect of a judgment or order of another court for the payment of any amount described in (i) or (ii) above, the party seeking recovery, after recovery in full of the aggregate amount to which such party is entitled pursuant to the judgment or order, will be entitled to receive immediately from the other party the amount of any shortfall of the Contractual Currency received by such party as a consequence of sums paid in such other currency and will refund promptly to the other party any excess of the Contractual Currency received by such party as a consequence of sums paid in such other currency if such shortfall or such excess arises or results from any variation between the rate of exchange at which the Contractual Currency is converted into the currency of the judgment or order for the purposes of such judgment or order and the rate of exchange at which such party is able, acting in a reasonable manner and in good faith in converting the currency received into the Contractual Currency, to purchase the Contractual Currency with the amount of the currency of the judgment or order actually received by such party. The term “rate of exchange” includes, without limitation, any premiums and costs of exchange payable in connection with the purchase of or conversion into the Contractual Currency.

(c) *Separate Indemnities.* To the extent permitted by applicable law, these indemnities constitute separate and independent obligations from the other obligations in this Agreement, will be enforceable as separate and independent causes of action, will apply notwithstanding any indulgence granted by the party to which any payment is owed and will not be affected by judgment being obtained or claim or proof being made for any other sums payable in respect of this Agreement.

(d) *Evidence of Loss.* For the purpose of this Section 8, it will be sufficient for a party to demonstrate that it would have suffered a loss had an actual exchange or purchase been made.

9. Miscellaneous

- (a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.
- (b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.
- (c) **Survival of Obligations.** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.
- (d) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.
- (e) **Counterparts and Confirmations.**
- (i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.
- (ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex or electronic message constitutes a Confirmation.
- (f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.
- (g) **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.

10. Offices; Multibranch Parties

- (a) If Section 10(a) is specified in the Schedule as applying, each party that enters into a Transaction through an Office other than its head or home office represents to the other party that, notwithstanding the place of booking office or jurisdiction of incorporation or organisation of such party, the obligations of such party are the same as if it had entered into the Transaction through its head or home office. This representation will be deemed to be repeated by such party on each date on which a Transaction is entered into.
- (b) Neither party may change the Office through which it makes and receives payments or deliveries for the purpose of a Transaction without the prior written consent of the other party.
- (c) If a party is specified as a Multibranch Party in the Schedule, such Multibranch Party may make and receive payments or deliveries under any Transaction through any Office listed in the Schedule, and the Office through which it makes and receives payments or deliveries with respect to a Transaction will be specified in the relevant Confirmation.

11. Expenses

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees and Stamp Tax, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document.

to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

12. Notices

(a) *Effectiveness.* Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received;
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or
- (v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.

(h) *Change of Addresses.* Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

13. Governing Law and Jurisdiction

(a) *Governing Law.* This Agreement will be governed by and construed in accordance with the law specified in the Schedule.

(b) *Jurisdiction.* With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably:—

- (i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-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, if this Agreement is expressed to be governed by the laws of the State of New York; and
- (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) *Service of Process.* Each party irrevocably appoints the Process Agent (if any) specified opposite its name in the Schedule to receive, for it and on its behalf, service of process in any Proceedings. If for any

reason any party's Process Agent is unable to act as such, such party will promptly notify the other party and within 30 days appoint a substitute process agent acceptable to the other party. The parties irrevocably consent to service of process given in the manner provided for notices in Section 12. Nothing in this Agreement will affect the right of either party to serve process in any other manner permitted by law.

(d) **Waiver of Immunities.** Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

14. Definitions

As used in this Agreement: —

"**Additional Termination Event**" has the meaning specified in Section 5(b).

"**Affected Party**" has the meaning specified in Section 5(b).

"**Affected Transactions**" means (a) with respect to any Termination Event consisting of an Illegality, Tax Event or Tax Event Upon Merger, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions.

"**Affiliate**" means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"**Applicable Rate**" means: —

(a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate;

(b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate;

(c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate; and

(d) in all other cases, the Termination Rate.

"**Burdened Party**" has the meaning specified in Section 5(b).

"**Change in Tax Law**" means the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (or in the application or official interpretation of any law) that occurs on or after the date on which the relevant Transaction is entered into.

"**consent**" includes a consent, approval, action, authorisation, exemption, notice, filing, registration or exchange control consent.

"**Credit Event Upon Merger**" has the meaning specified in Section 5(b).

"**Credit Support Document**" means any agreement or instrument that is specified as such in this Agreement.

"**Credit Support Provider**" has the meaning specified in the Schedule.

"**Default Rate**" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum.

"*Defaulting Party*" has the meaning specified in Section 6(a).

"*Early Termination Date*" means the date determined in accordance with Section 6(a) or 6(b)(iv).

"*Event of Default*" has the meaning specified in Section 5(a) and, if applicable, in the Schedule.

"*Illegality*" has the meaning specified in Section 5(b).

"*Indemnifiable Tax*" means any Tax other than a Tax that would not be imposed in respect of a payment under this Agreement but for a present or former connection between the jurisdiction of the government or taxation authority imposing such Tax and the recipient of such payment or a person related to such recipient (including, without limitation, a connection arising from such recipient or related person being or having been a citizen or resident of such jurisdiction, or being or having been organised, present or engaged in a trade or business in such jurisdiction, or having or having had a permanent establishment or fixed place of business in such jurisdiction, but excluding a connection arising solely from such recipient or related person having executed, delivered, performed its obligations or received a payment under, or enforced, this Agreement or a Credit Support Document).

"*law*" includes any treaty, law, rule or regulation (as modified, in the case of tax matters, by the practice of any relevant governmental revenue authority) and "lawful" and "unlawful" will be construed accordingly.

"*Local Business Day*" means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

"*Loss*" means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, the Termination Currency Equivalent of an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except, so as to avoid duplication, if Section 6(c)(i)(1) or (3) or 6(e)(ii)(2)(A) applies. Loss does not include a party's legal fees and out-of-pocket expenses referred to under Section 11. A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets.

"*Market Quotation*" means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the "Replacement Transaction") that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have

been required after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

"Non-default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount.

"Non-defaulting Party" has the meaning specified in Section 6(a).

"Office" means a branch or office of a party, which may be such party's head or home office.

"Potential Event of Default" means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Reference Market-makers" means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable, from among such dealers having an office in the same city.

"Relevant Jurisdiction" means, with respect to a party, the jurisdictions (a) in which the party is incorporated, organised, managed and controlled or considered to have its seat, (b) where an Office through which the party is acting for purposes of this Agreement is located, (c) in which the party executes this Agreement and (d) in relation to any payment, from or through which such payment is made.

"Scheduled Payment Date" means a date on which a payment or delivery is to be made under Section 2(a)(i) with respect to a Transaction.

"Set-off" means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

"Settlement Amount" means, with respect to a party and any Early Termination Date, the sum of: -

- (a) the Termination Currency Equivalent of the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and
- (b) such party's Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result.

"Specified Entity" has the meaning specified in the Schedule.

"*Specified Indebtedness*" means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

"*Specified Transaction*" means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

"*Stamp Tax*" means any stamp, registration, documentation or similar tax.

"*Tax*" means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment under this Agreement other than a stamp, registration, documentation or similar tax.

"*Tax Event*" has the meaning specified in Section 5(b).

"*Tax Event Upon Merger*" has the meaning specified in Section 5(b).

"*Terminated Transactions*" means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if "Automatic Early Termination" applies, immediately before that Early Termination Date).

"*Termination Currency*" has the meaning specified in the Schedule.

"*Termination Currency Equivalent*" means, in respect of any amount denominated in the Termination Currency, such Termination Currency amount and, in respect of any amount denominated in a currency other than the Termination Currency (the "Other Currency"), the amount in the Termination Currency determined by the party making the relevant determination as being required to purchase such amount of such Other Currency as at the relevant Early Termination Date, or, if the relevant Market Quotation or Loss (as the case may be), is determined as of a later date, that later date, with the Termination Currency at the rate equal to the spot exchange rate of the foreign exchange agent (selected as provided below) for the purchase of such Other Currency with the Termination Currency at or about 11:00 a.m. (in the city in which such foreign exchange agent is located) on such date as would be customary for the determination of such a rate for the purchase of such Other Currency for value on the relevant Early Termination Date or that later date. The foreign exchange agent will, if only one party is obliged to make a determination under Section 6(e), be selected in good faith by that party and otherwise will be agreed by the parties.

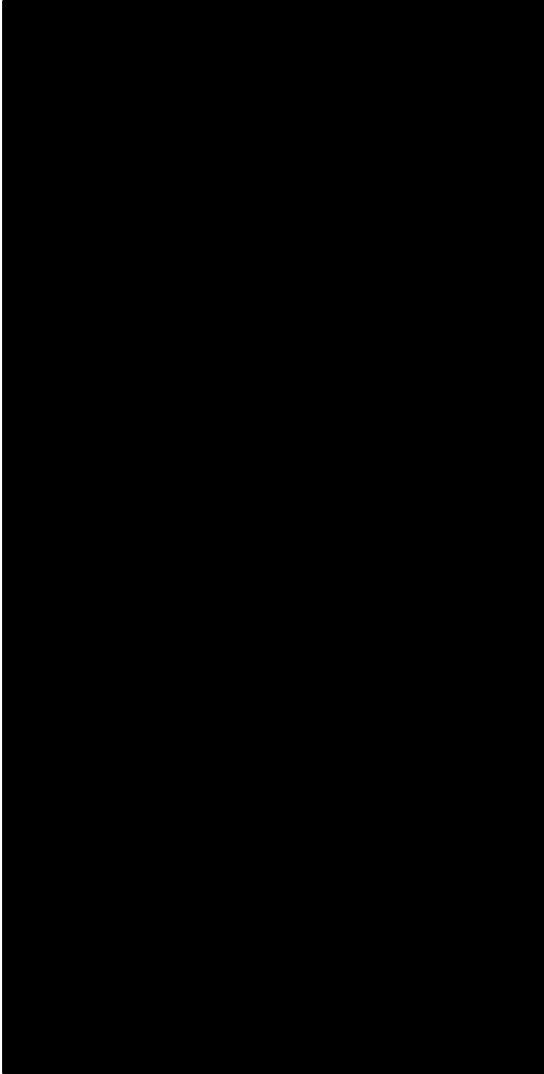
"*Termination Event*" means an Illegality, a Tax Event or a Tax Event Upon Merger or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.

"*Termination Rate*" means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts.


"*Unpaid Amounts*" owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market

value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.



MA Hedge Fund Strategies Limited

By: 

Name: _____
Title: **James DelMedico**
Date: **Executive Director**

By: 

Name: _____
Title: **Connor Burke**
Date: **Director**

Schedule
to the
ISDA 1992 Master Agreement
dated as of 18th September 2019

between

**Each party listed in Appendix I hereto,
severally and not jointly
("Party A")**

and

MA Hedge Fund Strategies Limited
an exempted company incorporated
under the laws of the Cayman Islands

("Party B")

It is understood and agreed that the ISDA Master Agreement, including the Schedule and the Credit Support Annex, shall constitute a separate agreement with each party listed on Appendix I attached hereto and Party B as if each such party so listed had executed and delivered to Party B a separate agreement naming only itself as Party A, subject to the provisions of Appendix I as applicable to such party so listed, and that no party listed on Appendix I shall have any liability under this Agreement for the Obligations of any other party. With respect to any party listed on Appendix I, (i) only Confirmations of Transactions between such party so listed and Party B shall be part of the Agreement with such party so listed and Party B, and (ii) any references in the Agreement or a Confirmation to the Schedule shall be deemed to refer to the Schedule to the Agreement with such party so listed and Party B and any Annex applicable to such party so listed, and the term "this Agreement" shall be construed accordingly.

Part 1
Termination Provisions

In this Agreement:

(a) Specified Entity. "Specified Entity" means:

(I) In relation to Party A for the purpose of:

Section 5(a)(v), not applicable

Section 5(a)(vi), not applicable

Section 5(a)(vii), not applicable

Section 5(b)(iv), not applicable

(II) In relation to Party B for the purpose of:

Section 5(a)(v), not applicable

Section 5(a)(vi), not applicable

Section 5(a)(vii), not applicable

Section 5(b)(iv), not applicable

- (b) Specified Transaction.** Specified Transaction will have the meaning specified in Section 14.
- (c) Cross Default.** The "Cross Default" provision (Section 5(a)(vi)) will apply to Party A and Party B amended as follows:
- (i) **Specified Indebtedness:** Instead of the definition in Section 14 of this Agreement, "Specified Indebtedness" shall mean any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) (a) in respect of borrowed money, and/or (b) in respect of any Specified Transaction (except that, for this purpose only, the words "and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party)" where they appear in the definition of Specified Transaction will be replaced with the words "and any other entity").
 - (ii) **Threshold Amount:** With respect to Party A, three percent (3%) of the shareholders' equity of Party A, as shown in the most recent audited financial statements of Party A, and with respect to Party B, three percent (3%) of the Net Asset Value of Party B, as shown in the most recent audited financial statements of Party B.
- (d) Credit Event Upon Merger.** The "Credit Event Upon Merger" provision (Section 5(b)(iv)) will apply to Party A and Party B restated as follows:
- "Credit Event Upon Merger" means that a Designated Event (as defined below) occurs with respect to a party, any Credit Support Provider of such party or any applicable Specified Entity of such party (in each case, "X"), and such Designated Event does not constitute an event described in Section 5(a)(viii) of this Agreement but the creditworthiness of X or, if applicable, the successor, surviving or transferee entity of X after taking into account any applicable Credit Support Document, is materially weaker immediately after the occurrence of such Designated Event than that of X immediately prior to the occurrence of such Designated Event (and, in such event, such party or its successor, surviving or transferee entity, as appropriate, will be the Affected Party). A "Designated Event" with respect to X means that:
- (i) X consolidates or amalgamates with or merges with or into, or transfers all or substantially all its assets (or any substantial part of the assets comprising the business conducted by X as of the date of this Agreement) to, or reorganises, reconstitutes into or as, another entity;
 - (ii) any person, related group of persons or entity acquires directly or indirectly the beneficial ownership of (A) equity securities having the power to elect a majority of the board of directors (or its equivalent) of X or (B) any other ownership interest enabling it to exercise control of X; or
 - (iii) X effects any substantial change in its capital structure by means of the issuance, incurrence or guarantee of debt or the issuance of (A) preferred stock or other securities convertible into, or exchangeable for, debt or preferred stock or (B) in the case of entities other than corporations, any other form of ownership interest."
- (e) Automatic Early Termination.** The "Automatic Early Termination" provision of Section 6(a) of this Agreement will not apply to Party A and will not apply to Party B.

- (f) **Payments on Early Termination.** For the purpose of Section 6(e), Close-out Amount will apply.
- (g) **Termination Currency.** "Termination Currency" means the currency selected by the party which is not the Defaulting Party or the Affected Party, as the case may be, or where there is more than one Affected Party the currency agreed by Party A and Party B. However, the Termination Currency shall be one of the currencies in which payments are required to be made in respect of Transactions. If the currency selected is not freely available, or where there are two Affected Parties and they cannot agree on a Termination Currency, the Termination Currency shall be United States Dollars.
- (h) **Additional Termination Event.** The following Additional Termination Event(s) will apply:
- (i) **Net Asset Value Decline.** (A) As of the last Local Business Day of any calendar quarter, the Net Asset Value of Party B declines by twenty-five percent (25%) or more from the last Local Business Day of the preceding three-month period then ending (excluding redemption and subscription notices); or (B) as of any Local Business Day, the Net Asset Value of Party B declines by 50% or more from the highest Net Asset Value since the date of this Agreement.
- For purposes of (B), any decline in the Net Asset Value shall take into account all amounts set forth in redemption notices received by or on behalf of Party B (notwithstanding the date the actual redemption shall occur).
- "**Net Asset Value**", means, as of any day, the total value of assets less the total value of liabilities of Party B on such day as calculated and determined in accordance with generally accepted accounting principles in the United States of America with appropriate adjustments being made to reflect fairly the effect of all off-balance sheet assets and liabilities not required to be reflected on the balance sheet in accordance with generally accepted accounting principles.
- (ii) **Manager.** UBS O'Connor LLC or any affiliate of UBS O'Connor LLC acceptable to Party A (the "Investment Manager") ceases to act at any time as investment manager on behalf of Party B in the same or similar capacity as on the date of this Agreement.
- (iii) **Financials.** Party B shall fail to deliver within three (3) Local Business Days of Party A's notice to Party B of Party B's failure, any financial statements or financial information due annually or monthly, or Party B shall fail to deliver an estimate of Party B's Net Asset Value upon demand within one (1) Local Business Day after such information is due.
- (iv) **Event of Default under any of the Prime Broker Agreements.** The occurrence at any time, in respect of Party B, of an event specified as an Event of Default, default, potential default, termination event or similar event (however characterized) as defined in the relevant Prime Broker Agreement whether now existing or hereafter entered into.
- For purposes of this Additional Termination Event, the term **Prime Broker Agreement** shall mean the Customer Agreement (together with any and all annexes attached thereto) between Party B and Credit Suisse Securities (USA) LLC, each as amended from time to time.
- (v) **Prohibited Transaction.** If either Party reasonably determines, and (1) notifies the other Party in writing of such determination and (2) promptly provides to the other Party (in writing, if promptly requested by the other Party) the basis for the determination, that this Agreement or any Transaction hereunder constitutes a "prohibited transaction" under ERISA (as defined in Part 5)

and/or the Code (as defined in Part 5) and that no exemption from the "prohibited transaction" provisions of ERISA and the Code is available with respect to this Agreement and/or such Transaction. Such Additional Termination Event shall be deemed to have occurred when the condition of clause (1) has been satisfied, if clause (2) is eventually satisfied. If the required basis is provided to the other Party in accordance with clause (2) along with the initial notification, the Additional Termination Event occurs at the time of the initial notification.

Party B, in each such instance, shall be the sole Affected Party.

Part 2 Tax Representations

(a) Payer Tax Representations. For the purpose of Section 3(e) of this Agreement, Party A and Party B each makes the following representation:

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on:

- (i) The accuracy of any representation made by the other party pursuant to Section 3(f) of this Agreement;
- (ii) The satisfaction of the agreement of the other party contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement; and
- (iii) The satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement;

Except it will not be a breach of this representation where reliance is placed on clause (ii) above, and the other party does not deliver a form or document under Section 4(a)(iii) of this Agreement by reason of material prejudice to its legal or commercial position.

(b) Payee Tax Representations. For the purpose of Section 3(f) of this Agreement:

(i) Party A makes the following Payee Tax Representations:

(1) Party A is a "non-US branch of a foreign person" as that term is used in Treas. Reg. Section 1.1441-4(a)(3)(ii).

(2) Party A is a "foreign person" within the meaning of Treas. Reg. Section 1.6041-4(a)(4).

(ii) Party B makes the following Payee Tax Representations:

(1) Party B is a "non-US branch of a foreign person" (as that term is used in Section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for United States federal income tax purposes.

(2) Party B is a "foreign person" (as that term is used in Section 1.6041-4(a)(4) of United States Treasury Regulations) for United States federal income tax purposes.

Part 3
Agreement to Deliver Documents

Each party agrees to deliver the following documents as applicable:

- (a) For the purpose of Section 4(a)(i) of this Agreement, tax forms, documents or certificates to be delivered are:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered
Party A & Party B	Any document required or reasonably requested to allow the other party to make payments under this Agreement without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate, including but not limited to an IRS form (e.g. W-8BEN-E, W-8IMY, W-9), as applicable.	(i) Before or upon execution of this Agreement and (ii) promptly upon reasonable demand by the other party

- (b) For the purpose of Section 4(a)(ii) of this Agreement, other documents to be delivered are:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
Party A & Party B	Evidence reasonably satisfactory to the other party as to the names, true signatures and authority of the officers or officials signing this Agreement or any Confirmation on its behalf.	Upon execution of this Agreement and, if requested upon execution of any Confirmation.	Yes
Party A	A copy of the annual report for such party containing audited financial statements for the most recently ended financial year.	Upon request, as soon as publicly available.	Yes
Party B	A copy of the Memorandum and Articles of Association of Party B, the redacted Investment Management Agreement between Party B and the Investment Manager and any placement, offering and disclosure documents (the "Constituent Documents").	Promptly upon request	No

Execution copy

Additionally Party B agrees to deliver to Party A, c/o Credit Suisse Securities (USA) LLC, Attention: Hedge Fund Group – Credit Risk Management, email: hf.credit@credit-suisse.com

- | | | | |
|-------|---|--|-----|
| (i) | A copy of its monthly Net Asset Value report in the form provided to investors. | Within 20 days of the end of the relevant month. | Yes |
| (ii) | A copy of its annual audited financial statements for the most recently ended financial year. | Within 120 days after the end of the relevant fiscal year. | Yes |
| (iii) | A copy of any performance or other reports which Party B delivers to its shareholders and/or investors. | At the same time such reports are delivered to such shareholders and/or investors. | Yes |

Such statements shall be deemed to be delivered once posted and available to Party A at www.ubs.com/alternatives.

Part 4
Miscellaneous

(a) Addresses for Notices. For the purpose of Section 12(a) of this Agreement:

Notwithstanding Section 12(a) of the Agreement all notices including those to be given under Section 5 or 6 may be given by facsimile transmission.

(i) Party A:

(1) Address for notices or communications to Party A:

The address set forth in Appendix II hereto.

(ii) Party B

Address for notices or communications to Party B:

c/o UBS O'Connor LLC
One North Wacker Drive, 32nd Floor
Chicago, IL 60606
Attn: Nicholas Vagra
Tel: 312-525-6275
Fax: 312-525-5040

and

MA HEDGE FUND STRATEGIES LIMITED
c/o Maples Corporate Services Limited
Ugland House
P.O. Box 309
Grand Cayman KY1-1104
Cayman Islands

(For all purposes.)

(b) Process Agent. For the purpose of Section 13(c) of this Agreement:

Party A appoints as its Process Agent: Credit Suisse Securities (USA) LLC, at Eleven Madison Avenue, New York, NY10010, United States of America (Attention: - General Counsel, General Counsel Division).

Party B appoints as its Process Agent:
UBS O'Connor LLC
One North Wacker Drive, 32nd Floor
Chicago, IL 60606

Section 13(c) shall be amended by deleting the second sentence in its entirety and replacing it with the following:

"If for any reason any party's Process Agent is unable to act as such or such appointment is due to expire or terminate at any time on or prior to the Termination Date (as defined in the 2006 Definitions) of any Transaction, such party will promptly notify and renew that appointment or appoint a substitute process

agent acceptable to the other at least 60 days prior to the expiration or termination of such appointment. Written evidence of such appointment and renewal shall be provided, upon request, to the other party."

Party B agrees that service upon itself or this Process Agent by registered first class mail or air courier constitutes effective service as if personally served pursuant to Section 311 of the New York Civil Practice Law and Rules or Rule 4 of the U.S. Federal Rules of Civil Procedure, or any successor section thereof. Party B waives any right to contest the effectiveness of the service if done in accordance with the previous sentence.

(c) Offices. The provisions of Section 10(a) will apply to this Agreement.

(d) Multibranch Party. For the purpose of Section 10(c) of this Agreement:

Party A is not a Multibranch Party.

Party B is not a Multibranch Party.

(e) Calculation Agent. The Calculation Agent is Party A unless otherwise agreed in a Confirmation in relation to the relevant Transaction. In the case of an Event of Default with respect to Party A which has occurred and is continuing, Party B shall be entitled to appoint a substitute Calculation Agent. In such event, Party B shall give written notice to Party A, detailing the relevant Event of Default, indicating its reliance on this Part 4(e) to appoint a substitute Calculation Agent and nominating three (3) Leading Dealers as a potential substitute Calculation Agent (the "Substitute Calculation Agent Notice"). Party A shall either remedy the Event of Default or select one (1) of the three (3) Leading Dealers nominated by Party B as the substitute Calculation Agent, within five (5) Local Business Days of Party A's receipt of the Substitute Calculation Agent Notice; provided that if Party A fails to choose a Leading Dealer by the end of such period then Party B shall choose the Leading Dealer from the three (3) Leading Dealers identified by Party B in the Substitute Calculation Agent Notice. If Party A cures the relevant Event of Default before Party B designates an Early Termination Date in accordance with Section 6(a) of this Agreement, and no other Event of Default has occurred (and not been cured) by such time, then Party A shall recommence acting as the Calculation Agent provided that nothing herein shall affect any calculations already produced by any substitute Calculation Agent duly appointed in accordance with this provision. Party A and Party B shall split all costs and expenses in appointing a Leading Dealer for these purposes.

"Leading Dealer" means Bank of America, Citigroup, Deutsche Bank, Goldman Sachs, JP Morgan Chase, Morgan Stanley, Barclays Capital and UBS or any principal affiliate entity of such entities; provided that such entity is not an affiliate of Party A or Party B, does not act as Party B's prime broker or custodian and is a leading dealer in the relevant market.

(f) Credit Support Document. Details of any Credit Support Document:

(i) With respect to Party A and Party B: The ISDA Credit Support Annex attached hereto and made an integral part hereof.

(ii) In addition, the Credit Support Document set out in Appendix I with respect to Party A shall be a Credit Support Document to the relevant Party A.

(g) Credit Support Provider. Credit Support Provider means:

In relation to Party A: As specified in Appendix I.

In relation to Party B: Not applicable.

(h) Governing Law and Jurisdiction. This Agreement and, to the fullest extent permitted by applicable law, all matters arising out of or relating in any way to this Agreement will be governed by and construed in accordance with the laws of the State of New York. Section 13(b) of this Agreement is hereby amended by: (i) deleting in the second line of subparagraph (i) thereof the word, "non-"; (ii) adding in the third line before comma, "and each party irrevocably agrees to designate any Proceedings brought in the courts of the State of New York as 'commercial' on the Request for Judicial Intervention seeking assignment to the Commercial Division of the Supreme Court"; and (iii) inserting "in order to enforce any judgment obtained in any Proceedings referred to in the preceding sentence" immediately after the word, "jurisdiction," the first time it appears in the second sentence and deleting the remainder.

(i) Netting of Payments. Section 2(c)(ii) of this Agreement will apply to any Transactions from the date of this Agreement. Nevertheless, to reduce settlement risk and operational costs, the parties agree that they will endeavour to net across as many Transactions as practicable wherever the parties can administratively do so.

(j) Affiliate. Affiliate will have the meaning specified in Section 14 of this Agreement.

Part 5
Other Provisions

- (a) **Scope of Agreement.** Any Specified Transaction (whether now existing or hereafter entered into) between the parties, the confirmation of which fails by its terms expressly to exclude application of this Agreement, shall be governed by and be subject to this Agreement. Any such confirmation shall be a "Confirmation", and any such Specified Transaction shall be a "Transaction", for all purposes of this Agreement.
- (b) **Definitions.** Unless otherwise specified in a Confirmation, each Transaction between the parties shall be subject to the 2006 ISDA Definitions (the "2006 Definitions") and the 1998 FX and Currency Options Definitions (including Annex A thereto), each as published by the International Swaps and Derivatives Association, Inc. (collectively, the "Definitions"), and will be governed in all relevant respects by the provisions of the Definitions. The provisions of the Definitions are incorporated by reference in and shall be deemed a part of this Agreement except that references in the 2006 Definitions to a "Swap Transaction" shall be deemed references to a "Transaction" for purposes of this Agreement.
- (c) **Confirmations.** Each Confirmation shall be substantially in the form of one of the Exhibits to the 2006 Definitions or in any other form which is published by the International Swaps and Derivatives Association, Inc. or in such other form as the parties may agree.
- (d) **Additional Representation** will apply. For the purpose of Section 3 of this Agreement, the following will constitute an Additional Representation and marked as a new subsection (g).

"(g) Relationship Between the Parties. Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):

1. *Non-Reliance.* It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction, it being understood that information and explanations related to the terms and conditions of a Transaction will not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party will be deemed to be an assurance or guarantee as to the expected results of that Transaction.
2. *Assessment and Understanding.* It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.

3. *Status of Parties.* The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.
4. *No Agency.* It is entering into this Agreement, including each Transaction, as principal and not as agent of any person or entity."

(e) Recording of Conversation. Each party (i) consents to the recording of telephone conversations between the trading, marketing and other relevant personnel of the parties in connection with this Agreement or any potential Transaction and (ii) agrees that the recordings may be submitted in evidence in any Proceedings to the extent permitted by and subject to applicable law.

(f) Change of Account. Section 2(b) of this Agreement is hereby amended by the addition of the following after the word "delivery" in the first line thereof:

"to another account in the same legal and tax jurisdiction as the original account"

(g) Set-off. Section 6 of this Agreement is amended by addition of the following new subsection:-

"(f) Set-off. Without affecting the provisions of this Agreement requiring the calculation of certain net payment amounts, all payments under this Agreement will be made without set-off or counterclaim; provided, however, that upon the designation of any Early Termination Date, in addition to and not in limitation of any other right or remedy (including any right to set-off, counterclaim, or otherwise withhold payment) under applicable law:

the Non-defaulting Party or the party that is not the Affected Party (in either case, "X") may, without prior notice to any person, set off any sum or obligation (whether or not arising under this Agreement, whether matured unmatured or contingent and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by the Defaulting Party or Affected Party (in either case, "Y") to X or to any Affiliate of X, against any sum or obligation (whether or not arising under this Agreement, whether matured unmatured or contingent and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by X or any Affiliate of X to Y, and, for this purpose, may convert one currency into another. If any sum or obligation is unascertained, X may in good faith estimate that sum or obligation and set off in respect of that estimate, subject to X or Y, as the case may be, accounting to the other party when such sum or obligation is ascertained."

Nothing in Section 6(f) shall be effective or deemed to create any charge or other security interest.

(h) Incorporation of Close-out Amount Protocol. The parties to this Agreement agree that the amendments set out in the Attachment and Annexes 10 – 14 (inclusive) to the ISDA Close-out Amount Protocol published by ISDA on February 27, 2009 and available on the ISDA website (www.isda.org) shall be made to this Agreement and that the Loss Amended Election and the Annex 1 - 9 Applicable Election have been made. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the date this Agreement is entered into for the purposes of the amendments regardless of the definitions of such terms in the Protocol.

(i) **Transfer and Restructuring.** Notwithstanding any provisions of this Agreement to the contrary, the parties hereby agree that:

- (i) Consent by Party B shall not be required in connection with the transfer by Party A of all its interests and obligations under any Transaction entered into pursuant to this Agreement to any Affiliate of Party A, and of any further such transfer by any such Affiliate (the "Transferring Affiliate") to any other Affiliate of Party A, so long as (w) at the time of the proposed transfer of the Transactions by Party A, the transferee or its Credit Support Provider has a long term unsecured unsubordinated debt rating equal to or higher than that of Party A and is not subject to "Credit Watch" or its equivalent by S&P or credit review or its equivalent by Moody's; (x) a Termination Event, Event of Default or Potential Event of Default does not occur as a result of such transfer; (y) as a result of any such transfer Party B would not be required to make or receive any payment from which any Tax (including any Indemnifiable Tax) is required to be withheld or deducted; and (z) the Transaction is at the time of such transfer the legal, valid and binding obligations of the Affiliate or Transferring Affiliate;
- (ii) If, as a matter of law, Party B's consent is required for the purposes of perfecting any transfer contemplated in (i) above by Party A, Party B shall give its consent to the transfer;
- (iii) In the event of any transfer contemplated in (i) above by Party A, Party B will execute upon the demand of Party A the necessary documentation prepared by Party A;
- (iv) Consent by Party B shall not be required in the event Party A requires a restructuring of any Transaction that will ensure the same economic effect for Party B by subdividing such Transaction into two or more parts (each a Transaction); and
- (v) Party B will execute such revised documentation as Party A shall require to evidence any restructuring contemplated in (iv) above.

(j) **Incorporation of ISDA 2012 FATCA Protocol.** The parties to this Agreement agree that the amendments set out in the Attachment to the ISDA 2012 FATCA Protocol published by ISDA on August 15, 2012 and available on the ISDA website (www.isda.org) shall apply to this Agreement. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such Protocol amendments regardless of the definitions of such terms in the Protocol.

(k) **Incorporation of ISDA 2015 Section 871(m) Protocol.** The parties to this Agreement agree that the amendments set out in the Attachment to the ISDA 2015 Section 871(m) Protocol published by ISDA on November 2, 2015 and available on the ISDA website (www.isda.org) shall apply to this Agreement. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such Protocol amendments regardless of the definitions of such terms in the Protocol.

