

**2014 ISDA**

**Credit Derivatives**

**Definitions**

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## INTRODUCTION

The 2014 ISDA Credit Derivatives Definitions (the "Definitions") are intended for use in confirmations of individual credit derivative transactions ("Confirmations") governed by agreements such as the 1992 ISDA Master Agreement or the ISDA 2002 Master Agreement published by the International Swaps and Derivatives Association, Inc. ("ISDA"). Copies of the ISDA Master Agreements are available from the executive offices of ISDA or from the ISDA website ([www.isda.org](http://www.isda.org)). A sample form of Confirmation for use with the Definitions is referenced as Exhibit A to the Definitions and will be made available on the ISDA website.

The Definitions are an update of the 2003 ISDA Credit Derivatives Definitions as supplemented by the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions, published by ISDA on July 14, 2009. The Definitions provide the basic framework for the documentation of certain credit derivative transactions. For ease of use, certain sections of the Definitions provide fallback provisions that will apply to a transaction if the parties do not specify otherwise in the Confirmation.

As in the case of other product-specific definitions published by ISDA, parties using the Definitions to document credit derivative transactions may adapt or supplement the standard provisions set out in the Definitions in accordance with the specific economic terms agreed between the parties to the relevant transaction.

The Definitions are intended to operate on a free-standing basis and therefore, for most transactions, there is no need to incorporate any other ISDA definitions booklets (such as the 2006 ISDA Definitions) into the Confirmation of a credit derivative transaction.

ISDA has provided the Definitions to assist the safe and efficient functioning of the credit derivatives market by providing a common set of terms for parties to use in preparing Confirmations for credit derivative transactions. *However, the precise documentation of each individual transaction remains the responsibility of the parties concerned. ISDA assumes no responsibility for any use to which the Definitions may be put, including, without limitation, any use of the Definitions in connection with any credit derivative transaction. Each party to a transaction evidenced by a Confirmation referring to or incorporating the Definitions must satisfy itself that the Definitions are appropriate for the transaction, have been properly used and/or adapted in the Confirmation for the transaction and that the Confirmation has generally been properly drafted, in each case, to reflect the commercial intentions of the parties.*

This introduction is not part of the Definitions and is not offered as an interpretation of the Definitions. The notices referred to in the Definitions are not required to be in the forms set forth in the Exhibits which will be made available on the ISDA website.

## **2014 ISDA CREDIT DERIVATIVES DEFINITIONS**

Any or all of the following definitions and provisions may be incorporated into a document by wording in the document indicating that, or the extent to which, the document is subject to the 2014 ISDA Credit Derivatives Definitions, as published by the International Swaps and Derivatives Association, Inc. (the "Definitions"). All definitions and provisions so incorporated in a document will be applicable to that document unless otherwise provided in that document, and all terms defined in the Definitions and used in any definition or provision that is incorporated by reference in a document will have the respective meanings set forth in the Definitions unless otherwise provided in that document. The definitions of currencies shall have the meanings given to those terms in the 2006 ISDA Definitions. Any term used in a document will, when combined with the name of a party, have meaning in respect of the named party only.

### **ARTICLE I CERTAIN GENERAL DEFINITIONS**

**Section 1.1. Credit Derivative Transaction.** "Credit Derivative Transaction" means any transaction that is identified in the related Confirmation as a Credit Derivative Transaction or any transaction that incorporates the Definitions.

**Section 1.2. Confirmation.** "Confirmation" means, with respect to a Credit Derivative Transaction, one or more documents and other confirming evidence exchanged between the parties or otherwise effective which, taken together, confirm or evidence all of the terms of that Credit Derivative Transaction.

**Section 1.3. Buyer.** "Buyer" means the Fixed Rate Payer.

**Section 1.4. Seller.** "Seller" means the Floating Rate Payer.

**Section 1.5. Calculation Agent.** "Calculation Agent" means the party to a Credit Derivative Transaction (or a third party) specified as such in the related Confirmation (or, if a person is not so specified, Seller) who is responsible for making the determinations required to be made by the Calculation Agent under the Credit Derivative Transaction in accordance with the terms of the related Confirmation. Whenever the Calculation Agent is required to act or to exercise judgment, it will do so in good faith and in a commercially reasonable manner. The Calculation Agent shall, as soon as practicable after making any of the required determinations, notify the parties of such determination. Furthermore, each party agrees that the Calculation Agent is not acting as a fiduciary for or as an advisor to such party in respect of its duties as Calculation Agent in connection with any Credit Derivative Transaction.

**Section 1.6. Credit Derivatives Determinations Committee.** "Credit Derivatives Determinations Committee" means each committee established pursuant to the DC Rules for purposes of reaching certain DC Resolutions in connection with Credit Derivative Transactions.

**Section 1.7. DC Rules.** "DC Rules" means the Credit Derivatives Determinations Committees Rules, as published by ISDA on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto) from time to time and as amended from time to time in accordance with the terms thereof.

**Section 1.8. ISDA.** "ISDA" means the International Swaps and Derivatives Association, Inc.

**Section 1.9. DC Secretary.** "DC Secretary" has the meaning given to that term in the DC Rules.

**Section 1.10. DC Party.** "DC Party" has the meaning given to that term in the DC Rules.

**Section 1.11. Resolve.** "Resolve" has the meaning given to that term in the DC Rules, and "Resolved" and "Resolves" shall be construed accordingly.

**Section 1.12. DC Resolution.** "DC Resolution" has the meaning given to that term in the DC Rules.

**Section 1.13. Trade Date.** "Trade Date" means the date on which the parties enter into the Credit Derivative Transaction, as specified in the related Confirmation.

**Section 1.14. Scheduled Termination Date.** "Scheduled Termination Date" means the date specified as such in the related Confirmation. The Scheduled Termination Date shall not be subject to adjustment in accordance with any Business Day Convention.

**Section 1.15. Termination Date.** "Termination Date" means either:

- (a) the date as determined in accordance with Section 2.12 (*Reference Obligation Only Trade*), 5.1 (*Settlement*), 6.3 (*Auction Settlement Date*), 7.2 (*Cash Settlement Date*), 8.17 (*Physical Settlement Date*), 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*), 9.6(b) (*Partial Cash Settlement Terms*), 9.10 (*Cap on Settlement*), or 11.2(c)(ii) (*Additional Representations and Agreements for Physical Settlement*), as applicable; or
- (b) if none of such Sections is applicable, the later of the final day of (i) the Notice Delivery Period and (ii) the Post Dismissal Additional Period, if any.

Upon the occurrence of a Termination Date, the parties will have no further obligations towards each other in respect of the Credit Derivative Transaction, other than in respect of obligations which have become due on or prior to the Termination Date but have yet to be performed.

**Section 1.16. Event Determination Date.** "Event Determination Date" means, with respect to a Credit Event and a Credit Derivative Transaction with respect to which:

- (a) "Auction Settlement" is the applicable Settlement Method and "Buyer or Seller" is the Notifying Party:
  - (i) subject to Section 1.16(a)(ii), the Notice Delivery Date, if the Notice Delivery Date occurs during either the Notice Delivery Period or the Post Dismissal Additional Period, provided that neither (A) a DC Credit Event Announcement has occurred nor (B) a DC No Credit Event Announcement has occurred, in each case, with respect to the Credit Event specified in the Credit Event Notice; or
  - (ii) notwithstanding Section 1.16(a)(i), the Credit Event Resolution Request Date, if a DC Credit Event Announcement has occurred, the Credit Event Resolution Request Date has occurred on or prior to the last day of the Notice Delivery Period (including prior to the Trade Date) and either:
    - (A) (I) the Credit Event is not an M(M)R Restructuring; and
    - (II) the Trade Date occurs on or prior to a DC Announcement Coverage Cut-off Date; or
    - (B) (I) the Credit Event is an M(M)R Restructuring; and
    - (II) a Credit Event Notice is delivered by a Notifying Party to the other party and is effective on or prior to the Exercise Cut-off Date,

provided that:

- (x) no Physical Settlement Date, if applicable, or Termination Date has occurred on or prior to the date on which the DC Credit Event Meeting Announcement occurs;
- (y) if any Valuation Date or Delivery Date, as applicable, has occurred on or prior to the date on which the DC Credit Event Meeting Announcement occurs, an Event

Determination Date shall be deemed to have occurred only with respect to the portion of the Floating Rate Payer Calculation Amount, if any, with respect to which no Valuation Date or Delivery Date, as applicable, has occurred; and

- (z) no Credit Event Notice specifying an M(M)R Restructuring as the only Credit Event has previously been delivered to Seller by Buyer as Notifying Party, (aa) unless the M(M)R Restructuring specified in such Credit Event Notice is also the subject of the DC Credit Event Question resulting in the occurrence of the Credit Event Resolution Request Date, (bb) unless, and to the extent that, the Exercise Amount specified in such Credit Event Notice was less than the Floating Rate Payer Calculation Amount, or (cc) unless the Credit Derivative Transaction is an Auction Covered Transaction and the Deliverable Obligations set out on the Final List are identical to the Permissible Deliverable Obligations for such Credit Derivative Transaction, or
- (b) Section 1.16(a) does not apply, the Non-Standard Event Determination Date determined in accordance with Section 14.1 (*Non-Standard Event Determination Date*).

