



**GLOBAL MASTER SECURITIES LENDING
AGREEMENT (SECURITY INTEREST OVER
COLLATERAL – 2018 VERSION)**

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AGREEMENT

BETWEEN¹:

- (1) [] (**Lender**) a company incorporated under the laws of [] acting through one or more Designated Offices; and
- (2) [] (**Borrower**) a company incorporated under the laws of [] acting through one or more Designated Offices.

1. APPLICABILITY

- 1.1 From time to time Lender, acting through one or more Designated Offices, will enter into transactions in which it will transfer to Borrower, acting through one or more Designated Offices, securities and financial instruments (**Securities**) with a simultaneous agreement by Borrower to transfer to Lender Securities equivalent to such Securities on a fixed date or on demand and on the basis that the obligations of Borrower will be secured pursuant to the Security Agreement and the Control Agreement (each as herein defined).
- 1.2 Each such transaction shall be referred to in this Agreement as a **Loan** and shall be governed by the terms of this Agreement, including the supplemental terms and conditions contained in the Schedule and any Addenda or Annexes attached hereto which are applicable as provided for herein. In the event of any inconsistency between the provisions of an Addendum or Annex and this Agreement, the provisions of such Addendum or Annex shall prevail unless the Parties otherwise agree. In the event of any inconsistency between the provisions of the Security Agreement and this Agreement, the provisions of the Security Agreement shall prevail unless the Parties otherwise agree.
- 1.3 Either Party may perform its obligations under this Agreement either directly or through a Nominee.
- 1.4 If the Schedule specifies that Lender will act as agent of one or more persons identified therein as Principals, the supplemental terms and conditions contained in the annex attached hereto designated "Agency Annex" (**Agency Annex**) shall be included in, and apply to, this Agreement.

2. INTERPRETATION

- 2.1 In this Agreement:

Act of Insolvency means in relation to either Party:

- (a) its making a general assignment for the benefit of, or entering into a reorganisation, arrangement, or composition with creditors; or

¹ Note: Consideration of tax or regulatory issues including whether existing tax or other addenda are compatible with this version of the GMSLA or any reporting issues has not been undertaken as it has not been a part of the project to develop this Agreement.

- (b) its stating in writing that it is unable to pay its debts as they become due; or
- (c) its seeking, consenting to or acquiescing in the appointment of any trustee, administrator, receiver or liquidator or analogous officer of it or any material part of its property; or
- (d) the presentation or filing of a petition in respect of it (other than by the other Party to this Agreement in respect of any obligation under this Agreement) in any court or before any agency alleging or for the bankruptcy, winding-up or insolvency of such Party (or any analogous proceeding) or seeking any reorganisation, arrangement, composition, re-adjustment, administration, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such petition not having been stayed or dismissed within 30 days of its filing (except in the case of a petition for winding-up or any analogous proceeding in respect of which no such 30 day period shall apply); or
- (e) the appointment of a receiver, administrator, liquidator or trustee or analogous officer of such Party over all or any material part of such Party's property; or
- (f) the convening of any meeting of its creditors for the purpose of considering a voluntary arrangement as referred to in Section 3 of the Insolvency Act 1986 (or any analogous proceeding);

Applicable Law means the laws, rules and regulations (including double taxation conventions) of any relevant jurisdiction, including published practice of any government or other taxing authority in connection with such laws, rules and regulations;

Base Currency means the currency indicated in paragraph 3 of the Schedule;

Business Day means:

- (a) in relation to Delivery of any Securities, a day other than a Saturday or a Sunday on which banks and securities markets are open for business generally in the place(s) where the relevant Securities are to be delivered;
- (b) in relation to any payments under this Agreement, a day other than a Saturday or a Sunday on which banks are open for business generally in the principal financial centre of the country of which the currency in which the payment is denominated is the official currency and, if different, in the place where any account designated by the Parties for the making or receipt of the payment is situated (or, in the case of a payment in euro, a day on which TARGET operates);
- (c) in relation to a notice or other communication served under this Agreement, any day other than a Saturday or a Sunday on which banks are open for business generally in the place designated for delivery in accordance with paragraph 4 of the Schedule; and
- (d) in relation to paragraph 5.4(a) and in any other case, a day other than a Saturday or a Sunday on which banks are open for business generally in each place stated in paragraph 4 of the Schedule;

Buy-in means any arrangement under which, in the event of a seller or transferor failing to deliver securities to the buyer or transferee, the buyer or transferee of such securities is entitled under the terms of such arrangement to buy or otherwise acquire securities equivalent to such securities and to recover the cost of so doing from the seller or transferor;

Cash means money in any currency credited to an account or similar claims for the payment or repayment of money;

Cash Collateral means Collateral taking the form of Cash;

Close of Business means the time at which the relevant banks, securities settlement systems or depositaries close in the business centre in which payment is to be made or Securities or Collateral are to be delivered or in the place designated for delivery in accordance with paragraph 4 of the Schedule (as applicable);

Collateral means such securities, financial instruments or Cash as are referred to in the table set out under paragraph 1 of the Schedule as being acceptable, from time to time, or any combination thereof as agreed between the Parties;

Control Agreement has the meaning given in the Security Agreement;

Custodian has the meaning given in the Security Agreement;

Defaulting Party has the meaning given in paragraph 10;

Delivery in relation to any Securities, Equivalent Securities or Collateral comprising Securities means:

- (a) the crediting of such Securities (i) in the case of Collateral to be delivered by Borrower, to the relevant Secured Account of Borrower, (ii) in the case of Collateral to be delivered by Lender, to an account of Borrower or (iii) in any other case, to an account of Borrower or Lender, as the case may be, or as it shall direct, or
- (b) by such other means as may be agreed,

and **deliver** shall be construed accordingly;

Designated Office means the branch or office of a Party which is specified as such in paragraph 7 of the Schedule or such other branch or office as may be agreed to in writing by the Parties;

Equivalent or **equivalent to** in relation to any Loaned Securities provided under this Agreement means Securities or other property, of an identical type, nominal value, description and amount to particular Loaned Securities so provided. If and to the extent that such Loaned Securities consists of Securities that are partly paid or have been converted, subdivided, consolidated, made the subject of a takeover, rights of pre-emption, rights to receive securities or a certificate which may at a future date be exchanged for Securities, the expression shall include such Securities or other assets to which Lender is entitled following the occurrence of the relevant event, and, if appropriate, the giving of the relevant notice in accordance with paragraph 6.4 and

provided that Lender has paid to Borrower all and any sums due in respect thereof. In the event that such Loaned Securities have been redeemed, are partly paid, are the subject of a capitalisation issue or are subject to an event similar to any of the foregoing events described in this paragraph, the expression shall have the following meanings:

- (a) in the case of redemption, a sum of money equivalent to the proceeds of the redemption;
- (b) in the case of a call on partly-paid Securities, Securities equivalent to the relevant Loaned Securities, provided that Lender shall have paid Borrower an amount of money equal to the sum due in respect of the call;
- (c) in the case of a capitalisation issue, Securities equivalent to the relevant Loaned Securities together with the securities allotted by way of bonus thereon;
- (d) in the case of any event similar to any of the foregoing events described in this paragraph, Securities equivalent to the Loaned Securities together with or replaced by a sum of money or Securities or other property equivalent to that received in respect of such Loaned Securities resulting from such event;