(l) **Escrow Payments.** If (whether by reason of the time difference between the cities in which payments are to be made or otherwise) it is not possible for simultaneous payments to be made on any date on which both parties are required to make payments hereunder, either party may at its option and in its sole discretion notify the other party that payments on that date are to be made in escrow. In this case deposit

of the payment due earlier on that date shall be made by 2:00 p.m. (local time at the place for the earlier payment) on that date with an escrow agent selected by the notifying party, accompanied by irrevocable payment instructions (i) to release the deposited payment to the intended recipient upon receipt by the escrow agent of the required deposit of the corresponding payment from the other party on the same date accompanied by irrevocable payment instructions to the same effect or (ii) if the required deposit of the corresponding payment is not made on that same date, to return the payment deposited to the party that paid it into escrow. The party that elects to have payments made in escrow shall pay all costs of the escrow arrangements.

(m) Commodity Exchange Act. The following representations are made on and as of the date hereof and will be deemed to be made on each date on which a Transaction is entered into:

- (i) Such party is an "eligible contract participant" as defined in the U.S. Commodity Exchange Act, as amended (the "CEA")
- (ii) Party A hereby represents and warrants that its Credit Support Provider is an "eligible contract participant" as defined in the CEA and the applicable regulations thereunder.

(n) Incorporation of Exclusionary Terms. The parties agree that the definitions and provisions contained in the ISDA Non-ECP Guarantor Exclusionary Terms published by the International Swaps and Derivatives Association, Inc., on April 18, 2013 are incorporated and apply to the Agreement.

(o) Waiver of Right to Trial by Jury. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Agreement or any Credit Support Document. Each party (i) certifies that no representative, agent or attorney of the other party or any Credit Support Provider has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into this Agreement and provide for any Credit Support Document, as applicable by, among other things, the mutual waivers and certifications in this Section.

(p) Credit Suisse Securities (USA) LLC as Agent. If Party A with respect to any Transaction hereunder, is relying on Rule 15a-6 ("Rule 15a-6") under the Securities Exchange Act of 1934 (the "Exchange Act") the following terms and conditions shall apply to such Transaction:

- (i) Credit Suisse Securities (USA) LLC, as a broker-dealer registered with the U.S. Securities and Exchange Commission ("SEC"), will arrange such Transaction as facilitating agent for each of the parties and will be responsible to the extent required under Rule 15a-6, for (a) effecting such Transaction, on behalf of Party A, (b) issuing all required confirmations and statements to Party A and Party B, (c) maintaining books and records relating to such Transaction as required by Rules 17a-3 and 17a-4 under the Exchange Act, and (d) if requested by Party A or Party B receiving, delivering and safeguarding such party's funds and securities in connection with such Transaction in compliance with Rule 15c3-3 under the Exchange Act. Notwithstanding the foregoing, the parties agree that Credit Suisse Securities (USA) LLC shall not be deemed by virtue of its role as facilitating agent hereunder to be holding any Securities on behalf of either party.
- (ii) Regardless of whether Party A is relying on Rule 15a-6 with respect to any Transaction hereunder, Credit Suisse Securities (USA) LLC is participating in such Transaction solely as facilitating agent

for the parties. Credit Suisse Securities (USA) LLC shall have no responsibility or personal liability to either party arising from any failure by a party to pay or perform any obligations hereunder, or to monitor or enforce compliance by a party with any obligation hereunder, including, without limitation, any obligation to maintain margin. Each party agrees to proceed solely against the other to collect or recover any securities or moneys owing to it in connection with or as a result of such Transaction or otherwise hereunder. Credit Suisse Securities (USA) LLC shall otherwise have no liability in respect of this Agreement or such Transaction except for its gross negligence or wilful misconduct, or its failure to comply with applicable U.S. securities laws and regulations, in performing its duties as facilitating agent hereunder.

- (q) FDICIA Representation.** Party A and Party B each represents to the other that it is a "financial institution" for purposes of Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended (the "Statute"), and the regulations promulgated pursuant thereto because either (i) it is a broker or dealer, a depository institution or a futures commission merchant (as such terms are defined in the Statute) or (ii) it will engage in financial contracts (as so defined) as a counterparty on both sides of one or more financial markets (as so defined) and either (1) had one or more financial contracts of a total gross dollar value of at least USD1 billion in notional principal amount outstanding on any day during the previous 15-month period with counterparties that are not its affiliates or (2) had total gross mark-to-market positions of at least USD100 million (aggregated across counterparties) in one or more financial contracts on any day during the previous 15-month period with counterparties that are not its affiliates.
- (r) ERISA Representations and Agreements by Party B and Investment Manager.** Party B and Investment Manager, in its individual and fiduciary capacity, represent that Party B is not and will not be a Benefit Plan which, for the purposes of this Agreement, means (1) an "employee benefit plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), (2) a 'Plan' within the meaning of Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), (3) an entity the underlying assets of which constitute assets of employee benefit plans or plans as a result of investments by such plans in the entity pursuant to Section 3(42) of ERISA or (4) assets of a governmental plan or other plan subject to restrictions similar or analogous to those contained in ERISA or the Code.
- (s) Investment Manager as Agent.** Party B represents and warrants (and such representation and warranty shall be deemed to have been repeated on each date that a Transaction is entered into) that the Investment Manager has the full power and authority to commit Party B to Transactions and conclude such Transactions on Party B's behalf on such terms and conditions as the Investment Manager may determine in its absolute discretion. Unless previously notified in writing by Party B, Party A may rely on all representations and warranties of and actions by the Investment Manager in relation to any such Transactions. For these purposes, Party B agrees to fully and unconditionally indemnify Party A for any and all losses, damages, costs and expenses directly sustained by Party A (including those incurred in unwinding any relevant hedging transactions) by reason of (i) its *bona fide* reliance on the appointment by Party B of the Investment Manager as Party B's agent to enter into Transactions on its behalf, irrespective of the invalidity, unenforceability, termination or revocation of such appointment (unless previously notified in writing by Party B) or breach by the Investment Manager of its terms or (ii) as a direct result of Party A's *bona fide* reliance upon the instructions, actions or ostensible authority of the Investment Manager.

(t) Additional Agreements. Section 4 of the Agreement is hereby amended in respect of Party B only by the addition of the following agreements:

- “ (f) Party B shall provide to Party A, upon request either verbally or in writing and within two (2) Local Business Days of such request, information the parties deem to be reasonable in view of credit and other risk management purposes which may include the unofficial Net Asset Value of Party B as determined in good faith as of the day on which Party A made such request.
- (g) In the event that Party B materially amends, alters, modifies or changes its Constituent Documents, Party B shall notify Party A within 30 days of the effectiveness of such changes and provide copies of such changes to its Constituent Documents. Party B shall provide Party A with the current version of such Constituent Documents marked to show all changes from the prior version.”

(u) European Market Infrastructure Regulation Protocol (EMIR).

(j) ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol published by ISDA on 19 July 2013.

(1) Party A and Party B agree that the provisions set out in the attachment to the ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol published by ISDA on 19 July 2013 and available on the ISDA website (www.isda.org) (the PR/DR Protocol) are incorporated into and apply to this Agreement as if this Agreement was a Protocol Covered Agreement. In respect of the attachment to the PR/DR Protocol, references to “the Implementation Date” shall mean the date of this Agreement and references to “any ISDA Master Agreement” shall mean this Agreement. For the purposes thereof:

(A) Portfolio reconciliation process status:

Party A is a Portfolio Data Sending Entity and Party B is a Portfolio Data Receiving Entity, in each case, subject to Part I(2)(a) of the PR/DR Protocol.

(B) Local Business Days:

Party A: London

Party B: George Town

(C) Party A and Party B may use a Third Party Service Provider.

(D) Contact details for Portfolio Data, discrepancy notices and Dispute Notices:

Party A agrees to deliver the following items to Party B at the contact details shown below:

Portfolio Data: ol-ubsoc-emir-doddfrank@ubs.com

Notice of a discrepancy and Dispute Notice: ol-ubsoc-emir-doddfrank@ubs.com

Party B agrees to deliver the following items to Party A at the contact details shown below:

Portfolio Data: portfolio.recon@credit-suisse.com

Notice of a discrepancy and Dispute Notice:

- i. Recognition or valuation of OTC trades: portfolio.recon@credit-suisse.com
- ii. Collateral: portfolio.recon@credit-suisse.com

(ii) ISDA 2013 NFC Representation Protocol published by ISDA on May 8, 2013.

(1) Party A confirms that it is an adhering party to the ISDA 2013 EMIR NFC Representation Protocol published by ISDA on 8 March 2013 and available on the ISDA website (www.isda.org) (the NFC Protocol). Party A and Party B agree that the provisions set out in the attachment to the NFC Protocol and Party A's elections made in its adherence letter to the NFC Protocol are incorporated into and apply to this Agreement as if this Agreement were a Covered Master Agreement. In this regard, references to "the Implementation Date" shall mean the date of this Agreement and references to "the Agreement" shall mean this Agreement.

(2) For the purposes of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR), Party B represents that would be a financial counterparty if it were established in the European Union.

(v) Incorporation of the ISDA 2016 Bail-in Art 55 BRRD Protocol (Dutch/ French/ German/ Irish/ Italian/ Luxembourg/ Spanish/ UK entity-in-resolution version). The parties to this Agreement agree that the terms of the ISDA 2016 Bail-in Article 55 BRRD Protocol (Dutch/ French/ German/ Irish/ Italian/ Luxembourg/ Spanish/ UK entity-in-resolution version) (the "ISDA Bail-in Protocol"), as published by ISDA on July 14, 2016 and available on the ISDA website (www.isda.org), are incorporated into and form part of this Agreement. The parties further agree that this Agreement shall be deemed to be a "Protocol Covered Agreement" and that the "Implementation Date" shall be the effective date of this Agreement, each for the purposes of such ISDA Bail-in Protocol, regardless of the definitions of such terms in such ISDA Bail-in Protocol. In the event of any inconsistencies between this Agreement and the ISDA Bail-in Protocol, the ISDA Bail-in Protocol will prevail.

(w) Incorporation of the ISDA UK (PRA Rule) Jurisdictional Module. The parties to this Agreement represent that the terms of the ISDA UK (PRA Rule) Jurisdictional Module to the ISDA Resolution Stay Jurisdictional Modular Protocol (the "UK Jurisdictional Module"), as published by ISDA on May 3, 2016 and available on the ISDA website (www.isda.org), are incorporated into and form part of this Agreement. The parties further agree that this Agreement will be deemed to be a "Covered Agreement" and that the Implementation Date shall be the effective date of this

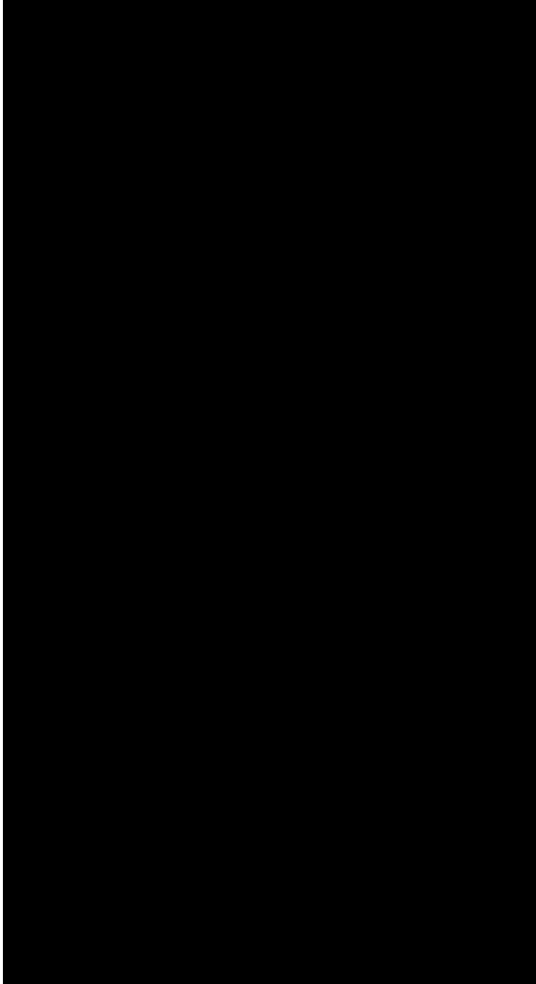
Agreement as amended by the parties for the purposes of such UK Jurisdictional Module regardless of the definition of such terms in the UK Jurisdictional Module. In the event of any inconsistencies between this Agreement and the UK Jurisdictional Module, the UK Jurisdictional Module will prevail.

(x) Incorporation of the ISDA Swiss Jurisdictional Module. The parties to this Agreement agree that the terms of the ISDA Swiss Jurisdictional Module and the ISDA Resolution Stay Jurisdictional Modular Protocol (together, the "Swiss Jurisdictional Module"), as published by ISDA on October 31, 2017 and available on the ISDA website (www.isda.org), are incorporated into and form part of this Agreement. The parties further agree that this Agreement will be deemed to be a "Covered Agreement" and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such Swiss Jurisdictional Module regardless of the definition of such terms in the Swiss Jurisdictional Module. In the event of any inconsistencies between this Agreement and the Swiss Jurisdictional Module, the Swiss Jurisdictional Module will prevail.

(y) Portfolio Swaps (Standard Terms) Annex. Attached hereto as Annex I and made a part hereof is the "Credit Suisse Securities (Europe) Limited Portfolio Swaps (Standard Terms) Annex".

Execution copy

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.




MA HEDGE FUND STRATEGIES LIMITED

By: UBS O'Connor LLC, as investment manager

By: 

Name: Connor Burke


Title: Director

By: 

Name: James Del Medico

Title: Executive Director

**UBS O'CONNOR LLC (solely with respect to
Part 5(r))**

By : 

Name :

Title :

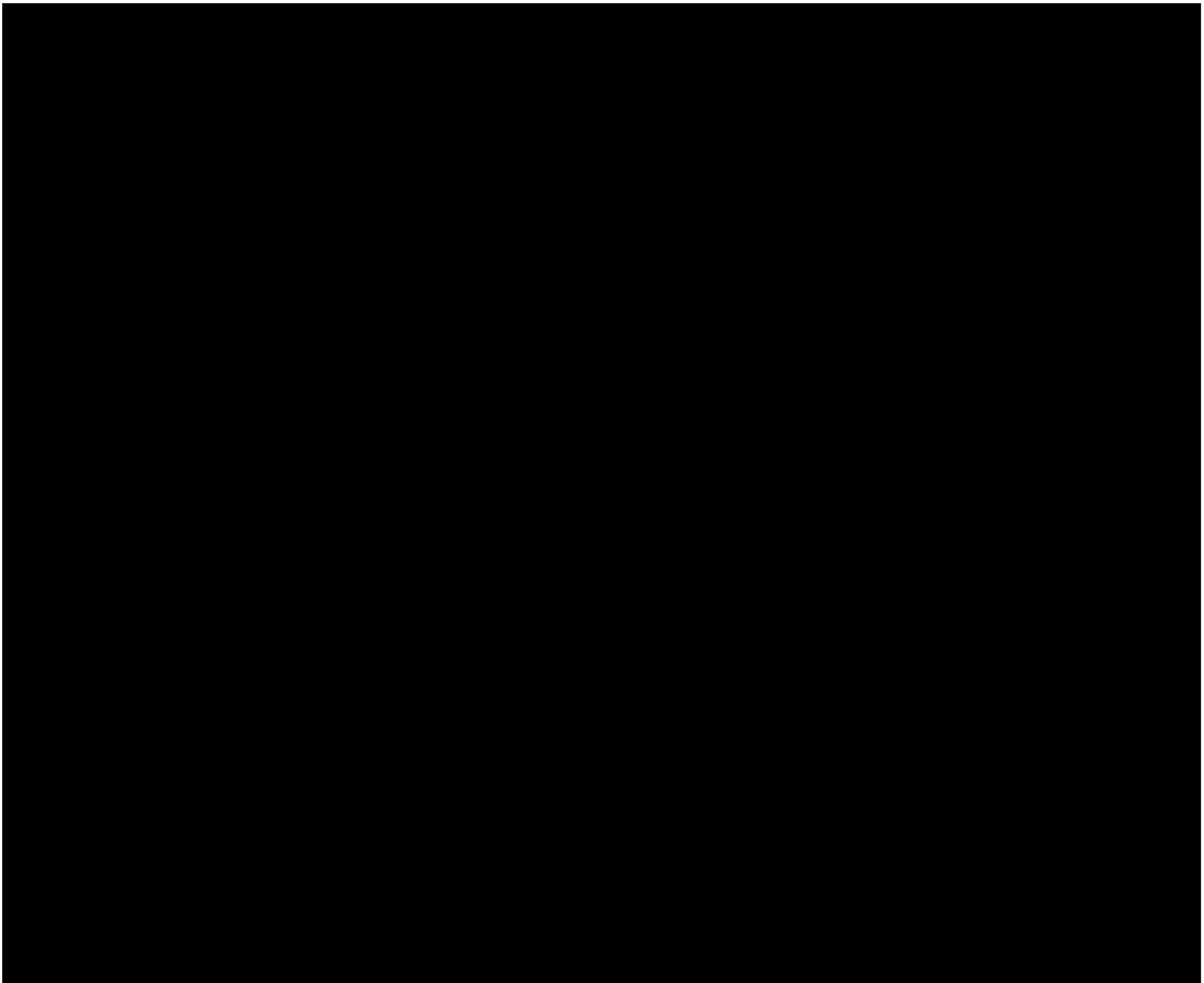
Date :

**James DelMedico
Executive Director**

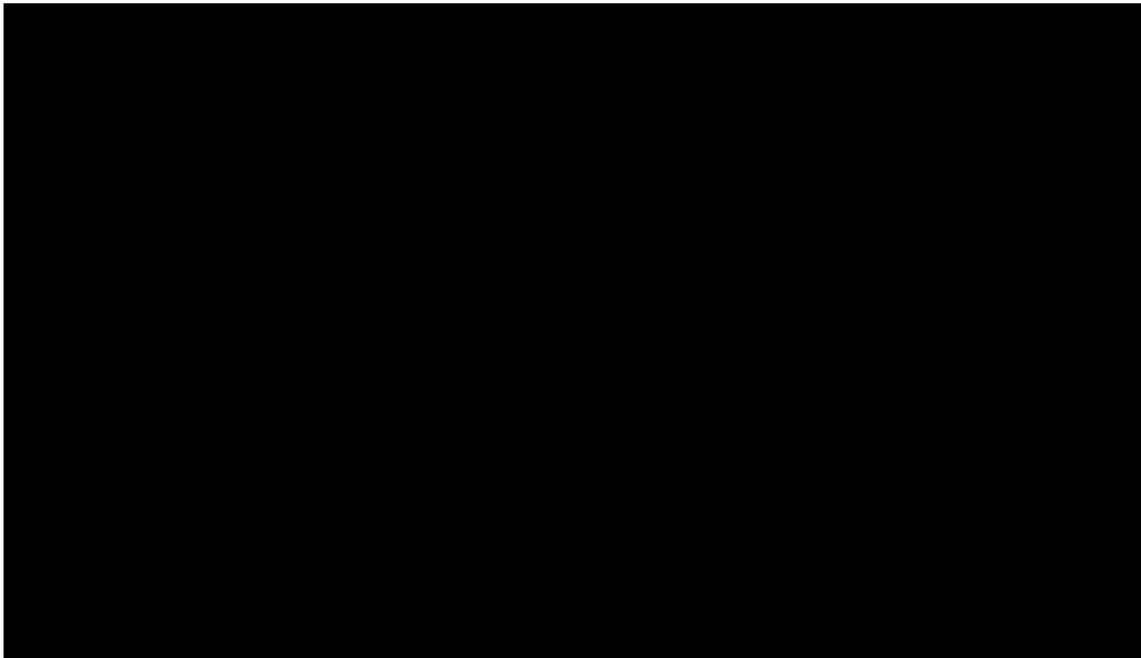
Appendix I

Part 4(f)(ii) – Credit Support Document	Part 4(g) – Credit Support Provider	Part 5(m) – Commodity Exchange Act	Part 5(x) - Incorporation of the ISDA Swiss Jurisdictional Module
Not applicable	Not applicable	Not applicable	Not applicable
[REDACTED]	[REDACTED]	Applicable	Applicable.

Appendix II



Execution copy



(Multicurrency – Cross Border)

ISDA[®]

International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of **December 4th 2019**

Each party listed in Appendix I
hereto, severally and not jointly

and

**AFS Controlled Subsidiary 3
Ltd., acting solely in its capacity
as trustee in respect of
Nineteen77 Global Merger
Arbitrage Opportunity Fund**

have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement, which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows: —

1. Interpretation

(a) **Definitions.** The terms defined in Section 14 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.

(b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.

(c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

(a) General Conditions.

(i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.

(ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.

(iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

(b) **Change of Account.** Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) **Netting.** If on any date amounts would otherwise be payable: —

- (i) in the same currency; and
- (ii) in respect of the same Transaction.

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of Offices through which the parties make and receive payments or deliveries.

(d) **Deduction or Withholding for Tax.**

(i) **Gross-Up.** All payments under this Agreement will be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, then in effect. If a party is so required to deduct or withhold, then that party ("X") will: —

- (1) promptly notify the other party ("Y") of such requirement;
- (2) pay to the relevant authorities the full amount required to be deducted or withheld (including the full amount required to be deducted or withheld from any additional amount paid by X to Y under this Section 2(d)) promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against Y;
- (3) promptly forward to Y an official receipt (or a certified copy), or other documentation reasonably acceptable to Y, evidencing such payment to such authorities; and
- (4) if such Tax is an Indemnifiable Tax, pay to Y, in addition to the payment to which Y is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by Y (free and clear of Indemnifiable Taxes, whether assessed against X or Y) will equal the full amount Y would have received had no such deduction or withholding been required. However, X will not be required to pay any additional amount to Y to the extent that it would not be required to be paid but for: —

(A) the failure by Y to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d); or

(B) the failure of a representation made by Y pursuant to Section 3(f) to be accurate and true unless such failure would not have occurred but for (1) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on

which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (II) a Change in Tax Law.

(ii) **Liability.** It: —

(1) X is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, to make any deduction or withholding in respect of which X would not be required to pay an additional amount to Y under Section 2(d)(i)(4);

(2) X does not so deduct or withhold; and

(3) a liability resulting from such Tax is assessed directly against X,

then, except to the extent Y has satisfied or then satisfies the liability resulting from such Tax, Y will promptly pay to X the amount of such liability (including any related liability for interest, but including any related liability for penalties only if Y has failed to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d)).

(c) **Default Interest; Other Amounts.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(f), at all times until the termination of this Agreement) that: —

(a) **Basic Representations.**

(i) **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;

(ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorise such execution, delivery and performance;

(iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;

(iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and

(v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws

affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

(e) **Payer Tax Representation.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(e) is accurate and true.

(f) **Payee Tax Representations.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(f) is accurate and true.

4. Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party: —

(a) **Furnish Specified Information.** It will deliver to the other party or, in certain cases under subparagraph (iii) below, to such government or taxing authority as the other party reasonably directs: —

(i) any forms, documents or certificates relating to taxation specified in the Schedule or any Confirmation;

(ii) any other documents specified in the Schedule or any Confirmation; and

(iii) upon reasonable demand by such other party, any form or document that may be required or reasonably requested in writing in order to allow such other party or its Credit Support Provider to make a payment under this Agreement or any applicable Credit Support Document without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of the party in receipt of such demand), with any such form or document to be accurate and completed in a manner reasonably satisfactory to such other party and to be executed and to be delivered with any reasonably required certification.

in each case by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

(b) **Maintain Authorisations.** It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) **Comply with Laws.** It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

(d) **Tax Agreement.** It will give notice of any failure of a representation made by it under Section 3(f) to be accurate and true promptly upon learning of such failure.

(c) **Payment of Stamp Tax.** Subject to Section 11, it will pay any Stamp Tax levied or imposed upon it or in respect of its execution or performance of this Agreement by a jurisdiction in which it is incorporated, organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting for the purpose of this Agreement is located ("Stamp Tax Jurisdiction") and will indemnify the other party against any Stamp Tax levied or imposed upon the other party or in respect of the other party's execution or performance of this Agreement by any such Stamp Tax Jurisdiction which is not also a Stamp Tax Jurisdiction with respect to the other party.

5. Events or Default and Termination Events

(a) **Events of Default.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an "Event of Default") with respect to such party: —

(i) **Failure to Pay or Deliver.** Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

(ii) **Breach of Agreement.** Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) or to give notice of a Termination Event or any agreement or obligation under Section 4(a)(i), 4(a)(iii) or 4(d)) to be complied with or performed by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) **Credit Support Default.**

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party; or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) **Misrepresentation.** A representation (other than a representation under Section 3(e) or (f)) made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) **Default under Specified Transaction.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) **Cross Default.** If "Cross Default" is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specific Indebtedness of any

of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period):

(vii) **Bankruptcy.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party:—

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) **Merger Without Assumption.** The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer: —

(1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) **Termination Events.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, a Tax Event if the event is specified in (ii) below or a Tax Event Upon Merger if the event is specified in (iii) below, and, if specified to be applicable, a Credit Event:

Upon Merger if the event is specified pursuant to (iv) below or an Additional Termination Event if the event is specified pursuant to (v) below:—

(i) **Illegality.** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):—

(1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or

(2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;

(ii) **Tax Event.** Due to (x) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (y) a Change in Tax Law, the party (which will be the Affected Party) will, or there is a substantial likelihood that it will, on the next succeeding Scheduled Payment Date (1) be required to pay to the other party an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount is required to be deducted or withheld for or on account of a Tax (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) and no additional amount is required to be paid in respect of such Tax under Section 2(d)(i)(4) (other than by reason of Section 2(d)(i)(4)(A) or (B)):

(iii) **Tax Event Upon Merger.** The party (the "Burdened Party") on the next succeeding Scheduled Payment Date will either (1) be required to pay an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount has been deducted or withheld for or on account of any Indemnifiable Tax in respect of which the other party is not required to pay an additional amount (other than by reason of Section 2(d)(i)(4)(A) or (B)), in either case as a result of a party consolidating or amalgamating with, or merging with or into, or transferring all or substantially all its assets to, another entity (which will be the Affected Party) where such action does not constitute an event described in Section 5(a)(vii);

(iv) **Credit Event Upon Merger.** If "Credit Event Upon Merger" is specified in the Schedule as applying to the party, such party ("X"), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(vii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); of

(v) **Additional Termination Event.** If any "Additional Termination Event" is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).

(c) **Event of Default and Illegality.** If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. Early Termination

(a) **Right to Terminate Following Event of Default.** If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party (the "Non-defaulting Party") may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

(b) **Right to Terminate Following Termination Event.**

(i) **Notice.** If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

(ii) **Transfer to Avoid Termination Event.** If either an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there is only one Affected Party, or if a Tax Event Upon Merger occurs and the Burdened Party is the Affected Party, the Affected Party will, as a condition to its right to designate an Early Termination Date under Section 6(b)(iv), use all reasonable efforts (which will not require such party to incur a loss, excluding immaterial, incidental expenses) to transfer within 20 days after it gives notice under Section 6(b)(i) all its rights and obligations under this Agreement in respect of the Affected Transactions to another of its Offices or Affiliates so that such Termination Event ceases to exist.

If the Affected Party is not able to make such a transfer it will give notice to the other party to that effect within such 20 day period, whereupon the other party may effect such a transfer within 30 days after the notice is given under Section 6(b)(i).

Any such transfer by a party under this Section 6(b)(ii) will be subject to and conditional upon the prior written consent of the other party, which consent will not be withheld if such other party's policies in effect at such time would permit it to enter into transactions with the transferee on the terms proposed.

(iii) **Two Affected Parties.** If an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.

(iv) **Right to Terminate.** If:—

(1) a transfer under Section 6(b)(ii) or an agreement under Section 6(b)(iii), as the case may be, has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

(2) an Illegality under Section 5(b)(i)(2), a Credit Event Upon Merger or an Additional Termination Event occurs, or a Tax Event Upon Merger occurs and the Burdened Party is not the Affected Party.

either party in the case of an Illegality, the Burdened Party in the case of a Tax Event Upon Merger, any Affected Party in the case of a Tax Event or an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then

continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) *Effect of Designation.*

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(e) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) *Calculations.*

(i) *Statement.* On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) *Payment Date.* An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment) in the Termination Currency, from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) *Payments on Early Termination.* If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss", and a payment method, either the "First Method" or the "Second Method". If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method", as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) *Events of Default.* If the Early Termination Date results from an Event of Default:—

(1) *First Method and Market Quotation.* If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party over (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party.

(2) *First Method and Loss.* If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the

Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party less (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(ii) *Termination Events.* If the Early Termination Date results from a Termination Event:—

(1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(c)(i)(3), if Market Quotation applies, or Section 6(c)(i)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(2) *Two Affected Parties.* If there are two Affected Parties:—

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (i) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount ("X") and the Settlement Amount of the party with the lower Settlement Amount ("Y") and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (ii) the Termination Currency Equivalent of the Unpaid Amounts owing to Y; and

(B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss ("X") and the Loss of the party with the lower Loss ("Y").

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

(iii) *Adjustment for Bankruptcy.* In circumstances where an Early Termination Date occurs because "Automatic Early Termination" applies in respect of a party, the amount determined under this Section 6(c) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).

(iv) *Pre-Estimate.* The parties agree that if Market Quotation applies an amount recoverable under this Section 6(c) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.

7. Transfer

Subject to Section 6(b)(ii), neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that:—

(a) a party may make such a transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and

(b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(c).

Any purported transfer that is not in compliance with this Section will be void.

8. Contractual Currency

(a) *Payment in the Contractual Currency.* Each payment under this Agreement will be made in the relevant currency specified in this Agreement for that payment (the "Contractual Currency"). To the extent permitted by applicable law, any obligation to make payments under this Agreement in the Contractual Currency will not be discharged or satisfied by any tender in any currency other than the Contractual Currency, except to the extent such tender results in the actual receipt by the party to which payment is owed, acting in a reasonable manner and in good faith in converting the currency so tendered into the Contractual Currency, of the full amount in the Contractual Currency of all amounts payable in respect of this Agreement. If for any reason the amount in the Contractual Currency so received falls short of the amount in the Contractual Currency payable in respect of this Agreement, the party required to make the payment will, to the extent permitted by applicable law, immediately pay such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall. If for any reason the amount in the Contractual Currency so received exceeds the amount in the Contractual Currency payable in respect of this Agreement, the party receiving the payment will refund promptly the amount of such excess.

(b) *Judgments.* To the extent permitted by applicable law, if any judgment or order expressed in a currency other than the Contractual Currency is rendered (i) for the payment of any amount owing in respect of this Agreement, (ii) for the payment of any amount relating to any early termination in respect of this Agreement or (iii) in respect of a judgment or order of another court for the payment of any amount described in (i) or (ii) above, the party seeking recovery, after recovery in full of the aggregate amount to which such party is entitled pursuant to the judgment or order, will be entitled to receive immediately from the other party the amount of any shortfall of the Contractual Currency received by such party as a consequence of sums paid in such other currency and will refund promptly to the other party any excess of the Contractual Currency received by such party as a consequence of sums paid in such other currency if such shortfall or such excess arises or results from any variation between the rate of exchange at which the Contractual Currency is converted into the currency of the judgment or order for the purposes of such judgment or order and the rate of exchange at which such party is able, acting in a reasonable manner and in good faith in converting the currency received into the Contractual Currency, to purchase the Contractual Currency with the amount of the currency of the judgment or order actually received by such party. The term "rate of exchange" includes, without limitation, any premiums and costs of exchange payable in connection with the purchase of or conversion into the Contractual Currency.

(c) *Separate Indemnities.* To the extent permitted by applicable law, these indemnities constitute separate and independent obligations from the other obligations in this Agreement, will be enforceable as separate and independent causes of action, will apply notwithstanding any indulgence granted by the party to which any payment is owed and will not be affected by judgment being obtained or claim or proof being made for any other sums payable in respect of this Agreement.

(d) *Evidence of Loss.* For the purpose of this Section 8, it will be sufficient for a party to demonstrate that it would have suffered a loss had an actual exchange or purchase been made.

9. Miscellaneous

- (a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.
- (b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.
- (c) **Survival of Obligations.** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.
- (d) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.
- (e) **Counterparts and Confirmations.**
- (i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.
 - (ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex or electronic message constitutes a Confirmation.
- (f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.
- (g) **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.