**Section 1.17. DC Announcement Coverage Cut-off Date.** "DC Announcement Coverage Cut-off Date" means, with respect to a DC Credit Event Announcement, the Auction Final Price Determination Date, the Auction Cancellation Date, or the date that is fourteen calendar days following the No Auction Announcement Date, if any, as applicable.

**Section 1.18. Different Event Determination Dates.** If different Event Determination Dates have been determined with respect to different portions of the Floating Rate Payer Calculation Amount or an Event Determination Date has been determined with respect to only a portion of the Floating Rate Payer Calculation Amount, the rights and obligations of the parties shall, with effect from each such Event Determination Date, be construed as if the parties had entered into a separate Credit Derivative Transaction with respect to each such portion with such modifications as the Calculation Agent (in consultation with the parties) shall determine are required in order to preserve the economic effects of the two Credit Derivative Transactions considered in aggregate.

**Section 1.19. No Event Determination Date.** Subject to Section 10.2(a)(i)(III) (*Effect of DC Resolutions*), no Event Determination Date will occur with respect to an event, and any Event Determination Date previously determined with respect to an event shall be deemed not to have occurred, if, or to the extent that, prior to the Auction Final Price Determination Date, a Valuation Date, the Physical Settlement Date (or, if earlier, a Delivery Date), or the Termination Date, as applicable, a DC No Credit Event Announcement occurs with respect to such event.

**Section 1.20. Adjustment Payments.** If, in accordance with Section 1.16 (*Event Determination Date*) or 1.19 (*No Event Determination Date*), (a) following the determination of an Event Determination Date, such Event Determination Date is deemed either to have occurred on a date that is different from the date that was originally determined to be the Event Determination Date or not to have occurred, or (b) an Event Determination Date is deemed to have occurred prior to a preceding Fixed Rate Payer Payment Date, the Calculation Agent will determine (i) the adjustment payment, if any, that is payable to reflect any change that may be necessary to the Fixed Amounts previously calculated and/or paid in respect of the Credit Derivative Transaction, (ii) the date on which any such adjustment payment is payable and (iii) the party to the Credit Derivative Transaction that is obliged to make any such adjustment payment. For the avoidance of doubt, no accruals of interest shall be taken into account when calculating any such adjustment payment.

**Section 1.21. Notifying Party.** "Notifying Party" means "Buyer or Seller", unless otherwise specified in the related Confirmation.

**Section 1.22. Notice Delivery Date.** "Notice Delivery Date" means the first date on which both an effective Credit Event Notice and, unless "Notice of Publicly Available Information" is specified as not applicable in

the related Confirmation, an effective Notice of Publicly Available Information, have been delivered by a Notifying Party to the other party.

**Section 1.23. Notice Delivery Period.** "Notice Delivery Period" means the period from and including the Trade Date to and including the date that is fourteen calendar days after the Extension Date.

**Section 1.24. Post Dismissal Additional Period.** "Post Dismissal Additional Period" means the period from and including the date of the DC Credit Event Question Dismissal to and including the date that is fourteen calendar days thereafter (provided that the relevant Credit Event Resolution Request Date occurred on or prior to the end of the last day of the Notice Delivery Period (including prior to the Trade Date)).

**Section 1.25. DC Credit Event Meeting Announcement.** "DC Credit Event Meeting Announcement" means, with respect to the Reference Entity, a public announcement by the DC Secretary that a Credit Derivatives Determinations Committee will be convened to Resolve the matters described in a DC Credit Event Question.

**Section 1.26. DC Credit Event Question.** "DC Credit Event Question" means a notice to the DC Secretary requesting that a Credit Derivatives Determinations Committee be convened to Resolve whether an event that constitutes a Credit Event for purposes of the Credit Derivative Transaction has occurred.

**Section 1.27. DC Credit Event Question Dismissal.** "DC Credit Event Question Dismissal" means, with respect to the Reference Entity, a public announcement by the DC Secretary that the relevant Credit Derivatives Determinations Committee has Resolved not to determine the matters described in a DC Credit Event Question.

**Section 1.28. DC Credit Event Announcement.** "DC Credit Event Announcement" means, with respect to the Reference Entity, a public announcement by the DC Secretary that the relevant Credit Derivatives Determinations Committee has Resolved that an event that constitutes a Credit Event for purposes of the Credit Derivative Transaction has occurred on or after the Credit Event Backstop Date and on or prior to the Extension Date, provided that if the Credit Event occurred after the Scheduled Termination Date, the DC Credit Event Announcement must relate to the relevant Potential Failure to Pay, in the case of a Grace Period Extension Date, or the relevant Potential Repudiation/Moratorium, in the case of a Repudiation/Moratorium Evaluation Date.

**Section 1.29. DC No Credit Event Announcement.** "DC No Credit Event Announcement" means, with respect to the Reference Entity, a public announcement by the DC Secretary that the relevant Credit Derivatives Determinations Committee has Resolved that an event that is the subject of a DC Credit Event Question does not constitute a Credit Event for purposes of the Credit Derivative Transaction.

**Section 1.30. Credit Event Resolution Request Date.** "Credit Event Resolution Request Date" means, with respect to a DC Credit Event Question, the date as publicly announced by the DC Secretary that the relevant Credit Derivatives Determinations Committee Resolves to be the date on which the DC Credit Event Question was effective and on which the relevant Credit Derivatives Determinations Committee was in possession of Publicly Available Information with respect to such DC Credit Event Question.

**Section 1.31. M(M)R Restructuring.** "M(M)R Restructuring" means a Restructuring Credit Event in respect of which either "Mod R" or "Mod Mod R" is specified as applicable in the related Confirmation.

**Section 1.32. Credit Event Notice.** "Credit Event Notice" means an irrevocable notice from a Notifying Party to the other party that describes a Credit Event that occurred on or after the Credit Event Backstop Date and on or prior to the Extension Date.

Any Credit Event Notice that describes a Credit Event that occurred after the Scheduled Termination Date must relate to the relevant Potential Failure to Pay, in the case of a Grace Period Extension Date, or the relevant Potential Repudiation/Moratorium, in the case of a Repudiation/Moratorium Evaluation Date.

A Credit Event Notice that describes a Credit Event other than an M(M)R Restructuring must be in respect of the full Floating Rate Payer Calculation Amount.

A Credit Event Notice must contain a description in reasonable detail of the facts relevant to the determination that a Credit Event has occurred. The Credit Event that is the subject of the Credit Event Notice need not be continuing on the date the Credit Event Notice is effective.

A form of Credit Event Notice is set forth in Exhibit B.

**Section 1.33. Credit Event Notice after M(M)R Restructuring.** Upon the occurrence of an M(M)R Restructuring:

- (a) a Notifying Party may deliver multiple Credit Event Notices with respect to such M(M)R Restructuring, each such Credit Event Notice setting forth the amount of the Floating Rate Payer Calculation Amount to which such Credit Event Notice applies (the "Exercise Amount"), provided that if the Credit Event Notice does not specify an Exercise Amount, the full Floating Rate Payer Calculation Amount will be deemed to have been specified as the Exercise Amount;
- (b) if the Notifying Party has delivered a Credit Event Notice that specifies an Exercise Amount that is less than the Floating Rate Payer Calculation Amount, the rights and obligations of the parties shall, with effect from the date such Credit Event Notice is effective, be construed as if the parties had entered into two Credit Derivative Transactions, one of which has a Floating Rate Payer Calculation Amount equal to the Exercise Amount and, upon the occurrence of an Event Determination Date, will be settled in accordance with the applicable Settlement Method or Fallback Settlement Method, as applicable, and the other of which will have a Floating Rate Payer Calculation Amount equal to the Floating Rate Payer Calculation Amount outstanding prior to such Credit Event Notice minus the Exercise Amount and will continue in effect with such modifications as the Calculation Agent (in consultation with the parties) shall determine are required in order to preserve the economic effects of the two Credit Derivative Transactions (considered in aggregate); and
- (c) the Exercise Amount in connection with a Credit Event Notice describing an M(M)R Restructuring must be an amount that is at least 1,000,000 units of the currency (or, if Japanese Yen, 100,000,000 units) in which the Floating Rate Payer Calculation Amount is denominated and an integral multiple thereof or the entire Floating Rate Payer Calculation Amount.