Income means any interest, dividends or other distributions of any kind whatsoever with respect to any Securities;

Income Record Date, with respect to any Securities and an Income payment in respect of such Securities, means the date by reference to which holders of such Securities are identified as being entitled to such payment of Income;

Loaned Securities means Securities which are or are to be the subject of an outstanding Loan;

Market Value means:

- (a) in relation to the valuation of Securities or Equivalent Securities on any date:
 - (i) such price as is equal to the market quotation for the mid price of such Securities and/or Equivalent Securities as derived from a reputable pricing information service reasonably chosen in good faith by Lender;
or
 - (ii) if unavailable the market value thereof as derived from the mid price or rate bid by a reputable dealer for the relevant instrument reasonably chosen in good faith by Lender,

in each case at Close of Business on the previous Business Day, or as specified in the Schedule, unless agreed otherwise or, at the option of either Party where in its reasonable opinion there has been an exceptional movement in the price of the asset in question since such time, the latest available price as determined by Lender, plus (in each case):

- (iii) the aggregate amount of Income which has accrued but not yet been paid in respect of the Securities or Equivalent Securities concerned to the extent not included in such price,

provided that the price of Securities or Equivalent Securities that are suspended or that cannot legally be transferred, credited or that are transferred or credited or required to be transferred or credited to a government, trustee or third party (whether by reason of nationalisation, expropriation or otherwise) shall for all purposes be a commercially reasonable price agreed between the Parties, or absent agreement, be a price provided by a third party dealer agreed between the Parties, or if the Parties do not agree a third party dealer then a price based on quotations provided by the Reference Dealers. If more than three quotations are provided, the Market Value will be the arithmetic mean of the prices, without regard to the quotations having the highest and lowest prices. If three quotations are provided, the Market Value will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest or lowest price, then one of such quotations shall be disregarded. If fewer than three quotations are provided, the Market Value of the relevant Securities or Equivalent Securities shall be determined by the Party making the determination of Market Value acting reasonably;

- (b) in relation to the valuation of Collateral on any date and subject as provided below, the market value of such Collateral determined in accordance with the valuation method specified in the Control Agreement as adjusted to take into account any applicable haircut or margin percentage specified in the Control Agreement, provided that, the value of Collateral that is suspended or that cannot legally be transferred, credited or that is transferred or credited or required to be transferred or credited to a government, trustee or third party (whether by reason of nationalisation, expropriation or otherwise) shall for all purposes be deemed to be zero;

Nominee means a nominee or agent appointed by either Party to accept delivery of, hold or deliver Securities, Equivalent Securities and/or Collateral or to receive or make payments on its behalf;

Non-Defaulting Party has the meaning given in paragraph 10;

Notification Time means the time specified in paragraph 1.2 of the Schedule;

Parties means Lender and Borrower and **Party** shall be construed accordingly;

Posted Collateral means all Collateral, interest, Income, other property and all proceeds of any of the foregoing that have been credited to or received into the relevant Secured Account or otherwise credited to the relevant Secured Account by Custodian (excluding any such Collateral delivered to Borrower from such Secured Account pursuant to paragraph 5.3(b) on the instruction of Lender);

Reference Dealers means, in relation to any Securities, Equivalent Securities or Collateral, four leading dealers in the relevant securities selected by the Party making the determination of Market Value in good faith;

Required Collateral Value has the meaning given in paragraph 5.3;

Sales Tax means value added tax and any other Tax of a similar nature (including, without limitation, any sales tax of any relevant jurisdiction);

Secured Account has the meaning given in the Security Agreement;

Security Agreement means the agreement or instrument specified as such in paragraph 2 of the Schedule;

Settlement Date means the date upon which Securities are due to be delivered to Borrower in accordance with this Agreement;

Stamp Tax means any stamp, transfer, 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) imposed by any government or other taxing authority in respect of any transaction effected pursuant to or contemplated by, or any payment under or in respect of, this Agreement; and

Unsettled Loans means, at any time, any Loans in respect of which the relevant Securities have not yet been delivered by Lender to Borrower.

2.2 **Headings**

All headings appear for convenience only and shall not affect the interpretation of this Agreement.

2.3 **Market terminology**

Notwithstanding the use of expressions such as "borrow", "lend" etc. which are used to reflect terminology used in the market for transactions of the kind provided for in this Agreement, title to Securities "borrowed" or "lent" shall pass from Lender to Borrower as provided for in this Agreement, Borrower being obliged to deliver Equivalent Securities.

2.4 **Currency conversions**

Subject to paragraph 11, for the purposes of determining any prices, sums or values (including, without limitation, the Market Value of Securities and Required Collateral Value) prices, sums or values stated in currencies other than the Base Currency shall be converted into the Base Currency at the latest available spot rate of exchange quoted by a bank selected by Lender (or if an Event of Default has occurred in relation to Lender, by Borrower) in the London inter-bank market for the purchase of the Base Currency with the currency concerned on the day on which the calculation is to be made or, if that day is not a Business Day, the spot rate of exchange quoted at Close of Business on the immediately preceding Business Day on which such a quotation was available.

2.5 The Parties confirm that the introduction of and/or substitution (in place of an existing currency) of a new currency as the lawful currency of a country shall not have the effect of altering, or discharging, or excusing performance under, any term of the Agreement or any Loan thereunder, nor give a Party the right unilaterally to alter or terminate the Agreement or any Loan thereunder. Securities will for the purposes of this Agreement be regarded as equivalent to other securities notwithstanding that as a result of such introduction and/or substitution those securities have been redenominated into the new currency or the nominal value of the securities has changed in connection with such redenomination.

2.6 **Modifications etc. to legislation**

Any reference in this Agreement to an act, regulation or other legislation shall include a reference to any statutory modification or re-enactment thereof for the time being in force.

3. **LOANS OF SECURITIES**

3.1 **Loans**

Borrower will borrow Securities from Lender and, subject to paragraph 3.2 below, Lender will lend Securities to Borrower, in accordance with the terms and conditions of this Agreement. The terms of each Loan shall be agreed prior to the commencement of the relevant Loan either orally or in writing (including any agreed form of electronic communication) and confirmed in such form and on such basis as shall be agreed between the Parties. Unless otherwise agreed, any confirmation produced by a Party shall not supersede or prevail over the prior oral, written or electronic communication (as the case may be).

3.2 **Conditions Precedent**

The obligations of Lender under paragraphs 3.1 and 4.1 with respect to a Loan are subject to the conditions precedent that:

- (a) no event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default has occurred and is continuing in relation to Borrower; and
- (b) prior to the time at which the relevant Loaned Securities are due to be delivered by Lender or any earlier time agreed between the Parties, the aggregate Market Value of the Posted Collateral is greater than or equal to the Required Collateral Value calculated taking into account all Loaned Securities including the relevant Loaned Securities.