10. Offices; Multibranch Parties

- (a) If Section 10(a) is specified in the Schedule as applying, each party that enters into a Transaction through an Office other than its head or home office represents to the other party that, notwithstanding the place of booking office or jurisdiction of incorporation or organisation of such party, the obligations of such party are the same as if it had entered into the Transaction through its head or home office. This representation will be deemed to be repeated by such party on each date on which a Transaction is entered into.
- (b) Neither party may change the Office through which it makes and receives payments or deliveries for the purpose of a Transaction without the prior written consent of the other party.
- (c) If a party is specified as a Multibranch Party in the Schedule, such Multibranch Party may make and receive payments or deliveries under any Transaction through any Office listed in the Schedule, and the Office through which it makes and receives payments or deliveries with respect to a Transaction will be specified in the relevant Confirmation.

11. Expenses

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees and Stamp Tax, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document.

to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

12. Notices

(a) *Effectiveness.* Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received;
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or
- (v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.

(b) *Change of Addresses.* Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

13. Governing Law and Jurisdiction

(a) *Governing Law.* This Agreement will be governed by and construed in accordance with the law specified in the Schedule.

(b) *Jurisdiction.* With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably:—

- (i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-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, if this Agreement is expressed to be governed by the laws of the State of New York; and
- (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) *Service of Process.* Each party irrevocably appoints the Process Agent (if any) specified opposite its name in the Schedule to receive, for it and on its behalf, service of process in any Proceedings. If for any

reason any party's Process Agent is unable to act as such, such party will promptly notify the other party and within 30 days appoint a substitute process agent acceptable to the other party. The parties irrevocably consent to service of process given in the manner provided for notices in Section 12. Nothing in this Agreement will affect the right of either party to serve process in any other manner permitted by law.

(d) **Waiver of Immunities.** Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

14. Definitions

As used in this Agreement: ---

"**Additional Termination Event**" has the meaning specified in Section 5(b).

"**Affected Party**" has the meaning specified in Section 5(b).

"**Affected Transactions**" means (a) with respect to any Termination Event consisting of an Illegality, Tax Event or Tax Event Upon Merger, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions.

"**Affiliate**" means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"**Applicable Rate**" means: ---

(a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate;

(b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate;

(c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate; and

(d) in all other cases, the Termination Rate.

"**Burdened Party**" has the meaning specified in Section 5(b).

"**Change in Tax Law**" means the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (or in the application or official interpretation of any law) that occurs on or after the date on which the relevant Transaction is entered into.

"**consent**" includes a consent, approval, action, authorisation, exemption, notice, filing, registration or exchange control consent.

"**Credit Event Upon Merger**" has the meaning specified in Section 5(b).

"**Credit Support Document**" means any agreement or instrument that is specified as such in this Agreement.

"**Credit Support Provider**" has the meaning specified in the Schedule.

"**Default Rate**" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum.

"*Defaulting Party*" has the meaning specified in Section 6(a).

"*Early Termination Date*" means the date determined in accordance with Section 6(a) or 6(b)(iv).

"*Event of Default*" has the meaning specified in Section 5(a) and, if applicable, in the Schedule.

"*Illegality*" has the meaning specified in Section 5(b).

"*Indemnifiable Tax*" means any Tax other than a Tax that would not be imposed in respect of a payment under this Agreement but for a present or former connection between the jurisdiction of the government or taxation authority imposing such Tax and the recipient of such payment or a person related to such recipient (including, without limitation, a connection arising from such recipient or related person being or having been a citizen or resident of such jurisdiction, or being or having been organised, present or engaged in a trade or business in such jurisdiction, or having or having had a permanent establishment or fixed place of business in such jurisdiction, but excluding a connection arising solely from such recipient or related person having executed, delivered, performed its obligations or received a payment under, or enforced, this Agreement or a Credit Support Document).

"*law*" includes any treaty, law, rule or regulation (as modified, in the case of tax matters, by the practice of any relevant governmental revenue authority) and "lawful" and "unlawful" will be construed accordingly.

"*Local Business Day*" means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

"*Loss*" means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, the Termination Currency Equivalent of an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except, so as to avoid duplication, if Section 6(c)(i)(1) or (3) or 6(c)(ii)(2)(A) applies. Loss does not include a party's legal fees and out-of-pocket expenses referred to under Section 11. A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets.

"*Market Quotation*" means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the "Replacement Transaction") that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have

been required after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(c), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

"*Non-default Rate*" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount.

"*Non-defaulting Party*" has the meaning specified in Section 6(a).

"*Office*" means a branch or office of a party, which may be such party's head or home office.

"*Potential Event of Default*" means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"*Reference Market-makers*" means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable, from among such dealers having an office in the same city.

"*Relevant Jurisdiction*" means, with respect to a party, the jurisdictions (a) in which the party is incorporated, organised, managed and controlled or considered to have its seat, (b) where an Office through which the party is acting for purposes of this Agreement is located, (c) in which the party executes this Agreement and (d) in relation to any payment, from or through which such payment is made.

"*Scheduled Payment Date*" means a date on which a payment or delivery is to be made under Section 2(n)(i) with respect to a Transaction.

"*Set-off*" means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

"*Settlement Amount*" means, with respect to a party and any Early Termination Date, the sum of: -

(a) the Termination Currency Equivalent of the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and

(b) such party's Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result.

"*Specified Entity*" has the meaning specified in the Schedule.

"Specified Indebtedness" means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

"Specified Transaction" means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

"Stamp Tax" means any stamp, registration, documentation or similar tax.

"Tax" means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment under this Agreement other than a stamp, registration, documentation or similar tax.

"Tax Event" has the meaning specified in Section 5(b).

"Tax Event Upon Merger" has the meaning specified in Section 5(b).

"Terminated Transactions" means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if "Automatic Early Termination" applies, immediately before that Early Termination Date).

"Termination Currency" has the meaning specified in the Schedule.

"Termination Currency Equivalent" means, in respect of any amount denominated in the Termination Currency, such Termination Currency amount and, in respect of any amount denominated in a currency other than the Termination Currency (the "Other Currency"), the amount in the Termination Currency determined by the party making the relevant determination as being required to purchase such amount of such Other Currency as at the relevant Early Termination Date, or, if the relevant Market Quotation or Loss (as the case may be), is determined as of a later date, that later date, with the Termination Currency at the rate equal to the spot exchange rate of the foreign exchange agent (selected as provided below) for the purchase of such Other Currency with the Termination Currency at or about 11:00 a.m. (in the city in which such foreign exchange agent is located) on such date as would be customary for the determination of such a rate for the purchase of such Other Currency for value on the relevant Early Termination Date or that later date. The foreign exchange agent will, if only one party is obliged to make a determination under Section 6(c), be selected in good faith by that party and otherwise will be agreed by the parties.

"Termination Event" means an Illegality, a Tax Event or a Tax Event Upon Merger or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.

"Termination Rate" means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts.

"Unpaid Amounts" owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market

value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.



AFS Controlled Subsidiary 3 Ltd., acting
solely in its capacity as trustee in respect of
Nineteen77 Global Merger Arbitrage Opportunity Fund
By: UBS O'Connor LLC, as investment manager

By: Valentina Herrera

Name: Valentina Herrera
Title: Solicitor
Date:

Connor Burke

By: _____

Name:
Title:
Date: Connor Burke,
Director

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Schedule
to the
ISDA 1992 Master Agreement
dated as of December 4th 2019
between

Each party listed in Appendix I hereto,
severally and not jointly
("Party A")

and

AFS Controlled Subsidiary 3 Ltd., an
exempted company incorporated under the
laws of the Cayman Islands, acting solely in its
capacity as trustee (the "Trustee") in respect
of **Nineteen77 Global Merger Arbitrage**
Opportunity Fund, a Cayman Islands
exempted unit trust (the "Fund")

(the Trustee acting in respect of the Fund, "Party
B")

It is understood and agreed that the ISDA Master Agreement, including the Schedule and the Credit Support Annex, shall constitute a separate agreement with each party listed on Appendix I attached hereto and Party B as if each such party so listed had executed and delivered to Party B a separate agreement naming only itself as Party A, subject to the provisions of Appendix I as applicable to such party so listed, and that no party listed on Appendix I shall have any liability under this Agreement for the Obligations of any other party. With respect to any party listed on Appendix I, (i) only Confirmations of Transactions between such party so listed and Party B shall be part of the Agreement with such party so listed and Party B, and (ii) any references in the Agreement or a Confirmation to the Schedule shall be deemed to refer to the Schedule to the Agreement with such party so listed and Party B and any Annex applicable to such party so listed, and the term "this Agreement" shall be construed accordingly.

Part 1
Termination Provisions

In this Agreement:

(a) Specified Entity. "Specified Entity" means:

(I) In relation to Party A for the purpose of:

Section 5(a)(v), not applicable

Section 5(a)(vi), not applicable

Section 5(a)(vii), not applicable

Section 5(b)(iv), not applicable

(II) In relation to Party B for the purpose of:

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Section 5(a)(v), not applicable
Section 5(a)(vi), not applicable
Section 5(a)(vii), not applicable
Section 5(b)(iv), not applicable

- (b) **Specified Transaction.** Specified Transaction will have the meaning specified in Section 14.
- (c) **Cross Default.** The "Cross Default" provision (Section 5(a)(vi)) will apply to Party A and Party B amended as follows:
- (i) **Specified indebtedness:** Instead of the definition in Section 14 of this Agreement, "Specified Indebtedness" shall mean any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) (a) in respect of borrowed money, and/or (b) in respect of any Specified Transaction (except that, for this purpose only, the words "and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party)" where they appear in the definition of Specified Transaction will be replaced with the words "and any other entity".
 - (ii) **Threshold Amount:** With respect to Party A, three percent (3%) of the shareholders' equity of Party A, as shown in the most recent audited financial statements of Party A, and with respect to Party B, three percent (3%) of the Net Asset Value of Party B, as shown in the most recent audited financial statements of Party B.
- (d) **Credit Event Upon Merger.** The "Credit Event Upon Merger" provision (Section 5(b)(iv)) will apply to Party A and Party B restated as follows:
- "Credit Event Upon Merger" means that a Designated Event (as defined below) occurs with respect to a party, any Credit Support Provider of such party or any applicable Specified Entity of such party (in each case, "X"), and such Designated Event does not constitute an event described in Section 5(a)(viii) of this Agreement but the creditworthiness of X or, if applicable, the successor, surviving or transferee entity of X after taking into account any applicable Credit Support Document, is materially weaker immediately after the occurrence of such Designated Event than that of X immediately prior to the occurrence of such Designated Event (and, in such event, such party or its successor, surviving or transferee entity, as appropriate, will be the Affected Party). A "Designated Event" with respect to X means that:
- (i) X consolidates or amalgamates with or merges with or into, or transfers all or substantially all its assets (or any substantial part of the assets comprising the business conducted by X as of the date of this Agreement) to, or reorganises, reconstitutes into or as, another entity;
 - (ii) any person, related group of persons or entity acquires directly or indirectly the beneficial ownership of (A) equity securities having the power to elect a majority of the board of directors (or its equivalent) of X or (B) any other ownership interest enabling it to exercise control of X; or
 - (iii) X effects any substantial change in its capital structure by means of the issuance, incurrence or guarantee of debt or the issuance of (A) preferred stock or other securities convertible into, or exchangeable for, debt or preferred stock or (B) in the case of entities other than corporations, any other form of ownership interest."

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- (e) **Automatic Early Termination.** The "Automatic Early Termination" provision of Section 6(a) of this Agreement will not apply to Party A and will not apply to Party B.
- (f) **Payments on Early Termination.** For the purpose of Section 6(e), Close-out Amount will apply.
- (g) **Termination Currency.** "Termination Currency" means the currency selected by the party which is not the Defaulting Party or the Affected Party, as the case may be, or where there is more than one Affected Party the currency agreed by Party A and Party B. However, the Termination Currency shall be one of the currencies in which payments are required to be made in respect of Transactions. If the currency selected is not freely available, or where there are two Affected Parties and they cannot agree on a Termination Currency, the Termination Currency shall be United States Dollars.
- (h) **Additional Termination Event.** The following Additional Termination Event(s) will apply:
- (i) **Net Asset Value Decline.** (A) As of the last Local Business Day of any calendar quarter, the Net Asset Value of Party B declines by twenty-five percent (25%) or more from the last Local Business Day of the preceding three-month period then ending (excluding redemption and subscription notices); or (B) as of any Local Business Day, the Net Asset Value of Party B declines by 50% or more from the highest Net Asset Value since the date of this Agreement.
- For purposes of (B), any decline in the Net Asset Value shall take into account all amounts set forth in redemption notices received by or on behalf of Party B (notwithstanding the date the actual redemption shall occur).
- "*Net Asset Value*", means, as of any day, the total value of assets less the total value of liabilities of Party B on such day as calculated and determined in accordance with generally accepted accounting principles in the United States of America with appropriate adjustments being made to reflect fairly the effect of all off-balance sheet assets and liabilities not required to be reflected on the balance sheet in accordance with generally accepted accounting principles.
- (ii) **Manager.** UBS O'Connor LLC or any affiliate of UBS O'Connor LLC acceptable to Party A (the "Investment Manager") ceases to act at any time as investment manager on behalf of Party B in the same or similar capacity as on the date of this Agreement.
- (iii) **Financials.** Party B shall fail to deliver within three (3) Local Business Days of Party A's notice to Party B of Party B's failure, any financial statements or financial information due annually or monthly, or Party B shall fail to deliver an estimate of Party B's Net Asset Value upon demand within one (1) Local Business Day after such information is due.
- (iv) **Event of Default under any of the Prime Broker Agreements.** The occurrence at any time, in respect of Party B, of an event specified as an Event of Default, default, potential default, termination event or similar event (however characterized) as defined in the relevant Prime Broker Agreement whether now existing or hereafter entered into.

For purposes of this Additional Termination Event, the term **Prime Broker Agreement** shall mean the Customer Agreement (together with any and all annexes attached thereto) between Party B and Credit Suisse Securities (USA) LLC, each as amended from time to time.

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- (v) **Prohibited Transaction.** If either Party reasonably determines, and (1) notifies the other Party in writing of such determination and (2) promptly provides to the other Party (in writing, if promptly requested by the other Party) the basis for the determination, that this Agreement or any Transaction hereunder constitutes a "prohibited transaction" under ERISA (as defined in Part 5) and/or the Code (as defined in Part 5) and that no exemption from the "prohibited transaction" provisions of ERISA and the Code is available with respect to this Agreement and/or such Transaction. Such Additional Termination Event shall be deemed to have occurred when the condition of clause (1) has been satisfied, if clause (2) is eventually satisfied. If the required basis is provided to the other Party in accordance with clause (2) along with the initial notification, the Additional Termination Event occurs at the time of the initial notification.

Party B, in each such instance, shall be the sole Affected Party.

Part 2 Tax Representations

- (a) **Payer Tax Representations.** For the purpose of Section 3(e) of this Agreement, Party A and Party B each makes the following representation:

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on:

- (i) The accuracy of any representation made by the other party pursuant to Section 3(f) of this Agreement;
- (ii) The satisfaction of the agreement of the other party contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement; and
- (iii) The satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement;

Except it will not be a breach of this representation where reliance is placed on clause (ii) above, and the other party does not deliver a form or document under Section 4(a)(iii) of this Agreement by reason of material prejudice to its legal or commercial position.

- (b) **Payee Tax Representations.** For the purpose of Section 3(f) of this Agreement:

- (i) Party A makes the following Payee Tax Representations:

(1) Party A is a "non-US branch of a foreign person" as that term is used in Treas. Reg. Section 1.1441-4(a)(3)(ii).

(2) Party A is a "foreign person" within the meaning of Treas. Reg. Section 1.6041-4(a)(4).

- (ii) Party B makes the following Payee Tax Representations:

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- (1) Party B is a "non-US branch of a foreign person" (as that term is used in Section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for United States federal income tax purposes.
- (2) Party B is a "foreign person" (as that term is used in Section 1.6041-4(a)(4) of United States Treasury Regulations) for United States federal income tax purposes.

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Part 3
Agreement to Deliver Documents

Each party agrees to deliver the following documents as applicable:

(a) For the purpose of Section 4(a)(i) of this Agreement, tax forms, documents or certificates to be delivered are:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered
Party A & Party B	Any document required or reasonably requested to allow the other party to make payments under this Agreement without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate, including but not limited to an IRS form (e.g. W-8BEN-E, W-8IMY, W-9), as applicable.	(i) Before or upon execution of this Agreement and (ii) promptly upon reasonable demand by the other party

(b) For the purpose of Section 4(a)(ii) of this Agreement, other documents to be delivered are:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
Party A & Party B	Evidence reasonably satisfactory to the other party as to the names, true signatures and authority of the officers or officials signing this Agreement or any Confirmation on its behalf.	Upon execution of this Agreement and, if requested upon execution of any Confirmation.	Yes
Party A	A copy of the annual report for such party containing audited financial statements for the most recently ended financial year.	Upon request, as soon as publicly available.	Yes
Party B	A copy of the Memorandum and Articles of Association of the Fund, the redacted Investment Management Agreement between Party B and the Investment Manager and any placement, offering and disclosure documents (the "Constituent Documents").	Promptly upon request	No

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Additionally Party B agrees to deliver to Party A, c/o Credit Suisse Securities (USA) LLC, Attention: Hedge Fund Group – Credit Risk Management, email: hf.credit@credit-suisse.com

- | | | | |
|-------|--|--|-----|
| (i) | A copy of its monthly Net Asset Value report in the form provided to investors. | Within 20 days of the end of the relevant month. | Yes |
| (ii) | A copy of its annual audited financial statements for the most recently ended financial year. | Within 120 days after the end of the relevant fiscal year. | Yes |
| (iii) | A copy of any performance or other reports which Party B delivers to the Fund's shareholders and/or investors. | At the same time such reports are delivered to such shareholders and/or investors. | Yes |

Such statements shall be deemed to be delivered once posted and available to Party A at www.ubs.com/alternatives.

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**Part 4
Miscellaneous**

(a) Addresses for Notices. For the purpose of Section 12(a) of this Agreement:

Notwithstanding Section 12(a) of the Agreement all notices including those to be given under Section 5 or 6 may be given by facsimile transmission.

(i) Party A:

(1) Address for notices or communications to Party A:

The address set forth in Appendix II hereto.

(ii) Party B

Address for notices or communications to Party B:

c/o UBS O'Connor LLC
One North Wacker Drive, 32nd Floor
Chicago, IL 60606
Attn: Nicholas Vagra
Tel: 312-525-6275
Fax: 312-525-5040

and

AFS CONTROLLED SUBSIDIARY 3 LTD.
c/o Maples Corporate Services Limited
Ugland House
P.O. Box 309
Grand Cayman KY1-1104
Cayman Islands

(For all purposes.)

(b) Process Agent. For the purpose of Section 13(c) of this Agreement:

Party A appoints as its Process Agent: Credit Suisse Securities (USA) LLC, at Eleven Madison Avenue, New York, NY10010, United States of America (Attention: - General Counsel, General Counsel Division).

Party B appoints as its Process Agent:

UBS O'Connor LLC
One North Wacker Drive, 32nd Floor
Chicago, IL 60606

Section 13(c) shall be amended by deleting the second sentence in its entirety and replacing it with the following:

"If for any reason any party's Process Agent is unable to act as such or such appointment is due to expire or terminate at any time on or prior to the Termination Date (as defined in the 2006 Definitions) of any Transaction, such party will promptly notify and renew that appointment or appoint a substitute process

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agent acceptable to the other at least 60 days prior to the expiration or termination of such appointment. Written evidence of such appointment and renewal shall be provided, upon request, to the other party."

Party B agrees that service upon itself or this Process Agent by registered first class mail or air courier constitutes effective service as if personally served pursuant to Section 311 of the New York Civil Practice Law and Rules or Rule 4 of the U.S. Federal Rules of Civil Procedure, or any successor section thereof. Party B waives any right to contest the effectiveness of the service if done in accordance with the previous sentence.

(c) **Offices.** The provisions of Section 10(a) will apply to this Agreement.

(d) **Multibranch Party.** For the purpose of Section 10(c) of this Agreement:

Party A is not a Multibranch Party.

Party B is not a Multibranch Party.

(e) **Calculation Agent.** The Calculation Agent is Party A unless otherwise agreed in a Confirmation in relation to the relevant Transaction. In the case of an Event of Default with respect to Party A which has occurred and is continuing, Party B shall be entitled to appoint a substitute Calculation Agent. In such event, Party B shall give written notice to Party A, detailing the relevant Event of Default, indicating its reliance on this Part 4(e) to appoint a substitute Calculation Agent and nominating three (3) Leading Dealers as a potential substitute Calculation Agent (the "Substitute Calculation Agent Notice"). Party A shall either remedy the Event of Default or select one (1) of the three (3) Leading Dealers nominated by Party B as the substitute Calculation Agent, within five (5) Local Business Days of Party A's receipt of the Substitute Calculation Agent Notice; provided that if Party A fails to choose a Leading Dealer by the end of such period then Party B shall choose the Leading Dealer from the three (3) Leading Dealers identified by Party B in the Substitute Calculation Agent Notice. If Party A cures the relevant Event of Default before Party B designates an Early Termination Date in accordance with Section 6(a) of this Agreement, and no other Event of Default has occurred (and not been cured) by such time, then Party A shall recommence acting as the Calculation Agent provided that nothing herein shall affect any calculations already produced by any substitute Calculation Agent duly appointed in accordance with this provision. Party A and Party B shall split all costs and expenses in appointing a Leading Dealer for these purposes.

"Leading Dealer" means Bank of America, Citigroup, Deutsche Bank, Goldman Sachs, JP Morgan Chase, Morgan Stanley, Barclays Capital and UBS or any principal affiliate entity of such entities; provided that such entity is not an affiliate of Party A or Party B, does not act as Party B's prime broker or custodian and is a leading dealer in the relevant market.

(f) **Credit Support Document.** Details of any Credit Support Document:

(i) With respect to Party A and Party B: The ISDA Credit Support Annex attached hereto and made an integral part hereof.

(ii) In addition, the Credit Support Document set out in Appendix I with respect to Party A shall be a Credit Support Document to the relevant Party A.

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(g) Credit Support Provider. Credit Support Provider means:

In relation to Party A: As specified in Appendix I.

In relation to Party B: Not applicable.

(h) Governing Law and Jurisdiction. This Agreement and, to the fullest extent permitted by applicable law, all matters arising out of or relating in any way to this Agreement will be governed by and construed in accordance with the laws of the State of New York. Section 13(b) of this Agreement is hereby amended by: (i) deleting in the second line of subparagraph (i) thereof the word, "non-"; (ii) adding in the third line before comma, "and each party irrevocably agrees to designate any Proceedings brought in the courts of the State of New York as 'commercial' on the Request for Judicial Intervention seeking assignment to the Commercial Division of the Supreme Court"; and (iii) inserting "in order to enforce any judgment obtained in any Proceedings referred to in the preceding sentence" immediately after the word, "jurisdiction," the first time it appears in the second sentence and deleting the remainder.

(i) Netting of Payments. Section 2(c)(ii) of this Agreement will apply to any Transactions from the date of this Agreement. Nevertheless, to reduce settlement risk and operational costs, the parties agree that they will endeavour to net across as many Transactions as practicable wherever the parties can administratively do so.

(j) Affiliate. Affiliate will have the meaning specified in Section 14 of this Agreement.

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**Part 5
Other Provisions**

- (a) **Scope of Agreement.** Any Specified Transaction (whether now existing or hereafter entered into) between the parties, the confirmation of which fails by its terms expressly to exclude application of this Agreement, shall be governed by and be subject to this Agreement. Any such confirmation shall be a "Confirmation", and any such Specified Transaction shall be a "Transaction", for all purposes of this Agreement.
- (b) **Definitions.** Unless otherwise specified in a Confirmation, each Transaction between the parties shall be subject to the 2006 ISDA Definitions (the "2006 Definitions") and the 1998 FX and Currency Options Definitions (including Annex A thereto), each as published by the International Swaps and Derivatives Association, Inc. (collectively, the "Definitions"), and will be governed in all relevant respects by the provisions of the Definitions. The provisions of the Definitions are incorporated by reference in and shall be deemed a part of this Agreement except that references in the 2006 Definitions to a "Swap Transaction" shall be deemed references to a "Transaction" for purposes of this Agreement.
- (c) **Confirmations.** Each Confirmation shall be substantially in the form of one of the Exhibits to the 2006 Definitions or in any other form which is published by the International Swaps and Derivatives Association, Inc. or in such other form as the parties may agree.
- (d) **Additional Representation** will apply. For the purpose of Section 3 of this Agreement, the following will constitute Additional Representations and marked as new subsections (g), (h) and (i).
- (g) **Relationship Between the Parties.** Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):
1. *Non-Reliance.* It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction, it being understood that information and explanations related to the terms and conditions of a Transaction will not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party will be deemed to be an assurance or guarantee as to the expected results of that Transaction.
 2. *Assessment and Understanding.* It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.

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3. *Status of Parties.* The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.

No Agency. It is entering into this Agreement, including each Transaction, as principal and not as agent of any person or entity.

- (e) **Recording of Conversation.** Each party (i) consents to the recording of telephone conversations between the trading, marketing and other relevant personnel of the parties in connection with this Agreement or any potential Transaction and (ii) agrees that the recordings may be submitted in evidence in any Proceedings to the extent permitted by and subject to applicable law.

- (f) **Change of Account.** Section 2(b) of this Agreement is hereby amended by the addition of the following after the word "delivery" in the first line thereof:

"to another account in the same legal and tax jurisdiction as the original account"

- (g) **Set-off.** Section 6 of this Agreement is amended by addition of the following new subsection:-

"(f) **Set-off.** Without affecting the provisions of this Agreement requiring the calculation of certain net payment amounts, all payments under this Agreement will be made without set-off or counterclaim; provided, however, that upon the designation of any Early Termination Date, in addition to and not in limitation of any other right or remedy (including any right to set-off, counterclaim, or otherwise withhold payment) under applicable law:

The Non-defaulting Party or the party that is not the Affected Party (in either case, "X") may, without prior notice to any person, set off any sum or obligation (whether or not arising under this Agreement, whether matured unmatured or contingent and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by the Defaulting Party or Affected Party (in either case, "Y") to X or to any Affiliate of X, against any sum or obligation (whether or not arising under this Agreement, whether matured unmatured or contingent and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by X or any Affiliate of X to Y, and, for this purpose, may convert one currency into another. If any sum or obligation is unascertained, X may in good faith estimate that sum or obligation and set off in respect of that estimate, subject to X or Y, as the case may be, accounting to the other party when such sum or obligation is ascertained."

Nothing in Section 6(f) shall be effective or deemed to create any charge or other security interest.

- (h) **Incorporation of Close-out Amount Protocol.** The parties to this Agreement agree that the amendments set out in the Attachment and Annexes 10 – 14 (inclusive) to the ISDA Close-out Amount Protocol published by ISDA on February 27, 2009 and available on the ISDA website (www.isda.org) shall be made to this Agreement and that the Loss Amended Election and the Annex 1 - 9 Applicable Election have been made. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the date this Agreement is entered into for the purposes of the amendments regardless of the definitions of such terms in the Protocol.

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- (i) **Transfer and Restructuring.** Notwithstanding any provisions of this Agreement to the contrary, the parties hereby agree that:
- (i) Consent by Party B shall not be required in connection with the transfer by Party A of all its interests and obligations under any Transaction entered into pursuant to this Agreement to any Affiliate of Party A, and of any further such transfer by any such Affiliate (the "Transferring Affiliate") to any other Affiliate of Party A, so long as (w) at the time of the proposed transfer of the Transactions by Party A, the transferee or its Credit Support Provider has a long term unsecured unsubordinated debt rating equal to or higher than that of Party A and is not subject to "Credit Watch" or its equivalent by S&P or credit review or its equivalent by Moody's; (x) a Termination Event, Event of Default or Potential Event of Default does not occur as a result of such transfer; (y) as a result of any such transfer Party B would not be required to make or receive any payment from which any Tax (including any Indemnifiable Tax) is required to be withheld or deducted; and (z) the Transaction is at the time of such transfer the legal, valid and binding obligations of the Affiliate or Transferring Affiliate;
 - (ii) If, as a matter of law, Party B's consent is required for the purposes of perfecting any transfer contemplated in (i) above by Party A, Party B shall give its consent to the transfer;
 - (iii) In the event of any transfer contemplated in (i) above by Party A, Party B will execute upon the demand of Party A the necessary documentation prepared by Party A;
 - (iv) Consent by Party B shall not be required in the event Party A requires a restructuring of any Transaction that will ensure the same economic effect for Party B by subdividing such Transaction into two or more parts (each a Transaction); and
 - (v) Party B will execute such revised documentation as Party A shall require to evidence any restructuring contemplated in (iv) above.
- (j) **Incorporation of ISDA 2012 FATCA Protocol.** The parties to this Agreement agree that the amendments set out in the Attachment to the ISDA 2012 FATCA Protocol published by ISDA on August 15, 2012 and available on the ISDA website (www.isda.org) shall apply to this Agreement. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such Protocol amendments regardless of the definitions of such terms in the Protocol.
- (k) **Incorporation of ISDA 2015 Section 871(m) Protocol.** The parties to this Agreement agree that the amendments set out in the Attachment to the ISDA 2015 Section 871(m) Protocol published by ISDA on November 2, 2015 and available on the ISDA website (www.isda.org) shall apply to this Agreement. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such Protocol amendments regardless of the definitions of such terms in the Protocol.
- (l) **Escrow Payments.** If (whether by reason of the time difference between the cities in which payments are to be made or otherwise) it is not possible for simultaneous payments to be made on any date on which both parties are required to make payments hereunder, either party may at its option and in its sole discretion notify the other party that payments on that date are to be made in escrow. In this case deposit

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of the payment due earlier on that date shall be made by 2:00 p.m. (local time at the place for the earlier payment) on that date with an escrow agent selected by the notifying party, accompanied by irrevocable payment instructions (i) to release the deposited payment to the intended recipient upon receipt by the escrow agent of the required deposit of the corresponding payment from the other party on the same date accompanied by irrevocable payment instructions to the same effect or (ii) if the required deposit of the corresponding payment is not made on that same date, to return the payment deposited to the party that paid it into escrow. The party that elects to have payments made in escrow shall pay all costs of the escrow arrangements.

(m) Commodity Exchange Act. The following representations are made on and as of the date hereof and will be deemed to be made on each date on which a Transaction is entered into:

- (i) Such party is an "eligible contract participant" as defined in the U.S. Commodity Exchange Act, as amended (the "CEA")
- (ii) Party A hereby represents and warrants that its Credit Support Provider is an "eligible contract participant" as defined in the CEA and the applicable regulations thereunder.

(n) Incorporation of Exclusionary Terms. The parties agree that the definitions and provisions contained in the ISDA Non-ECP Guarantor Exclusionary Terms published by the International Swaps and Derivatives Association, Inc., on April 18, 2013 are incorporated and apply to the Agreement.

(o) Waiver of Right to Trial by Jury. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Agreement or any Credit Support Document. Each party (i) certifies that no representative, agent or attorney of the other party or any Credit Support Provider has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into this Agreement and provide for any Credit Support Document, as applicable by, among other things, the mutual waivers and certifications in this Section.

(p) Credit Suisse Securities (USA) LLC as Agent. If Party A with respect to any Transaction hereunder, is relying on Rule 15a-6 ("Rule 15a-6") under the Securities Exchange Act of 1934 (the "Exchange Act") the following terms and conditions shall apply to such Transaction:

- (i) Credit Suisse Securities (USA) LLC, as a broker-dealer registered with the U.S. Securities and Exchange Commission ("SEC"), will arrange such Transaction as facilitating agent for each of the parties and will be responsible to the extent required under Rule 15a-6, for (a) effecting such Transaction, on behalf of Party A, (b) issuing all required confirmations and statements to Party A and Party B, (c) maintaining books and records relating to such Transaction as required by Rules 17a-3 and 17a-4 under the Exchange Act, and (d) if requested by Party A or Party B receiving, delivering and safeguarding such party's funds and securities in connection with such Transaction in compliance with Rule 15c3-3 under the Exchange Act. Notwithstanding the foregoing, the parties agree that Credit Suisse Securities (USA) LLC shall not be deemed by virtue of its role as facilitating agent hereunder to be holding any Securities on behalf of either party.
- (ii) Regardless of whether Party A is relying on Rule 15a-6 with respect to any Transaction hereunder, Credit Suisse Securities (USA) LLC is participating in such Transaction solely as facilitating agent

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for the parties. Credit Suisse Securities (USA) LLC shall have no responsibility or personal liability to either party arising from any failure by a party to pay or perform any obligations hereunder, or to monitor or enforce compliance by a party with any obligation hereunder, including, without limitation, any obligation to maintain margin. Each party agrees to proceed solely against the other to collect or recover any securities or moneys owing to it in connection with or as a result of such Transaction or otherwise hereunder. Credit Suisse Securities (USA) LLC shall otherwise have no liability in respect of this Agreement or such Transaction except for its gross negligence or willful misconduct, or its failure to comply with applicable U.S. securities laws and regulations, in performing its duties as facilitating agent hereunder.