**Section 1.34. Notice of Publicly Available Information.** "Notice of Publicly Available Information" means an irrevocable notice from the Notifying Party to the other party that cites Publicly Available Information confirming the occurrence of the Credit Event or Potential Repudiation/Moratorium, as applicable, described in the Credit Event Notice or Repudiation/Moratorium Extension Notice. The notice given must contain a copy, or a description in reasonable detail, of the relevant Publicly Available Information. If "Notice of Publicly Available Information" is applicable to a Credit Derivative Transaction and the Credit Event Notice or Repudiation/Moratorium Extension Notice, as applicable, contains Publicly Available Information, such Credit Event Notice or Repudiation/Moratorium Extension Notice will also be deemed to be a Notice of Publicly Available Information.

A form of Notice of Publicly Available Information (which may be a part of the form of Credit Event Notice or Repudiation/Moratorium Extension Notice) is set forth in Exhibits B and D.

**Section 1.35. Publicly Available Information.**

- (a) "Publicly Available Information" means information that reasonably confirms any of the facts relevant to the determination that the Credit Event or Potential Repudiation/Moratorium, as applicable, described in a Credit Event Notice or Repudiation/Moratorium Extension Notice have occurred and which:

- (i) has been published in or on not less than the Specified Number of Public Sources (regardless of whether the reader or user thereof pays a fee to obtain such information);
- (ii) is information received from or published by (A) the Reference Entity (or, if the Reference Entity is a Sovereign, any agency, instrumentality, ministry, department or other authority thereof acting in a governmental capacity (including, without limiting the foregoing, the central bank) of such Sovereign), or (B) a trustee, fiscal agent, administrative agent, clearing agent, paying agent, facility agent or agent bank for an Obligation; or
- (iii) is information contained in any order, decree, notice, petition or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body,

provided that where any information of the type described in Sections 1.35(a)(ii) or (iii) is not publicly available, it can only constitute Publicly Available Information if it can be made public without violating any law, agreement, understanding or other restriction regarding the confidentiality of such information.

- (b) In relation to any information of the type described in Sections 1.35(a)(ii) or (iii), the party receiving such information may assume that such information has been disclosed to it without violating any law, agreement, understanding or other restriction regarding the confidentiality of such information and that the party delivering such information has not taken any action or entered into any agreement or understanding with the Reference Entity or any Affiliate of the Reference Entity that would be breached by, or would prevent, the disclosure of such information to the party receiving such information.
- (c) Without limitation, Publicly Available Information need not state (i) in relation to Section 3.28 (*Downstream Affiliate*), the percentage of Voting Shares owned by the Reference Entity and (ii) that the relevant occurrence (A) has met the Payment Requirement or Default Requirement, (B) is the result of exceeding any applicable Grace Period, or (C) has met the subjective criteria specified in certain Credit Events.
- (d) In relation to a Repudiation/Moratorium Credit Event, Publicly Available Information must relate to the events described in both Sections 4.6(a)(i) and (ii) (*Repudiation/Moratorium*).

**Section 1.36. Public Source.** "Public Source" means each source of Publicly Available Information specified as such in the related Confirmation (or, if no such source is specified, each of Bloomberg, Reuters, Dow Jones Newswires, The Wall Street Journal, The New York Times, Nihon Keizai Shimbun, Asahi Shimbun, Yomiuri Shimbun, Financial Times, La Tribune, Les Echos, The Australian Financial Review and Debtwire (and successor publications), the main source(s) of business news in the country in which the Reference Entity is organized and any other internationally recognized published or electronically displayed news sources).

**Section 1.37. Specified Number.** "Specified Number" means the number of Public Sources specified in the related Confirmation (or, if no such number is specified, two).

**Section 1.38. Requirements Regarding Notices.**

- (a) Any notice or other communication given by one party to any other party must be in writing (including by facsimile or email) or by telephone, and will be subject to the requirements set forth in Section 1.38.
- (b) A notice delivered on or prior to 4:00 p.m. (Calculation Agent City time) on a Calculation Agent City Business Day will be effective on such Calculation Agent City Business Day. A notice delivered after 4:00 p.m. (Calculation Agent City time) on a Calculation Agent City Business Day

will be deemed effective on the next following Calculation Agent City Business Day, regardless of the form in which it is delivered.

- (c) For purposes of Section 1.38(b), a notice given by telephone will be deemed to have been delivered at the time the telephone conversation takes place. If the notice is delivered by telephone, a written confirmation of such notice will be executed and delivered confirming the substance of such notice within one Calculation Agent City Business Day of such notice. Failure to provide a written confirmation shall not affect the effectiveness of a notice given by telephone.
- (d) If the Calculation Agent is not a party to the Credit Derivative Transaction, any notice required to be delivered by a party to the other party shall also be delivered to the Calculation Agent. Failure to deliver a notice to the Calculation Agent in such circumstances shall not affect the effectiveness of a notice delivered to the other party.

**Section 1.39. Credit Event Backstop Date.** "Credit Event Backstop Date" means (a) for purposes of any event that constitutes a Credit Event for purposes of the Credit Derivative Transaction (or with respect to a Repudiation/Moratorium, if applicable, the event described in Section 4.6(a)(ii) (*Repudiation/Moratorium*)), as determined by DC Resolution, the date that is sixty calendar days prior to the Credit Event Resolution Request Date, or (b) otherwise, the date that is sixty calendar days prior to the earlier of (i) the Notice Delivery Date, if the Notice Delivery Date occurs during the Notice Delivery Period and (ii) the Credit Event Resolution Request Date, if the Notice Delivery Date occurs during the Post Dismissal Additional Period. The Credit Event Backstop Date shall not be subject to adjustment in accordance with any Business Day Convention.

**Section 1.40. Extension Date.** "Extension Date" means the latest of (a) the Scheduled Termination Date, (b) the Grace Period Extension Date if (i) "Failure to Pay" and "Grace Period Extension" are specified as applicable in the related Confirmation and (ii) the Potential Failure to Pay with respect to the relevant Failure to Pay occurs on or prior to the Scheduled Termination Date and (c) the Repudiation/Moratorium Evaluation Date (if any) if "Repudiation/Moratorium" is specified as applicable in the related Confirmation, as applicable.

**Section 1.41. Exercise Cut-off Date.** "Exercise Cut-off Date" means either:

- (a) with respect to an M(M)R Restructuring and a Credit Derivative Transaction to which Section 1.16(a) (*Event Determination Date*) applies:
  - (i) if the DC Secretary publishes a Final List applicable to the Transaction Auction Settlement Terms and/or Parallel Auction Settlement Terms, the date that is (A) two Relevant City Business Days, if the Credit Event Notice is delivered by Seller, or (B) five Relevant City Business Days, if the Credit Event Notice is delivered by Buyer, in each case following the date on which such Final List is published; provided that if Seller delivers a Credit Event Notice on or prior to the Exercise Cut-off Date applicable to Seller and Buyer delivers a Credit Event Notice on or prior to the Exercise Cut-off Date applicable to Buyer, the Credit Event Notice delivered by Seller on or prior to the Exercise Cut-off Date applicable to Seller shall prevail; or
  - (ii) otherwise, the date that is fourteen calendar days following the relevant No Auction Announcement Date; or
- (b) with respect to a Credit Event and a Credit Derivative Transaction to which Section 1.16(a) (*Event Determination Date*) does not apply, the Non-Standard Exercise Cut-off Date determined in accordance with Section 14.2 (*Non-Standard Exercise Cut-off Date*);

or, in each case, such other date as the relevant Credit Derivatives Determinations Committee Resolves.



**Section 1.42. Relevant City Business Day.** "Relevant City Business Day" has the meaning given to that term in the DC Rules.

**Section 1.43. Calculation Agent City.** "Calculation Agent City" means the city specified as such in the related Confirmation or, if a city is not so specified, the city in which the office through which the Calculation Agent is acting for purposes of the Credit Derivative Transaction is located.

**Section 1.44. Calculation Agent City Business Day.** "Calculation Agent City Business Day" means a day on which commercial banks and foreign exchange markets are generally open to settle payments in the Calculation Agent City.