4. **DELIVERY**

4.1 **Delivery of Securities on commencement of Loan**

Subject to paragraph 3.2, Lender shall procure the Delivery of Securities to Borrower or otherwise deliver such Securities in accordance with this Agreement and the terms of the relevant Loan.

4.2 **Requirements to effect Delivery**

The Parties shall execute and deliver all necessary documents and give all necessary instructions to procure that all right, title and interest in:

- (a) any Securities borrowed pursuant to paragraph 3;
- (b) any Equivalent Securities delivered pursuant to paragraph 8;

shall pass from one Party to the other subject to the terms and conditions set out in this

Agreement, on delivery of the same in accordance with this Agreement with full title guarantee, free from all liens, charges and encumbrances. In the case of Securities or Equivalent Securities title to which is registered in a computer-based system which provides for the recording and transfer of title to the same by way of book entries, delivery and transfer of title shall take place in accordance with the rules and procedures of such system as in force from time to time. Borrower acquiring such right, title and interest shall have no obligation to return or deliver any of the assets so acquired but shall be obliged, subject to the terms of this Agreement, to deliver Equivalent Securities.

4.3 Deliveries of Income

In respect of Income being paid in relation to any Loaned Securities, Borrower shall provide to Lender any endorsements or assignments as shall be customary and appropriate to effect, in accordance with paragraph 6, the payment or delivery of money or property in respect of such Income to Lender, irrespective of whether Borrower received such endorsements or assignments in respect of any Loaned Securities.

5. COLLATERAL

5.1 Delivery of Collateral on commencement of Loan

Subject to the other provisions of this paragraph 5, Borrower undertakes to deliver Collateral to the relevant Secured Accounts so that in respect of each Loan the condition precedent specified in paragraph 3.2(b) is satisfied.

5.2 Deliveries through securities settlement systems generating automatic payments

Unless otherwise agreed between the Parties, where any Securities or Equivalent Securities are transferred through a book entry transfer or settlement system which automatically generates a payment or delivery, or obligation to pay or deliver, against the transfer of such securities, then such automatically generated payment, delivery or obligation shall be treated as a payment or delivery by the transferee to the transferor, and except to the extent that it is applied to discharge an obligation of the transferee to effect payment or delivery, the Party so treated as receiving such payment or delivery shall cause to be made to the other Party for value the same day either, where such transfer is a payment, an irrevocable payment in the amount of such transfer or, where such transfer is a Delivery, an irrevocable Delivery of securities (or other property, as the case may be) equivalent to such property.

5.3 Marking to Market of Collateral during the currency of a Loan

Unless otherwise agreed between the Parties:

- (a) the aggregate Market Value of the Posted Collateral in respect of all outstanding Loans and, as of the relevant Settlement Date or any earlier time agreed between the Parties for the delivery of Collateral with respect to any Unsettled Loans, such Unsettled Loans, shall equal the aggregate of:
 - (i) the Market Values of Securities equivalent to the Loaned Securities; *plus*

- (ii) all amounts (if any) due and payable by Borrower under this Agreement but which are unpaid; *plus*
- (iii) if agreed between the Parties and if the Income Record Date has occurred in respect of any securities equivalent to Loaned Securities, the amount or Market Value of Income payable in respect of such Equivalent Securities in respect of such Loans; *plus*
- (iv) if agreed between the Parties, any amounts which have accrued pursuant to paragraph 7

(the ***Required Collateral Value***);

- (b) if on any Business Day the aggregate Market Value of the Posted Collateral exceeds the Required Collateral Value applicable on that day, Lender shall in the manner provided by the Control Agreement instruct Custodian to transfer to Borrower from the relevant Secured Account by Close of Business on the relevant Business Day Posted Collateral having a Market Value at the date of transfer as close as practicable to (but not exceeding) the amount of the excess;
- (c) if on any Business Day the aggregate Market Value of the Posted Collateral falls below the Required Collateral Value applicable on that day, Borrower shall in the manner provided by the Control Agreement deliver and, in the case of Cash Collateral, transfer into the relevant Secured Account by Close of Business on the relevant Business Day, such further Collateral having a Market Value as at the date of transfer as close as practicable to (but not less than) the amount of the deficiency; and
- (d) each Party agrees that any transfer of Collateral into or out of the Secured Accounts will be effected only in accordance with the Control Agreement.

5.4 **Instructions relating to the Required Collateral Value and responsibility for the Custodian**

- (a) Unless otherwise agreed, no later than the Notification Time on each Business Day:
 - (i) each Party will notify the other Party of its determination of the Required Collateral Value; and
 - (ii) each Party shall notify the Custodian in accordance with the terms of the Control Agreement of the Required Collateral Value so determined by it.
- (b) Borrower will be liable for the acts or omissions of Custodian to the same extent that Borrower would be liable hereunder for its own acts or omissions and any such act or omission of Custodian will be deemed to be the act or omission of Borrower for purposes of Paragraph 10.1. Lender will not be liable for the acts or omissions of Custodian.
- (c) Any obligation of Lender to instruct Custodian to transfer Posted Collateral to Borrower will be deemed satisfied by Lender sending appropriate instructions

to Custodian in accordance with the terms of the Control Agreement. For the avoidance of doubt, Lender will bear no liability for any failure by Custodian to comply with such instructions and no failure by the Custodian to transfer Posted Collateral to Borrower under this Agreement will constitute an Event of Default with respect to Lender.

6. DISTRIBUTIONS AND CORPORATE ACTIONS

6.1 Manufactured payments in respect of Loaned Securities

Where the term of a Loan extends over an Income Record Date in respect of any Loaned Securities or an Income Record Date in respect of any such Securities occurs after the end of the term of the relevant Loan but before Equivalent Securities have been delivered to Lender, Borrower shall, on the date such Income is paid by the issuer, or on such other date as the Parties may from time to time agree, pay or deliver to Lender such sum of money or property as is agreed between the Parties or, failing such agreement, a sum of money or property equivalent to (and in the same currency as) the type and amount of such Income that would be received by Lender (after any applicable withholding or deduction for or on account of Tax) in respect of such Loaned Securities assuming such Securities were not loaned to Borrower and were retained by Lender on the Income Record Date.

6.2 Income in the form of Securities

Where Income, in the form of securities, is paid in relation to any Loaned Securities, such securities shall be added to such Loaned Securities (and shall constitute Loaned Securities and be part of the relevant Loan) and will not be delivered to Lender until the end of the relevant Loan, provided that Lender fulfils its obligations under paragraph 5.3 with respect to the additional Loaned Securities.

6.3 Exercise of voting rights

Where any voting rights fall to be exercised in relation to any Loaned Securities, Borrower shall have no obligation to arrange for voting rights of that kind to be exercised in accordance with the instructions of Lender in relation to the Securities borrowed by it, unless otherwise agreed between the Parties.

6.4 Corporate actions

Where, in respect of any Loaned Securities, any rights relating to conversion, subdivision, consolidation, pre-emption, rights arising under a takeover offer, rights to receive securities or a certificate which may at a future date be exchanged for securities or other rights, including those requiring election by the holder for the time being of such Securities, become exercisable prior to the delivery of Equivalent Securities, then Lender may, within a reasonable time before the latest time for the exercise of the right or option give written notice to Borrower that on delivery of Equivalent Securities it wishes to receive Equivalent Securities in such form as will arise if the right is exercised or, in the case of a right which may be exercised in more than one manner, is exercised as is specified in such written notice.