- (q) **FDICIA Representation.** Party A and Party B each represents to the other that it is a "financial institution" for purposes of Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended (the "Statute"), and the regulations promulgated pursuant thereto because either (i) it is a broker or dealer, a depository institution or a futures commission merchant (as such terms are defined in the Statute) or (ii) it will engage in financial contracts (as so defined) as a counterparty on both sides of one or more financial markets (as so defined) and either (1) had one or more financial contracts of a total gross dollar value of at least USD1 billion in notional principal amount outstanding on any day during the previous 15-month period with counterparties that are not its affiliates or (2) had total gross mark-to-market positions of at least USD100 million (aggregated across counterparties) in one or more financial contracts on any day during the previous 15-month period with counterparties that are not its affiliates.
- (r) **ERISA Representations and Agreements by Party B and Investment Manager.** Party B and Investment Manager, in its individual and fiduciary capacity, represent that Party B is not and will not be a Benefit Plan which, for the purposes of this Agreement, means (1) an "employee benefit plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), (2) a 'Plan' within the meaning of Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), (3) an entity the underlying assets of which constitute assets of employee benefit plans or plans as a result of investments by such plans in the entity pursuant to Section 3(42) of ERISA or (4) assets of a governmental plan or other plan subject to restrictions similar or analogous to those contained in ERISA or the Code.
- (s) **Investment Manager as Agent.** Party B represents and warrants (and such representation and warranty shall be deemed to have been repeated on each date that a Transaction is entered into) that the Investment Manager has the full power and authority to commit Party B to Transactions and conclude such Transactions on Party B's behalf on such terms and conditions as the Investment Manager may determine in its absolute discretion. Unless previously notified in writing by Party B, Party A may rely on all representations and warranties of and actions by the Investment Manager in relation to any such Transactions. For these purposes, Party B agrees to fully and unconditionally indemnify Party A for any and all losses, damages, costs and expenses directly sustained by Party A (including those incurred in unwinding any relevant hedging transactions) by reason of (i) its *bona fide* reliance on the appointment by Party B of the Investment Manager as Party B's agent to enter into Transactions on its behalf, irrespective of the invalidity, unenforceability, termination or revocation of such appointment (unless previously notified in writing by Party B) or breach by the investment Manager of its terms or (ii) as a direct result of Party A's *bona fide* reliance upon the instructions, actions or ostensible authority of the Investment Manager.

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(t) **Limited Recourse.** Party A acknowledges that it has recourse only to the assets of the Fund in respect of any claim, action, demand or right arising in respect of, or against the Trustee under the terms of this Agreement, and Party A shall in no circumstances have any recourse to assets or property of the Trustee, except where such claim, action, demand or right is caused by the Trustee's willful default, fraud or gross negligence. In the absence of willful default, bad faith or gross negligence by the Trustee, any such claim, action, demand or right existing after the assets of the Fund have been exhausted will be deemed to be discharged and extinguished.

(u) **Additional Agreements.** Section 4 of the Agreement is hereby amended in respect of Party B only by the addition of the following agreements:

* (f) Party B shall provide to Party A, upon request either verbally or in writing and within two (2) Local Business Days of such request, information the parties deem to be reasonable in view of credit and other risk management purposes which may include the unofficial Net Asset Value of Party B as determined in good faith as of the day on which Party A made such request.

(g) In the event that Party B materially amends, alters, modifies or changes its Constituent Documents, Party B shall notify Party A within 30 days of the effectiveness of such changes and provide copies of such changes to its Constituent Documents. Party B shall provide Party A with the current version of such Constituent Documents marked to show all changes from the prior version.²

(v) **European Market Infrastructure Regulation Protocol (EMIR).**

(i) **ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol published by ISDA on 19 July 2013.**

(1) Party A and Party B agree that the provisions set out in the attachment to the ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol published by ISDA on 19 July 2013 and available on the ISDA website (www.isda.org) (the PR/DR Protocol) are incorporated into and apply to this Agreement as if this Agreement was a Protocol Covered Agreement. In respect of the attachment to the PR/DR Protocol, references to "the Implementation Date" shall mean the date of this Agreement and references to "any ISDA Master Agreement" shall mean this Agreement. For the purposes thereof:

(A) Portfolio reconciliation process status:

Party A is a Portfolio Data Sending Entity and Party B is a Portfolio Data Receiving Entity, in each case, subject to Part 1(2)(a) of the PR/DR Protocol.

(B) Local Business Days:

Party A: London

Party B: George Town

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(C) Party A and Party B may use a Third Party Service Provider.

(D) Contact details for Portfolio Data, discrepancy notices and Dispute Notices:

Party A agrees to deliver the following items to Party B at the contact details shown below:

Portfolio Data: ol-ubsoc-emir-doddfrank@ubs.com

Notice of a discrepancy and Dispute Notice: ol-ubsoc-emir-doddfrank@ubs.com

Party B agrees to deliver the following items to Party A at the contact details shown below:

Portfolio Data: portfolio.recon@credit-suisse.com

Notice of a discrepancy and Dispute Notice:

- i. Recognition or valuation of OTC trades: portfolio.recon@credit-suisse.com
- ii. Collateral: portfolio.recon@credit-suisse.com

(ii) ISDA 2013 NFC Representation Protocol published by ISDA on May 8, 2013.

(1) Party A confirms that it is an adhering party to the ISDA 2013 EMIR NFC Representation Protocol published by ISDA on 8 March 2013 and available on the ISDA website (www.isda.org) (the NFC Protocol). Party A and Party B agree that the provisions set out in the attachment to the NFC Protocol and Party A's elections made in its adherence letter to the NFC Protocol are incorporated into and apply to this Agreement as if this Agreement were a Covered Master Agreement. In this regard, references to "the Implementation Date" shall mean the date of this Agreement and references to "the Agreement" shall mean this Agreement.

(2) For the purposes of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR), Party B represents that would be a financial counterparty if it were established in the European Union.

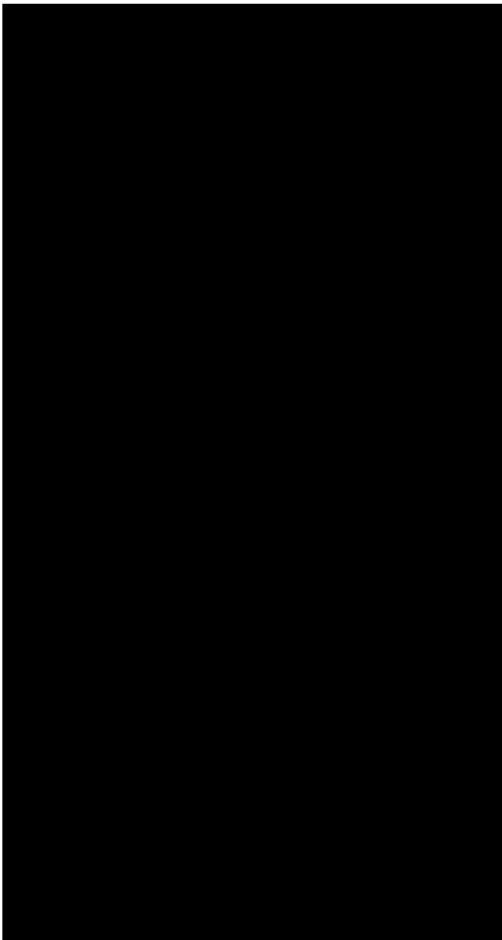
(w) Incorporation of the ISDA 2016 Bail-in Art 55 BRRD Protocol (Dutch/ French/ German/ Irish/ Italian/ Luxembourg/ Spanish/ UK entity-in-resolution version). The parties to this Agreement agree that the terms of the ISDA 2016 Bail-in Article 55 BRRD Protocol (Dutch/ French/ German/ Irish/ Italian/ Luxembourg/ Spanish/ UK entity-in-resolution version) (the "ISDA Bail-in Protocol"), as published by ISDA on July 14, 2016 and available on the ISDA website (www.isda.org), are incorporated into and form part of this Agreement. The parties further agree that this Agreement shall be deemed to be a "Protocol Covered Agreement" and that the "Implementation Date" shall be the effective date of this Agreement, each for the purposes of such ISDA Bail-in Protocol, regardless of the definitions of such terms in such ISDA Bail-in Protocol. In the event of any inconsistencies between this Agreement and the ISDA Bail-in Protocol, the ISDA Bail-in Protocol will prevail.

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- (x) **Incorporation of the ISDA UK (PRA Rule) Jurisdictional Module.** The parties to this Agreement represent that the terms of the ISDA UK (PRA Rule) Jurisdictional Module to the ISDA Resolution Stay Jurisdictional Modular Protocol (the "UK Jurisdictional Module"), as published by ISDA on May 3, 2016 and available on the ISDA website (www.isda.org), are incorporated into and form part of this Agreement. The parties further agree that this Agreement will be deemed to be a "Covered Agreement" and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such UK Jurisdictional Module regardless of the definition of such terms in the UK Jurisdictional Module. In the event of any inconsistencies between this Agreement and the UK Jurisdictional Module, the UK Jurisdictional Module will prevail.
- (y) **Incorporation of the ISDA Swiss Jurisdictional Module.** The parties to this Agreement agree that the terms of the ISDA Swiss Jurisdictional Module and the ISDA Resolution Stay Jurisdictional Modular Protocol (together, the "Swiss Jurisdictional Module"), as published by ISDA on October 31, 2017 and available on the ISDA website (www.isda.org), are incorporated into and form part of this Agreement. The parties further agree that this Agreement will be deemed to be a "Covered Agreement" and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such Swiss Jurisdictional Module regardless of the definition of such terms in the Swiss Jurisdictional Module. In the event of any inconsistencies between this Agreement and the Swiss Jurisdictional Module, the Swiss Jurisdictional Module will prevail.
- (z) **Portfolio Swaps (Standard Terms) Annex.** Attached hereto as Annex I and made a part hereof is the "Credit Suisse Securities (Europe) Limited Portfolio Swaps (Standard Terms) Annex".

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IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.



AFS CONTROLLED SUBSIDIARY 3 LTD.
ACTING SOLELY IN ITS CAPACITY AS
TRUSTEE IN RESPECT OF NINETEEN77
GLOBAL MERGER ARBITRAGE
OPPORTUNITY FUND

By: UBS O'Connor LLC, as investment manager

By: Valentina Herrera
Name: ~~Connor Burke~~ VALENTINA HERRERA
Title: Director

By: [Signature]
Name: CONNOR BURKE
Title: DIRECTOR

UBS O'CONNOR LLC (solely with respect to
Part 5(r))

By: Valentina Herrera
Name: VALENTINA HERRERA
Title: DIRECTOR
Date:

By: [Signature]
CONNOR BURKE
DIRECTOR

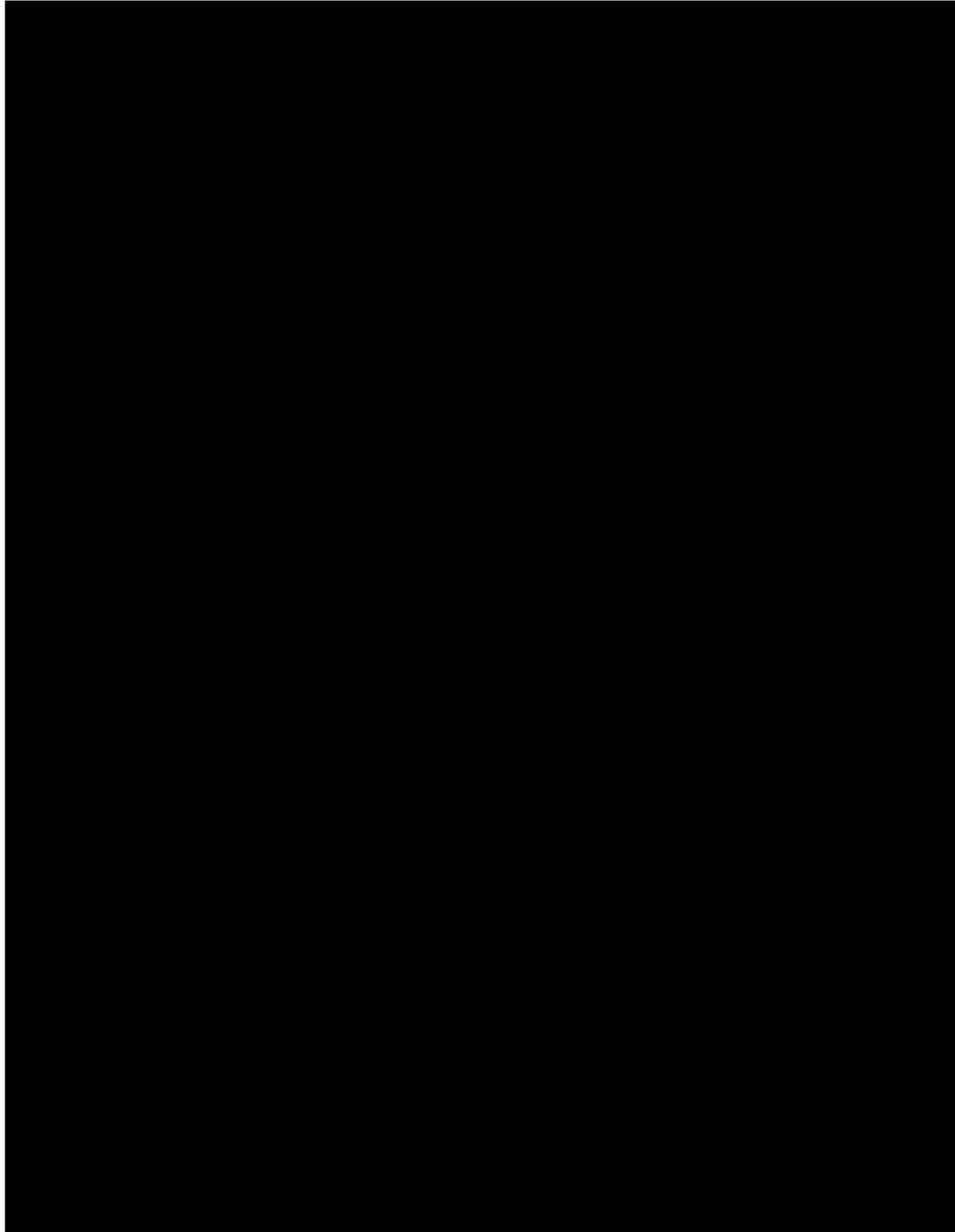
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Appendix I

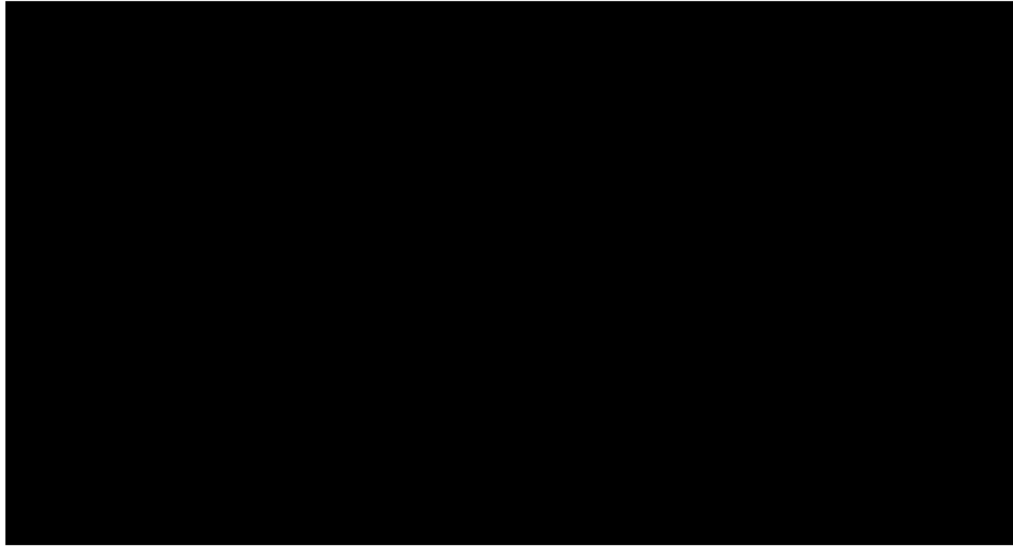
	Part 4(g) – Credit Support Provider	Part 5(m) – Commodity Exchange Act	Part 5(x) - Incorporation of the ISDA Swiss Jurisdictional Module
	Not applicable	Not applicable	Not applicable
	[REDACTED]	Applicable	Applicable.

Execution copy

Appendix II.



Execution copy




(Multicurrency—Cross Border)

ISDA[®]

International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of November 19, 2001

 and UBS Global Equity Arbitrage
Master Limited

have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement, which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows:—

1. Interpretation

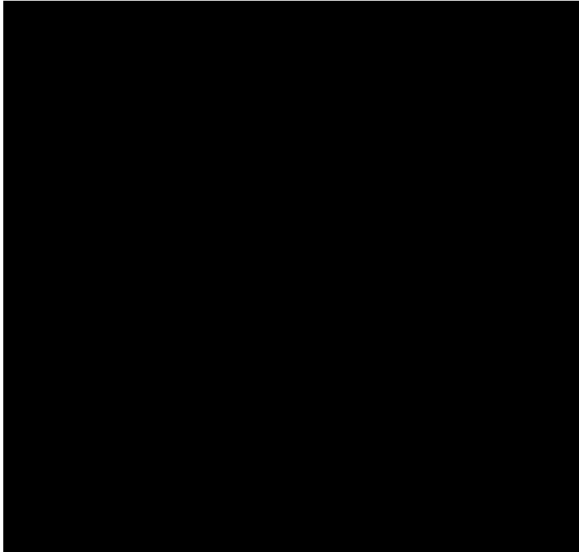
- (a) *Definitions.* The terms defined in Section 14 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.
- (b) *Inconsistency.* In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.
- (c) *Single Agreement.* All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

- (a) *General Conditions.*
 - (i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.
 - (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.
 - (iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.



**UBS Global Equity Arbitrage
Master Limited**

.....
(Name of Party)

By: .. *John Moore* ..

Name:

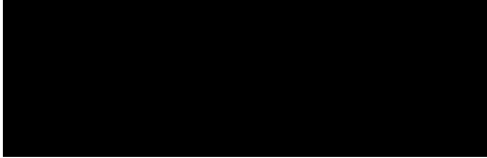
Title:

Date:

Schedule
to the
Master Agreement

dated as of November 19, 2001

between



and UBS Global Equity Arbitrage Master Limited,
an exempted company incorporated
under the laws of the Cayman Islands
("Party B")

Part 1
Termination Provisions

In this Agreement:

- (a) **Specified Entity.** "Specified Entity" has no meaning.
- (b) **Specified Transaction.** Specified Transaction will have the meaning specified in Section 14.
- (c) **Cross Default.** The "Cross Default" provision (Section 5(a)(vi)) will apply to Party A and Party B amended as follows:

Specified Indebtedness

Instead of the definition in Section 14 of this Agreement, "Specified Indebtedness" shall mean any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) (a) in respect of borrowed money, and/or (b) in respect of any Specified Transaction (except that, for this purpose only, the words "and any other entity" shall be substituted for the words "and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party)" where they appear in the definition of Specified Transaction).

Threshold Amount

"Threshold Amount" means (i) with respect to Party A, an amount equal to 3% of its stockholders' equity as of its most recently ended fiscal year (or the equivalent thereof in any combination of currencies) and (ii) with respect to Party B, an amount equal to 3% of its Net Asset Value.

- (d) **Credit Event Upon Merger.** The "Credit Event Upon Merger" provision (Section 5(b)(iv)) will apply to Party A and Party B restated as follows:

"Credit Event Upon Merger" shall mean that a Designated Event (as defined below) occurs with respect to a party ("X"), and such Designated Event does not constitute an event described in Section 5(a)(viii) of this Agreement but the creditworthiness of X or, if applicable, the successor, surviving or transferee entity of X, is materially weaker than that of X immediately prior to such action (and, in such event, such party or its successor or transferee, as appropriate, will be the Affected Party). For purposes hereof, a Designated Event with respect to X means that, after the Trade Date of the first Transaction between the parties:

- (i) X consolidates or amalgamates with or merges with or into, or transfers all or substantially all its assets (or any substantial part of the assets comprising the business conducted by X as of the execution date hereof) to, or receives all or substantially all the assets or obligations of, another entity; or

- (ii) any person or entity acquires directly or indirectly the beneficial ownership of equity securities having the power to elect a majority of the board of directors of X or otherwise acquires directly or indirectly the power to control the policy-making decisions of X.

(e) **Automatic Early Termination.** The "Automatic Early Termination" provision of Section 6(a) will apply to Party A and Party B. If an Early Termination Date occurs under Section 6(a) as a result of Automatic Early Termination, the Defaulting Party shall fully indemnify the Non-defaulting Party on demand against all expense, loss, damage or liability that the Non-defaulting Party may incur in respect of this Agreement and each Transaction as a consequence of movements in interest, currency, exchange or other relevant rates or prices or Market Quotations between the Early Termination Date and the Local Business Day on which the Non-defaulting Party first becomes aware that the Early Termination Date has occurred under Section 6(a). The Non-defaulting Party may for this purpose convert any expense, loss, damage or liability to the Termination Currency.

(f) **Payments on Early Termination.** For the purpose of Section 6(e), the Second Method and Loss will apply.

(g) **Termination Currency.** "Termination Currency" means the currency selected by the party which is not the Defaulting Party or the Affected Party, as the case may be, or where there is more than one Affected Party the currency agreed by Party A and Party B. However, the Termination Currency shall be one of the currencies in which payments are required to be made in respect of Transactions. If the currency selected is not freely available, or where there are two Affected Parties and they cannot agree on a Termination Currency, the Termination Currency shall be United States Dollars.

(h) **Additional Termination Event.** The following Additional Termination Event will apply:

Party B has a Net Asset Value at the end of any three calendar month period, measured exclusively at month-end (taking into account, in either case, all amounts set forth in irrevocable redemption notices received by or on behalf of Party B (notwithstanding the date the actual redemption shall occur)) less than the NAV Threshold (or the equivalent in any combination of currencies).

Party B, in such instance, shall be the sole Affected Party.

Part 2
Tax Representations

(a) Payer Tax Representations. For the purpose of Section 3(e), Party A and Party B each makes the following representation:-

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e)) to be made by it to the other party under this Agreement. In making this representation, it may rely on:-

- (i) the accuracy of any representation made by the other party pursuant to Section 3(f);
- (ii) the satisfaction of the agreement of the other party contained in Section 4(a)(i) or 4(a)(iii) and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii); and
- (iii) the satisfaction of the agreement of the other party contained in Section 4(d);

provided that it shall not be a breach of this representation where reliance is placed on clause (ii), and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.

(b) Payee Tax Representations. For the purpose of Section 3(f),

- (i) Party A makes no Payee Tax Representations.
- (ii) Party B makes no Payee Tax Representations.

**Part 3
Agreement to Deliver Documents**

Each party agrees to deliver the following documents as applicable:-

(a) For the purpose of Section 4(a)(i), tax forms, documents or certificates to be delivered are:

Party required to deliver documents	Form/Document/Certificate	Date by which to be delivered
<i>Not Applicable</i>	<i>Not Applicable</i>	<i>Not Applicable</i>

(b) For the purpose of Section 4(a)(ii), other documents to be delivered are:

Party required to deliver documents	Form/Document/Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
Party A and Party B	Evidence reasonably satisfactory to the other party as to the names, true signatures and authority of the officers or officials signing this Agreement or any Confirmation on its behalf	Upon execution of this Agreement and, if requested, upon execution of any Confirmation	Yes
Party A	A copy of its annual report containing audited or certified financial statements for the most recently ended financial year	Upon request, as soon as publicly available	Yes
Party B	A copy of the Memorandum and Articles of Association of Party B, the Investment Management Agreement between Party B and UBS O'Connor LLC (the "Investment Manager") and any placement, offering and disclosure documents (the "Constituent Documents")	Promptly upon request	Yes
Party B	A copy of its monthly Net Asset Value report in the form provided to investors	Within 20 days of the end of the relevant month	Yes
Party B	A copy of its quarterly unaudited financial statements for the most recently end financial quarter	Within 45 days of the end of the relevant quarter	Yes
Party B	A copy of its annual audited financial statements	Within 120 days of the end of each fiscal year	Yes
Party B	A copy of any performance or other reports which Party B delivers to its shareholders and/or investors	At the same time such reports are delivered to such shareholders and/or Investors	Yes

**Part 4
Miscellaneous**

(a) **Addresses for Notices.** For the purpose of Section 12(a):

(i) (1) Address for notices or communications to Party A (other than by facsimile) for all purposes:

Credit Suisse First Boston (Europe) Limited
Address: One Cabot Square Attention: (1) Head of Credit Risk Management;
London E14 4QJ (2) Managing Director - Operations Department;
England (3) Managing Director - Legal Department

Telex No.: 264521 Answerback: CSFBIG

(2) For the purpose of facsimile notices or communications under this Agreement (other than a notice or communication under Section 5 or 6):

Facsimile No.: 020 7888 2686
Attention: Managing Director - Legal Department

Telephone number for oral confirmation of receipt of facsimile in legible form: 020 7888 2028
Designated responsible employee for the purposes of Section 12(a)(iii): Senior Legal Secretary

(ii) Address for notices or communications to Party B:

Address: UBS Global Equity Arbitrage Master Limited Attention: Darren Stainrod
 c/o UBS (Cayman Islands) Ltd.
 UBS House
 P.O. Box 852
 227 Elgin Avenue
 George Town, Grand Cayman BWI

Telephone No.: 345-914-1076 Facsimile No.: 345-914-4060

(For all purposes.)

(b) **Process Agent.** For the purpose of Section 13(c):

Party A appoints as its Process Agent:- Credit Suisse First Boston, Eleven Madison Avenue, New York, NY 10010
(Attention: General Counsel, Legal and Compliance Department).

Party B appoints as its Process Agent: Seward & Kissel LLP, One Battery Park Plaza, New York, NY 10004
(Attention: M. William Munno), Telephone: 212-574-1200, Facsimile: 212-480-8421.

(c) **Offices.** The provisions of Section 10(a) will apply to this Agreement.

(d) **Multibranch Party.** For the purpose of Section 10(c):

Party A is not a Multibranch Party.

Party B is not a Multibranch Party.

(e) **Calculation Agent.** The Calculation Agent is Party A unless otherwise agreed in a Confirmation in relation to the relevant Transaction; provided, however, if Party A is a Defaulting Party, a Reference Market-maker selected by Party B shall act as Calculation Agent. The Calculation Agent shall act in good faith and in a commercially reasonable manner at all times under this Agreement.

(f) **Credit Support Document.** Details of any Credit Support Document:

(1) The ISDA Credit Support Annex attached hereto and made a part hereof.

(2) The guarantee made by way of Deed Poll by Credit Suisse First Boston dated 22 January 1998 ("the Guarantee") pursuant to which Credit Suisse First Boston has guaranteed the obligations of Credit Suisse First Boston (Europe) Limited in respect of all Specified Transactions, as defined in the Guarantee appended hereto as Exhibit I.

(g) **Credit Support Provider.**

Credit Support Provider means in relation to Party A: Credit Suisse First Boston.

Credit Support Provider means in relation to Party B: *Not applicable.*

(h) **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of New York without reference to choice of law doctrine and each party hereby submits to the jurisdiction of the Courts of the State of New York.

(i) **Netting of Payments.** Section 2(c)(ii) of this Agreement will not apply to any Transactions from the date of this Agreement.

(j) **Affiliate.** Affiliate will have the meaning specified in Section 14.

**Part 5
Other Provisions**

(a) **Scope of Agreement.** Any Specified Transaction (whether now existing or hereafter entered into) between the parties, the confirmation of which fails by its terms expressly to exclude application of this Agreement, shall be governed by and be subject to this Agreement. Any such confirmation shall be a "Confirmation", and any such Specified Transaction shall be a "Transaction", for all purposes of this Agreement.

(b) **Definitions.** Unless otherwise specified in a Confirmation, each Transaction between the parties shall be subject to the 2000 ISDA Definitions and the 1996 ISDA Equity Derivatives Definitions, each as published by the International Swaps and Derivatives Association, Inc. (collectively, the "Definitions"), and will be governed in all relevant respects by the provisions of the Definitions, without regard to amendments subsequent to the date thereof. The provisions of the Definitions are incorporated by reference in and shall be deemed a part of this Agreement except that references in the 2000 Definitions to a "Swap Transaction" shall be deemed references to a "Transaction" for purposes of this Agreement. Subject to Section 1(b), in the event of any inconsistency between the provisions of this Agreement and the Definitions, this Agreement (including the 2001 Basket Swaps (Standard Terms)) will prevail. Also, subject to Section 1(b), in the event of any inconsistency between the provisions of any Confirmation and this Agreement (including the 2001 Basket Swaps (Standard Terms)), or the Definitions, such Confirmation will prevail for the purpose of the relevant Transaction.

(c) **Confirmations.** Each Confirmation shall be substantially in the form of one of the Exhibits to the 2000 Definitions or in any other form which is published by the International Swaps and Derivatives Association, Inc. or in such other form as the parties may agree.

(d) **Independent Reliance.** The parties agree to amend Section 3 of this Agreement by the addition of the following provision at the end thereof and marked as subsection (g).

"(g) **Independent Reliance.** It is entering into this Agreement and will enter into each Transaction in reliance upon such tax, accounting, regulatory, legal, and financial advice as it deems necessary and not upon any view expressed by the other party."

(e) **Change of Account.** Section 2(b) of this Agreement is hereby amended by the addition of the following after the word "delivery" in the first line thereof:-

"to another account in the same legal and tax jurisdiction as the original account"

(f) **Escrow Payments.** If (whether by reason of the time difference between the cities in which payments are to be made or otherwise) it is not possible for simultaneous payments to be made on any date on which both parties are required to make payments hereunder, either party may at its option and in its sole discretion notify the other party that payments on that date are to be made in escrow. In this case deposit of the payment due earlier on that date shall be made by 2:00 p.m. (local time at the place for the earlier payment) on that date with an escrow agent selected by the notifying party, accompanied by irrevocable payment instructions (i) to release the deposited payment to the intended recipient upon receipt by the escrow agent of the required deposit of the corresponding payment from the other party on the same date accompanied by irrevocable payment instructions to the same effect or (ii) if the required deposit of the corresponding payment is not made on that same date, to return the payment deposited to the party that paid it into escrow. The party that elects to have payments made in escrow shall pay all costs of the escrow arrangements and shall cause those arrangements to provide that the intended recipient of the payment due to be deposited first shall be entitled to interest on that deposited payment for each day in the period of its deposit at the rate offered by the escrow agent for that day for overnight deposits in the relevant currency in the office where it holds that deposited payment (at 11:00 a.m., local time, on that day) if that payment is not released

by 5:00 p.m. local time, on the date it is deposited for any reason other than the intended recipient's failure to make the escrow deposit it is required to make hereunder in a timely fashion.

(g) Set-off. Without affecting the provisions of this Agreement requiring the calculation of certain net payment amounts, all payments under this Agreement will be made without set-off or counterclaim; provided, however, that upon the designation of any Early Termination Date, in addition to and not in limitation of any other right or remedy (including any right to set-off, counterclaim, or otherwise withhold payment) under applicable law:

the Non-defaulting Party or the party that is not the Affected Party (in either case, "X") may, without prior notice to any person, set off any sum or obligation (whether or not arising under this Agreement, whether matured or unmatured, whether contingent or not contingent, and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by the Defaulting Party or Affected Party (in either case, "Y") to X or to any Affiliate of X, against any sum or obligation (whether or not arising under this Agreement, whether matured or unmatured, whether contingent or not contingent, and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by X or any Affiliate of X to Y, and, for this purpose, may convert one currency into another at a market rate determined by X. If any sum or obligation is unascertained, X may in good faith estimate that sum or obligation and set off in respect of that estimate, subject to X or Y, as the case may be, accounting to the other party when such sum or obligation is ascertained.