**Section 1.45. Grace Period Extension Date.** "Grace Period Extension Date" means, if (a) "Grace Period Extension" is specified as applicable in the related Confirmation and (b) a Potential Failure to Pay occurs on or prior to the Scheduled Termination Date, the date that is the number of days in the Grace Period after the date of such Potential Failure to Pay. If "Grace Period Extension" is not specified as applicable in the related Confirmation, Grace Period Extension shall not apply to the relevant Credit Derivative Transaction.

**Section 1.46. Grace Period.** "Grace Period" means:

- (a) subject to Sections 1.46(b) and (c), the applicable grace period with respect to payments under and in accordance with the terms of such Obligation in effect as of the date as of which such Obligation is issued or incurred;
- (b) if "Grace Period Extension" is specified as applicable in the related Confirmation, a Potential Failure to Pay has occurred on or prior to the Scheduled Termination Date and the applicable grace period cannot, by its terms, expire on or prior to the Scheduled Termination Date, the Grace Period will be deemed to be the lesser of such grace period and the period specified as such in the related Confirmation or, if no period is specified, thirty calendar days; and
- (c) if, as of the date as of which an Obligation is issued or incurred, no grace period with respect to payments or a grace period with respect to payments of less than three Grace Period Business Days is applicable under the terms of such Obligation, a Grace Period of three Grace Period Business Days shall be deemed to apply to such Obligation; provided that, unless "Grace Period Extension" is specified as applicable in the related Confirmation, such deemed Grace Period shall expire no later than the Scheduled Termination Date.

**Section 1.47. Grace Period Business Day.** "Grace Period Business Day" means a day on which commercial banks and foreign exchange markets are generally open to settle payments in the place or places and on the days specified for that purpose in the relevant Obligation or, if a place or places are not so specified, (a) if the Obligation Currency is the euro, a TARGET Settlement Day, or (b) otherwise, a day on which commercial banks and foreign exchange markets are generally open to settle payments in the principal financial city in the jurisdiction of the Obligation Currency.

**Section 1.48. Potential Failure to Pay.** "Potential Failure to Pay" means the failure by the Reference Entity to make, when and where due, any payments in an aggregate amount of not less than the Payment Requirement under one or more Obligations in accordance with the terms of such Obligations at the time of such failure, without regard to any grace period or any conditions precedent to the commencement of any grace period applicable to such Obligations.

**Section 1.49. Provisions Relating to Timing.** Subject to Sections 1.38 (*Requirements Regarding Notices*) and 1.50 (*Payment Timing*), in order to determine the day on which an event occurs for purposes of the Definitions, the demarcation of days shall be made by reference to Greenwich Mean Time (or, if the Transaction Type of the Reference Entity relates to Japan, Tokyo time), irrespective of the time zone in which such event occurred. Any event occurring at midnight shall be deemed to have occurred immediately prior to midnight.

**Section 1.50. Payment Timing.** Notwithstanding Sections 1.32 (*Credit Event Notice*) and 1.49 (*Provisions Relating to Timing*), if a payment is not made by the Reference Entity on its due date or, as the case may be, on the final day of the relevant Grace Period, then such failure to make a payment shall be deemed to have occurred on such day prior to midnight Greenwich Mean Time (or, if the Transaction Type of the Reference Entity relates to Japan, Tokyo time), irrespective of the time zone of its place of payment.

**Section 1.51. Business Day.** "Business Day" means (a)(i) a day on which commercial banks and foreign exchange markets are generally open to settle payments in the place or places and on the days specified for that purpose in the relevant Confirmation, and/or (ii) a TARGET Settlement Day (if "TARGET" or "TARGET Settlement Day" is specified in the related Confirmation), or (b) if a place or places or such terms are not so specified, (i) if the Floating Rate Payer Calculation Amount is denominated in the euro, a TARGET Settlement Day, or (ii) otherwise, a day on which commercial banks and foreign exchange markets are generally open to settle payments in the principal financial city in the jurisdiction of the currency of denomination of the Floating Rate Payer Calculation Amount.

**Section 1.52. TARGET Settlement Day.** "TARGET Settlement Day" means any day on which TARGET2 (the Trans-European Automated Real-time Gross settlement Express Transfer system) is open.

**Section 1.53. Business Day Convention.**

- (a) "Business Day Convention" means the convention for adjusting any relevant date if it would otherwise fall on a day that is not a Business Day. The following terms, when used in conjunction with the term "Business Day Convention" and a date, shall mean that an adjustment will be made if that date would otherwise fall on a day that is not a Business Day so that:
  - (i) if "Following" is specified as applicable in the related Confirmation, that date will be the first following day that is a Business Day;
  - (ii) if "Modified Following" or "Modified" is specified as applicable in the related Confirmation, that date will be the first following day that is a Business Day unless that day falls in the next calendar month, in which case that date will be the first preceding day that is a Business Day; and
  - (iii) if "Preceding" is specified as applicable in the related Confirmation, that date will be the first preceding day that is a Business Day.
- (b) Subject to Sections 1.14 (*Scheduled Termination Date*), 1.39 (*Credit Event Backstop Date*), 2.2(k) (*Provisions for Determining a Successor*), 3.33(a) (*General Terms Relating to Mod R and Mod Mod R*) and 12.10 (*Effective Date*), the Business Day Convention applicable to a date that is specified in the relevant Confirmation to be subject to adjustment in accordance with an applicable Business Day Convention shall be the Business Day Convention specified for that date in that Confirmation or, if a Business Day Convention is not so specified for that date but a Business Day Convention is generally otherwise specified in that Confirmation, the Business Day Convention shall be the Business Day Convention so specified in such Confirmation and, if a Business Day Convention is not specified for that date or generally in that Confirmation, the Following Business Day Convention shall apply to that date.
- (c) If the last day of any period calculated by reference to calendar days falls on a day that is not a Business Day, such last day shall be subject to adjustment in accordance with the applicable Business Day Convention; provided that if the last day of any period is the Credit Event Backstop Date or the Successor Backstop Date, such last day shall not be subject to any adjustment in accordance with any Business Day Convention.

**Section 1.54. Final List.** "Final List" has the meaning given to that term in the DC Rules.

**Section 1.55. 2002 ISDA Master Agreement.** The terms "Additional Termination Event", "Affected Party", "Affected Transaction", "Affiliate", "Close-out Amount", "Stamp Tax" and "Tax" shall have the meanings given to those terms in the standard form 2002 ISDA Master Agreement (the "2002 ISDA Master Agreement").

**ARTICLE II**  
**TERMS RELATING TO THE REFERENCE ENTITY AND THE REFERENCE OBLIGATION**

**Section 2.1. Reference Entity.** "Reference Entity" means the entity specified as such in the related Confirmation. Any Successor to the Reference Entity either (a) identified by the Calculation Agent pursuant to Section 2.2 (*Provisions for Determining a Successor*) on or following the Trade Date, or (b) identified pursuant to a DC Resolution in respect of a Successor Resolution Request Date and publicly announced by the DC Secretary on or following the Trade Date shall, in each case, with effect from the Succession Date, be the Reference Entity for the relevant Credit Derivative Transaction or a New Credit Derivative Transaction (as determined pursuant to such Section 2.2 (*Provisions for Determining a Successor*)).