7. RATES APPLICABLE TO LOANED SECURITIES

In respect of each Loan, Borrower shall pay to Lender sums calculated by applying such rate as shall be agreed between the Parties from time to time to the daily Market Value of the Loaned Securities. In respect of each Loan, such payments shall accrue daily in respect of the period commencing on and inclusive of the Settlement Date and terminating on and exclusive of the Business Day upon which Equivalent Securities are delivered. Unless otherwise agreed, the sums so accruing in respect of each calendar month shall be paid in arrears by Borrower not later than the Business Day which is the tenth Business Day after the last Business Day of the calendar month to which such payments relate or such other date as the Parties shall from time to time agree.

8. DELIVERY OF EQUIVALENT SECURITIES

8.1 Lender's right to terminate a Loan

Subject to paragraph 11 and the terms of the relevant Loan, Lender shall be entitled to terminate a Loan and to call for the delivery of all or any Equivalent Securities at any time by giving notice on any Business Day of not less than the standard settlement time for such Equivalent Securities on the exchange or in the clearing organisation through which the Loaned Securities were originally delivered. Borrower shall deliver such Equivalent Securities not later than the expiry of such notice in accordance with Lender's instructions.

8.2 Borrower's right to terminate a Loan

Subject to the terms of the relevant Loan, Borrower shall be entitled at any time to terminate a Loan and to deliver all and any Equivalent Securities due and outstanding to Lender in accordance with Lender's instructions and Lender shall accept such delivery.

8.3 Non-Defaulting Party's right to terminate all Loans

If any of the events specified in sub-paragraphs (a) to (j) inclusive of paragraph 10.1 has occurred and is continuing and provided always that no Event of Default has occurred, and notwithstanding the scheduled termination dates of the relevant Loans, the Non-Defaulting Party shall be entitled on any Business Day to terminate all Loans by giving written notice to Defaulting Party of such election under this paragraph 8.3 and, where the Non-Defaulting Party gives such a notice, (i) each such Loan will terminate on the expiry of the standard settlement time commencing on the date on which the Non-Defaulting Party's notice was given and Borrower will, in respect of each such Loan, not later than such expiration date deliver Equivalent Securities in respect of the relevant Loan to Lender in accordance with Lender's instruction and (ii) any amounts accrued under paragraph 7 shall be accelerated and immediately payable. For the avoidance of doubt, if Borrower fails to deliver Equivalent Securities in accordance with this paragraph, Lender will be entitled to exercise the remedies provided to it in paragraph 9.1.

8.4 Delivery of Equivalent Securities on termination of a Loan

Upon termination of a Loan, whether pursuant to any of paragraph 8.1 to 8.3 or otherwise in accordance with this Agreement and the terms of the relevant Loan, Borrower shall procure the Delivery of Equivalent Securities to Lender or deliver

Equivalent Securities, such delivery to be effected in accordance with this Agreement and the terms of the relevant Loan. For the avoidance of doubt any reference in this Agreement or in any other agreement or communication between the Parties (howsoever expressed) to an obligation to deliver or account for or act in relation to Loaned Securities shall accordingly be construed as a reference to an obligation to deliver or account for or act in relation to Equivalent Securities.

9. FAILURE TO DELIVER

9.1 Borrower's failure to deliver Equivalent Securities

If Borrower fails to deliver Equivalent Securities in accordance with paragraph 8.1 to 8.3 Lender may:

- (a) elect to continue the Loan (which, for the avoidance of doubt, shall continue to be taken into account for the purposes of paragraph 5.3); or
- (b) at any time while such failure continues, by written notice to Borrower declare that that Loan (but only that Loan) shall be terminated immediately in accordance with paragraph 11.2 as if (i) an Event of Default had occurred in relation to Borrower, (ii) references to the Termination Date were to the date on which notice was given under this sub-paragraph, and (iii) the Loan were the only Loan outstanding. For the avoidance of doubt, any such failure shall not constitute an Event of Default (including under paragraph 10.1(i)) unless the Parties otherwise agree.

9.2 Failure by either Party to deliver or instruct delivery

Where Borrower fails to deliver Equivalent Securities, or Lender fails to instruct Custodian to deliver Posted Collateral, in either case by the time required under this Agreement or within such other period as may be agreed between such Party (the *Transferor*) and the other Party (the *Transferee*), and the Transferee:

- (a) incurs interest, overdraft or similar costs and expenses; or
- (b) incurs costs and expenses as a direct result of a Buy-in exercised against it by a third party,

then the Transferor agrees to pay within one Business Day of a demand from the Transferee and hold harmless the Transferee with respect to all reasonable costs and expenses listed in sub-paragraphs (a) and (b) above properly incurred which arise directly from such failure other than (i) such costs and expenses which arise from the negligence or wilful default of the Transferee and (ii) any indirect or consequential losses.

10. EVENTS OF DEFAULT

- 10.1 Each of the following events occurring and continuing in relation to either Party (the *Defaulting Party*, the other Party being the *Non-Defaulting Party*) shall be an *Event of Default* but only where the Non-Defaulting Party serves written notice on the Defaulting Party declaring such event to be an Event of Default:

- (a) Borrower failing to comply with its obligations to deliver Collateral under paragraph 5 on the due date;
- (b) Borrower failing to comply with its obligations under paragraph 6.1 upon the due date and not remedying such failure within three Business Days after Lender serves written notice requiring it to remedy such failure;
- (c) Borrower failing to pay any sum due under paragraph 9.1(b) or 9.2 upon the due date;
- (d) an Act of Insolvency occurring with respect to Lender or Borrower;
- (e) any warranty made by Lender or Borrower in paragraph 13 or paragraphs 14(a) to 14(h) or in the Security Agreement being incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated;
- (f) Lender or Borrower admitting to the other that it is unable to, or it intends not to, perform any of its obligations under this Agreement or the Security Agreement and/or in respect of any Loan where such failure to perform would with the service of notice or lapse of time constitute an Event of Default;
- (g) all or any material part of the assets of Lender or Borrower being transferred or ordered to be transferred to a trustee (or a person exercising similar functions) by a regulatory authority pursuant to any legislation;
- (h) Lender (if applicable) or Borrower being declared in default or being suspended or expelled from membership of or participation in, any securities exchange or suspended or prohibited from dealing in securities by any regulatory authority, in each case on the grounds that it has failed to meet any requirements relating to financial resources or credit rating;
- (i) Lender or Borrower failing to perform any other of its obligations under this Agreement and not remedying such failure within 30 days after the Non-Defaulting Party serves written notice requiring it to remedy such failure; or
- (j) in relation to the Security Agreement, (i) Borrower failing to perform any of its obligations under the Security Agreement, (ii) the expiration or termination of the Security Agreement, (iii) any security interest granted by Borrower therein, ceasing to be or otherwise not being in full force and effect or (iv) Borrower disaffirming, disclaiming, repudiating or rejecting, in whole or in part, or challenging the validity of, such Security Agreement (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf), provided that in each such case, the Defaulting Party shall be deemed to be Borrower.