Nothing in this section shall be effective or deemed to create any charge or other security interest.

(h) Waiver of Right to Trial by Jury. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Agreement, any Transaction or any Credit Support Document. Each party (i) certifies that no representative, agent or attorney of the other party or any Credit Support Provider has represented, expressly or otherwise, that such other party would not, in the event of such a suit action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into this Agreement and provide for any Credit Support Document, as applicable, by, among other things, the mutual waivers and certifications in this Section.

(i) Recording of Conversation. Each party to this Agreement acknowledges and agrees to the tape recording of conversations between the parties to this Agreement whether by one or other or both of the parties and each party hereby consents to such recordings being used as evidence in Proceedings, subject to applicable rules of discovery and evidence.

(j) Incorporation of Protocol Terms. The parties agree that the definitions and provisions contained in Annexes 1 to 5 and Section 6 of the EMU Protocol published by the International Swaps and Derivatives Association, Inc., on 6 May, 1998 are incorporated into and apply to this Agreement. References in those definitions and provisions to any "ISDA Master Agreement" will be deemed to be references to this Agreement.

(k) Investment Manager as Agent. Party B represents and warrants that the Investment Manager has the full power and authority to commit Party B to Transactions and conclude such Transactions on Party B's behalf on such terms and conditions as the Investment Manager may determine in its absolute discretion. Unless previously notified in writing by Party B, Party A may rely on all representations and warranties of and actions by the Investment Manager in relation to any such Transactions. For these purposes, Party B agrees to fully and unconditionally indemnify Party A for any and all losses, damages, costs and expenses directly sustained by Party A (including those incurred in unwinding any relevant hedging transactions) by reason of any claim by Party B that any Transaction entered into by the Investment Manager on Party B's behalf was not suitable or was without authority.

(l) **Agreements.** Section 4 of the Agreement is hereby amended in respect of Party B only by the addition of the following agreements:

- "(f) Party B shall provide to Party A, upon request, either verbally or in writing and within two (2) business days of such request, information the parties deem to be reasonable in view of credit and other risk management purposes which may include the unofficial Net Asset Value of Party B as determined in good faith as of the day on which Party A made such request.
- (g) In the event Party B materially amends, alters, modifies or changes its Constituent Documents, Party B shall notify Party A within 30 days of the effectiveness of such changes and provide copies of such changes to its Constituent Documents. Party B shall provide Party A with a copy of the current version of such Constituent Document marked to show all changes from the prior version."

(m) **Definitions.** Section 14 shall be amended by including the following definitions:

"Net Asset Value" shall mean as of any day the total value of assets less the total value of liabilities of Party B on such day as calculated and determined in accordance with the Constituent Documents.

"NAV Threshold" shall mean the greater of (i) 75% of the Net Asset Value of Party B as of the end of the immediately prior three calendar month period (measured exclusively at month-end) or (ii) US\$1,000,000,000.

(n) **Transfer and Restructuring.** Notwithstanding any provisions of this Agreement to the contrary, the parties hereby agree that:

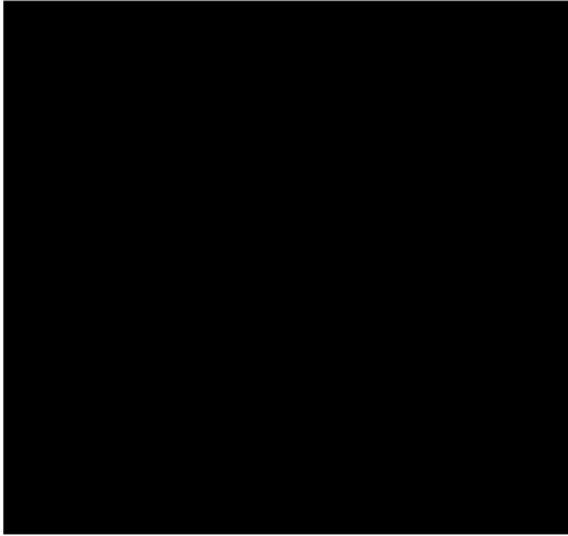
- (i) consent by Party B shall not be required in connection with the transfer by Party A of all its interests and obligations under any Transaction entered into pursuant to this Agreement to any Affiliate of Party A, and of any further such transfer by any such Affiliate (the Transferring Affiliate") to any other Affiliate of Party A, so long as each of the following conditions is satisfied: (a) at the time of the proposed transfer of the Transactions by Party A, the transferee or its Credit Support Provider has a long term unsecured unsubordinated debt rating equal to or higher than that of Party A and is not subject to "Credit Watch" or its equivalent by S&P or credit review or its equivalent by Moody's; (b) such transfer or assignment is not in violation of any applicable laws, rules or regulations and does not contravene the Constituent Documents of Party B; (c) as a result of any such transfer Party B would not be required to make or receive any payment from which any Tax (including any Indemnifiable Tax) is required to be withheld or deducted; (d) the Transaction is at the time of such transfer the legal, valid and binding obligation of the Affiliate or Transferring Affiliate; and (e) a Termination Event, Event of Default or Potential Event of Default does not occur as a result of such transfer;
- (ii) if, as a matter of law, Party B's consent is required for the purposes of perfecting any transfer contemplated in (i) above by Party A, Party B shall give its consent to the transfer;
- (iii) in the event of any transfer contemplated in (i) above by Party A, Party B will execute upon the demand of Party A the necessary documentation prepared by Party A;
- (iv) consent by Party B shall not be required in the event Party A requires a restructuring of any Transaction that will ensure the same economic effect for Party B by subdividing such Transaction into two or more parts (each a Transaction); and
- (v) Party B will execute such revised documentation as Party A shall require to evidence any restructuring contemplated in (iv) above.

(o) **Eligible Contract Participant.** Each party represents that it is an "eligible contract participant", as defined in the U.S. Commodity Exchange Act.

(p) **FDICIA Representation.** Party A and Party B each represents to the other that it is a "financial institution" for purposes of Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended (the "Statute"), and the regulations promulgated pursuant thereto because either (A) it is a broker or dealer, a depository institution or a futures commission merchant (as such terms are defined in the Statute) or (B) it will engage in financial contracts (as so defined) as a counterparty on both sides of one or more financial markets (as so defined) and either (I) had one or more financial contracts of a total gross dollar value of at least \$1 billion in notional principal amount outstanding on any day during the previous 15-month period with counterparties that are not its affiliates or (II) had total gross mark-to-market positions of at least \$100 million (aggregated across counterparties) in one or more financial contracts on any day during the previous 15-month period with counterparties that are not its affiliates.

(q) **Credit Suisse First Boston Corporation as Agent.** If Party A with respect to any Transaction hereunder, is relying on Rule 15a-6 ("Rule 15a-6") under the Securities Exchange Act of 1934 (the "Exchange Act") the following terms and conditions shall apply to such Transaction:

- (i) Credit Suisse First Boston Corporation, as a broker-dealer registered with the U.S. Securities and Exchange Commission ("SEC"), will arrange such Transaction as facilitating agent for each of the parties and will be responsible to the extent required under Rule 15a-6, for (a) effecting such Transaction, on behalf of Party A, (b) issuing all required confirmations and statements to Buyer and Seller in compliance with Rule 15c3-1 under the Securities Exchange Act of 1934 (the "Exchange Act"), (c) maintaining books and records relating to such Transaction as required by Rules 17a-3 and 17a-4 under the Exchange Act, and (d) if requested by Party A or Party B receiving, delivering and safeguarding such party's funds and securities in connection with such Transaction in compliance with Rule 15c3-3 under the Exchange Act. Notwithstanding the foregoing, the parties agree that Credit Suisse First Boston Corporation shall not be deemed by virtue of its role as facilitating agent hereunder to be holding any Securities on behalf of either party.
- (ii) Regardless of whether Party A is relying on Rule 15a-6 with respect to any Transaction hereunder, Credit Suisse First Boston Corporation is participating in such Transaction solely as facilitating agent for the parties. Credit Suisse First Boston Corporation shall have no responsibility or personal liability to either party arising from any failure by a party to pay or perform any obligations hereunder, or to monitor or enforce compliance by a party with any obligation hereunder, including, without limitation, any obligation to maintain margin. Each party agrees to proceed solely against the other to collect or recover any securities or moneys owing to it in connection with or as a result of such Transaction or otherwise hereunder. Credit Suisse First Boston Corporation shall otherwise have no liability in respect of this Agreement or such Transaction except for its gross negligence or wilful misconduct, or its failure to comply with applicable U.S. securities laws and regulations, in performing its duties as facilitating agent hereunder.



UBS Global Equity Arbitrage Master Limited


By: 
Name:
Title:
Date:

EXHIBIT I

THIS GUARANTEE is made by way of DEED POLL on 22 January 1998 by Credit Suisse First Boston, a bank organised under the laws of Switzerland (hereinafter called the "Guarantor").

WHEREAS:

- (A) Credit Suisse First Boston (Europe) Limited, a company incorporated under the laws of England and Wales ("CSFBEL"), has entered into certain Specified Transactions (as defined herein);
- (B) As at the date of execution hereof CSFBEL is an indirect, wholly owned subsidiary of the Guarantor;
- (C) The Guarantor is willing to guarantee the obligations of CSFBEL in relation to the Specified Transactions.

NOW THEREFORE the Guarantor hereby covenants and agrees as follows:

1. Definitions

In this Guarantee, unless the context otherwise requires:

"Counterparty" means any person who from time to time enters into one or more Specified Transactions with CSFBEL.

"ISDA Master Agreement" means the 1992 ISDA Master Agreement (Multicurrency - Cross Border Version) published by the International Swaps and Derivatives Association, Inc. entered into between CSFBEL and a Counterparty (as the same may be amended or supplemented from time to time by agreement between CSFBEL and such Counterparty) or which, if not executed by CSFBEL and a Counterparty at the time any Specified Transaction is entered into or is outstanding which is expressly referred to in the confirmation of such Specified Transaction as being incorporated in, or governing, or intended to govern, such Specified Transaction.

"Specified Transaction" means any transaction now existing or hereafter entered into between CSFBEL and a Counterparty which is:

- (i) confirmed or to be confirmed under a confirmation that forms part of, or which makes express reference to the terms and conditions of, an ISDA Master Agreement; or
- (ii) a foreign exchange transaction or a currency option.

For the avoidance of doubt, with the exception of foreign exchange transactions or currency options, the term "Specified Transaction" shall not include a transaction now existing or hereafter entered into between CSFBEL and a Counterparty which is confirmed or to be confirmed under or which makes express reference to the terms and conditions of any master netting agreement other than an ISDA Master Agreement.

2. Guarantee

- (a) Subject to Paragraphs 3 and 5 below, for value received:
 - (i) The Guarantor hereby unconditionally and irrevocably guarantees to each Counterparty the due and punctual payment of all sums payable by CSFBEL to such Counterparty under or in respect of a Specified Transaction when and as the same shall become due and payable according to the respective terms of such Specified Transaction, any related

ISDA®

International Swaps and Derivatives Association, Inc.

CREDIT SUPPORT ANNEX

to the Schedule to the

.....
1992 ISDA Master Agreement
.....

dated as of November 19, 2001
.....

.....
[Redacted] between UBS Global Equity Arbitrage
..... and Master Limited
.....
("Party A") ("Party B")

This Annex supplements, forms part of, and is subject to, the above-referenced Agreement, is part of its Schedule and is a Credit Support Document under this Agreement with respect to each party.

Accordingly, the parties agree as follows:—

Paragraph 1. Interpretation

(a) *Definitions and Inconsistency.* Capitalized terms not otherwise defined herein or elsewhere in this Agreement have the meanings specified pursuant to Paragraph 12, and all references in this Annex to Paragraphs are to Paragraphs of this Annex. In the event of any inconsistency between this Annex and the other provisions of this Schedule, this Annex will prevail, and in the event of any inconsistency between Paragraph 13 and the other provisions of this Annex, Paragraph 13 will prevail.

(b) *Secured Party and Pledgor.* All references in this Annex to the "Secured Party" will be to either party when acting in that capacity and all corresponding references to the "Pledgor" will be to the other party when acting in that capacity; *provided, however,* that if Other Posted Support is held by a party to this Annex, all references herein to that party as the Secured Party with respect to that Other Posted Support will be to that party as the beneficiary thereof and will not subject that support or that party as the beneficiary thereof to provisions of law generally relating to security interests and secured parties.

Paragraph 2. Security Interest

Each party, as the Pledgor, hereby pledges to the other party, as the Secured Party, as security for its Obligations, and grants to the Secured Party a first priority continuing security interest in, lien on and right of Set-off against all Posted Collateral Transferred to or received by the Secured Party hereunder. Upon the Transfer by the Secured Party to the Pledgor of Posted Collateral, the security interest and lien granted hereunder on that Posted Collateral will be released immediately and, to the extent possible, without any further action by either party.

**Elections and Variables
to the ISDA Credit Support Annex
between**

██
("Party A")

and

UBS Global Equity Arbitrage Master Limited
("Party B")

Paragraph 13.

(a) ***Security Interest for "Obligations".***

The term "*Obligations*" as used in this Annex includes the following additional obligations:

With respect to Party A: None.

With respect to Party B: None.

(b) ***Credit Support Obligations.***

(i) ***Delivery Amount, Return Amount and Credit Support Amount.***

(A) "*Delivery Amount*" has the meaning specified in Paragraph 3(a).

(B) "*Return Amount*" has the meaning specified in Paragraph 3(b).

(C) "*Credit Support Amount*" has the meaning specified in Paragraph 3.

(ii) ***Eligible Collateral.*** On any date, the following items will qualify as "*Eligible Collateral*" for each party:

		Valuation Percentage
(A)	Cash	100%
(B)	negotiable debt obligations issued by the U.S. Treasury Department having a residual maturity on such date of less than 1 year	100%
(C)	negotiable debt obligations issued by the U.S. Treasury Department having a residual maturity on such date equal to or greater than 1 year but less than 5 years	97%

- (D) negotiable debt obligations issued by the U.S. Treasury Department having a residual maturity on such date equal to or greater than 5 years but less than 10 years. 95%
- (E) In respect of a party, such other assets as the other party may, from time to time, specify in writing as qualifying as Eligible Collateral for the purpose of this Annex (provided that any such assets shall cease to qualify as Eligible Collateral if such other party subsequently specifies in writing that they shall no longer qualify as Eligible Collateral). For the avoidance of doubt there are no other assets which, as of the date of this Annex, qualify as Eligible Collateral for either party. Such percentage as shall, from time to time, be agreed upon by the parties as applying to such Eligible Collateral
- (iii) **Other Eligible Support.** With respect to a party, such Other Eligible Support as the parties may from time to time agree in writing as qualifying as "**Other Eligible Support**" and for the avoidance of doubt there are no items which qualify as Other Eligible Support as of the date of this Annex.
- (iv) **Thresholds.**
- (A) "**Independent Amount**" means with respect to Party A: Zero.
 "**Independent Amount**" means with respect to Party B: Zero, unless otherwise specified in a Confirmation.
- (B) "**Threshold**" means with respect to Party A: US\$10,000,000.
 "**Threshold**" means with respect to Party B: US\$10,000,000.
- (C) "**Minimum Transfer Amount**" means with respect to Party A: US\$250,000.
 "**Minimum Transfer Amount**" means with respect to Party B: US\$250,000.
- (D) **Rounding** The Delivery Amount will be rounded up and the Return Amount will be rounded down respectively to the nearest integral multiple of US\$10,000.
- (c) **Valuation and Timing.**
- (i) "**Valuation Agent**" means, for purposes of Paragraphs 3 and 5, the party making the demand, and, for purposes of Paragraph 6(d), the Secured Party receiving or deemed to receive the Distributions or the Interest Amount, as applicable.
- (ii) "**Valuation Date**" means each Local Business Day which, if treated as a Valuation Date, would result in a Delivery Amount or Return Amount.

(iii) **"Valuation Time"** means the close of business in the city of the Valuation Agent on the Local Business Day before the Valuation Date or date of calculation, as applicable, *provided* that the calculations of Value and Exposure will be made as of approximately the same time on the same date.

(iv) **"Notification Time"** means 4:00 p.m., London time, on a Local Business Day.

(d) **Conditions Precedent and Secured Party's Rights and Remedies.**

Subject to Paragraphs 13(d)(ii) and 13(d)(iii), for the purposes of this Annex the following events will each be a **"Specified Condition"** for the party specified (that party being the Affected Party if the event occurs with respect to that party):

	Party A	Party B
- Illegality	x	x
- Credit Event Upon Merger	x	x
- Additional Termination Event(s):		x
- An event which, with the giving of notice or the passage of time, or both, would constitute one or more of the foregoing events	x	x

(e) **Substitution.**

(i) **"Substitution Date"** has the meaning specified in Paragraph 4(d)(ii).

(ii) **Consent.** The Pledgor must obtain the Secured Party's prior consent (which shall not be unreasonably withheld) to any substitution pursuant to Paragraph 4(d) and shall give to the Secured Party not less than two (2) Local Business Days notice thereof specifying the items of Posted Credit Support intended for substitution.

(iii) **Return Procedure.** In Paragraph 4(d)(ii) the words "not later than the Local Business Day following" shall be deleted and replaced with the words "as soon as practicable, but not later than the second Local Business Day after".

(f) **Dispute Resolution.**

(i) **"Resolution Time"** means 4:00 p.m. London time on the Local Business Day following the date on which the notice of the dispute is given under Paragraph 5.

(ii) **Value.** For the purpose of Paragraphs 5(i)(C) and 5(ii), on any date, the Value of Eligible Collateral and Posted Collateral will be calculated as follows:

(A) with respect to any Cash, the amount thereof;

(B) with respect to any Eligible Collateral comprising securities, the Value will be calculated based on the mid-point between the bid and offered purchase rates or prices for that Eligible Collateral as reported on the Bloomberg electronic service as of the Resolution Time, or if unavailable, as quoted to the Valuation Agent as of the Resolution Time by a dealer in that Eligible Collateral of recognized standing selected in good faith and in a commercially reasonable manner by the Valuation Agent, which calculation shall include any unpaid interest on that Eligible Collateral.

- (iii) **Alternative.** The provisions of Paragraph 5 will apply provided that the obligation of the appropriate party to deliver the undisputed amount to the other party will not arise prior to the time that would otherwise have applied to the Transfer pursuant to, or deemed made, under Paragraph 3 if no dispute had arisen.

(g) **Holding and Using Posted Collateral.**

(i) **Eligibility to Hold Posted Collateral; Custodians:**

Party A or its Custodian will be entitled to hold Posted Collateral pursuant to Paragraph 6(b); *provided that*

- (1) whichever of Party A or its Custodian that is holding Posted Collateral, shall at all times either have a long term debt or deposit rating of at least A- from Standard & Poor's Ratings Group, a division of McGraw-Hill Inc. and at least A3 from Moody's Investors Service, Inc. (or their respective successors) or have net capital in excess of US\$500 million;
- (2) the Custodian for Party A shall first be approved by Party B; and
- (3) if it is Party A that is holding Posted Collateral, Party A is not a Defaulting Party.

Initially, the Custodian for Party A is Credit Suisse First Boston Corporation.

Party B or its Custodian will be entitled to hold Posted Collateral pursuant to Paragraph 6(b); *provided that*

- (1) whichever of Party B or its Custodian that is holding Posted Collateral, shall at all times have a long term debt or deposit rating of at least A- from Standard & Poor's Ratings Group, a division of McGraw-Hill Inc. and at least A3 from Moody's Investors Service, Inc. (or their respective successors) and have net capital in excess of US\$500 million;
- (2) the Custodian for Party B shall be one of its prime brokers, as designated by Party B from time to time; and
- (3) if it is Party B that is holding Posted Collateral, Party B is not a Defaulting Party;

(ii) **Use of Posted Collateral.** The provisions of Paragraph 6(c) will apply to Party A and Party B.

(h) **Distributions and Interest Amount.**

- (i) **Interest Rate.** The "Interest Rate" will be, the effective rate for Federal Funds, as published on Telerate Page 118, provided that if, for any reason, Telerate Page 118 should be unavailable the Interest Rate shall be such rate as the Secured Party shall reasonably determine.
- (ii) **Transfer of Interest Amount.** The Transfer of the Interest Amount will be made on the second Local Business Day following the end of each calendar month, to the extent that a Delivery Amount would not be created or increased by that transfer, and on any Local Business Day on which all Posted Collateral in the form of Cash is Transferred to the Pledgor pursuant to Paragraph 3(b).

(iii) **Alternative to Interest Amount.** The provisions of Paragraph 6(d)(ii) will apply and for the purposes of calculating the Interest Amount the amount of interest calculated for each day of the Interest Period shall be compounded daily.

(i) **Additional Representation(s).**

There are no additional representations by either party.

(j) **Other Eligible Support and Other Posted Support.**

(i) "Value" with respect to Other Eligible Support and Other Posted Support shall have such meaning as the parties shall agree in writing from time to time.

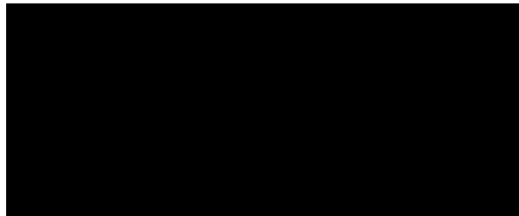
(ii) "Transfer" with respect to Other Eligible Support and Other Posted Support shall have such meaning as the parties shall agree in writing from time to time.

(k) **Demands and Notices.**

All demands, specifications and notices under this Annex will be made pursuant to the Notices Section of this Agreement, save that any demand, specification or notice:

(i) shall be given to or made at the following addresses:

If to Party A:



If to Party B:

Address: UBS Global Equity Arbitrage Master Limited
c/o UBS (Cayman Islands) Ltd.
UBS House
P.O. Box 852, 227 Elgin Avenue
George Town, Grand Cayman BWI

Telephone: 345-914-1076
Facsimile: 345-914-4060
Attention: Darren Stainrod

or at such other address as the relevant party may from time to time designate by giving notice (in accordance with the terms of this paragraph) to the other party;

(ii) shall (unless otherwise stated in this Annex) be deemed to be effective at the time such notice is actually received unless such notice is received on a day which is not a Local Business Day or after

the Notification Time on any Local Business Day in which event such notice shall be deemed to be effective on the next succeeding Local Business Day.

(l) **Address for Transfers.**

Party A: To be notified to Party B by Party A at the time of the request for the Transfer.

Party B: To be notified to Party A by Party B at the time of the request for the Transfer.

(m) **Other Provisions.**

(i) **Additional Definitions**

As used in this Annex and notwithstanding the definitions set forth in Paragraph 12:

"Equivalent Collateral" means, with respect to any security constituting Posted Collateral, a security of the same issuer and, as applicable, representing or having the same class, series, maturity, interest rate, principal amount or liquidation value and such other provisions as are necessary for that security and the security constituting Posted Collateral to be treated as equivalent in the market for such securities;

"Local Business Day" means: (i) any day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in London and New York, and (ii) in relation to a Transfer of Eligible Collateral, a day on which the clearance system agreed between the parties for the delivery of Eligible Collateral is open for acceptance and execution of settlement instructions (or in the case of a Transfer of Cash or other Eligible Collateral for which delivery is contemplated by other means, a day on which commercial banks are open for business (including dealings for foreign exchange and foreign currency deposits) in New York and such other places as the parties shall agree);

(ii) **Transfer Timing**

(a) Paragraph 4(b) shall be deleted and replaced in its entirety by the following paragraph:

"Subject to Paragraphs 4(a) and 5 and unless otherwise specified, if a demand for the Transfer of Eligible Credit Support or Posted Credit Support is made by the Notification Time, then the relevant Transfer will be made not later than the close of business on the second Local Business Day thereafter; if a demand is made after the Notification Time then the relevant Transfer will be made not later than the close of business on the third Local Business Day thereafter."

(b) Paragraph 6(d)(1) shall be amended so that the reference therein to "the following Local Business Day" shall be replaced by reference to "the second Local Business Day thereafter".

(iii) **Events of Default**

Paragraph 7 shall be amended so that the references in Paragraph 7(i), Paragraph 7(ii) and Paragraph 7(iii) to "two Local Business Days", "five Local Business Days" and "thirty days" respectively, shall instead be replaced by "one Local Business Day", "three Local Business Days" and "fifteen Local Business Days" respectively.

(iv) ***Return of Fungible Securities***

In lieu of returning to the Pledgor pursuant to Paragraphs 3(b), 4(d),5 and 8(d) any Posted Collateral comprising securities the Secured Party may return Equivalent Collateral.

(v) ***Covenants of the Pledgor***

So long as the Agreement is in effect, the Pledgor covenants that it will keep the Posted Collateral free from all security interests or other encumbrances created by the Pledgor, except the security interest created hereunder and any security interests or other encumbrances created by the Secured Party; and will not sell, transfer, assign, deliver or otherwise dispose of, or grant any option with respect to any Posted Collateral or any interest therein, or create, incur or permit to exist any pledge, lien, mortgage, hypothecation, security interest, charge, option or any other encumbrance with respect to any Posted Collateral or any interest therein, without the prior written consent of the Secured Party.

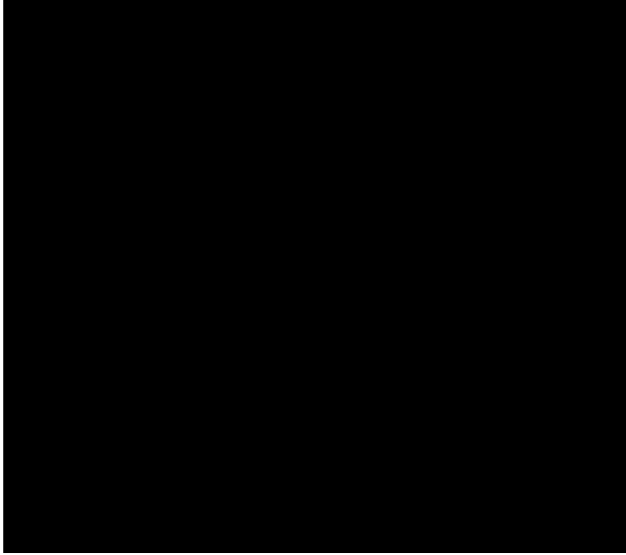
(vi) ***No Counterclaim***

A party's rights to demand and receive the Transfer of Eligible Collateral as provided hereunder and its rights as Secured Party against the Posted Collateral or otherwise shall be absolute and subject to no counterclaim, set off, deduction or defense in favor of the Pledgor except as contemplated in Sections 2 and 6 of the Agreement and Paragraph 8 of this Annex.

(vii) ***Security and Performance Assurance***

Eligible Collateral Transferred to the Secured Party:

- (i) if in the form of Cash, is not, and shall not be deemed to be, "client money" for the purposes of the Securities and Futures Authority Client Money and Custody Rules (the "Rules"), as amended from time to time, and as a consequence such Cash will not be segregated from that of the Secured Party, will be used by the Secured Party in the ordinary course of its business and will not be subject to the protections conferred by the Rules. In such circumstances the Pledgor will be a general creditor of the Secured Party; and
- (ii) constitutes security and performance assurance without which the Secured Party would not otherwise enter into and continue any and all Transactions.



UBS Global Equity Arbitrage Master Limited

By: ... *J.H. Moore*
Name:
Title:
Date:

(Multicurrency — Cross Border)

ISDA[®]

International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of December 24, 2012

Each party listed in Appendix I hereto, O'Connor Credit Long/Short
severally and not jointly and Master Limited

have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement, which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows: —

1. Interpretation

- (a) *Definitions.* The terms defined in Section 14 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.
- (b) *Inconsistency.* In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.
- (c) *Single Agreement.* All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

(a) *General Conditions.*

- (i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.
- (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.
- (iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.



**O'Connor Credit Long/Short
Master Limited**

.....
(Name of Party)

By: W. Walsley
.....
Name: William Walsley
Title: Director
Date: December 31, 2012



**Schedule
to the
1992 ISDA Master Agreement**

dated as of December 24, 2012

between

Each party listed in Appendix I hereto,
severally and not jointly

("Party A")

and

**O'Connor Credit Long/Short Master
Limited**

an exempted company incorporated
under the laws of the Cayman Islands

("Party B")

It is understood and agreed that the ISDA Master Agreement, including this Schedule and the Credit Support Annex to this Schedule, shall constitute a separate agreement with each party listed on Appendix I attached hereto and Party B as if each such party so listed had executed and delivered to Party B a separate agreement naming only itself as Party A, subject to the provisions of Appendix I as applicable to such party so listed, and that no party listed on Appendix I shall have any liability under this Agreement for the Obligations of any other party. With respect to any party listed on Appendix I, (i) only Confirmations of Transactions between such party so listed and Party B shall be part of the Agreement with such party so listed and Party B, and (ii) any references in the Agreement or a Confirmation to the Schedule shall be deemed to refer to the Schedule to the Agreement with such party so listed and Party B and any Annex applicable to such party so listed, and the term "this Agreement" shall be construed accordingly.

**Part 1
Termination Provisions**

In this Agreement:

(a) Specified Entity. "Specified Entity" means

(i) In relation to Party A for the purpose of:

Section 5(a)(v), not applicable
Section 5(a)(vi), not applicable
Section 5(a)(vii), not applicable
Section 5(b)(iv), not applicable

(ii) and in relation to Party B for the purpose of:

Section 5(a)(v), not applicable
Section 5(a)(vi), not applicable
Section 5(a)(vii), not applicable
Section 5(b)(iv), not applicable

(b) Specified Transaction. Specified Transaction will have the meaning specified in Appendix I hereto.

- (c) **Cross Default.** The "Cross Default" provision (Section 5(a)(vi)) will apply to Party A and Party B amended as follows:-

Specified Indebtedness

Instead of the definition in Section 14 of this Agreement, "Specified Indebtedness" shall mean any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) (a) in respect of borrowed money, and/or (b) in respect of any Specified Transaction (except that, for this purpose only, the words "and any other entity" shall be substituted for the words "and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party)" where they appear in the definition of Specified Transaction).

Threshold Amount

"Threshold Amount" means:

- (i) with respect to Party A, the amount set forth in Appendix I hereto; and
- (ii) with respect to Party B, three percent (3%) of the Net Asset Value of Party B (as shown in the most recent audited financial statements of Party B).

- (d) **Credit Event Upon Merger.** The "Credit Event Upon Merger" provision (Section 5(b)(iv)) will apply to Party A and Party B restated as follows:

"Credit Event Upon Merger" shall mean that a Designated Event (as defined below) occurs with respect to a party, any Credit Support Provider of such party or any applicable Specified Entity of such party (in each case, "X"), and such Designated Event does not constitute an event described in Section 5(a)(viii) of this Agreement but the creditworthiness of X or, if applicable, the successor, surviving or transferee entity of X, is materially weaker than that of X immediately prior to such action (and, in such event, such party or its successor or transferee, as appropriate, will be the Affected Party). For purposes hereof, a Designated Event with respect to X means that, after the Trade Date of the first Transaction between the parties:

- "(i) X consolidates or amalgamates with or merges with or into, or transfers all or substantially all its assets (or any substantial part of the assets comprising the business conducted by X as of the execution date hereof) to, or receives all or substantially all the assets or obligations of, another entity; or
- (ii) Any person or entity acquires directly or indirectly the beneficial ownership of equity securities having the power to elect a majority of the board of directors of X or otherwise acquires directly or indirectly the power to control the policy-making decisions of X; or
- (iii) X effects any substantial change in its capital structure by means of the issuance, incurrence or guarantee of debt or the issuance of preferred stock or other securities convertible into, or exchangeable for, debt or preferred stock."

- (e) **Automatic Early Termination.** The "Automatic Early Termination" provision of Section 6(a) will not apply to Party A and Party B. If an Early Termination Date occurs under Section 6(a) as a result of Automatic Early Termination, the Defaulting Party shall fully indemnify the Non-defaulting party on demand against all expense, loss, damage or liability that the Non-defaulting party may incur in respect of this Agreement and each Transaction as a consequence of movements in interest, currency, exchange or other relevant rates or prices or Market Quotations between the Early Termination Date and the Local Business Day on which the Non-defaulting Party first becomes aware that the Early

Termination Date has occurred under Section 6(a). The Non-defaulting Party may for this purpose convert any expense, loss, damage or liability to the Termination Currency.