**Section 2.2. Provisions for Determining a Successor.**

- (a) "Successor" means, subject to Section 2.2(c), the entity or entities, if any, determined as follows:
- (i) subject to Section 2.2(a)(vii), if one entity succeeds, either directly or as a provider of a Relevant Guarantee, to seventy-five per cent or more of the Relevant Obligations of the Reference Entity, that entity will be the sole Successor for the entire Credit Derivative Transaction;
  - (ii) if only one entity succeeds, either directly or as a provider of a Relevant Guarantee, to more than twenty-five per cent (but less than seventy-five per cent) of the Relevant Obligations of the Reference Entity, and not more than twenty-five per cent of the Relevant Obligations of the Reference Entity remain with the Reference Entity, the entity that succeeds to more than twenty-five per cent of the Relevant Obligations will be the sole Successor for the entire Credit Derivative Transaction;
  - (iii) if more than one entity each succeeds, either directly or as a provider of a Relevant Guarantee, to more than twenty-five per cent of the Relevant Obligations of the Reference Entity, and not more than twenty-five per cent of the Relevant Obligations of the Reference Entity remain with the Reference Entity, the entities that succeed to more than twenty-five per cent of the Relevant Obligations will each be a Successor for a New Credit Derivative Transaction determined in accordance with Section 2.2(n);
  - (iv) if one or more entities each succeeds, either directly or as a provider of a Relevant Guarantee, to more than twenty-five per cent of the Relevant Obligations of the Reference Entity, and more than twenty-five per cent of the Relevant Obligations of the Reference Entity remain with the Reference Entity, each such entity and the Reference Entity will each be a Successor for a New Credit Derivative Transaction determined in accordance with Section 2.2(n);
  - (v) if one or more entities succeed, either directly or as a provider of a Relevant Guarantee, to a portion of the Relevant Obligations of the Reference Entity, but no entity succeeds to more than twenty-five per cent of the Relevant Obligations of the Reference Entity and the Reference Entity continues to exist, there will be no Successor and the Reference Entity and the Credit Derivative Transaction will not be changed in any way as a result of such succession;
  - (vi) if one or more entities succeed, either directly or as a provider of a Relevant Guarantee, to a portion of the Relevant Obligations of the Reference Entity, but no entity succeeds to more than twenty-five per cent of the Relevant Obligations of the Reference Entity and the Reference Entity ceases to exist, the entity which succeeds to the greatest percentage of Relevant Obligations will be the Successor (provided that if two or more entities succeed to

an equal percentage of Relevant Obligations, each such entity will be a Successor for a New Credit Derivative Transaction determined in accordance with Section 2.2(n)); and

- (vii) in respect of a Reference Entity which is not a Sovereign, if one entity assumes all of the obligations (including at least one Relevant Obligation) of the Reference Entity, and at the time of the determination either (A) the Reference Entity has ceased to exist, or (B) the Reference Entity is in the process of being dissolved (howsoever described) and the Reference Entity has not issued or incurred any Borrowed Money obligation at any time since the legally effective date of the assumption, such entity (the "Universal Successor") will be the sole Successor for the entire Credit Derivative Transaction.
- (b) The Calculation Agent will be responsible for determining, as soon as reasonably practicable after delivery of a Successor Notice and with effect from the Succession Date, any Successor or Successors under Section 2.2(a); provided that the Calculation Agent will not make such determination if, at the time of determination, the DC Secretary has publicly announced that the relevant Credit Derivatives Determinations Committee has Resolved that there is no Successor based on the relevant succession to Relevant Obligations.

The Calculation Agent will make all calculations and determinations required to be made under Section 2.2 on the basis of Eligible Information and will notify the parties of any such calculation or determination as soon as practicable.

In calculating the percentages used to determine whether an entity qualifies as a Successor under Section 2.2(a), if there is a Steps Plan, the Calculation Agent shall consider all related successions in respect of such Steps Plan in aggregate as if forming part of a single succession.

- (c) An entity may only be a Successor if:
  - (i) either (A) the related Succession Date occurs on or after the Successor Backstop Date, or (B) such entity is a Universal Successor in respect of which the Succession Date occurred on or after January 1, 2014;
  - (ii) the Reference Entity had at least one Relevant Obligation outstanding immediately prior to the Succession Date and such entity succeeds to all or part of at least one Relevant Obligation of the Reference Entity; and
  - (iii) where the Reference Entity is a Sovereign, such entity succeeded to the Relevant Obligations by way of a Sovereign Succession Event.
- (d) For purposes of Section 2.2, "succeed" means, with respect to the Reference Entity and its Relevant Obligations, that an entity other than the Reference Entity (i) assumes or becomes liable for such Relevant Obligations whether by operation of law or pursuant to any agreement (including, with respect to a Reference Entity that is a Sovereign, any protocol, treaty, convention, accord, concord, entente, pact or other agreement), or (ii) issues Bonds or incurs Loans (the "Exchange Bonds or Loans") that are exchanged for Relevant Obligations, and in either case the Reference Entity is not thereafter a direct obligor or a provider of a Relevant Guarantee with respect to such Relevant Obligations or such Exchange Bonds or Loans, as applicable. For purposes of Section 2.2, "succeeded" and "succession" shall be construed accordingly.
- (e) "Sovereign Succession Event" means, with respect to a Reference Entity that is a Sovereign, an annexation, unification, secession, partition, dissolution, consolidation, reconstitution or other similar event.
- (f) "Relevant Obligations" means the Obligations of the Reference Entity which fall within the Obligation Category "Bond or Loan" and which are outstanding immediately prior to the Succession

Date (or, if there is a Steps Plan, immediately prior to the legally effective date of the first succession), provided that:

- (i) any Bonds or Loans outstanding between the Reference Entity and any of its Affiliates, or held by the Reference Entity, shall be excluded;
  - (ii) if there is a Steps Plan, the Calculation Agent shall, for purposes of the determination required to be made under Section 2.2(a), make the appropriate adjustments required to take account of any Obligations of the Reference Entity which fall within the Obligation Category "Bond or Loan" that are issued, incurred, redeemed, repurchased or cancelled from and including the legally effective date of the first succession to and including the Succession Date;
  - (iii) if "Financial Reference Entity Terms" is specified as applicable in the related Confirmation and the Credit Derivative Transaction is a Senior Transaction, the Relevant Obligations shall only include the Senior Obligations of the Reference Entity which fall within the Obligation Category "Bond or Loan"; and
  - (iv) if "Financial Reference Entity Terms" is specified as applicable in the related Confirmation, and the Credit Derivative Transaction is a Subordinated Transaction, Relevant Obligations shall exclude Senior Obligations and any Further Subordinated Obligations of the Reference Entity which fall within the Obligation Category "Bond or Loan", provided that if no such Relevant Obligations exist, "Relevant Obligations" shall have the same meaning as it would if the Credit Derivative Transaction were a Senior Transaction.
- (g) In the case of an exchange offer, the determination required pursuant to Section 2.2(a) shall be made on the basis of the outstanding principal balance of Relevant Obligations exchanged and not on the basis of the outstanding principal balance of the Exchange Bonds or Loans.
- (h) If two or more entities (each, a "Joint Potential Successor") jointly succeed to a Relevant Obligation (the "Joint Relevant Obligation") either directly or as a provider of a Relevant Guarantee, then (i) if the Joint Relevant Obligation was a direct obligation of the Reference Entity, it shall be treated as having been succeeded to by the Joint Potential Successor (or Joint Potential Successors, in equal parts) which succeeded to such Joint Relevant Obligation as direct obligor or obligors, or (ii) if the Joint Relevant Obligation was a Relevant Guarantee, it shall be treated as having been succeeded to by the Joint Potential Successor (or Joint Potential Successors, in equal parts) which succeeded to such Joint Relevant Obligation as guarantor or guarantors, if any, or otherwise by each Joint Potential Successor in equal parts.
- (i) "Steps Plan" means a plan evidenced by Eligible Information contemplating that there will be a series of successions to some or all of the Relevant Obligations of the Reference Entity, by one or more entities.
- (j) "Succession Date" means the legally effective date of an event in which one or more entities succeed to some or all of the Relevant Obligations of the Reference Entity; provided that if at such time, there is a Steps Plan, the Succession Date will be the legally effective date of the final succession in respect of such Steps Plan, or if earlier (i) the date on which a determination pursuant to Section 2.2(a) would not be affected by any further related successions in respect of such Steps Plan, or (ii) the occurrence of an Event Determination Date in respect of the Reference Entity or any entity which would constitute a Successor.
- (k) "Successor Backstop Date" means for purposes of any Successor determination determined by DC Resolution, the date that is ninety calendar days prior to the Successor Resolution Request Date otherwise, the date that is ninety calendar days prior to the earlier of (i) the date on which the Successor Notice is effective and (ii) in circumstances where (A) a Successor Resolution Request

Date has occurred, (B) the relevant Credit Derivatives Determinations Committee has Resolved not to make a Successor determination and (C) the Successor Notice is delivered by one party to the other party not more than fourteen calendar days after the day on which the DC Secretary publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved not to make a Successor determination, the Successor Resolution Request Date. The Successor Backstop Date shall not be subject to adjustment in accordance with any Business Day Convention.

- (l) "Successor Resolution Request Date" means, with respect to a notice to the DC Secretary requesting that a Credit Derivatives Determinations Committee be convened to Resolve one or more Successors to the Reference Entity, the date, as publicly announced by the DC Secretary, that the relevant Credit Derivatives Determinations Committee Resolves to be the date on which such notice is effective.
- (m) "Successor Notice" means an irrevocable notice from a party to a Credit Derivative Transaction to the other party and the Calculation Agent that describes a succession (or, in relation to a Reference Entity that is a Sovereign, a Sovereign Succession Event) in respect of which a Succession Date has occurred and pursuant to which one or more Successors to the Reference Entity can be determined.