10.2 Each Party shall notify the other (in writing) if an Event of Default or an event which, with the passage of time and/or upon the serving of a written notice as referred to above, would be an Event of Default, occurs in relation to it.

10.3 Subject to paragraphs 9 and 11, neither Party may claim any sum by way of consequential loss or damage in the event of failure by the other Party to perform any of its obligations under this Agreement.

11. CONSEQUENCES OF AN EVENT OF DEFAULT

- 11.1 If an Event of Default occurs in relation to either Party then paragraphs 11.2 to 11.8 below shall apply.
- 11.2 Borrower's delivery and payment obligations (and any other obligations Borrower has under the Agreement including, without limitation, any obligation to pay amounts which have accrued under paragraph 7) shall be accelerated so as to require performance thereof at the time such Event of Default occurs (the date of which shall be the **Termination Date**) so that performance of such obligations shall be effected only in accordance with the following provisions.
- (a) The Default Market Value of the Equivalent Securities to be delivered by Borrower and any amount (including interest accrued) to be paid by Borrower shall be established by the Non-Defaulting Party in accordance with paragraph 11.4 and deemed as at the Termination Date.
 - (b) On the basis of the sums so established, an account shall be taken (as at the Termination Date) of what is due from each Party to the other under this Agreement (on the basis that Lender's claim against Borrower in respect of delivery of Equivalent Securities is equal to the Default Market Value thereof) and the sums due from one Party shall be set off against the sums due from the other and only the balance of the account shall be payable (by the Party having the claim valued at the lower amount pursuant to the foregoing) and such balance shall be payable on the next following Business Day after such account has been taken and such sums have been set off in accordance with this paragraph. For the purposes of this calculation, any sum not denominated in the Base Currency shall be converted into the Base Currency at the spot rate prevailing at such dates and times determined by the Non-Defaulting Party acting reasonably.
- 11.3 For the purposes of this Agreement, the **Default Market Value** of any Equivalent Securities shall be determined in accordance with paragraphs 11.4 to 11.6 below, and for this purpose:
- (a) the **Appropriate Market** means, in relation to securities of any description, the market which is the most appropriate market for securities of that description, as determined by the Non-Defaulting Party;
 - (b) the **Default Valuation Time** means, in relation to an Event of Default, the Close of Business in the Appropriate Market on the fifth dealing day after the day on which that Event of Default occurs;
 - (c) **Net Value** means at any time, in relation to any Equivalent Securities, the amount which, in the reasonable opinion of the Non-Defaulting Party, represents their fair market value, having regard to such pricing sources and methods (which may include, without limitation, internal and external pricing sources, and available prices for securities with similar maturities, terms and credit characteristics as the relevant Equivalent Securities) as the Non-Defaulting Party considers appropriate less, where Lender is the Defaulting Party, or plus, where Borrower is the Defaulting Party, all Transaction Costs

incurred or reasonably anticipated in connection with the purchase or sale of such securities; and

- (d) **Transaction Costs** in relation to any transaction contemplated in paragraph 11.4 or 11.5 means the reasonable costs, commissions (including internal commissions), fees and expenses (including any mark-up or mark-down or premium paid for guaranteed delivery) incurred or reasonably anticipated in connection with, where Borrower is the Defaulting Party, the purchase of Equivalent Securities or, where Lender is the Defaulting Party, the sale of Equivalent Securities, calculated on the assumption that the aggregate thereof is the least that could reasonably be expected to be paid in order to carry out the transaction.

11.4 If between the Termination Date and the Default Valuation Time:

- (a) Borrower as Non-Defaulting Party has sold, or Lender as Non-Defaulting Party has purchased, securities which form part of the same issue and are of an identical type and description as the relevant Equivalent Securities, (and regardless as to whether or not such sales or purchases have settled) such Non-Defaulting Party may elect to treat as the Default Market Value:
- (i) in the case of such a sale by Borrower as Non-Defaulting Party, the net proceeds of such sale after deducting all Transaction Costs; provided that, where the securities sold are not identical in amount to the Equivalent Securities, Borrower as Non-Defaulting Party may, acting in good faith, either (A) elect to treat such net proceeds of sale divided by the amount of securities sold and multiplied by the amount of the Equivalent Securities as the Default Market Value or (B) elect to treat such net proceeds of sale of the Equivalent Securities actually sold as the Default Market Value of that proportion of the Equivalent Securities, and, in the case of (B), the Default Market Value of the balance of the Equivalent Securities shall be determined separately in accordance with the provisions of this paragraph 11.4; or
- (ii) in the case of such a purchase by Lender as Non-Defaulting Party, the aggregate cost of such purchase, including all Transaction Costs; provided that, where the securities purchased are not identical in amount to the Equivalent Securities, Lender as Non-Defaulting Party may, acting in good faith, either (A) elect to treat such aggregate cost divided by the amount of securities purchased and multiplied by the amount of the Equivalent Securities as the Default Market Value or (B) elect to treat the aggregate cost of purchasing the Equivalent Securities actually purchased as the Default Market Value of that proportion of the Equivalent Securities, and, in the case of (B), the Default Market Value of the balance of the Equivalent Securities shall be determined separately in accordance with the provisions of this paragraph 11.4;
- (b) the Non-Defaulting Party has received, where the Non-Defaulting Party is Borrower, bid quotations or, where the Non-Defaulting Party is Lender, offer quotations in respect of securities which form part of the same issue and are of an identical type and description as the relevant Equivalent Securities from two

or more market makers or regular dealers in the Appropriate Market in a commercially reasonable size (as determined by the Non-Defaulting Party) the Non-Defaulting Party may elect to treat as the Default Market Value of the relevant Equivalent Securities:

- (i) the price quoted (or where more than one price is so quoted, the arithmetic mean of the prices so quoted) by each of them for, where the Non-Defaulting Party is Borrower, the purchase by the relevant market maker or dealer of such securities or, where the Non-Defaulting Party is Lender, the sale by the relevant market maker or dealer of such securities, provided that such price or prices quoted may be adjusted in a commercially reasonable manner by the Non-Defaulting Party to reflect accrued but unpaid coupons not reflected in the price or prices quoted in respect of such Securities;
- (ii) after deducting, in the case where the Non-Defaulting Party is Borrower, or adding, in the case where the Non-Defaulting Party is Lender, the Transaction Costs which would be incurred or reasonably anticipated in connection with such transaction.

11.5 If, acting in good faith, either (A) the Non-Defaulting Party has endeavoured but been unable to sell or purchase securities in accordance with paragraph 11.4(a) above or to obtain quotations in accordance with paragraph 11.4(b) above (or both) or (B) the Non-Defaulting Party has determined that it would not be commercially reasonable to sell or purchase securities at the prices bid or offered or to obtain such quotations, or that it would not be commercially reasonable to use any quotations which it has obtained under paragraph 11.4(b) above the Non-Defaulting Party may determine the Net Value of the relevant Equivalent Securities (which shall be specified) and the Non-Defaulting Party may elect to treat such Net Value as the Default Market Value of such Equivalent Securities.