- (f) **Payments on Early Termination.** For the purpose of Section 6(e), Close-out Amount will apply.
- (g) **Termination Currency.** "Termination Currency" means the currency selected by the party which is not the Defaulting Party or the Affected Party, as the case may be, or where there is more than one Affected Party the currency agreed by Party A and Party B. However, the Termination Currency will be one of the currencies in which payments are required to be made in respect of Transactions. If the currency selected is not freely available, or where there are two Affected Parties and they cannot agree on a Termination Currency, the Termination Currency will be United States Dollars.

- (h) **Additional Termination Event.** The following Additional Termination Events will apply:

- (i) **Net Asset Value Decline.** (A) As of the last Business Day of any calendar quarter, the Net Asset Value of Party B declines by 25% or more from the last Business Day of the preceding three-month period then ending (excluding redemption and subscription notices); or (B) as of any Business Day, the Net Asset Value of Party B declines by 50% or more from the highest Net Asset Value since the date of this Agreement.

For purposes of (B) above, any decline in the Net Asset Value shall take into account all amounts set forth in redemption notices received by or on behalf of Party B (notwithstanding the date the actual redemption shall occur).

"Net Asset Value" means, as of any day, the total value of assets less the total value of liabilities of Party B on such day as calculated and determined in accordance with generally accepted accounting principles in the United States of America with appropriate adjustments being made to reflect fairly the effect of all off-balance sheet assets and liabilities not required to be reflected on the balance sheet in accordance with generally accepted accounting principles.

- (ii) **Manager.** UBS O'Connor Limited or any affiliate of UBS O'Connor Limited acceptable to Party A (the "Investment Manager") ceases to act at any time as investment manager on behalf of Party B in the same or similar capacity as on the date of this Agreement.
- (iii) **Key Person.** Forty (40) % of the key principals, i.e. 3 out of 7 principals, cease to be involved in the day-to-day operation of the related O'Connor entity.
- (iv) **Financials.** Party B shall fail to deliver within three (3) business days of Party A's notice to Party B of Party B's failure, any financial statements or financial information due annually or monthly, or Party B shall fail to deliver an estimate of Party B's Net Asset Value upon demand within one (1) business day after such information is due.
- (v) **Event of Default under any of the Prime Broker Agreements.** The occurrence at any time, in respect of Party B, of an event specified as an Event of Default, default, potential default, termination event or similar event (however characterized) as defined in the relevant Prime Broker Agreement whether now existing or hereafter entered into.

For purposes of this Additional Termination Event, the term **Prime Broker Agreement** shall mean the Customer Agreement (together with any and all annexes attached thereto) between Party B and Credit Suisse Securities (USA) LLC, each as amended from time to time.

- (vi) **Prohibited Transaction.** If either Party A or Party B reasonably determines, and (1) notifies the other party in writing of such determination, and (2) promptly provides to the other Party (in writing, if promptly requested by the other Party) the basis for the determination, that this Agreement or any Transaction contemplated hereby constitutes or is likely to constitute a "prohibited transaction" under ERISA (as defined in Part 5) and/or the Code (as defined in

Part 5) and that no exemption from the "prohibited transaction" provisions of ERISA and the Code is available with respect to this Agreement and/or such Transaction. Such Additional Termination Event shall be deemed to have occurred when the condition of clause (1) has been satisfied, if clause (2) along with the initial notification, the Additional Termination Event occurs at the time of the initial notification.

Party B, in each such instance, shall be the sole Affected Party.

Part 2
Tax Representations

- (a) **Payer Tax Representations.** For the purpose of Section 3(e), Party A and Party B each makes the following representation:

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 8(e)) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on:-

- (i) the accuracy of any representation made by the other party pursuant to Section 3(f);
- (ii) the satisfaction of the agreement of the other party contained in Section 4(a)(i) or 4(a)(iii) and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii); and
- (iii) the satisfaction of the agreement of the other party contained in Section 4(d);

provided that it shall not be a breach of this representation where reliance is placed on clause (ii), and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.

- (b) **Payee Tax Representations.** For the purpose of Section 3(f),

- (i) Party A makes the Payee Tax Representations set forth in **Appendix I** hereto.
- (ii) Party B makes the following Payee Tax Representations:
 - (1) Party B is a "non-US branch of a foreign person" as that term is used in Treas. Reg. Section 1.1441-4(a)(3)(ii).
 - (2) Party B is a "foreign person" within the meaning of Treas. Reg. Section 1.6041-4(a)(4).

Part 3
Agreement to Deliver Documents

Each party agrees to deliver the following documents as applicable:-

(a) For the purpose of Section 4(a)(i), tax forms, documents or certificates to be delivered are:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered
Party A & Party B	Any document required or reasonably requested to allow the other party to make payments under this Agreement without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate.	Promptly upon the earlier of (i) reasonable demand by the other party and (ii) learning that the form or document is required.

(b) For the purpose of Section 4(a)(ii), other documents to be delivered are:

Party required to deliver document	Form/Document/ Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
Party A and Party B	Evidence reasonably satisfactory to the other party as to the names, true signatures and authority of the officers or officials signing this Agreement or any Confirmation on its behalf	Upon execution of this Agreement and, if requested, upon execution of any Confirmation	Yes
Party A	A copy of the annual report for such party containing audited or certified financial statements for the most recently ended financial year	Upon request, as soon as publicly available	Yes
Party B	A copy of the Memorandum and Articles of Association of Party B, the Investment Management Agreement between Party B and the Investment Manager and any placement, offering and disclosure documents (the "Constituent Documents").	Promptly upon request	Yes

Additionally Party B agrees to deliver to Party A, c/o Credit Suisse Securities (USA) LLC, Attention: Hedge Fund Group - Credit Risk Management

(i)	A copy of its monthly Net Asset Value report in the form provided to investors.	Within 20 days of the end of the relevant month.	Yes
(ii)	A copy of its annual audited financial statements for the most recently ended financial year.	Within 120 days after the end of the relevant fiscal year.	Yes

(iii)	A copy of any performance or other reports which Party B delivers to its shareholders and/or investors.	At the same time such reports are delivered to such shareholders and/or Investors.	Yes
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Such statements shall be deemed to be delivered once posted and available to Party A at www.ubs.com/alternatives.

**Part 4
Miscellaneous**

(a) Addresses for Notices. For the purpose of Section 12(a):

Notwithstanding Section 12(a) of the Agreement all notices including those to be given under Section 5 or 6 may be given by facsimile transmission or electronic messaging system.

(i) Address for notices or communications to Party A:

The address set forth in **Appendix 2** hereto.

(ii) Address for notices or communications to Party B:

Address: O'Connor Credit Long/Short Master Limited
~~c/o UBS Fund Services (Cayman) Limited~~ *Mplus Corporate Services Limited*
P.O. Box ~~852 309~~, *Wigland House*
~~227 Elgin Avenue~~
George Town, Grand Cayman
Cayman Islands, KY1-~~1108~~
1104

Attention: Fund Admin: O'Connor Credit Long/Short Master Limited
Telephone: ~~(345) 914-1000~~ *(345) 949-8066*

With a copy to:

UBS O'Connor Limited
c/o UBS O'Connor LLC
One North Wacker Drive, 32nd floor
Chicago, IL 60606
Attention: Nicholas Vagra
Telephone: (312) 525-6275
Facsimile: (312) 525-5040

(For all purposes.)

(b) Process Agent. For the purpose of Section 13(c):-

Party A appoints as its Process Agent:

Address: Credit Suisse Securities (USA) LLC
Eleven Madison Avenue
New York, NY 10010

Attention: General Counsel, Legal and Compliance Department.

Party B appoints as its Process Agent:

Address: UBS O'Connor LLC
299 Park Avenue
New York, NY 10171

Attention: William Ferri.

Section 13(c) shall be amended by deleting the second sentence in its entirety and replacing it with the following:

"If for any reason any party's Process Agent is unable to act as such or such appointment is due to expire or terminate at any time on or prior to the Termination Date (as defined in the 2006 Definitions) of any Transaction, such party will promptly notify and renew that appointment or appoint a substitute process agent acceptable to the other at least 90 days prior to the expiration or termination of such appointment. Written evidence of such appointment and renewal shall be provided, upon request, to the other party."

- (c) **Offices.** The provisions of Section 10(a) will apply to this Agreement.
- (d) **Multibranch Party.** For the purpose of Section 10(c):-

Party A is not a Multibranch Party.

Party B is not a Multibranch Party.
- (e) **Calculation Agent.** The Calculation Agent is Party A unless otherwise agreed in a Confirmation in relation to the relevant Transaction, In the case of an Event of Default with respect to Party A has occurred and is continuing, then Party B may appoint an alternate Calculation Agent, from among the following dealers: the principal affiliate entities of Bank of America, Citigroup, Deutsche Bank, Goldman Sachs, JP Morgan Chase, and Morgan Stanley. Following any such appointment of an Alternate Calculation Agent, if Party A cures the relevant Event of Default before Party B designates an Early Termination Date in accordance with Section 6(a), and no other Event of Default has occurred (and not been cured) by such time, then the Calculation Agent shall again be Party A from the time of such cure.
- (f) **Credit Support Document.** Details of any Credit Support Document:
 - (i) With respect to Party A and Party B: the ISDA Credit Support Annex attached hereto and made an integral part hereof.
 - (ii) In addition, the Credit Support Document set out in Appendix I with respect to Party A shall be a Credit Support Document with respect to the relevant Party A.
- (g) **Credit Support Provider.**

In relation to Party A: As specified in Appendix I.

In relation to Party B: Not applicable.
- (h) **Governing Law and Jurisdiction.** This Agreement and, to the fullest extent permitted by applicable law, all matters arising out of or relating in any way to this Agreement will be governed by and construed in accordance with the laws of the State of New York without reference to choice of law doctrine and each party submits to the jurisdiction of the courts of the State of New York.
- (i) **Netting of Payments.** Section 2(c)(ii) of this Agreement will apply to any Transactions from the date of this Agreement.
- (j) **Affiliate.** Affiliate will have the meaning specified in Section 14 of this Agreement.

**Part 5
Other Provisions**

- (a) **Scope of Agreement.** Any Specified Transaction (whether now existing or hereafter entered into) between the parties, the confirmation of which fails by its terms expressly to exclude application of this Agreement, shall be governed by and be subject to this Agreement. Any such confirmation shall be a "Confirmation", and any such Specified Transaction shall be a "Transaction", for all purposes of this Agreement.
- (b) **Definitions.** Unless otherwise specified in a Confirmation, each Transaction between the parties shall be subject to the 2006 ISDA Definitions (the "2006 Definitions") and the 1998 FX and Currency Options Definitions (including Annex A thereto), each as published by the International Swaps and Derivatives Association, Inc. (collectively, the "Definitions"), and will be governed in all relevant respects by the provisions of the Definitions. The provisions of the Definitions are incorporated by reference in and shall be deemed a part of this Agreement except that references in the 2006 Definitions to a "Swap Transaction" shall be deemed references to a "Transaction" for purposes of this Agreement. Subject to Section 1(b), in the event of an inconsistency between the provisions of this Agreement and the Definitions, this Agreement (including the Portfolio Swaps (Standard Terms) Annex), or the Definitions, such Confirmation will prevail for the purpose of the relevant Transaction.
- (c) **Confirmations.** Each Confirmation shall be substantially in the form of one of the Exhibits to the 2006 Definitions, in any other form which is published by the International Swaps and Derivatives Association, Inc. or in such other form as the parties may agree.
- (d) **Relationship Between Parties.** The parties agree to amend Section 3 of this Agreement by the addition of the following provision at the end thereof and marked as subsection (g):
- (g) **Relationship Between Parties.** Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):
- (1) *Non-Reliance.* It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction, it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of that Transaction.
 - (2) *Assessment and Understanding.* It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.
 - (3) *Status of Parties.* The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.
 - (4) *No Agency.* It is entering into this Agreement, including each Transaction, as principal and not as agent for any person or entity.

- (e) **Change of Account.** Section 2(b) of this Agreement is hereby amended by the addition of the following after the word "delivery" in the first line thereof:

"to another account in the same legal and tax jurisdiction as the original account"

- (f) **Escrow Payments.** If (whether by reason of the time difference between the cities in which payments are to be made or otherwise) it is not possible for simultaneous payments to be made on any date on which both parties are required to make payments hereunder, either party may at its option and in its sole discretion notify the other party that payments on that date are to be made in escrow. In this case deposit of the payment due earlier on that date shall be made by 2:00 p.m. (local time at the place for the earlier payment) on that date with an escrow agent selected by the notifying party, accompanied by irrevocable payment instructions (i) to release the deposited payment to the intended recipient upon receipt by the escrow agent of the required deposit of the corresponding payment from the other party on the same date accompanied by irrevocable payment instructions to the same effect or (ii) if the required deposit of the corresponding payment is not made on that same date, to return the payment deposited to the party that paid it into escrow. The party that elects to have payments made in escrow shall pay all costs of the escrow arrangements and shall cause those arrangements to provide that the intended recipient of the payment due to be deposited first shall be entitled to interest on that deposited payment for each day in the period of its deposit at the rate offered by the escrow agent for that day for overnight deposits in the relevant currency in the office where it holds that deposited payment (at 11:00 a.m., local time, on that day) if that payment is not released by 5:00 p.m. local time, on the date it is deposited for any reason other than the intended recipient's failure to make the escrow deposit it is required to make hereunder in a timely fashion.
- (g) **Set-off.** Without affecting the provisions of this Agreement requiring the calculation of certain net payment amounts, all payments under this Agreement will be made without set-off or counterclaim; provided, however, that upon the designation or deemed designation of any Early Termination Date, in addition to and not in limitation of any other right or remedy (including any right to set-off, counterclaim, or otherwise withhold payment) under applicable law:

the Non-defaulting Party or the party that is not the Affected Party (in either case, "X") may, without prior notice to any person, set off any sum or obligation (whether or not arising under this Agreement, whether matured or unmatured and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by the Defaulting Party or Affected Party (in either case, "Y") to X or to any Affiliate of X, against any sum or obligation (whether or not arising under this Agreement, whether matured or unmatured and irrespective of the currency, place of payment or booking office of the sum or obligation) owed by X or any Affiliate of X to Y, and, for this purpose, may convert one currency into another. If any sum or obligation is unascertained, X may in good faith estimate that sum or obligation and set off in respect of that estimate, subject to X or Y, as the case may be, accounting to the other party when such sum or obligation is ascertained.

Nothing in this Part 5(g) shall be effective or deemed to create any charge or other security interest.

- (h) **Recording of Conversation.** Each party to this Agreement acknowledges and agrees to the tape recording of conversations between the parties to this Agreement whether by one or other or both of the parties and each party hereby consents to such recordings being used as evidence in Proceedings, subject to applicable rules of discovery and evidence, subject to applicable law.
- (i) **Commodity Exchange Act.** Each party represents to the other party on and as of the date hereof and on each date on which a Transaction is entered into among them that it is an "eligible contract participant" as defined in the U.S. Commodity Exchange Act, as amended.

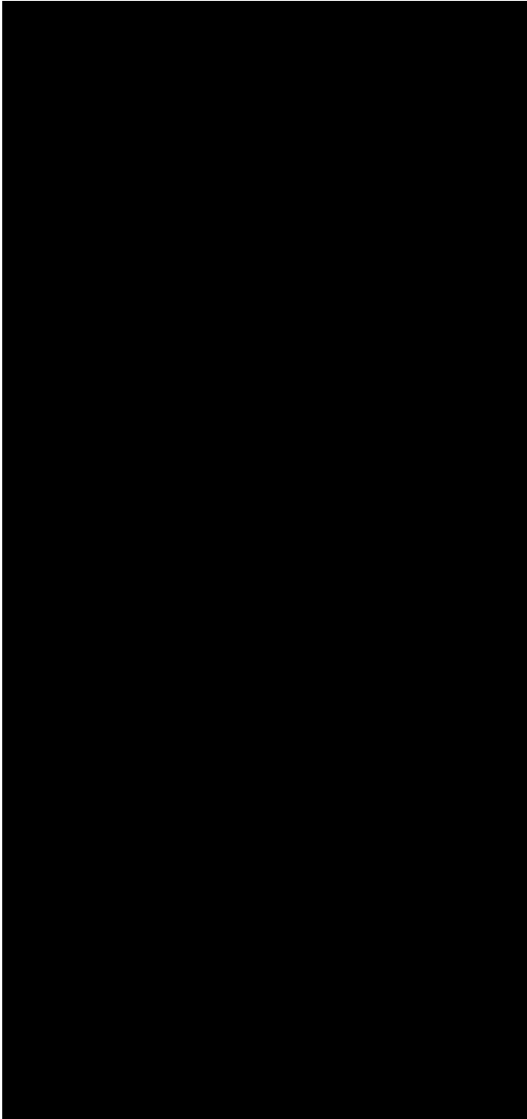
- (j) **Waiver of Right to Trial by Jury.** Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Agreement or any Credit Support Document. Each party (i) certifies that no representative, agent or attorney of the other party or any Credit Support Provider has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into this Agreement and provide for any Credit Support Document, as applicable by, among other things, the mutual waivers and certifications in this Section.
- (k) **ERISA Representations and Agreements by Party B.** Party B represents that it is not and will not be a Benefit Plan which, for the purposes of this Agreement, means (1) an "employee benefit plan" within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), (2) a "Plan" within the meaning of Section 4075(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), (3) an entity the underlying assets of which include assets of employee benefit plans or plans as a result of investments by such plans in the entity pursuant to Section 3(42) of ERISA, or (4) assets of a governmental plan or other plan subject to restrictions similar or analogous to those contained in ERISA or the Code.
- (l) **Investment Manager as Agent.** Party B represents and warrants that the Investment Manager has the full power and authority to commit Party B to Transactions and conclude such Transactions on Party B's behalf on such terms and conditions as the Investment Manager may determine in its absolute discretion. Unless previously notified in writing by Party B, Party A may rely on all representations and warranties of and actions by the Investment Manager in relation to any such Transactions. For these purposes, Party B agrees to fully and unconditionally indemnify Party A for any and all losses, damages, costs and expenses directly sustained by Party A (including those incurred in unwinding any relevant hedging transactions) by reason of any claim by Party B that any Transaction entered into by the Investment Manager on Party B's behalf was not suitable or was without authority.
- (m) **Additional Agreements.** Section 4 of the Agreement is hereby amended in respect of Party B only by the addition of the following agreements:
- "(f) Party B shall provide to Party A, upon request either verbally or in writing and within two (2) business days of such request, information the parties deem to be reasonable in view of credit and other risk management purposes which may include the unofficial Net Asset Value of Party B as determined in good faith as of the day on which Party A made such request.
- "(g) In the event that Party B materially amends, alters, modifies or changes its Constituent Documents, Party B shall notify Party A within 30 days of the effectiveness of such changes and provide copies of such changes to its Constituent Documents. Party B shall provide Party A with the current version of such Constituent Documents marked to show all changes from the prior version."
- (n) **Credit Suisse Securities (USA) LLC as Agent.** If Party A with respect to any Transaction hereunder, is relying on Rule 15a-6 ("Rule 15a-6") under the Securities Exchange Act of 1934 (the "Exchange Act") the following terms and conditions shall apply to such Transaction:
- (i) Credit Suisse Securities (USA) LLC, as a broker-dealer registered with the U.S. Securities and Exchange Commission ("SEC"), will arrange such Transaction as facilitating agent for each of the parties and will be responsible to the extent required under Rule 15a-6, for (a) effecting such Transaction, on behalf of Party A, (b) issuing all required confirmations and statements to Party A and Party B, (c) maintaining books and records relating to such Transaction as required by Rules 17a-3 and 17a-4 under the Exchange Act, and (d) if requested by Party A or Party B receiving, delivering and safeguarding such party's funds and securities in connection with such Transaction in compliance with Rule 15c3-3 under the

Exchange Act. Notwithstanding the foregoing, the parties agree that Credit Suisse Securities (USA) LLC shall not be deemed by virtue of its role as facilitating agent hereunder to be holding any Securities on behalf of either party.

- (ii) Regardless of whether Party A is relying on Rule 15a-6 with respect to any Transaction hereunder, Credit Suisse Securities (USA) LLC is participating in such Transaction solely as facilitating agent for the parties. Credit Suisse Securities (USA) LLC shall have no responsibility or personal liability to either party arising from any failure by a party to pay or perform any obligations hereunder, or to monitor or enforce compliance by a party with any obligation hereunder, including, without limitation, any obligation to maintain margin. Each party agrees to proceed solely against the other to collect or recover any securities or moneys owing to it in connection with or as a result of such Transaction or otherwise hereunder. Credit Suisse Securities (USA) LLC shall otherwise have no liability in respect of this Agreement or such Transaction except for its gross negligence or wilful misconduct, or its failure to comply with applicable U.S. securities laws and regulations, in performing its duties as facilitating agent hereunder.
- (o) **Portfolio Swaps (Standard Terms) Annex.** Attached hereto as Annex I and made a part hereof is the "Credit Suisse Securities (Europe) Limited Portfolio Swaps (Standard Terms) Annex."
- (p) **FDICIA Representation.** Party A and Party B each represents to the other that it is a "financial institution" for purposes of Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended (the "Statute"), and the regulations promulgated pursuant thereto because either (i) it is a broker or dealer, a depository institution or a futures commission merchant (as such terms are defined in the Statute) or (ii) it will engage in financial contracts (as so defined) as a counterparty on both sides of one or more financial markets (as so defined) and either (1) had one or more financial contracts of a total gross dollar value of at least USD1 billion in notional principal amount outstanding on any day during the previous 15-month period with counterparties that are not its affiliates or (2) had total gross mark-to-market positions of at least USD100 million (aggregated across counterparties) in one or more financial contracts on any day during the previous 15-month period with counterparties that are not its affiliates.
- (q) **Transfer and Restructuring.** Notwithstanding any provisions of this Agreement to the contrary, the parties hereby agree that:
 - (i) consent by Party B shall not be required in connection with the transfer by Party A of all its interests and obligations under any Transaction entered into pursuant to this Agreement to any Affiliate of Party A, and of any further such transfer by any such Affiliate (the Transferring Affiliate") to any other Affiliate of Party A, so long as each of the following conditions is satisfied: (a) at the time of the proposed transfer of the Transactions by Party A, the transferee or its Credit Support Provider has a long term unsecured unsubordinated debt rating equal to or higher than that of Party A and is not subject to "Credit Watch" or its equivalent by S&P or credit review or its equivalent by Moody's; (b) such transfer or assignment is not in violation of any applicable laws, rules or regulations and does not contravene the Constituent Documents of Party B; (c) as a result of any such transfer Party B would not be required to make or receive any payment from which any Tax (including any Indemnifiable Tax) is required to be withheld or deducted; (d) the Transaction is at the time of such transfer the legal, valid and binding obligation of the Affiliate or Transferring Affiliate; and (e) a Termination Event, Event of Default or Potential Event of Default does not occur as a result of such transfer;
 - (ii) If, as a matter of law, Party B's consent is required for the purposes of perfecting any transfer contemplated in (i) above by Party A, Party B shall give its consent to the transfer;

- (iii) In the event of any transfer contemplated in (i) above by Party A, Party B will execute upon the demand of Party A the necessary documentation prepared by Party A;
 - (iv) Consent by Party B shall not be required in the event Party A requires a restructuring of any Transaction that will ensure the same economic effect for Party B by subdividing such Transaction into two or more parts (each a Transaction); and
 - (v) Party B will execute such revised documentation as Party A shall require to evidence any restructuring contemplated in (iv) above.
- (r) **Incorporation of ISDA 2012 FATCA Protocol.** The parties to this Agreement agree that the amendments set out in the Attachment to the ISDA 2012 FATCA Protocol published by ISDA on August 15, 2012 and available on the ISDA website (www.isda.org) shall apply to this Agreement. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such Protocol amendments regardless of the definitions of such terms in the Protocol.
- (s) **Incorporation of ISDA 2010 Short Form HIRE Act Protocol.** The parties to this Agreement agree that the amendments set out in the Attachment to the ISDA 2010 Short Form HIRE Act Protocol published by ISDA on November 30, 2010 and available on the ISDA website (www.isda.org) shall apply to this Agreement. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the effective date of this Agreement as amended by the parties for the purposes of such Protocol amendments regardless of the definitions of such terms in the Protocol. Without limiting the generality of the foregoing, the Dividend Equivalent Tax provisions shall apply only if the parties enter into one or more Equity Derivatives Transactions. For purposes hereof, an 'Equity Derivative Transaction' is a Transaction commonly known as a derivative, including, but not limited to any swap transaction, option transaction or forward transaction, in which the underlying or reference security (or securities) is an 'equity security' as defined in Section 3(a)(11) of the Securities Exchange Act of 1934, as amended.
- (t) **Incorporation of Close-out Amount Protocol.** The parties to this Agreement agree that the amendments set out in the Attachment and Annexes 10 – 14 (inclusive) to the ISDA Close-out Amount Protocol published by ISDA on February 27, 2009 and available on the ISDA website (www.isda.org) shall be made to this Agreement and that the Loss Amended Election and the Annex 1 - 9 Applicable Election have been made. The parties further agree that this Agreement will be deemed to be a Covered Master Agreement and that the Implementation Date shall be the date this Agreement is entered into for the purposes of the amendments regardless of the definitions of such terms in the Protocol.

IN WITNESS WHEREOF the parties have executed this Schedule on the respective dates specified below with effect from the date specified on the first page of this document.



O'CONNOR CREDIT LONG/SHORT MASTER LIMITED

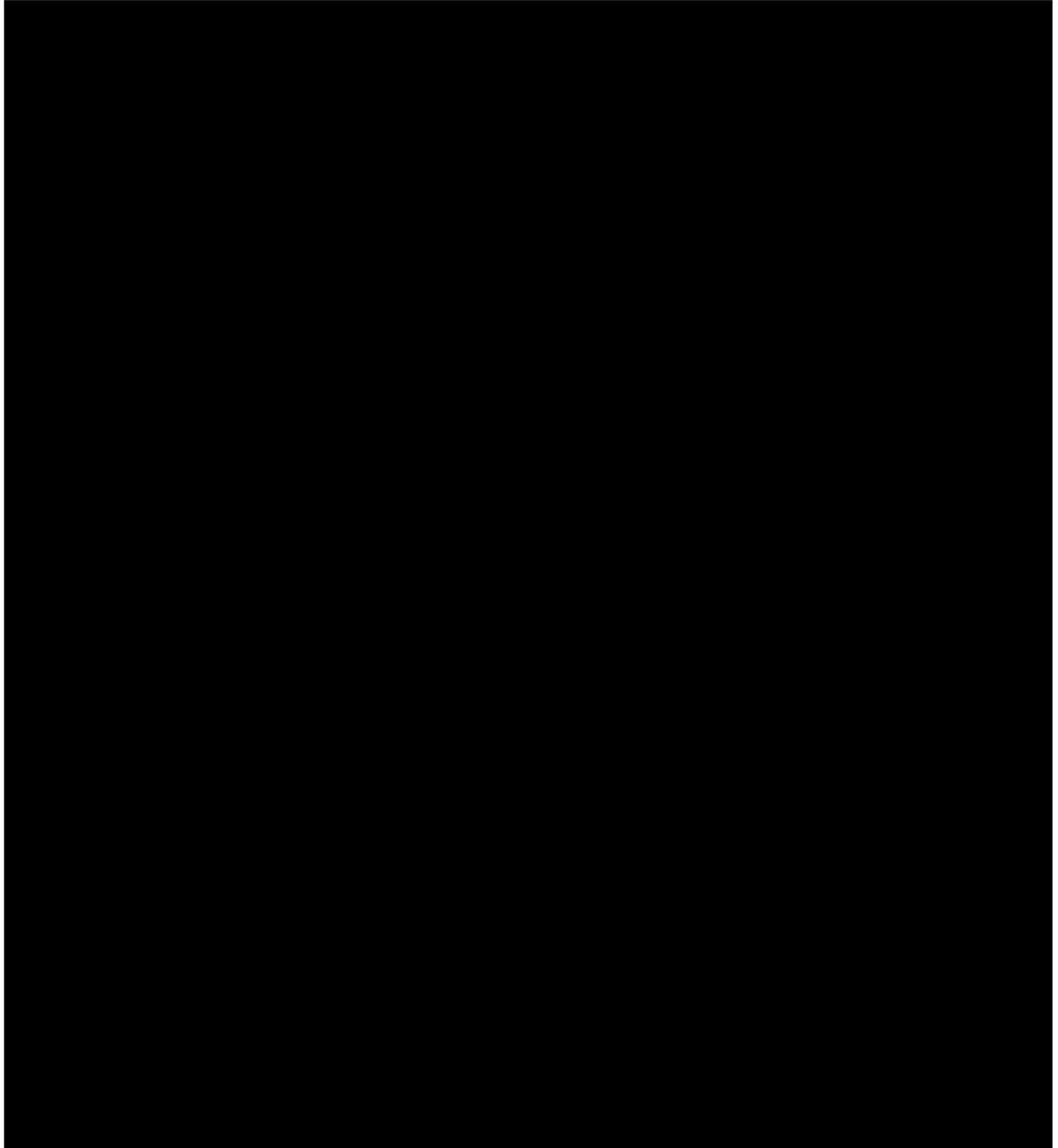
By: W. Walsley
Name: William Walsley
Title: Director
Date: December 31, 2012

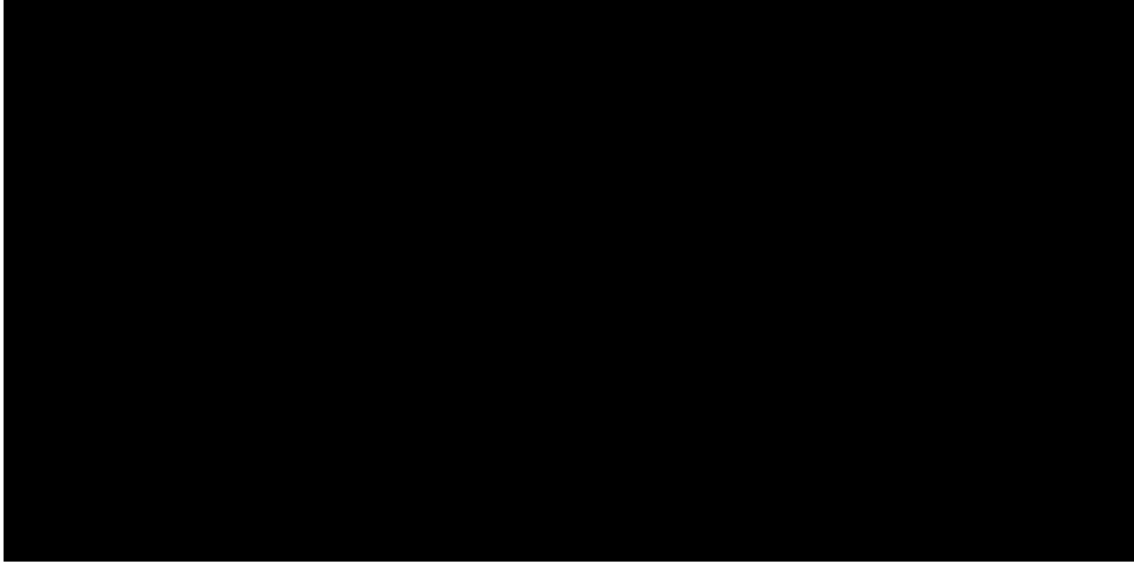
Appendix I

Party A	Part 1(b) - Specified Transaction	Part 1(c) - Threshold Amount	Part 2(b)(i)	Part 4(f)(II) - Credit Support Document	Part 4(g) - Credit Support Provider
[REDACTED]	Specified Transaction will have the meaning specified in Section 14.	Amount equal to three percent (3%) of the shareholders' equity of Party A (as shown in the most recent audited financial statements of Party A).	Party A makes the following Payee Tax Representations: it is entering into the Transaction in the ordinary course of its trade as, and is, a bank for U.K. Tax purposes; and (ii) it will bring into account payments made and received in respect of each transaction in computing its income for United Kingdom Tax purposes..	None	None
[REDACTED]	Specified Transaction will have the meaning specified in Section 14 and will also include Securities Swaps as defined in the Portfolio Swaps (Standard Terms) Annex attached hereto.	An amount equal to three percent (3%) of the shareholders' equity of Party A's Credit Support Provider (as shown in the most recent audited financial statements of Party A's Credit Support Provider).	Party A makes the following Payee Tax Representation: it is incorporated in and a tax resident of the United Kingdom	With respect to Party A: The guarantee made by way of Deed Poll by [REDACTED] dated May 1, 2008 ("the Guarantee") pursuant to which Credit Suisse has guaranteed the obligations of [REDACTED] in respect of all Specified Transactions, as defined in the Guarantee.	[REDACTED]

Appendix II

Address for notices or communications to Party A





Annex I

Portfolio Swaps (Standard Terms) Annex

**Annex II
Deed Poll Guarantee**

[REDACTED]
PORTFOLIO SWAPS (STANDARD TERMS) ANNEX

[REDACTED] and O'Connor Credit Long/Short Master Limited (the "Counterparty") have entered into a Cross Border Multicurrency ISDA Master Agreement dated as of December 24, 2012, with related schedules (the "Master Agreement"). This Portfolio Swaps (Standard Terms) Annex, including the Schedule attached hereto and made a part hereof (the "Standard Terms") supplements and forms part of the Master Agreement and is intended to govern the parties' relationship when entering into an equity swap transaction through "Primeview" (or successor system) that the parties agree to be governed by the Standard Terms in relation to a single Share, a basket of Shares treated together (a "Custom Basket") a single Index or a basket of Indices treated together (a "Custom Index Basket") (each, an "Equity Swap Transaction"). Each Equity Swap Transaction shall be deemed a "Transaction" for the purposes of the Master Agreement.