A Successor Notice must contain a description in reasonable detail of the facts relevant to the determination to be made pursuant to Section 2.2(a).

- (n) Where, pursuant to Section 2.2(a)(iii), (iv) or (vi), more than one Successor has been identified, the relevant Credit Derivative Transaction will be divided, with effect from the Succession Date, into the same number of new Credit Derivative Transactions (the "New Credit Derivative Transactions") as there are Successors, with the following terms:
  - (i) each Successor will be the Reference Entity for the purposes of one of the New Credit Derivative Transactions;
  - (ii) in respect of each New Credit Derivative Transaction, the Fixed Rate Payer Calculation Amount, if any, and the Floating Rate Payer Calculation Amount will be the Fixed Rate Payer Calculation Amount and the Floating Rate Payer Calculation Amount, as applicable, of the original Credit Derivative Transaction divided by the number of Successors; and
  - (iii) all other terms and conditions of the original Credit Derivative Transaction will be replicated in each New Credit Derivative Transaction except that the Calculation Agent (in consultation with the parties) shall make such modifications as it determines are required in order to preserve the economic effects of the original Credit Derivative Transaction in the New Credit Derivative Transactions (considered in aggregate).

**Section 2.3. Eligible Information.** "Eligible Information" means information which is publicly available or which can be made public without violating any law, agreement, understanding or other restriction regarding the confidentiality of such information.

**Section 2.4. Sovereign.** "Sovereign" means any state, political subdivision or government, or any agency, instrumentality, ministry, department or other authority acting in a governmental capacity (including, without limiting the foregoing, the central bank) thereof.

**Section 2.5. Reference Obligation.** "Reference Obligation" means the Standard Reference Obligation, if any, unless:

- (a) "Standard Reference Obligation" is specified as not applicable in the related Confirmation, in which case the Reference Obligation will be the Non-Standard Reference Obligation, if any; or
- (b) (i) "Standard Reference Obligation" is specified as applicable in the related Confirmation (or no election is specified in the related Confirmation), (ii) there is no Standard Reference Obligation and

(iii) a Non-Standard Reference Obligation is specified in the related Confirmation, in which case the Reference Obligation will be (A) the Non-Standard Reference Obligation to but excluding the first date of publication of the Standard Reference Obligation and (B) the Standard Reference Obligation from such date onwards, provided that the Standard Reference Obligation that is published would have been eligible to be selected as a Substitute Reference Obligation.

**Section 2.6. Standard Reference Obligation.** "Standard Reference Obligation" means the obligation of the Reference Entity with the relevant Seniority Level which is specified from time to time on the SRO List.

**Section 2.7. Non-Standard Reference Obligation.** "Non-Standard Reference Obligation" means the Original Non-Standard Reference Obligation or if a Substitute Reference Obligation has been determined, the Substitute Reference Obligation.

**Section 2.8. Original Non-Standard Reference Obligation.** "Original Non-Standard Reference Obligation" means the obligation of the Reference Entity (either directly or as provider of a guarantee) which is specified as the Reference Obligation in the related Confirmation (if any is so specified) provided that if an obligation is not an obligation of the Reference Entity, such obligation will not constitute a valid Original Non-Standard Reference Obligation for purposes of the Credit Derivative Transaction (other than for the purposes of determining the Seniority Level and for the "Not Subordinated" Obligation Characteristic or "Not Subordinated" Deliverable Obligation Characteristic) unless (a) the parties express their intention to amend or override this provision in writing in the related Confirmation by referring directly to Section 2.8, or (b) the Credit Derivative Transaction is a Reference Obligation Only Trade.

**Section 2.9. No Standard Reference Obligation.** If the Standard Reference Obligation is removed from the SRO List, such obligation shall cease to be the Reference Obligation (other than for purposes of the "Not Subordinated" Obligation Characteristic or "Not Subordinated" Deliverable Obligation Characteristic) and there shall be no Reference Obligation unless and until such obligation is subsequently replaced on the SRO List, in which case, the new Standard Reference Obligation in respect of the Reference Entity shall constitute the Reference Obligation.

**Section 2.10. Substitute Reference Obligation.** "Substitute Reference Obligation" means, with respect to a Non-Standard Reference Obligation to which a Substitution Event has occurred, the obligation that will replace the Non-Standard Reference Obligation, determined by the Calculation Agent as follows:

- (a) The Calculation Agent shall (after consultation with the parties) identify the Substitute Reference Obligation in accordance with Sections 2.10(c), (d) and (e) to replace the Non-Standard Reference Obligation; provided that the Calculation Agent will not identify an obligation as the Substitute Reference Obligation if, at the time of the determination, such obligation has already been rejected as the Substitute Reference Obligation by the relevant Credit Derivatives Determinations Committee and such obligation has not changed materially since the date of the relevant DC Resolution.
- (b) If any of the events set forth under Sections 2.11(a)(i) or (iii) (*Substitution Event*) have occurred with respect to the Non-Standard Reference Obligation, the Non-Standard Reference Obligation will cease to be the Reference Obligation (other than for purposes of the "Not Subordinated" Obligation Characteristic or "Not Subordinated" Deliverable Obligation Characteristic and Section 2.10(c)(ii)). If the event set forth in Section 2.11(a)(ii) (*Substitution Event*) has occurred with respect to the Non-Standard Reference Obligation and no Substitute Reference Obligation is available, the Non-Standard Reference Obligation will continue to be the Reference Obligation until the Substitute Reference Obligation is identified or, if earlier, until any of the events set forth under Sections 2.11(a)(i) or (a)(iii) (*Substitution Event*) occur with respect to such Non-Standard Reference Obligation.



- (c) The Substitute Reference Obligation shall be an obligation that on the Substitution Date:
- (i) is a Borrowed Money obligation of the Reference Entity (either directly or as provider of a guarantee);
  - (ii) satisfies the Not Subordinated Deliverable Obligation Characteristic as of the date it was issued or incurred (without reflecting any change to the priority of payment after such date) and on the Substitution Date; and
  - (iii)
    - (A) if the Non-Standard Reference Obligation was a Conforming Reference Obligation when issued or incurred and immediately prior to the Substitution Event Date:
      - (I) is a Deliverable Obligation (other than a Loan) determined in accordance with Section 3.2(a) (*Deliverable Obligation*); or if no such obligation is available,
      - (II) is a Loan (other than a Private-side Loan) which constitutes a Deliverable Obligation determined in accordance with Section 3.2(a) (*Deliverable Obligation*);
    - (B) if the Non-Standard Reference Obligation was a Bond (or any other Borrowed Money obligation other than a Loan) which was a Non-Conforming Reference Obligation when issued or incurred and/or immediately prior to the Substitution Event Date:
      - (I) is a Non-Conforming Substitute Reference Obligation (other than a Loan); or if no such obligation is available,
      - (II) is a Deliverable Obligation (other than a Loan) determined in accordance with Section 3.2(a) (*Deliverable Obligation*); or if no such obligation is available,
      - (III) is a Non-Conforming Substitute Reference Obligation which is a Loan (other than a Private-side Loan); or if no such obligation is available,
      - (IV) is a Loan (other than a Private-side Loan) which constitutes a Deliverable Obligation determined in accordance with Section 3.2(a) (*Deliverable Obligation*); or
    - (C) if the Non-Standard Reference Obligation was a Loan which was a Non-Conforming Reference Obligation when incurred and/or immediately prior to the Substitution Event Date:
      - (I) is a Non-Conforming Substitute Reference Obligation which is a Loan (other than a Private-side Loan); or if no such obligation is available,
      - (II) is a Non-Conforming Substitute Reference Obligation (other than a Loan); or if no such obligation is available,
      - (III) is a Deliverable Obligation (other than a Loan) determined in accordance with Section 3.2(a) (*Deliverable Obligation*); or if no such obligation is available,

- (IV) is a Loan (other than a Private-side Loan) which constitutes a Deliverable Obligation determined in accordance with Section 3.2(a) (*Deliverable Obligation*).
- (d) If more than one potential Substitute Reference Obligation is identified pursuant to the process described in Section 2.10(c), the Substitute Reference Obligation will be the potential Substitute Reference Obligation that most closely preserves the economic equivalent of the delivery and payment obligations of the parties to the Credit Derivative Transaction, as determined by the Calculation Agent (after consultation with the parties). The Calculation Agent will notify the parties of the Substitute Reference Obligation as soon as reasonably practicable after it has been identified in accordance with Section 2.10(c) and the Substitute Reference Obligation shall replace the Non-Standard Reference Obligation immediately upon such notification.
- (e) If a Substitution Event has occurred with respect to the Non-Standard Reference Obligation and the Calculation Agent determines (after consultation with the parties) that no Substitute Reference Obligation is available for the Non-Standard Reference Obligation, then, subject to Section 2.10(a) and notwithstanding the fact that the Non-Standard Reference Obligation may have ceased to be the Reference Obligation in accordance with Section 2.10(b), the Calculation Agent shall continue to attempt to identify the Substitute Reference Obligation.