11.6 To the extent that the Non-Defaulting Party has not determined the Default Market Value in accordance with paragraph 11.4, the Default Market Value of the relevant Equivalent Securities shall be an amount equal to their Net Value at the Default Valuation Time; provided that, if at the Default Valuation Time the Non-Defaulting Party reasonably determines that, owing to circumstances affecting the market in the Equivalent Securities in question, it is not reasonably practicable for the Non-Defaulting Party to determine a Net Value of such Equivalent Securities which is commercially reasonable (by reason of lack of tradable prices or otherwise), the Default Market Value of such Equivalent Securities shall be an amount equal to their Net Value as determined by the Non-Defaulting Party as soon as reasonably practicable after the Default Valuation Time.

Other costs, expenses and interest payable in consequence of an Event of Default

11.7 The Defaulting Party shall be liable to the Non-Defaulting Party for the amount of all reasonable legal and other professional expenses incurred by the Non-Defaulting Party in connection with or as a consequence of an Event of Default, together with interest thereon at such rate as is agreed by the Parties and specified in paragraph 10 of the Schedule or, failing such agreement, the overnight LIBOR as at 11.00 a.m., London time, on the date on which it is to be determined or, in the case of an expense attributable

to a particular transaction and, where the Parties have previously agreed a rate of interest for the transaction, that rate of interest if it is greater than LIBOR. Interest will accrue daily on a compound basis.

Set-off

11.8 Any amount payable to one Party (the *Payee*) by the other Party (the *Payer*) under paragraph 11.2(b) may, at the option of the Non-Defaulting Party, be reduced by its set-off against any 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 between the Payee and the Payer or instrument or undertaking issued or executed by one Party to, or in favour of, the other Party. If an obligation is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and set off in respect of the estimate, subject to accounting to the other Party when the obligation is ascertained. Nothing in this paragraph shall be effective to create a charge or other security interest. This paragraph 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).

12. TAXES

Withholding, gross-up and provision of information

12.1 All payments under this Agreement shall 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.

12.2 Except as otherwise agreed, if the paying Party is so required to deduct or withhold, then that Party (*Payer*) shall:

- (a) promptly notify the other Party (*Recipient*) of such requirement;
- (b) pay or otherwise account for the full amount required to be deducted or withheld to the relevant authority;
- (c) upon written demand of Recipient, forward to Recipient documentation reasonably acceptable to Recipient, evidencing such payment to such authorities; and
- (d) pay to Recipient, in addition to the payment to which Recipient is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the amount actually received by Recipient (after taking account of such withholding or deduction) will equal the amount Recipient would have received had no such deduction or withholding been required; provided Payer will not be required to pay any additional amount to Recipient under this sub-paragraph (d) to the extent it would not be required to be paid but for the failure by Recipient to comply with or perform any obligation under paragraph 12.3.

12.3 Each Party agrees that it will upon written demand of the other Party deliver to such other Party (or to any government or other taxing authority as such other Party directs), any form or document and provide such other cooperation or assistance as may (in

either case) reasonably be required in order to allow such other Party to make a payment 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 (so long as the completion, execution or submission of such form or document, or the provision of such cooperation or assistance, would not materially prejudice the legal or commercial position of the Party in receipt of such demand). Any such form or document shall be accurate and completed in a manner reasonably satisfactory to such other Party and shall be executed and delivered with any reasonably required certification by such date as is agreed between the Parties or, failing such agreement, as soon as reasonably practicable.

Stamp Tax

- 12.4 Unless otherwise agreed, Borrower hereby undertakes promptly to pay and account for any Stamp Tax chargeable in connection with any transaction effected pursuant to or contemplated by this Agreement (other than any Stamp Tax that would not be chargeable but for Lender's failure to comply with its obligations under this Agreement).
- 12.5 Borrower shall indemnify and keep indemnified Lender against any liability arising as a result of Borrower's failure to comply with its obligations under paragraph 12.4.

Sales Tax

- 12.6 All sums payable by one Party to another under this Agreement are exclusive of any Sales Tax chargeable on any supply to which such sums relate and an amount equal to such Sales Tax shall in each case be paid by the Party making such payment on receipt of an appropriate Sales Tax invoice.

Retrospective changes in law

- 12.7 Unless otherwise agreed, amounts payable by one Party to another under this Agreement shall be determined by reference to Applicable Law as at the date of the relevant payment and no adjustment shall be made to amounts paid under this Agreement as a result of:
- (a) any retrospective change in Applicable Law which is announced or enacted after the date of the relevant payment; or
 - (b) any decision of a court of competent jurisdiction which is made after the date of the relevant payment (other than where such decision results from an action taken with respect to this Agreement or amounts paid or payable under this Agreement).

13. LENDER'S WARRANTIES

Lender hereby warrants and undertakes to Borrower on a continuing basis to the intent that such warranties shall survive the completion of any transaction contemplated herein that:

- (a) it is duly authorised and empowered to perform its duties and obligations under this Agreement, the Security Agreement and the Control Agreement;

- (b) it is not restricted under the terms of its constitution or in any other manner from lending Securities in accordance with this Agreement or from otherwise performing its obligations hereunder and under the Security Agreement and the Control Agreement;
- (c) it is absolutely entitled to pass full legal and beneficial ownership of all Securities provided by it hereunder to Borrower free from all liens, charges and encumbrances; and
- (d) it is acting as principal in respect of this Agreement, other than in respect of an Agency Loan.

14. **BORROWER'S WARRANTIES**

Borrower hereby warrants and undertakes to Lender on a continuing basis to the intent that such warranties shall survive the completion of any transaction contemplated herein that:

- (a) it has all necessary licences and approvals, and is duly authorised and empowered, to perform its duties and obligations under this Agreement, the Security Agreement and the Control Agreement and will do nothing prejudicial to the continuation of such authorisation, licences or approvals;
- (b) it is not restricted under the terms of its constitution or in any other manner from borrowing Securities in accordance with this Agreement or from otherwise performing its obligations hereunder and under the Security Agreement and the Control Agreement;
- (c) it has the power to grant a security interest in the assets over which it is expressed to grant security under the Security Agreement and has taken all necessary action to authorise the granting of that security interest;
- (d) it is the beneficial owner of all Collateral (and rights thereto) which is credited to the Secured Accounts under this Agreement, the Security Agreement or the Control Agreement, free and clear of any encumbrance or other interest or restriction other than each security interest granted under the Security Agreement, any security interest in favour of the Custodian expressly referred to in the Control Agreement and other than any lien routinely imposed on all securities in a clearing system in which any such Collateral may be held and each such item of Collateral is fully paid and is not subject to any option to purchase or similar rights;
- (e) upon the credit of any Collateral to the Secured Accounts under this Agreement or the Security Agreement, Lender will have a valid and perfected first priority security interest in such Collateral except to the extent subordinated to any lien routinely imposed on all securities in a clearing system in which any such Collateral may be held²;

² Note: We were asked if this warranty is consistent with any lien of the Custodian. We have made it clear to the Custodians that their any such lien must be subordinated to the security interest of Lender.