The definitions and provisions contained in the 2006 ISDA Definitions (the "Swap Definitions") and in the 2002 ISDA Equity Derivatives Definitions (the "Equity Definitions," and together with the Swap Definitions, the "Definitions"), in each case as published by the International Swaps and Derivatives Association, Inc., as amended and supplemented from time to time, are incorporated into these Standard Terms. In the event of any inconsistency between the Swap Definitions and the Equity Definitions, the Equity Definitions will govern. In the event of any inconsistency between either set of Definitions and the Standard Terms, the Standard Terms shall prevail. The confirmation applicable to each Transaction, which shall constitute a "Confirmation" for the purposes of, and will supplement, form a part of, and be subject to, the Master Agreement, shall consist of the Standard Terms (including the Schedule hereto), as supplemented by the trade details applicable to such Transaction as set forth in the Confirmation for that Transaction.

In order to enter into a Transaction, the Counterparty must notify (by telephone or as otherwise agreed between the parties) CS of its request for an offer, specifying the name of the relevant Shares, Custom Basket, Index or Custom Index Basket, and the proposed Number of Shares or the proposed Number of Units, as applicable, and whether the Counterparty wishes to act as Equity Amount Receiver/Synthetic Buyer or Equity Amount Payer/Synthetic Seller. If CS agrees to provide such offer, it must then notify (by telephone or as otherwise agreed between the parties) the Counterparty of the proposed Initial Price or formula for determining the Initial Price. Should the Counterparty wish to accept this offer, it must immediately notify CS (by telephone or as otherwise agreed between the parties) of its acceptance. This acceptance gives rise to a binding Transaction between the parties. An offer by CS that is not immediately accepted shall be deemed to lapse unless CS specifically states that it shall remain open.

A Confirmation will be prepared and either (i) posted by CS on its client access website or (ii) delivered by CS to the Counterparty by other electronic means, in each case, within one Business Day of the Transaction being entered into between the parties. The Counterparty shall be deemed to have accepted the terms of the Confirmation if it does not dispute its terms within one Business Day of such posting, absent manifest error. Failure to dispute the terms within one Business Day shall constitute the Counterparty's full acceptance of the Transaction upon the terms, and subject to the conditions, as set out in the Confirmation and within these Standard Terms, absent manifest error. In the event of any inconsistency between the provisions of the Standard Terms and any Confirmation, the Confirmation shall prevail. In the event of any inconsistency between the provisions of the Standard Terms and the Master Agreement, the Standard Terms shall prevail for the purposes of the relevant Transaction.

The standard terms applicable to each Transaction to which these Standard Terms relate are as follows (unless otherwise specified in the relevant Confirmation):

1. General Terms

Transaction Type:	For purposes of the Equity Definitions, the relevant Equity Swap Transaction constitutes: <ul style="list-style-type: none">(a) a "Share Swap Transaction" if the relevant Confirmation specifies a single Share;(b) a "Share Basket Swap Transaction" if the relevant Confirmation specifies a Custom Basket;(c) an "Index Swap Transaction" if the relevant Confirmation specifies a single Index; and(d) an "Index Basket Swap Transaction" if the relevant Confirmation specifies a Custom Index Basket.
Trade Date:	As specified in the Confirmation.
Effective Date:	As specified in the Confirmation.
Termination Date:	Is the earlier of: <ul style="list-style-type: none">(i) the Swap Termination Date; and(ii) the Optional Termination Date, in each case, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day, subject to the provisions of Section 6.6 of the Equity Definitions.
Final Settlement Date:	Is the earlier of: <ul style="list-style-type: none">(i) one Settlement Cycle after the Swap Termination Date; and(ii) one Settlement Cycle after the Optional Termination Date.
Swap Termination Date:	As specified in the Confirmation.

Shares:	The shares as specified in the Confirmation (including quantity).
Custom Basket:	As specified in the Confirmation.
Index:	As specified in the Confirmation.
Custom Index Basket:	As specified in the Confirmation.
Number (quantity) of Units:	For a Custom Basket, Index or Custom Index Basket, the Equity Notional Amount divided by the Gross Price.
Gross Price: ¹	As specified in the Confirmation.
Weighting:	For a Custom Basket and in respect of each Share in such Custom Basket, the number of Shares per Unit in the Custom Basket and for a Custom Index Basket and in respect of each Index in such Custom Basket, the number of units of such Index per Unit in the Custom Index Basket, as agreed between the parties at the Trade Date and specified in the Confirmation, and as may be adjusted from time to time by the Calculation Agent as a result of the occurrence of a Potential Adjustment Event, Extraordinary Event or Index Adjustment Event, as the case may be.
Equity Notional Amount:	Initially, as specified in the Confirmation, as adjusted pursuant to Section 1.24 of the Equity Definitions.
Share Notional/ Index Notional for a Custom Basket or Custom Index Basket: ²	As of any date, (a) the Share Notional for any Share in a Custom Basket equals the product of (i) the Weighting of such Share and (ii) the Final Price of such Share as of the last Valuation Date or, in respect of the first Valuation Date, the Initial Price and (b) the Index Notional for any Index in a Custom Index Basket equals the product of (x) the Weighting of such Index and (y) the Final

¹ Note: Swap fees will *either* be separate *or* included in the Initial/Final Price, not both. If swap fees are separate from the Initial Price, then Gross Price equals Initial Price, but if swap fees are included in the Initial Price, then Gross Price equals the Initial Price minus such swap fees. Gross Price is only used to calculate the Number of Units for an Index, Custom Basket or Custom Index Basket.

² Applies only for a Custom Basket or Custom Index Basket and used only if Reinvestment of Dividends is applicable.

Price of such Index as of the last Valuation Date or, in respect of the first Valuation Date, the Initial Price.

Exchange:

Each exchange or quotation system, as specified in the Confirmation, if any, or, in respect of any multi-exchange Index or Custom Index Basket, for each component security of such Index or of any Index in such Custom Index Basket, the principal stock exchange on which such component security is traded, if any; subject to the successor or substitute provisions in Section 1.25 of the Equity Definitions.

Related Exchange:

The principal exchange or exchanges on which futures and options contracts related to the relevant Share, Shares, Index or Indices, as applicable, are traded; *provided* that if CS determines that its Hedge Positions in respect of any Transaction will not include futures or options contracts related to the relevant Share, Shares, Index or Indices, as applicable, then the Related Exchange for such Transaction will be "None;" subject to the successor or substitute provisions in Section 1.26 of the Equity Definitions.

Schedule:

The document substantially in the form attached hereto. The Schedule referred to in the Standard Terms is distinct from all other schedules incorporated into the Master Agreement.

Exchange Business Day:

Any Scheduled Trading Day on which each Exchange and Related Exchange, if any, are open for trading during their respective regular trading sessions, notwithstanding such Exchange or Related Exchange, if any, closing prior to its Scheduled Closing Time; *provided* that (i) for non-Exchange traded Shares, each day on which price quotations are available to (or provided by) CS in respect of such Shares, (ii) for an Index Swap Transaction or an Index Basket Transaction, it shall also mean each day the Index Sponsor(s) publishes the level of the Index or Indices and (iii) for a Share Basket Swap Transaction or Index Basket Swap Transaction, Exchange Business Day shall

be determined on a per Share or per Index, as applicable, basis.

Settlement Currency:

As specified in the Confirmation.

Calculation Agent:

As specified in the Master Agreement;

Depository Receipt Election:

Applicable with respect to any of the Shares that are depository shares or receipts, unless otherwise specified in the Confirmation.

In the event that Depository Receipt Election is Applicable, the 2002 Definitions shall be supplemented by the 2007 Partial Lookthrough Depository Receipt Supplement to the Equity Definitions or the 2007 Full Lookthrough Depository Receipt Supplement to the Equity Definitions, as specified in the Confirmation.

2. Equity Amounts

Equity Amount Receiver:

The party specified as the Synthetic Buyer in the Confirmation.

Equity Amount Payer:

The party specified as the Synthetic Seller in the Confirmation.

Equity Amount Payment Date:

Unless otherwise specified in the Confirmation, in respect of each Valuation Date, the date that is one Settlement Cycle after the relevant Valuation Date, or if such date is not a Currency Business Day, the next following Currency Business Day. On each Equity Amount Payment Date for a Transaction, an Equity Amount Payment shall be made.

Valuation Date:

Each date specified as such in the Confirmation and the Termination Date, subject to the provisions of Section 6.6 of the Equity Definitions.

Averaging Dates:

In respect of each Valuation Date, each date specified or otherwise determined as provided in the Confirmation (or, if such date is not a Scheduled Trading Day, the next following Trading Day); *provided* that the Calculation Agent, in its reasonable discretion, may use a "weighted arithmetic

mean" instead of the "arithmetic mean" provided in Section 6.7(b) of the Equity Definitions and the "weighting" for any applicable Share on any Averaging Date will be determined by the Calculation Agent, in its reasonable discretion, with regard to the daily trading volume of such Share on the applicable exchange on such Averaging Date.

Averaging Date Disruption:

Modified Postponement.

Equity Amount:

As calculated in respect of each Equity Amount Payment Date, (i) for a Share or an Index, an amount equal to $Q \times (P_2 - P_1)$ and (ii) for a Custom Basket or Custom Index Basket, an amount equal to $\sum (P_{2i} - P_{1i}) \times Q_i$, where:

Q = the Number of Shares with respect to a Share or the Number of Units with respect to an Index;

Q_i = the number of Shares of Share_i in a Custom Basket or the number of Units of Index_i in a Custom Index Basket;

P_1 or P_{1i} = the Final Price on the Valuation Date relating to the immediately preceding Equity Amount Payment Date or in respect of the first Equity Amount Payment Date, the Initial Price; and

P_2 or P_{2i} = the Final Price on the Valuation Date relating to such Equity Amount Payment Date.

Equity Amount Payment:

On the Equity Amount Payment Date, if P_2 is greater than P_1 (or, for a Custom Basket or Custom Index Basket, if $\sum (P_{2i} - P_{1i})$ is positive), then the Equity Amount Payer shall pay the Equity Amount to the Equity Amount Receiver; or

If P_2 is less than P_1 (or, for a Custom Basket or Custom Index Basket, if $\sum (P_{2i} - P_{1i})$ is negative), then the Equity Amount Receiver shall pay the absolute value of the Equity Amount to the Equity Amount Payer.

Equity Notional Reset: Applicable/Not Applicable, as specified in the Confirmation.

Type of Return: Total Return, unless otherwise specified in the Confirmation.

Initial Price: In respect of a Share, the price per Share specified as such in the Confirmation; in respect of a Custom Basket, the price per Custom Basket specified as such in the Confirmation; in respect of an Index, the level of the relevant Index specified as such in the Confirmation; and in respect of a Custom Index Basket, the level of the Custom Index Basket specified as such in the Confirmation.

Final Price: The product of (A) (One minus the Final Swap Fee Percentage (as defined in Section 4)), if Applicable, and (B): (a) In respect of a Share:

- (i) the price per Share as of the Valuation Time on the Valuation Date (or relevant Averaging Date), as reported in the official real-time price dissemination mechanism for the Exchange or, if agreed between the parties with respect to a particular Transaction, the volume weighted average price per Share on the Exchange during its regular trading session on the Valuation Date (or relevant Averaging Date), as displayed on Bloomberg Page AQR (or any successor thereto) or, if no such page is available or appropriate for the relevant market, then as determined by the Calculation Agent.
- (ii) if (a) for any reason no quotation as specified in (i) or (ii) above is available, (b) the Calculation Agent has reasonably concluded that the Final Price determined in accordance with (i) or (ii) above is not a fair reflection of the market value the Shares at the Valuation Time on the Valuation Date (or relevant Averaging Date) or (c) the Shares are specified in the Confirmation to be non-exchange traded Shares, then the "Final Price" shall be the price per Share as reasonably determined by the Calculation Agent as at the Valuation

Time on the Valuation Date (or relevant Averaging Date).

(b) In respect of a Custom Basket, \sum Final Price_iX Weighting_i, where

Final Price_i = the Final Price of Share_i in the Custom Basket (determined in accordance with clause (a) above), as of the Valuation Time on the Valuation Date (or relevant Averaging Date); and

Weighting_i = the Weighting of Share_i in the Custom Basket.

(c) In respect of an Index, the official closing level of the Index as calculated and published by the relevant Index Sponsor on the Valuation Date (or relevant Averaging Date), *provided*, however, that if the Calculation Agent has reasonably concluded that such level is not a fair reflection of market value of the Index on the Valuation Date (or relevant Averaging Date) then the "Final Price" shall be the level of the Index as reasonably determined by the Calculation Agent as at the Scheduled Closing Time on the Valuation Date (or relevant Averaging Date).

(d) In respect of a Custom Index Basket, \sum Closing Level_iX Weighting_i, where

Closing Level_i = the Closing Level of Index_i in the Custom Basket (determined in accordance with clause (c) above), on the Valuation Date (or relevant Averaging Date); and

Weighting_i = the Weighting of Index_i in the Custom Basket.

(e) If the Number of Shares with respect to any Transaction, together with, at the election of CS, the number of shares of such Issuer under any other equity swap transaction between the parties hereto and for which the "final Valuation Date" occurs on the same day as the Valuation Date or first Averaging Date, as applicable, for such Transaction (the "Total Number of Shares"), exceeds the ADTV Limitation (as defined below), the Final Price determination described in paragraph (a) above will apply only with respect to the portion of the Total

Number of Shares that the Calculation Agent determines will not exceed such ADTV Limitation. The Final Price with respect to the remaining portion of the Total Number of Shares shall be determined on as many subsequent days as the Calculation Agent may require to adhere to the ADTV Limitation (each such day, an "Extended Day") and shall be determined in accordance with the procedures described in paragraph (a) and this paragraph (e).

The "ADTV Limitation" shall mean 20% of the most current 30-day trailing average daily trading volume, to the extent available, determined as of the final Valuation Date (or first Averaging Date, as applicable).

(f) Notwithstanding anything herein or in the Definitions to the contrary, if a Market Disruption Event with respect to any applicable Share occurs or exists on any day that, but for the Market Disruption Event, would have been the final Valuation Date or any Extended Day, the Final Price for such Share shall be determined for such day with respect to a number of such Shares, which may be zero, as the Calculation Agent shall determine in its reasonable discretion exercised in good faith and the relevant Valuation Date for the remaining number of such Shares shall be postponed as provided in the Equity Definitions.

Futures Price Valuation:

Not Applicable, unless specified as "Applicable" in the Confirmation for an Index Swap Transaction. If Futures Price Valuation is specified as "Applicable," (i) Section 6.8(d) of the Equity Definitions is amended by replacing "Exchange" with "Related Exchange" and (ii) Section 6.8(b)(ii) of the Equity Definitions is replaced by "Official Settlement Price means the price at which the Exchange-traded Contract on the Relevant Exchange is settled."

Exchange-traded Contract:

If Futures Price Valuation is Applicable, the futures contract, or if there is no such futures contract, the options contract, on the relevant Index traded on the Related Exchange with an expiry date (or the date

which would have been the expiry date but for such date being a Disrupted Day or not being a Scheduled Trading Day) that is the same date as the final Valuation Date, unless otherwise specified in the Confirmation, in which case, the futures contract, or if there is no such futures contract, the options contract, on the relevant Index traded on the Related Exchange with an expiry date (or the date which would have been the expiry date but for such date being a Disrupted Day or not being a Scheduled Trading Day) in the month and year as specified in the Confirmation.

Valuation Time:

In respect of a Share Swap Transaction or a Share Basket Swap Transaction, the Scheduled Closing Time; subject to the provisions of Section 8.1 of the Equity Definitions.

In respect of an Index Swap Transaction or an Index Basket Swap Transaction, Not Applicable.

3. Floating Amounts:

Floating Amount Payer:

The Equity Amount Receiver.

Floating Amount Receiver:

The Equity Amount Payer.

Calculation Amount:

Equity Notional Amount.

Floating Amount Payment Dates:

Each date specified in the Schedule and the Final Settlement Date; subject to adjustment in accordance with the Business Day Convention.

Business Day Convention:

As specified in the Confirmation.

Floating Rate Option:

As specified in the Confirmation.

Business Day:

As appropriate, based on the jurisdiction related to the specified Floating Rate Option and the jurisdiction related to the Settlement Currency.

Designated Maturity:

As specified in the Schedule or as otherwise specified in the Confirmation.

Spread:

The percentage specified in the Confirmation; *provided* that, unless otherwise specified in the Confirmation, CS may modify the Spread on any Transaction to reflect CS' increased cost of funding, provided that the cost of funding increases

by 50 basis points or more from the levels as of the Trade Date of such Transaction as a result of (A) (x) an increase of 50 basis points (or more) in the quoted closing level of the Credit Suisse Group AG 5yr Senior EUR Credit Default Swap (as quoted on Bloomberg page BANK and on Bloomberg page CCS1E5 CURRENCY, or its equivalent) (the "CSG CDS") over a period of five (5) consecutive days or (y) the CSG CDS reaches a level of 200 basis points and remains at that level for at least five consecutive days, or (B) the average of the spreads between 1 month, 2 month and 3 month Libor and 1 month, 2 month, and 3 month US dollar Overnight Index Swap, respectively, increases to a level greater than 20 basis points, or (C) the failure of any of Credit Suisse AG, Credit Suisse (USA), Inc. or Credit Suisse International to maintain (i) a long-term senior unsecured debt rating of at least A3 (or the equivalent successor rating) as determined by Moody's Investors Service, Inc. or any successor ("Moody's"); or (ii) a long-term senior unsecured debt rating of at least A- (or the equivalent successor rating) as determined by Standard & Poor's Ratings Group, a division of The McGraw-Hill Companies Inc, or any successor ("S&P"); or (iii) a short-term issue credit rating of at least P-1 (or the equivalent successor rating) as determined by Moody's; or (iv) a short-term issue credit rating of at least A-1 (or the equivalent successor rating) as determined by S&P; or (v) a rating at any level by either Moody's or S&P, or (D) a suspension of trading in the shares of Credit Suisse Group AG on any exchange on which they trade.

Floating Rate Day Count Fraction:	As specified in Section 6.2(g) of the 2006 Definitions in respect of the relevant Floating Rate Option, unless otherwise specified in the Confirmation.
Reset Dates (Interest):	As specified in the Schedule.
Compounding:	Not Applicable, unless otherwise specified in the Confirmation.
Compounding Dates:	If Applicable, each day in the Calculation Period.

4. Swap Fees:

(a) On the first Equity Amount Payment Date only, the Counterparty shall pay an amount equal to the Initial Swap Fee to CS. The Initial Swap Fee is calculated as $Q \times P_0 \times Z$, where:

- Q = In respect of a Share Swap Transaction, the Number of Shares; in respect of a Share Basket Swap Transaction, an Index Swap Transaction or an Index Basket Swap Transaction, the Number of Units;
- P_0 = the Initial Price;
- Z = Initial Swap Fee Percentage; and
- Initial Swap Fee Percentage = a percentage, represented in basis points, as agreed between the parties and as specified in the Confirmation.

(b) On the Termination Date, the Counterparty shall pay an amount equal to the Final Swap Fee, to CS. The Final Swap Fee is calculated as $(Q \times P_3 \times Z)$, where:

- Q = In respect of a Share Swap Transaction, the Number of Shares; in respect of a Share Basket Swap Transaction, an Index Swap Transaction or an Index Basket Swap Transaction, the Number of Units, or, if such Transaction is terminated in part, then the Number of Shares or Number of Units, as applicable, being terminated;
- P_3 = the Final Price;
- Z = Final Swap Fee Percentage; and
- Final Swap Fee Percentage = a percentage, represented in basis points, as agreed between the parties and as specified in the Confirmation.

(c) If the Transaction is terminated, in whole or in part, before the scheduled Termination Date by the Counterparty, and the Breakage Option is Applicable, then CS (on the Termination Date) shall calculate the Breakage Amount, which shall be due from the Counterparty to CS. The Breakage Amount is an amount equal to the Floating Amount for the Calculation Period beginning on and including the last Reset Date to and excluding the next scheduled Reset Date; *provided* that the Calculation Amount for such calculation is the Equity Notional Amount in respect of the Number of Shares for a Share Swap Transaction or the Number of Units for a Share Basket Swap Transaction, an Index Swap Transaction or an Index Swap Transaction being closed.

Breakage Option = Applicable/Not Applicable, as specified in the Confirmation.

5. Payment Netting:

If, on any Equity Amount Payment Date, Floating Amount Payment Date or Dividend Payment Date (each, a "Payment Date"), as the case may be, the same amounts would otherwise be payable by each party to the other (with respect to any Equity Swap Transaction pursuant to the Standard Terms), then on such date, each party's obligation to make such payment shall be netted against each other, and automatically satisfied and discharged. If the aggregate amount otherwise payable by one party exceeds the aggregate amount payable by the other, then the party with the larger aggregate amount shall be obligated to pay the difference on the relevant Payment Date.

6. FX Provisions:

If, with respect to a Transaction, the currency in which any Dividend Amount or Final Price is calculated or determined is different from the Settlement Currency, CS shall determine the value of that amount or price in the Settlement Currency in a commercially reasonable manner.

7. Dividend Amounts and Additional Amounts:

Dividend Period: As specified in the Confirmation.

Dividend Percentage:

As specified in the Confirmation.

Dividend Option: As specified in the Confirmation.

Dividend Amount:

(A) In respect of a Share Swap Transaction, (i) the Dividend Option multiplied by (ii) the Number of Shares multiplied by (iii) the Dividend Percentage;

(B) In respect of a Share Basket Swap Transaction, the sum of the following products for each Share in the Custom Basket: (i) the Dividend Option for such Share multiplied by (ii) the Dividend Percentage multiplied by (iii) the Weighting of such Share in the Custom Basket;

(C) In respect of an Index Swap Transaction, the product of (i) the Number of Units multiplied by (ii) the Realized Index Dividend Points (as defined in the Schedule), on the relevant Ex-Dividend Date; and

(D) In respect of an Index Basket Swap Transaction, the sum of the following products for each Index in the Custom Index Basket: (i) the Realized Index Dividend Points on the relevant Ex-Dividend Date multiplied by (ii) the Weighting of such Index in the Custom Index Basket, expressed as a number of units.

Dividend Interest Accrual: Applicable/Not Applicable, as specified in the Confirmation. If Dividend Interest Accrual is Applicable, interest will accrue on each Dividend Amount at the Dividend Interest Rate Option from, and including, the day on which the Issuer of the applicable Shares pays the relevant gross cash dividend to holders of record of such Shares to, and excluding, the applicable Dividend Payment Date and such interest will be payable on such Dividend Payment Date.

Dividend Interest Rate Option: As specified in the Confirmation.

Dividend Payment Dates: As specified in the Confirmation.

Dividend Recovery: If (a) the amount actually paid or delivered by an Issuer to holders of record of any applicable Share in respect of any gross cash dividend, or in the case of any Share included in any applicable Index, any Qualifying Dividend (as defined in the Schedule), in each case, declared by the applicable Issuer (a "Declared Dividend") to holders of record of such Share is not equal to such Declared Dividend (a "Dividend Mismatch Event") or (b) such Issuer fails to make any payment or delivery in respect of such Declared Dividend by the third Business Day following the relevant due date, the Calculation Agent may (but is not obliged to) determine any appropriate correction or repayment to be made by a party to account for such Dividend Mismatch Event or non-payment or non-delivery, as the case may be, and determine the date any such repayment should be made, together with interest on such repayment amount as determined by the Calculation Agent.

The parties expressly acknowledge and agree that these Dividend Recovery provisions shall apply and remain in full force and effect notwithstanding the termination of the relevant Transaction.

Re-investment of Dividends: If specified as applicable in the relevant Confirmation (for a Share Basket Swap Transaction or an Index Basket Swap Transaction):

(i) In respect of a Share Basket Swap Transaction or an Index Basket Swap Transaction, if Dividend Reinvestment

Option is specified as Reinvest Specific Shares/Indices in the Schedule, the Calculation Agent shall adjust the Equity Notional Amount as of the Exchange Business Day immediately preceding the ex-dividend date for purposes of each subsequent Equity Amount Payment Date by adding the Dividend Amount to the Share Notional or Index Notional, as applicable, of the relevant Share or Index, as applicable, relating to such Dividend Amount.

- (ii) In respect of a Share Basket Swap Transaction or an Index Basket Swap Transaction, if Dividend Reinvestment Option is specified as Reinvest Equally in the Schedule, the Calculation Agent shall adjust the Equity Notional Amount as of the Exchange Business Day immediately preceding the ex-dividend date for purposes of each subsequent Equity Amount Payment Date by adding to each Share Notional or Index Notional, as applicable, the product of (x) the Dividend Amount and (y) the relative Weighting (expressed as a percentage) of such Share or Index, as applicable, in the Basket.

Notwithstanding anything in the foregoing to the contrary, in the case of each of (i) and (ii) above for a Share Basket Transaction, any adjustment to the Equity Notional Amount or Share Notional following the addition of the relevant Dividend Amount, as the case may be, shall be rounded down to the nearest whole number of Units, and any surplus Dividend Amount shall be paid by the relevant party to the other party on the Dividend Payment Date to which the Dividend Amount relates. In respect of an Index Swap Transaction or an Index Basket Swap Transaction, where the Confirmation specifies the Type of Return as Total Return, certain additional terms related to the Dividend Amount, which are listed and defined in the Schedule, shall apply.

Adjustment to Dividend Percentage:

If CS reasonably determines that there has been, within the term of a Share Swap Transaction or a Share Basket Swap Transaction or the 12 months following the date of a distribution, a change in any applicable law or regulation (or a change in the interpretation or application by any court, governmental or other authority of such law or regulation) that would have had the effect of reducing or increasing the amount of the ordinary cash dividend per Share actually due to the holder of the Shares or any Shares in the Custom Basket in the jurisdiction of incorporation of CS or the Counterparty, CS may adjust the Dividend Percentage of such Share Swap Transaction or such Share Basket Swap Transaction, as applicable, with immediate effect by

notice in writing to the Counterparty. Further, if any such change is to take effect prior to the date upon which CS gives such notice, CS may make such adjustments to the payment obligations of the parties in respect of any Equity Swap Transaction to which it considers such change applicable. In the case of any Equity Swap Transaction to which "Re-investment of Dividends" is applicable and any Dividend Amount that has been affected by such change has already been re-invested in accordance with the provisions above, CS may make such adjustments to the Equity Notional Amount and/or Share Notional (as applicable) as it deems necessary to account for the economic effect of such change on such Equity Swap Transaction. In the event that such Equity Swap Transaction shall have been previously closed, the Counterparty shall indemnify CS in respect of any such change on a full indemnity basis.

8. Index Adjustment Events (in respect of an Index Swap Transaction or an Index Basket Swap Transaction)

Index Cancellation:	Cancellation and Payment
Index Modification:	Calculation Agent Adjustment
Index Disruption:	Calculation Agent Adjustment
Determining Party:	CS

9. Adjustments and Extraordinary Events (in respect of a Share Swap Transaction or a Share Basket Swap Transaction)

Method of Adjustment: Calculation Agent Adjustment

Consequences of Merger Events:

Share-for-Share:	Modified Calculation Agent Adjustment
Share-for-Other:	Modified Calculation Agent Adjustment
Share-for-Combined:	Modified Calculation Agent Adjustment
Determining Party:	CS

Tender Offer: Applicable

Consequences of Tender Offer:

Share-for-Share:	Modified Calculation Agent Adjustment
Share-for-Other:	Modified Calculation Agent Adjustment
Share-for- Combined:	Modified Calculation Agent Adjustment
Determining Party:	CS

Composition of Combined Consideration: Not Applicable

Nationalization, Insolvency or Delisting: Cancellation and Payment
Determining Party: CS

In a Share Basket Swap Transaction, if any Share is removed from the Custom Basket due to an Adjustment Event, Extraordinary Event or Additional Adjustment Event, then the Calculation Agent will adjust the Weightings of the remaining Shares accordingly; *provided* that, if the parties agree within one Exchange Business Day of such event, the removed Share may be replaced by a substitute Share and the Initial Price of the Custom Basket shall be adjusted as determined by the Calculation Agent.

10. Additional Adjustment Events:

Change in Law: Applicable; *provided* that Section 12.9(a)(ii)(X) of the Equity Definitions is hereby amended by replacing the word "Shares" with the words "Hedge Positions."

Insolvency Filing: Applicable

Hedging Disruption: Applicable; *provided* that (a) Section 12.9(a)(v) of the Equity Definitions is replaced with the following:

"Hedging Disruption" means that the Hedging Party is unable, after using commercially reasonable efforts, to either (i) acquire, establish, re-establish, substitute, maintain, cancel, unwind or dispose of any transaction(s) or asset(s) (including, without limitation, stock loans and other transactions (including pending transactions) that can be used to create a long or short exposure to the Shares or Index, as the case may be) it deems necessary to hedge the market risk (including, but not limited to the equity price risk, dividend risk, settlement risk and currency risk) of entering into and performing its obligations with respect to this Transaction (any such transactions or assets, a "Hedging Party Hedge"), including, for the avoidance of doubt, due to any legal, regulatory or compliance restrictions affecting the Hedging Party or the Hedging Party Hedge or (ii) freely and unconditionally realize, recover, receive, repatriate, remit or transfer the proceeds of the Hedging Party Hedge.

and (b) that Section 12.9(b)(iii) of the Equity Definitions is hereby amended by adding the following phrase after the phrase "to terminate

the Transaction," as follows (new language shown in bold and underlined for convenience): "upon at least two Scheduled Trading Days' notice to the Non-Hedging Party unless a shorter notice period is required given the rules, regulations and practices in the market of a particular jurisdiction, specifying the date of such termination,..."

Increased Cost of Hedging:

Applicable, *provided* that Section 12.9(a)(vi) of the Equity Definitions is replaced with the following:

"(vi) "Increased Cost of Hedging" means that the Hedging Party would incur a materially increased (as compared with the circumstances that existed on the Trade Date) amount of tax, duty, expense, collateral requirement, fee (other than brokerage commissions) (which amount of tax shall include, without limitation, any amount of tax due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position in relation to dividends) (a "Hedging Cost") to (A) acquire, establish, re-establish, substitute, maintain, unwind or dispose of the Hedging Party Hedge or (B) freely and unconditionally realize, recover or remit the proceeds of the Hedging Party Hedge. However, any such materially increased amount that is (1) incurred solely as a result of the deterioration of the creditworthiness of the Hedging Party or (2) could be avoided by the Hedging Party, acting in a commercially reasonable manner based on prevailing circumstances applicable to the Hedging Party, shall not be an Increased Cost of Hedging."