#### **Section 2.11. Substitution Event.**

- (a) "Substitution Event" means, with respect to the Non-Standard Reference Obligation:
  - (i) the Non-Standard Reference Obligation is redeemed in whole;
  - (ii) the aggregate amounts due under the Non-Standard Reference Obligation have been reduced by redemption or otherwise below USD 10,000,000 (or its equivalent in the relevant Obligation Currency, as determined by the Calculation Agent); or
  - (iii) for any reason, other than due to the existence or occurrence of a Credit Event, the Non-Standard Reference Obligation is no longer an obligation of the Reference Entity (either directly or as provider of a guarantee).
- (b) For purposes of identification of the Non-Standard Reference Obligation, any change in the Non-Standard Reference Obligation's CUSIP or ISIN number or other similar identifier will not, in and of itself, constitute a Substitution Event.
- (c) If an event described in Sections 2.11(a)(i) or (ii) has occurred on or prior to the Trade Date, then a Substitution Event shall be deemed to have occurred pursuant to Sections 2.11(a)(i) or (ii), as the case may be, on the Trade Date.

**Section 2.12. Reference Obligation Only Trade.** "Reference Obligation Only Trade" means a Credit Derivative Transaction in respect of which (a) "Reference Obligation Only" is specified as the Obligation Category and the Deliverable Obligation Category in the related Confirmation and (b) "Standard Reference Obligation" is specified as not applicable in the related Confirmation. If the event set out in Section 2.11(a)(i) (*Substitution Event*) occurs with respect to the Reference Obligation in a Reference Obligation Only Trade, the Substitution Event Date shall be the Termination Date.

Notwithstanding Section 2.10 (*Substitute Reference Obligation*) (i) no Substitute Reference Obligation shall be determined in respect of a Reference Obligation Only Trade and (ii) if the events set out in Sections 2.11(a)(ii) or (iii) (*Substitution Event*) occur with respect to the Reference Obligation in a Reference Obligation Only Trade, such Reference Obligation shall continue to be the Reference Obligation.

**Section 2.13. Conforming Reference Obligation.** "Conforming Reference Obligation" means a Reference Obligation which is a Deliverable Obligation determined in accordance with Section 3.2(a) (*Deliverable Obligation*).

**Section 2.14. Non-Conforming Reference Obligation.** "Non-Conforming Reference Obligation" means a Reference Obligation which is not a Conforming Reference Obligation.

**Section 2.15. Non-Conforming Substitute Reference Obligation.** "Non-Conforming Substitute Reference Obligation" means an obligation which would be a Deliverable Obligation determined in accordance with Section 3.2(a) (*Deliverable Obligation*) on the Substitution Date but for one or more of the same reasons which resulted in the Reference Obligation constituting a Non-Conforming Reference Obligation on the date it was issued or incurred and/or immediately prior to the Substitution Event Date (as applicable).

**Section 2.16. Private-side Loan.** "Private-side Loan" means a Loan in respect of which the documentation governing its terms is not publicly available or capable of being made public without violating a law, agreement, understanding or other restriction regarding the confidentiality of such information.

**Section 2.17. Seniority Level.** "Seniority Level" means, with respect to an obligation of the Reference Entity, (a) "Senior Level" or "Subordinated Level" as specified in the related Confirmation, or (b) if no such seniority level is specified in the related Confirmation, "Senior Level" if the Original Non-Standard Reference Obligation is a Senior Obligation or "Subordinated Level" if the Original Non-Standard Reference Obligation is a Subordinated Obligation, failing which (c) "Senior Level".

**Section 2.18. SRO List.** "SRO List" means the list of Standard Reference Obligations as published by ISDA on its website at [www.isda.org](http://www.isda.org) from time to time (or any successor website thereto) or by a third party designated by ISDA on its website from time to time.

**Section 2.19. Substitution Date.** "Substitution Date" means, with respect to a Substitute Reference Obligation, the date on which the Calculation Agent notifies the parties of the Substitute Reference Obligation that it has identified in accordance with Section 2.10 (*Substitute Reference Obligation*).

**Section 2.20. Substitution Event Date.** "Substitution Event Date" means, with respect to the Reference Obligation, the date of the occurrence of the relevant Substitution Event.

**Section 2.21. Substitute Reference Obligation Resolution Request Date.** "Substitute Reference Obligation Resolution Request Date" means, with respect to a notice to the DC Secretary requesting that a Credit Derivatives Determinations Committee be convened to Resolve a Substitute Reference Obligation to the Non-Standard Reference Obligation, the date, as publicly announced by the DC Secretary, that the relevant Credit Derivatives Determinations Committee Resolves to be the date on which such notice is effective.

**Section 2.22. Senior Transaction.** "Senior Transaction" means a Credit Derivative Transaction for which (a) the Reference Obligation or Prior Reference Obligation, as applicable, is a Senior Obligation, or (b) there is no Reference Obligation or Prior Reference Obligation.

**Section 2.23. Senior Obligation.** "Senior Obligation" means any obligation which is not Subordinated to any unsubordinated Borrowed Money obligation of the Reference Entity.

**Section 2.24. Subordinated Transaction.** "Subordinated Transaction" means a Credit Derivative Transaction for which the Reference Obligation or Prior Reference Obligation, as applicable, is a Subordinated Obligation.

**Section 2.25. Subordinated Obligation.** "Subordinated Obligation" means any obligation which is Subordinated to any unsubordinated Borrowed Money obligation of the Reference Entity or which would be so Subordinated if any unsubordinated Borrowed Money obligation of the Reference Entity existed.

**Section 2.26. Further Subordinated Obligation.** "Further Subordinated Obligation" means, if the Reference Obligation or Prior Reference Obligation, as applicable, is a Subordinated Obligation, any obligation which is Subordinated thereto.

**ARTICLE III**  
**TERMS RELATING TO OBLIGATIONS AND DELIVERABLE OBLIGATIONS**

**Section 3.1. Obligation.** "Obligation" means:

- (a) any obligation of the Reference Entity (either directly or as provider of a Relevant Guarantee) determined pursuant to the method described in Section 3.13 (*Method for Determining Obligations*); and
- (b) the Reference Obligation,

in each case, unless it is an Excluded Obligation.

**Section 3.2. Deliverable Obligation.** "Deliverable Obligation" means:

- (a) any obligation of the Reference Entity (either directly or as provider of a Relevant Guarantee) determined pursuant to the method described in Section 3.14 (*Method for Determining Deliverable Obligations*);
- (b) the Reference Obligation;
- (c) solely in relation to a Restructuring Credit Event applicable to a Reference Entity which is a Sovereign, and unless Asset Package Delivery is applicable, any Sovereign Restructured Deliverable Obligation; and
- (d) if Asset Package Delivery is applicable, any Prior Deliverable Obligation (if "Financial Reference Entity Terms" is specified as applicable in the related Confirmation) or any Package Observable Bond (if the Reference Entity is a Sovereign),

in each case, (i) unless it is an Excluded Deliverable Obligation and (ii) provided that the obligation has an Outstanding Principal Balance or Due and Payable Amount that is greater than zero (determined for purposes of Section 3.2(d), immediately prior to the relevant Asset Package Credit Event).

**Section 3.3. Prior Deliverable Obligation.** "Prior Deliverable Obligation" means:

- (a) if a Governmental Intervention has occurred (whether or not such event is specified as the applicable Credit Event in the Credit Event Notice or the DC Credit Event Announcement), any obligation of the Reference Entity which (i) existed immediately prior to such Governmental Intervention, (ii) was the subject of such Governmental Intervention and (iii) fell within the definition of Deliverable Obligation set out in Section 3.2(a) or (b) (*Deliverable Obligation*), in each case, immediately preceding the date on which such Governmental Intervention was legally effective; or
- (b) if a Restructuring which does not constitute a Governmental Intervention has occurred in respect of the Reference Obligation (whether or not such event is specified as the applicable Credit Event in the Credit Event Notice or the DC Credit Event Announcement), such Reference Obligation, if any.