- (f) the performance by it of its obligations under this Agreement, the Security Agreement and the Control Agreement will not result in the creation of any security interest, lien or other encumbrance in or on any Posted Collateral other than the security interest created by the Security Agreement (and other than any lien routinely imposed on all securities in a clearing system in which any such Posted Collateral may be held, or any security interest in favour of the Custodian expressly referred to in the Control Agreement);
- (g) it is acting as principal in respect of this Agreement; and
- (h) it is not entering into a Loan for the primary purpose of obtaining or exercising voting rights in respect of the Loaned Securities.

15. **INTEREST ON OUTSTANDING PAYMENTS**

In the event of either Party failing to remit sums in accordance with this Agreement such Party hereby undertakes to pay to the other Party upon demand interest (before as well as after judgment) on the net balance due and outstanding, for the period commencing on and inclusive of the original due date for payment to (but excluding) the date of actual payment, in the same currency as the principal sum and at the rate referred to in paragraph 11.7. Interest will accrue daily on a compound basis and will be calculated according to the actual number of days elapsed. No interest shall be payable under this paragraph in respect of any day on which one Party endeavours to make a payment to the other Party but the other Party is unable to receive it.

16. **TERMINATION OF THIS AGREEMENT**

Each Party shall have the right to terminate the entry into of further Loans under this Agreement by giving not less than 15 Business Days' notice in writing to the other Party (which notice shall specify the date of termination) provided that the provisions of this Agreement, the Security Agreement and the Control Agreement shall remain in full force and effect at all times with respect to all Loans entered into at any time prior to such termination and each Party will duly comply with and discharge all of its obligations under this Agreement, the Security Agreement and the Control Agreement in relation to such Loans as if no such termination notice had been given.

17. **SINGLE AGREEMENT**

Each Party acknowledges that, and has entered into this Agreement and the related agreements referred to herein and will enter into each Loan in consideration of and in reliance upon the fact that, all Loans constitute a single business and contractual relationship and are made in consideration of each other. Accordingly, each Party agrees:

- (a) to perform all of its obligations in respect of each Loan, and that a default in the performance of any such obligations shall constitute a default by it in respect of all Loans, subject always to the other provisions of this Agreement and such related agreements; and

- (b) that payments, deliveries and other transfers made by either of them in respect of any Loan shall be deemed to have been made in consideration of payments, deliveries and other transfers in respect of any other Loan.

18. SEVERANCE

If any provision of this Agreement is declared by any judicial or other competent authority to be void or otherwise unenforceable, that provision shall be severed from the Agreement and the remaining provisions of this Agreement shall remain in full force and effect. The Agreement shall, however, thereafter be amended by the Parties in such reasonable manner so as to achieve as far as possible, without illegality, the intention of the Parties with respect to that severed provision.

19. SPECIFIC PERFORMANCE

Each Party agrees that in relation to legal proceedings it will not seek specific performance of the other Party's obligation to deliver Securities, Equivalent Securities or Collateral but without prejudice to any other rights it may have.

20. NOTICES

20.1 Any notice or other communication in respect of this Agreement may be given in any manner set forth below to the address or number or in accordance with the electronic messaging system details set out in paragraph 7 of the Schedule and will be deemed effective as indicated:

- (a) if in writing and delivered in person or by courier, on the date it is delivered;
- (b) 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);
- (c) 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
- (d) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or the receipt, as applicable, is not a Business Day or that communication is delivered (or attempted) or received, as applicable, after 5 p.m. on a Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Business Day.

20.2 Either Party may by notice to the other change the address or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

21. **ASSIGNMENT**

21.1 Subject to paragraph 21.2, neither Party may charge, assign or otherwise deal with all or any of its rights or obligations hereunder without the prior consent of the other Party.

21.2 Paragraph 21.1 shall not preclude a party from charging, assigning or otherwise dealing with all or any part of its interest in any sum payable to it under paragraph 11.2(b) or 11.7.

22. **NON-WAIVER**

No failure or delay by either Party (whether by course of conduct or otherwise) to exercise any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege as herein provided.

23. **GOVERNING LAW AND JURISDICTION**

23.1 This Agreement and any non-contractual obligations arising out of or in connection with this Agreement shall be governed by, and shall be construed in accordance with, English law.

23.2 The courts of England have exclusive jurisdiction to hear and decide any suit, action or proceedings, and to settle any disputes or any non-contractual obligation which may arise out of or in connection with this Agreement (respectively, *Proceedings* and *Disputes*) and, for these purposes, each Party irrevocably submits to the jurisdiction of the courts of England.

23.3 Each Party irrevocably waives any objection which it might at any time have to the courts of England being nominated as the forum to hear and decide any Proceedings and to settle any Disputes and agrees not to claim that the courts of England are not a convenient or appropriate forum.

23.4 Each Party hereby respectively appoints the person identified in paragraph 8 of the Schedule pertaining to the relevant Party as its agent to receive on its behalf service of process in the courts of England. If such an agent ceases to be an agent of a Party, the relevant Party shall promptly appoint, and notify the other Party of the identity of its new agent in England.

24. **TIME**

Time shall be of the essence of the Agreement.

25. **RECORDING**

The Parties agree that each may record all telephone conversations between them.

26. **WAIVER OF IMMUNITY**

Each Party hereby waives all immunity (whether on the basis of sovereignty or otherwise) from jurisdiction, attachment (both before and after judgement) and

execution to which it might otherwise be entitled in any action or proceeding in the courts of England or of any other country or jurisdiction relating in any way to this Agreement and agrees that it will not raise, claim or cause to be pleaded any such immunity at or in respect of any such action or proceeding.

27. **EXPENSES**

Except as otherwise provided in this Agreement, the Security Agreement or the Control Agreement, each Party will pay its own costs and expenses (including any stamp, transfer or similar transaction tax or duty payable on any transfer Borrower is required to make under this Agreement or the Security Agreement) in connection with performing its obligations under this Agreement and the Security Agreement and neither Party will be liable for any such costs and expenses incurred by the other Party. Borrower will be liable for any costs and expenses (including any stamp, transfer or similar transaction tax or duty payable on any transfer from the Secured Accounts to Borrower in accordance with this Agreement or the Security Agreement) incurred by Custodian in connection with its performing any of its obligations to the Parties in relation to the Security Agreement.

28. **MISCELLANEOUS**

- 28.1 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.
- 28.2 The Party (the *Relevant Party*) who has prepared the text of this Agreement for execution (as indicated in paragraph 9 of the Schedule) warrants and undertakes to the other Party that such text conforms exactly to the text of the standard form Global Master Securities Lending Agreement (Security Interest Over Collateral - 2018 version) posted by the International Securities Lending Association on its website except as notified by the Relevant Party to the other Party in writing prior to the execution of this Agreement.
- 28.3 Unless otherwise provided for in this Agreement, no amendment 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.
- 28.4 The Parties agree that where paragraph 11 of the Schedule indicates that this paragraph 28.4 applies, each may use the services of a third party vendor to automate the processing of Loans under this Agreement and that any data relating to such Loans received from the other Party may be disclosed to such third party vendors.
- 28.5 The obligations of the Parties under this Agreement will survive the termination of any Loan.
- 28.6 The warranties contained in paragraphs 13, 14 and 28.2 will survive termination of this Agreement for so long as any obligations of either of the Parties pursuant to this Agreement remain outstanding.