Determining Party:

CS

Hedging Party:

CS

Non-Reliance:

Applicable

Agreements and Acknowledgements Regarding Hedging Activities:

Applicable

Additional Acknowledgements:

Applicable

Index Disclaimer:

Applicable

11. Optional Termination and Maturity

- (i) Unless otherwise specified in the Confirmation for a particular Transaction, on any Exchange Business Day (a) when the Counterparty wishes to terminate any Transaction (whether in whole or in part), it shall give notice of that fact to CS (by telephone or as otherwise agreed between the parties) specifying the proportion of such Transaction it wishes to terminate; subject to Section 10 hereto and (b) when CS wishes to terminate any Transaction (whether in whole or in part), it shall give five (5) Exchange Business Days' notice of that fact to the Counterparty (by telephone or as otherwise agreed between the parties) specifying the proportion of such Transaction it wishes to terminate; subject to Section 10 hereto.
- (ii) In respect of a Share Swap Transaction or a Share Basket Swap Transaction, if the Shares or any Shares included in the Custom Basket are registered pursuant to Section 12 of the U.S. Securities Exchange Act of 1934, as amended (the "Exchange Act") or convertible into securities registered pursuant to the Exchange Act and, if at any time the aggregate number of such Shares beneficially owned by CS and its affiliates (the "Transaction Equity") exceeds or could exceed 8% of the number of outstanding, voting Shares of an Issuer at such time (such event, the "Partial Termination Event"), CS may notify the Counterparty of its desire to effect an early settlement with respect to a portion of the Transactions on such Shares or Custom Basket including such Shares, as determined by CS subject to the conditions set forth below, so that, after completion of the unwind related to the Partial Termination Event, the Transaction Equity would not exceed 8% of the number of outstanding Shares of such Issuer.
- (iii) Upon sending or receiving notice on any date as discussed in (i) or (ii) above, CS shall then calculate the Final Price on such date or the next Exchange Business Day, as determined by the Calculation Agent (the "Optional Termination Date") and notify the Counterparty of the Final Price (by telephone or as otherwise agreed between the parties), which shall be binding upon the Counterparty. CS shall then settle the portion of the Transaction to be terminated in accordance with these Standard Terms on the Final Settlement Date with respect to such portion.
- (iv) All payments due on the Final Settlement Date shall be netted against each other, and the balance shall be due on the Final Settlement Date, unless otherwise agreed between the parties.
- (v) If CS or the Counterparty gives notice to terminate only a portion of the Number of Shares in respect of a Share Swap Transaction or the Number of Units in respect of an Index Swap Transaction or an Index Basket Swap Transaction, then the provisions of this Section shall apply only to that portion of the relevant Transaction. In the event that a Transaction is terminated only in part, the Calculation Agent shall make any necessary adjustments to the Number of Shares in respect of a Share Swap Transaction or the Number of Units in respect of a Share Basket Swap Transaction, an Index Swap Transaction or an

Index Basket Swap Transaction. The remainder of the Transaction shall continue to be governed by these Standard Terms.

12. Calculation and Settlement of Payments

- (i) All payments made under a Transaction shall be made in accordance with the account details specified in the relevant Confirmation.
- (ii) All payments shall be in the Settlement Currency.

13. Additional Representations, Agreements and Transaction Terms

- (a) Each party represents to the other party:
 - (1) that each Transaction is intended to be exempt from, or otherwise not subject to regulation under the U.S. Commodity Exchange Act, as amended (the "CEA"), and that such party is an "eligible contract participant" within the meaning of the CEA;
 - (2) that neither these Standard Terms nor any Transaction has been executed or traded on a "trading facility" as such term is defined in the CEA;
 - (3) the primary right and obligation of each party and any Transaction is to make or receive the respective payments referred to in the Confirmation; and
 - (4) that each Transaction is a "swap agreement" within the meaning of Section 101 (53B) of the U.S. Bankruptcy Code entitled to the protection of Section 560 of the U.S. Bankruptcy Code.
- (b) CS and the Counterparty confirm and agree that it is an express term of each Transaction that:
 - (1) neither party acquires any interest in or right to acquire or dispose of any Share or any right to vote or give any consent with respect to any Share by virtue of any Transaction; and
 - (2) neither party is obliged to sell, purchase, hold, deliver or receive any Share by virtue of any Transaction.
- (c) The Counterparty represents that it is entering into these Standard Terms and any Confirmation in good faith and not with the intent or as a part of a plan to evade compliance with U.S. federal securities laws including, without limitation, Section 13(d) of and Rule 10b-5 promulgated under the Exchange Act.
- (d) The Counterparty represents that it is not entering into any Transaction with the purpose of changing or influencing control of the Issuer of the related Shares and, if the Counterparty does seek to change or influence control of such Issuer during the terms of the Transaction, it will immediately notify CS.
- (e) The Counterparty represents to CS on the date that the parties enter into a Transaction that the Counterparty is not in possession of any material non-public information regarding any

Issuer of Shares, including any Shares included in a Custom Basket, underlying such Transaction. The Counterparty covenants that it will not seek to terminate, amend or otherwise modify such Transaction if the Counterparty is in possession of any material non-public information regarding the relevant Issuer.

(f) The Counterparty represents to CS on the date that the parties enter into a Transaction that the Counterparty is not an "affiliate" of the Issuer of the Shares, including any Shares included in a Custom Basket, underlying a Transaction within the meaning of any securities law applicable to such Issuer or subject to the reporting requirements of Section 16 of the Exchange Act in respect of such Shares. The Counterparty covenants that if it attains such status or becomes so subject during the term of the relevant Transaction and, if the Counterparty does attain such status, it will immediately notify CS.

(g) The Counterparty represents to CS on the date that the parties enter into any Transaction that the Counterparty has made all public filings under the Exchange Act or other applicable law with respect to the related Shares as required by applicable law or regulation and, during the term of any Transaction, it will continue to make all public filings under the Exchange Act or other applicable law with respect to the related Shares. The Counterparty further represents that if it beneficially owns 5% or more of any class of the Issuer's securities registered under the Exchange Act, it is eligible to file reports on Schedule 13G and it will notify CS immediately following any filing in respect of such securities on Schedule 13D. The Counterparty represents that the aggregate amount of all such Shares beneficially owned by it for purposes of Section 13(d) of the Exchange Act, when combined with the notional amount of Shares underlying any long derivative position, is less than 20% of the outstanding Shares.

(h) The Counterparty represents to CS that it will make all disclosures required by law or regulation in respect of its entry into any Transaction.

(i) The Counterparty further acknowledges and agrees:

(1) that CS and its affiliates may, at the date of any Transaction or at any time thereafter, be in possession of information in relation to Shares that is or may be material in the context of any Transaction and that may or may not be publicly available or known to the Counterparty; and

(2) that, subject to applicable law and the Master Agreement, these Standard Terms (and all related material, including but not limited to any relevant Schedule, Appendix, and Confirmations) create no obligation whatsoever on the part of CS or its affiliates to disclose to the Counterparty any such information (whether or not confidential).

(j) For the purpose of facilitating any Transaction, Credit Suisse Securities (USA) LLC ("CSSU"), which is organized in the United States of America (the "Agent"), has acted as agent for CS. The Agent is not a principal with respect to such Transaction and shall have no responsibility or liability to the parties as a principal with respect to such Transaction.

(k) Each party agrees that: (i) CSSU is not acting as a principal with respect to these Standard Terms or any Transaction hereunder and (ii) shall have no responsibility or liability (including without limitation, by way of guarantee, endorsement or otherwise) to any party in respect of these Standard Terms or any Transaction hereunder, including without limitation, in respect of the failure of a party to pay or perform under these Standard Terms or any

Transaction. The Counterparty hereby agrees that it will not proceed against CSSU in respect of any obligation owed to it under these Standard Terms or any Transaction hereunder.

(l) Notwithstanding any other method of delivery, the Counterparty agrees to electronic access or delivery via the Internet, either by email or through any website designated for this purpose by CS, of Confirmations and any detailed transaction and account information.

14. Costs and Expenses

Each party shall bear its own costs and expenses in relation to these Standard Terms and to each Transaction thereunder.

15. Independent Amount

As specified in the Confirmation as a percentage of the Equity Notional Amount; *provided* that CS, acting in a commercially reasonable manner, may upon thirty (30) Business Days prior notice to the Counterparty change the Independent Amount with respect to a Transaction to reflect the Independent Amount that CS determines would be applicable (as determined solely by reference to its internal sources used by it in the regular course of its business) to the Counterparty in respect of such Transaction as of the relevant date of determination if CS and such Counterparty had entered into such Transaction on such date of determination.

**Schedule to Portfolio Swaps (Standard Terms) Annex
dated December 24, 2012 which supplements the Master Agreement
dated as of December 24, 2012 between Credit Suisse Securities (Europe) Limited
and
O'Connor Credit Long/Short Master Limited (the "Counterparty")**

Dividend Reinvestment Option: (for a Share Basket Swap Transaction or Index Basket Swap Transaction only)	[Reinvest Equally] [Reinvest Specific Shares/Indices]
Reset Date (Interest):	[Monthly]
Designated Maturity:	[One Month]
Floating Amount Payment Date:	[Each Equity Amount Payment Date]

In respect of an Index Swap Transaction or an Index Basket Swap Transaction, where the Confirmation specifies the Type of Return as Total Return, references to Shares for purposes of Article 10 of the Equity Definitions shall be deemed to be references to Shares within the Index and the provisions of Section 7 shall apply and the following terms related to the Dividend Amount shall apply:

Realized Index Dividend Points: An amount determined by the Calculation Agent in accordance with the following formula:

$$\sum_t \sum_i \frac{n_{i,t} \times d_{i,t}}{D_t}$$

where:

t means each day in a Dividend Period (each, a "Relevant Day_t");

i means, in respect of each Relevant Day_t, each share that is comprised in the Index on that Relevant Day_t (each, a "Share_i");

d_{i,t} means, in respect of each Share_i and a Relevant Day_t:

- (a) if an Ex-Dividend Date in respect of such Share_i falls on such Relevant Day_t, an amount equal to the Relevant Dividend in respect of such Share_i and such Relevant Day_t; and
- (b) otherwise, an amount equal to zero;

n_{i,t} means, in respect of each Share_i and a Relevant Day_t, the number of shares of such Share_i then comprised in one Unit of the Index, as calculated and

published by the Index Sponsor (or if not published directly, a value implied by the Index Sponsor as determined by the Calculation Agent) on such Relevant Day_i, subject to the terms of the Failure to Publish provision set out below;

D_i means, in respect of each Relevant Day_i, (a) the divisor, as calculated and published by the Index Sponsor on such Relevant Day_i, subject to the terms of the Failure to Publish provision set out below or (b) if the Index Sponsor does not apply any such divisor, a value implied by the Index Sponsor as determined by the Calculation Agent.

Relevant Dividend: In respect of a Share_i, a Relevant Day_i and a Dividend Period, an amount per such share (as determined by the Calculation Agent) equal to:

the product of the Dividend Percentage and the relevant Qualifying Dividend whose Ex-Dividend Date falls on such Relevant Day_i and which would have been received by a holder of record of such Share_i from the Issuer of Share_i.

Qualifying Dividend: In respect of a Share_i:

- (a) any cash dividend declared by the Issuer of such Share_i before any withholding or deduction for or on account of any tax (but excluding any associated tax credit, refund or withholding or deduction on account of any tax on any such associated tax credit or refund), arising under the law of the jurisdiction of the Issuer which would have been made by or on behalf of the Issuer in respect of the Qualifying Dividend, and, provided that such Share_i is priced in a currency other than the base currency of the Index, such amount shall be converted at the foreign exchange rate published by the Index Sponsor at the Valuation Time on the preceding Exchange Business Day or at other such value implied by the Index Sponsor to formulate the number of dividend points for the total return calculation of the Index; or
- (b) in the case of any non-cash dividend, the cash value declared by the Issuer of such Share_i of any such non-cash dividend (or, if no such cash value is declared by the relevant Issuer, the cash value of such stock dividend as determined by the Calculation Agent); *provided* that, in each case, any cash or non-cash dividend in relation to which the Index Sponsor makes corresponding adjustments to the Index will not be a Qualifying Dividend. If the Index Sponsor adjusts the Index for part of a dividend, this Qualifying Dividend provision shall apply only to the unadjusted part.

Ex-Dividend Date: In respect of a Share_i and a Qualifying Dividend, the first day (following the declaration of such Qualifying Dividend) on which such Share_i commences trading ex such Qualifying Dividend on the relevant exchange.

Failure to Publish:

If, for the purposes of determining n_i or D_i on any Relevant Day_{*i*}, the Index Sponsor fails (for whatever reason) to calculate and publish the number of shares in respect of any Share_{*i*} or the divisor, respectively, then, subject to the provision under "Corrections" below, the Calculation Agent shall determine the number of shares in respect of such Share_{*i*} or the divisor (as the case may be) in respect of such Relevant Day_{*i*}.

In making any such determination, the Calculation Agent may (but shall not be obliged to) make reference to the formula for and method of calculating the number of shares in respect of such Share_{*i*} or the divisor (as the case may be) last in effect prior to the failure by the Index Sponsor to make the relevant calculation publication.

Corrections:

In the event that a number of shares in respect of any Share_{*i*} or the divisor (as the case may be) is calculated and published by the Index Sponsor (or determined by the Calculation Agent pursuant to the provisions above (Failure to Publish)) and utilized for any calculation or determination made under the relevant Transaction is subsequently corrected (or, where there has been a Failure to Publish, published by the Index Sponsor) and the correction is published (or, where there has been a Failure to Publish, publication is made) by the Index Sponsor within thirty Scheduled Trading Days after the Dividend Payment Date on which a Dividend Amount has been paid, either party may notify the other party of that correction and the Calculation Agent will adjust the Dividend Amount, as required, to take into account such correction; *provided* that if such correction or subsequent publication occurs after the relevant Dividend Payment Date, the Calculation Agent may (but need not) determine any appropriate repayment to be made by a party to account for such correction or subsequent publication, as the case may be, and determine the date any such repayment should be made, together with interest on such repayment amount as determined by the Calculation Agent. The parties expressly acknowledge and agree that the provisions of this paragraph (Corrections) shall apply and remain in full force and effect notwithstanding the fact that the Termination Date has occurred.



O'CONNOR CREDIT LONG/SHORT MASTER LIMITED

W. Walsley
Name: William Walsley
Title: Director

ISDA[®]

International Swaps and Derivatives Association, Inc.

CREDIT SUPPORT ANNEX

to the Schedule to the

.....**1992 ISDA Master Agreement**.....

dated as of **December 24, 2012**

Each party listed in Appendix I hereto, ^{between} **O'Connor Credit Long/Short**
 **severally and not jointly** and **Master Limited**

("Party A") ("Party B")

This Annex supplements, forms part of, and is subject to, the above-referenced Agreement, is part of its Schedule and is a Credit Support Document under this Agreement with respect to each party.

Accordingly, the parties agree as follows:—

Paragraph 1. Interpretation

(a) *Defaultions and Inconsistency.* Capitalized terms not otherwise defined herein or elsewhere in this Agreement have the meanings specified pursuant to Paragraph 12, and all references in this Annex to Paragraphs are to Paragraphs of this Annex. In the event of any inconsistency between this Annex and the other provisions of this Schedule, this Annex will prevail, and in the event of any inconsistency between Paragraph 13 and the other provisions of this Annex, Paragraph 13 will prevail.

(b) *Secured Party and Pledgor.* All references in this Annex to the "Secured Party" will be to either party when acting in that capacity and all corresponding references to the "Pledgor" will be to the other party when acting in that capacity; *provided, however,* that if Other Posted Support is held by a party to this Annex, all references herein to that party as the Secured Party with respect to that Other Posted Support will be to that party as the beneficiary thereof and will not subject that support or that party as the beneficiary thereof to provisions of law generally relating to security interests and secured parties.

Paragraph 2. Security Interest

Each party, as the Pledgor, hereby pledges to the other party, as the Secured Party, as security for its Obligations, and grants to the Secured Party a first priority continuing security interest in, lien on and right of Set-off against all Posted Collateral Transferred to or received by the Secured Party hereunder. Upon the Transfer by the Secured Party to the Pledgor of Posted Collateral, the security interest and lien granted hereunder on that Posted Collateral will be released immediately and, to the extent possible, without any further action by either party.

**Elections and Variables
to the ISDA Credit Support Annex
dated as December 24, 2012
between**

Each party listed in Appendix I hereto, and O'Connor Credit Long/Short Master Limited
severally and not jointly

("Party A")

("Party B")

It is understood and agreed that the ISDA Master Agreement, including the Schedule and this Credit Support Annex, shall constitute a separate agreement with each party listed on Appendix I attached hereto and Party B as if each such party so listed had executed and delivered to Party B a separate agreement naming only itself as Party A, subject to the provisions of Appendix I as applicable to such party so listed, and that no party listed on Appendix I shall have any liability under this Agreement for the Obligations of any other party. With respect to any party listed on Appendix I, (i) only Confirmations of Transactions between such party so listed and Party B shall be part of the Agreement with such party so listed and Party B, and (ii) any references in the Agreement or a Confirmation to the Schedule shall be deemed to refer to the Schedule to the Agreement with such party so listed and Party B and any Annex applicable to such party so listed, and the term "this Agreement" shall be construed accordingly.

Paragraph 13.

(a) Security Interest for "Obligations".

The term "*Obligations*" as used in this Annex includes the following additional obligations:

With respect to Party A: None.

With respect to Party B: None.

(b) Credit Support Obligations.

(i) Delivery Amount, Return Amount and Credit Support Amount.

(A) "*Delivery Amount*" has the meaning specified in Paragraph 3(a).

(B) "*Return Amount*" has the meaning specified in Paragraph 3(b).

(C) "*Credit Support Amount*" has the meaning specified in Paragraph 3.

(ii) Eligible Collateral. On any date, the following items will qualify as "*Eligible Collateral*" for each party:

		Valuation Percentage
(A)	Cash	100%
(B)	Treasury Securities having a remaining maturity on such date of less than 1 year	100%

- | | | |
|-----|--|--|
| (C) | Treasury Securities having a remaining maturity on such date equal to or greater than 1 year but less than 5 years | 98% |
| (D) | Treasury Securities having a remaining maturity on such date equal to or greater than 5 years but less than 10 years | 97% |
| (E) | In respect of a party, such other assets as the other party may, from time to time, specify in writing as qualifying as Eligible Collateral for the purpose of this Annex (provided that any such assets shall cease to qualify as Eligible Collateral if such other party subsequently specifies in writing that they shall no longer qualify as Eligible Collateral). For the avoidance of doubt there are no other assets which, as of the date of this Annex, qualify as Eligible Collateral for either party. | Such percentage as shall, from time to time, be specified by the other party as applying to such Eligible Collateral |

(iii) **Other Eligible Support.** With respect to a party, such Other Eligible Support as the other party may from time to time specify in writing as qualifying as **"Other Eligible Support"** and for the avoidance of doubt there are no items which qualify as Other Eligible Support for either party as of the date of this Annex.

(iv) **Thresholds.**

(A) **"Independent Amount"** means with respect to Party A: Zero unless otherwise specified in a Confirmation.

"Independent Amount" means with respect to Party B: (i) for FX Transactions and Currency Option Transactions, the FX Independent Amount, and (ii) for all other transactions, zero unless otherwise specified in a Confirmation in which case it shall be the aggregate of the Independent Amounts specified therein of all outstanding Transactions (or Swap Transactions). All references to "Initial Collateral" or "Initial Margin" in the Agreement or in any Confirmation of a Transaction shall be construed as a reference to an Independent Amount for the purpose of such Transaction and the Annex.

(B) **"Threshold"** means with respect to Party A: Zero
"Threshold" means with respect to Party B: Zero

(C) **"Minimum Transfer Amount"** means with respect to Party A: \$250,000; provided that where there has occurred and is continuing an Event of Default or Termination Event with respect to Party A, the Minimum Transfer Amount shall be zero.

"Minimum Transfer Amount" means with respect to Party B: \$250,000; provided that where there has occurred and is continuing an Event of Default or Termination Event with respect to Party B, the Minimum Transfer Amount shall be zero.

(D) **"Rounding."** The Delivery Amount and the Return Amount will be rounded up and down respectively to the nearest integral multiple of US\$10,000.

(c) **Valuation and Timing.**

- (i) **"Valuation Agent"** means Party A for all purposes.
- (ii) **"Valuation Date"** means each Local Business Day which, if treated as a Valuation Date, would result in a Delivery Amount or Return Amount.
- (iii) **"Valuation Time"** means the close of business in the city of the Valuation Agent on the Local Business Day before the Valuation Date or date of calculation, as applicable, *provided* that the calculations of Value and Exposure will be made as of approximately the same time on the same date.
- (iv) **"Notification Time"** means 11:00 a.m., New York time, on a Local Business Day.

(d) **Conditions Precedent and Secured Party's Rights and Remedies.**

Subject to Paragraphs 13(d)(ii) and 13(d)(iii), for the purposes of this Annex the following events will each be a **"Specified Condition"** for the party specified (that party being the Affected Party if the event occurs with respect to that party):

	Party A	Party B
- Illegality	x	x
- Credit Event Upon Merger	x	x
- Additional Termination Events:		x
- An event which, with the giving of time, would constitute one or more of the foregoing events	x	x

(e) **Substitution.** **"Substitution Date"** has the meaning specified in Paragraph 4(d)(ii).

(f) **Dispute Resolution.**

- (i) **"Resolution Time"** means 11:00 a.m., New York time, on the Local Business Day following the date on which the notice of the dispute is given under Paragraph 5.
- (ii) **Value.** For the purpose of Paragraphs 5(i)(C) and 5(ii), on any date, the Value of Eligible Collateral and Posted Collateral will be calculated as follows:
 - (A) with respect to any Cash; the amount thereof;
 - (B) with respect to any Eligible Collateral comprising securities; the sum of (a)(x) the last bid price on such date for such securities on the principal national securities exchange on which such securities are listed, multiplied by the applicable Valuation Percentage or (y) where any such securities are not listed on a national securities exchange, the bid price for such securities quoted as at the close of business on such date by any principal market maker for such securities chosen by the Valuation Agent, multiplied by the applicable Valuation Percentage or (z) if no such bid price is listed or quoted for such date, the last bid price listed or quoted (as the case may be), as of the day next preceding such date on which such prices were available; multiplied by the applicable Valuation Percentage; plus (b) the accrued interest on

such securities (except to the extent that such interest shall have been paid to the Pledgor pursuant to Paragraph 6(d)(ii) or included in the applicable price referred to in subparagraph (a) above) as of such date; and

(C) with respect to any Eligible Collateral other than Cash and securities; the fair market value of such Eligible Collateral on such date, as determined in any reasonable manner chosen by the Valuation Agent, multiplied by the applicable Valuation Percentage.

(iii) **Alternative.** The provisions of Paragraph 5 will apply provided that if the difference (the "Difference") between (i) the Delivery Amount, Return Amount, or Value of any Eligible Credit Support or Posted Credit Support (as the case maybe) calculated by the Valuation Agent and (ii) Delivery Amount, Return Amount, or Value of any Eligible Credit Support or Posted Credit Support (as the case maybe) calculated by the Disputing Party shall be less than \$500,000, subject to Paragraph 4(a), the appropriate party will Transfer the undisputed amount plus one half of the Difference to the other party not later than close of business on the second Local Business Day following the date that the demand is made under Paragraph 3 by way of resolution of such dispute without further resort to the provisions of Paragraph 5.

(g) ***Holding and Using Posted Collateral.***

(i) ***Eligibility to Hold Posted Collateral; Custodians:***

Party A or its Custodian will be entitled to hold Posted Collateral pursuant to Paragraph 6(b); *provided that*

- (1) whichever of Party A or its Custodian that is holding Posted Collateral, shall at all times either have a long term debt or deposit rating of at least A- from Standard & Poor's Ratings Group, a division of The McGraw-Hill Companies Inc. and at least A3 from Moody's Investors Service, Inc. (or their respective successors) or have net capital in excess of US\$500 million;
- (2) the Custodian for Party A shall first be approved by Party B; and
- (3) if it is Party A that is holding Posted Collateral, Party A is not a Defaulting Party.

Initially, the Custodian for Party A is:

- (A) with respect to Credit Suisse International: JPMorgan Chase Bank, N.A.;
and
- (B) with respect to Credit Suisse Securities (Europe) Limited: Credit Suisse Securities (USA) LLC.

Party B or its Custodian will be entitled to hold Posted Collateral pursuant to Paragraph 6(b); *provided that*

- (1) whichever of Party B or its Custodian that is holding Posted Collateral, shall at all times have a long term debt or deposit rating of at least A- from Standard & Poor's Ratings Group, a division of The McGraw-Hill Companies Inc. and at least A3 from Moody's Investors Service, Inc. (or their respective successors) or have net capital in excess of US\$500 million;

- (2) the Custodian for Party B shall be one of its prime brokers, as designated by Party B from time to time; and
- (3) if it is Party B that is holding Posted Collateral, Party B is not a Defaulting Party.

Initially the Custodian for Party B is the Bank of New York.

- (ii) **Use of Posted Collateral.** The provisions of Paragraph 6(c) will apply to Party A and Party B.

(h) **Distributions and Interest Amount.**

- (i) **Interest Rate.** The "**Interest Rate**" will be, the effective rate for Federal Funds, as reported in the Federal Reserve Publication H.15-519 (or any successor publication), provided that if, for any reason, such rate should be unavailable the Interest Rate shall be such rate as the Secured Party shall reasonably determine.
- (ii) **Transfer of Interest Amount.** The Transfer of the Interest Amount will be made on the second Local Business Day following the end of each calendar month, to the extent that a Delivery Amount would not be created or increased by that transfer in which event such Interest Amount will be retained by the Secured Party, and on any Local Business Day on which all Posted Collateral in the form of Cash is Transferred to the Pledgor pursuant to Paragraph 3(b).
- (iii) **Alternative to Interest Amount.** The provisions of Paragraph 6(d)(ii) will apply and for the purposes of calculating the Interest Amount the amount of interest calculated for each day of the Interest Period shall be compounded daily.

- (i) **Additional Representation(s).** There are no additional representations by either party.

(j) **Other Eligible Support and Other Posted Support.**

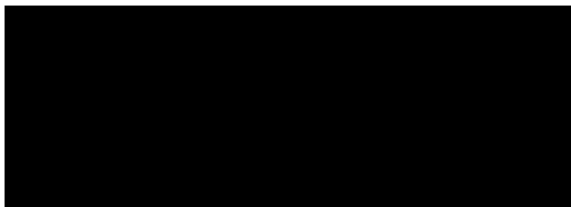
- (i) "Value" with respect to Other Eligible Support and Other Posted Support shall have such meaning as the parties shall agree in writing from time to time.
- (ii) "Transfer" with respect to Other Eligible Support and Other Posted Support shall have such meaning as the parties shall agree in writing from time to time.

(k) **Demands and Notices.**

All demands, specifications and notices under this Annex will be made pursuant to the Notices Section of this Agreement, save that any demand, specification or notice:

- (i) shall be given to or made at the following addresses:

If to Party A:





If to Party B:

Address: O'Connor Credit Long/Short Master Limited
~~c/o UBS Fund Services (Cayman) Limited~~ *Myles Corporate Services Limited*
 P.O. Box ~~852 309, Ugland House,~~ *1104*
 227 Elgin Avenue
 George Town, Grand Cayman
 Cayman Islands, KY1-1103

Telephone: ~~(345) 914-1000~~ *(345) 909-8066*

Attention: Fund Admin: O'Connor Credit Long/Short Master *limited*

With a copy to:

UBS O' Connor Limited
 c/o UBS O'Connor LLC
 One North Wacker Drive, 32nd floor
 Chicago, IL 60606
 Attention: Nicholas Vagra
 Telephone: (312) 525-6275
 Facsimile: (312) 525-5040

or at such other address as the relevant party may from time to time designate by giving notice (in accordance with the terms of this paragraph) to the other party;

(ii) shall (unless otherwise stated in this Annex) be deemed to be effective at the time such notice is actually received unless such notice is received on a day which is not a Local Business Day or after the Notification Time on any Local Business Day in which event such notice shall be deemed to be effective on the next succeeding Local Business Day.

(l) ***Address for Transfers.***

Party A: To be notified to Party B by Party A at the time of the request for the Transfer.
 Party B: To be notified to Party A by Party B at the time of the request for the Transfer.

(m) ***Other Provisions.***

(i) ***Additional Definitions***

As used in this Annex:

"Equivalent Collateral" means, with respect to any security constituting Posted Collateral, a security of the same issuer and, as applicable, representing or having the same class, series, maturity, interest rate, principal amount or liquidation value and such other provisions as are necessary for that security and the security constituting Posted Collateral to be treated as equivalent in the market for such securities;

"FX Independent Amount" shall mean *(Net Open Position multiplied by FX Percentage)*

"FX Percentage" means:

- 3% of Net Open Position for EUR, AUD, CAD, NZD, JPY, GBP, CHF, CNY, SGD, SEK, HKD, DKK, USD;
- 5% of Net Open Position for BRL, MXN, PLN, CZK, TWD, ZAR, ILS, SAR, INR, KRW, CLP, MYR;
- 7.5% of Net Open Position for IDR, PHP, THB, HUF, SKK, RUB, TRY, COP, LBP, PEN;
- 10% of Net Open Position for ARS, VEB.

"FX Transactions" and **"Currency Option Transactions"** shall have their meaning as defined in the 1998 ISDA FX and Currency Option Definitions.

"Net Open Position" shall be the total USD equivalents of the **Net Long FX** and **Net Options** in respect of each Currency, where:

(A) **Net Long FX** for any currency shall be the net amount (if any) of that currency which Party A is long as against Party B in respect of all FX Transactions;

(B) **Net Options** for any currency shall be the sum of the delta equivalent positions in that currency where Party A is long that delta equivalent position as against Party B (that is, positive deltas only) in respect of delta equivalent positions arising from all Party A bought currency options, having first netted currency options to the extent that the relevant currency amounts cancel with respect to bought options and sold options of the same type (Put or Call), the same style (American or European), having the same currencies, expiry date and time and strike price.

(C) Party A is long a currency as against Party B if it is owed payment at any time of that currency by Party B. USD equivalents and delta equivalents shall be calculated by Party A in its reasonable discretion, having regard to the spot rates prevailing at the Valuation Time.

"Local Business Day" means: (i) any day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in London and New York, and (ii) in relation to a Transfer of Eligible Collateral, a day on which the clearance system agreed between the parties for the delivery of Eligible Collateral is open for acceptance and execution of settlement instructions (or in the case of a Transfer of Cash or other Eligible Collateral for which delivery is contemplated by other means, a day on which commercial banks are open for business (including dealings for foreign exchange and foreign deposits) in New York and such other places as the parties shall agree);

(ii) **Events of Default**

Paragraph 7 shall be amended so that the references in Paragraph 7(ii) and Paragraph 7(iii) to "five Local Business Days" and "thirty days" respectively, shall instead be replaced by "three Local Business Days" and "fifteen Local Business Days" respectively.

(iii) **Return of Fungible Securities**

In lieu of returning to the Pledgor pursuant to Paragraphs 3(b), 4(d), 5 and 8(d) any Posted Collateral comprising securities the Secured Party may return Equivalent Collateral.

(iv) *Covenants of the Pledgor*

So long as the Agreement is in effect, the Pledgor covenants that it will keep the Posted Collateral free from all security interests or other encumbrances created by the Pledgor, except the security interest created hereunder and any security interests or other encumbrances created by the Secured Party; and will not sell, transfer, assign, deliver or otherwise dispose of, or grant any option with respect to any Posted Collateral or any interest therein, or create, incur or permit to exist any pledge, lien, mortgage, hypothecation, security interest, charge, option or any other encumbrance with respect to any Posted Collateral or any interest therein, without the prior written consent of the Secured Party.

(v) *No Counterclaim*

A party's rights to demand and receive the Transfer of Eligible Collateral as provided hereunder and its rights as Secured Party against the Posted Collateral or otherwise shall be absolute and subject to no counterclaim, set off, deduction or defence in favour of the Pledgor except as contemplated in Sections 2 and 6 of the Agreement and Paragraph 8 of this Annex.

(vi) *Costs of Transfer on Substitution.*

Notwithstanding Paragraph 10(a), the Pledgor will be responsible for, and will reimburse the Secured Party for, all transfer and other taxes and other costs involved in the Transfer on substitution of Collateral either from the Pledgor to the Secured Party (or any agent or custodian for safekeeping of the Secured Party) or from the Secured Party (or any agent or custodian for safekeeping of the Secured Party) to the Pledgor pursuant to Paragraph 4(d).

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.



O'CONNOR CREDIT LONG/SHORT MASTER LIMITED

By: W. Walmsley
Name: William Walmsley
Title: Director
Date: December 31, 2012