- 28.7 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.
- 28.8 This Agreement (and each amendment in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.
- 28.9 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

EXECUTED by the **PARTIES**

SIGNED by)
)
duly authorised for and)
on behalf of)

SIGNED by)
)
duly authorised for and)
on behalf of)

SCHEDULE

1. COLLATERAL

1.1 The securities, financial instruments and Cash which can be transferred to the Secured Account under the terms of the Control Agreement are acceptable forms of Collateral under this Agreement.

1.2 For the purposes of paragraph 5.4, Notification Time means by [•], London time.

2. SECURITY AGREEMENT DETAILS

Details of Security Agreement:

[]

3. BASE CURRENCY

The Base Currency applicable to this Agreement is [] provided that if that currency ceases to be freely convertible the Base Currency shall be [US Dollars] [Euro] [specify other currency]

4. PLACES OF BUSINESS

[]

(See definition of Business Day.)

5. MARKET VALUE

[]

(See definition of Market Value.)

6. AGENCY

– Lender will act as agent and the Agency Annex applies

The Principals (each a *Principal*) on whose behalf Lender may enter into Loans as agent are:

[]

7. **DESIGNATED OFFICE AND ADDRESS FOR NOTICES**

(a) **Designated Office of Lender:**

Address for notices or communications to Lender:

Address:

Attention:

Facsimile No:

Telephone No:

Electronic Messaging System Details:

Email:

(b) **Designated Office of Borrower:**

Address for notices or communications to Borrower:

Address:

Attention:

Facsimile No:

Telephone No:

Electronic Messaging System Details:

Email:

8. **SERVICE OF PROCESS**

(a) **Agent of Lender for Service Of Process**

Name:

Address:

(b) **Agent of Borrower for Service of Process**

Name: Address:

9. **PARTY PREPARING THIS AGREEMENT**

Lender

Borrower

10. **DEFAULT INTEREST**

Rate of default interest:

11. **AUTOMATION**

Paragraph 28.4 applies

AGENCY ANNEX

1. TRANSACTIONS ENTERED INTO AS AGENT

1.1 Power for Lender to enter into Loans as agent

Subject to the following provisions of this paragraph, where Lender has indicated in paragraph 6 of the Schedule that it will act as agent (a) Lender may enter into Loans as agent (in such capacity, the *Agent*) for a third person identified as a Principal in such paragraph (a *Principal*), whether as custodian or investment manager or otherwise (a Loan so entered into being referred to in this paragraph as an *Agency Loan*) and (b) Lender will not enter into any Loans other than Agency Loans entered into in accordance with the provisions of this Agency Annex.

1.2 Conditions for Agency Loan

Lender may enter into an Agency Loan if, but only if:

- (a) it provides to Borrower, prior to effecting any Agency Loan, such information in its possession necessary to complete all required fields in the format generally used in the industry, or as otherwise agreed by Agent and Borrower (*Agreed Format*), and will use its best efforts to provide to Borrower any optional information that may be requested by Borrower for the purpose of identifying each Principal (all such information being the *Principal Information*). Agent represents and warrants that the Principal Information is true and accurate to the best of its knowledge and has been provided to it by Principal;
- (b) it enters into that Loan on behalf of a single Principal whose identity is disclosed to Borrower (whether by name or by reference to a code or identifier which the Parties have agreed will be used to refer to a specified Principal) at the time when it enters into the Loan in the Agreed Format or as otherwise agreed between the Parties; and
- (c) it has at the time when the Loan is entered into actual authority to enter into the Loan and to perform on behalf of that Principal all of that Principal's obligations under the agreement referred to in paragraph 1.4(b) below.

Agent agrees that it will not effect any Loan with Borrower on behalf of any Principal unless Borrower has not notified Agent in the Agreed Format that Borrower has withdrawn its approval of such Principal (such Principal, an *Approved Principal*).

Borrower acknowledges that Agent shall not have any obligation to provide it with confidential information regarding the financial status of its Principals; Agent agrees, however, that it will assist Borrower in obtaining from Agent's Principals such information regarding the financial status of such Principals as Borrower may reasonably request.

1.3 Notification by Agent of certain events affecting any Principal

Agent undertakes that, if it enters as agent into an Agency Loan, forthwith upon becoming aware:

- (a) of any event which constitutes an Act of Insolvency with respect to the relevant Principal; or
- (b) of any breach of any of the warranties given in paragraph 1.5 below or of any event or circumstance which results in any such warranty being untrue if repeated by reference to the then current facts,

it will inform Borrower of that fact and will, if so required by Borrower, furnish it with such additional information as it may reasonably request to the extent that such information is readily obtainable by Agent.

1.4 Status of Agency Loan

- (a) Each Agency Loan shall be a transaction between the relevant Principal and Borrower and no person other than the relevant Principal and Borrower shall be a party to or have any rights or obligations under an Agency Loan or the related Security Agreement and Control Agreement. Without limiting the foregoing, Agent shall not be liable as principal for the performance of an Agency Loan, but this is without prejudice to any liability of Agent under any other provision of this Annex; and
- (b) all the provisions of the Agreement shall apply separately as between Borrower and each Principal for whom the Agent has entered into an Agency Loan or Agency Loans as if each such Principal were a party to a separate agreement with Borrower in all respects identical with this Agreement other than this Annex and as if the Principal were Lender in respect of that agreement; provided that
 - (i) if there occurs in relation to the Agent an Event of Default or an event which would constitute an Event of Default if Borrower served written notice under paragraph 10.1 of the Agreement, Borrower shall be entitled by giving written notice to the Principal (which notice shall be validly given if given in accordance with paragraph 20 of the Agreement) to declare that by reason of that event an Event of Default is to be treated as occurring in relation to the Principal. If Borrower gives such a notice then an Event of Default shall be treated as occurring in relation to the Principal at the time when the notice is deemed to be given; and
 - (ii) if the Principal is neither incorporated in nor has established a place of business in Great Britain, the Principal shall for the purposes of the agreement referred to in paragraph 1.4(b) above be deemed to have appointed as its agent to receive on its behalf service of process in the courts of England the Agent, or if the Agent is neither incorporated nor has established a place of business in Great Britain, the person appointed by the Agent for the purposes of this Agreement, or such other person as the Principal may from time to time specify in a written notice given to the other Party.

1.5 **Warranty of authority by Lender acting as Agent**

Agent warrants to Borrower that it will, on every occasion on which it enters or purports to enter into a Loan as an Agency Loan, have been duly authorised to enter into that Loan and perform the obligations arising under such Loan on behalf of the Principal in respect of that Loan and to perform on behalf of the Principal all the obligations of that person under the agreement referred to in paragraph 1.4(b) above.