**Section 3.4. Package Observable Bond.** "Package Observable Bond" means, in respect of a Reference Entity which is a Sovereign, any obligation (a) which is identified as such and published by ISDA on its website at [www.isda.org](http://www.isda.org) from time to time (or any successor website thereto) or by a third party designated by ISDA on its website from time to time and (b) which fell within the definition of Deliverable Obligation set out in Section 3.2(a) or (b) (*Deliverable Obligation*), in each case, immediately preceding the date on which the relevant Asset Package Credit Event was legally effective.

**Section 3.5. Sovereign Restructured Deliverable Obligation.** "Sovereign Restructured Deliverable Obligation" means an Obligation of a Reference Entity which is a Sovereign (either directly or as provider of

a Relevant Guarantee) (a) in respect of which a Restructuring that is the subject of the Credit Event Notice or DC Credit Event Announcement has occurred and (b) which fell within the definition of a Deliverable Obligation set out in Section 3.2(a) (*Deliverable Obligation*) immediately preceding the date on which such Restructuring is legally effective in accordance with the terms of the documentation governing such Restructuring.

**Section 3.6. Excluded Obligation.** "Excluded Obligation" means:

- (a) any obligation of the Reference Entity specified as such or of a type described in the related Confirmation;
- (b) if "Financial Reference Entity Terms" is specified as applicable in the related Confirmation and the Credit Derivative Transaction is a Senior Transaction, then for purposes of determining whether a Governmental Intervention or Restructuring has occurred, any Subordinated Obligation; and
- (c) if "Financial Reference Entity Terms" is specified as applicable in the related Confirmation and the Credit Derivative Transaction is a Subordinated Transaction, then for purposes of determining whether a Governmental Intervention or Restructuring has occurred, any Further Subordinated Obligation.

**Section 3.7. Excluded Deliverable Obligation.** "Excluded Deliverable Obligation" means:

- (a) any obligation of the Reference Entity specified as such or of a type described in the related Confirmation;
- (b) any principal only component of a Bond from which some or all of the interest components have been stripped; and
- (c) if Asset Package Delivery is applicable, any obligation issued or incurred on or after the date of the relevant Asset Package Credit Event.

**Section 3.8. Outstanding Principal Balance.**

- (a) The "Outstanding Principal Balance" of an obligation will be calculated as follows:
  - (i) first, by determining, in respect of the obligation, the amount of the Reference Entity's principal payment obligations and, where applicable in accordance with Section 3.12 (*Accrued Interest*), the Reference Entity's accrued but unpaid interest payment obligations (which, in the case of a Guarantee will be the lower of (A) the Outstanding Principal Balance (including accrued but unpaid interest, where applicable) of the Underlying Obligation (determined as if references to the Reference Entity were references to the Underlying Obligor) and (B) the amount of the Fixed Cap, if any);
  - (ii) second, by subtracting all or any portion of such amount which, pursuant to the terms of the obligation, (A) is subject to any Prohibited Action, or (B) may otherwise be reduced as a result of the effluxion of time or the occurrence or non-occurrence of an event or circumstance (other than by way of (I) payment or (II) a Permitted Contingency) (the amount determined in Section 3.8(a)(i) less any amounts subtracted in accordance with Section 3.8(a)(ii), the "Non-Contingent Amount"); and
  - (iii) third, by determining the Quantum of the Claim, which shall then constitute the Outstanding Principal Balance,

in each case, determined:

- (A) unless otherwise specified, in accordance with the terms of the obligation in effect on either (I) the NOPS Effective Date (or if the terms of the obligation are amended after such date but on or prior to the Delivery Date, the Delivery Date), or (II) the Valuation Date, as applicable; and
  - (B) with respect to the Quantum of the Claim only, in accordance with any applicable laws (insofar as such laws reduce or discount the size of the claim to reflect the original issue price or accrued value of the obligation).
- (b) "Quantum of the Claim" means the lowest amount of the claim which could be validly asserted against the Reference Entity in respect of the Non-Contingent Amount if the obligation had become redeemable, been accelerated, terminated or had otherwise become due and payable at the time of the relevant determination, provided that the Quantum of the Claim cannot exceed the Non-Contingent Amount.

**Section 3.9. Due and Payable Amount.** "Due and Payable Amount" means the amount that is due and payable by the Reference Entity under the obligation whether by reason of maturity, acceleration, termination or otherwise (excluding sums in respect of default interest, indemnities, tax gross-ups and other similar amounts) less all or any portion of such amount which, pursuant to the terms of the obligation (a) is subject to any Prohibited Action, or (b) may otherwise be reduced as a result of the effluxion of time or the occurrence or non-occurrence of an event or circumstance (other than by way of (i) payment or (ii) a Permitted Contingency), in each case, determined in accordance with the terms of the obligation in effect on either (A) the NOPS Effective Date (or if the terms of the obligation are amended after such date but on or prior to the Delivery Date, the Delivery Date) or (B) the Valuation Date, as applicable.

**Section 3.10. Prohibited Action.** "Prohibited Action" means any counterclaim, defense (other than a counterclaim or defense based on the factors set forth in Section 4.1(a) to (d) (*Credit Event*)) or right of set-off by or of the Reference Entity or any applicable Underlying Obligor.

**Section 3.11. Permitted Contingency.** "Permitted Contingency" means, with respect to an obligation, any reduction to the Reference Entity's payment obligations:

- (a) as a result of the application of:
  - (i) any provisions allowing a transfer, pursuant to which another party may assume all of the payment obligations of the Reference Entity;
  - (ii) provisions implementing the Subordination of the obligation;
  - (iii) provisions allowing for a Permitted Transfer in the case of a Qualifying Guarantee (or provisions allowing for the release of the Reference Entity from its payment obligations in the case of any other Guarantee);
  - (iv) any Solvency Capital Provisions, if "Subordinated European Insurance Terms" is specified as applicable in the related Confirmation; or
  - (v) provisions which permit the Reference Entity's obligations to be altered, discharged, released or suspended in circumstances which would constitute a Governmental Intervention, if "Financial Reference Entity Terms" is specified as applicable in the related Confirmation; or
- (b) which is within the control of the holders of the obligation or a third party acting on their behalf (such as an agent or trustee) in exercising their rights under or in respect of such obligation.

**Section 3.12. Accrued Interest.** With respect to a Credit Derivative Transaction for which:

- (a) "Physical Settlement" is specified to be the Settlement Method in the related Confirmation (or for which Physical Settlement is applicable as the Fallback Settlement Method in accordance with Section 6.1 (*Auction Settlement*)), the Outstanding Principal Balance of the Deliverable Obligations being Delivered will exclude accrued but unpaid interest, unless "Include Accrued Interest" is specified in the related Confirmation, in which case, the Outstanding Principal Balance of the Deliverable Obligations being Delivered will include accrued but unpaid interest (as the Calculation Agent shall determine after consultation with the parties);
- (b) "Cash Settlement" is specified to be the Settlement Method in the related Confirmation (or if Cash Settlement is applicable as the Fallback Settlement Method in accordance with Section 6.1 (*Auction Settlement*)), and:
  - (i) "Include Accrued Interest" is specified in the related Confirmation, the Outstanding Principal Balance of the Reference Obligation shall include accrued but unpaid interest;
  - (ii) "Exclude Accrued Interest" is specified in the related Confirmation, the Outstanding Principal Balance of the Reference Obligation shall not include accrued but unpaid interest; or
  - (iii) neither "Include Accrued Interest" nor "Exclude Accrued Interest" is specified in the related Confirmation, the Calculation Agent shall determine, after consultation with the parties, based on the then current market practice in the market of the Reference Obligation whether the Outstanding Principal Balance of the Reference Obligation shall include or exclude accrued but unpaid interest and, if applicable, the amount thereof; or
- (c) Section 9.6 (*Partial Cash Settlement Terms*) is applicable, the Calculation Agent shall determine, after consultation with the parties, based on the then current market practice in the market of the relevant Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation, whether such Quotations shall include or exclude accrued but unpaid interest.

**Section 3.13. Method for Determining Obligations.** For purposes of Section 3.1(a) (*Obligation*), the term "Obligation" may be defined as each obligation of the Reference Entity described by the Obligation Category specified in the related Confirmation and having each of the Obligation Characteristics, if any, specified in the related Confirmation, in each case, immediately prior to the Credit Event which is the subject of either the Credit Event Notice or the DC Credit Event Question resulting in the occurrence of the Credit Event Resolution Request Date, as applicable. The following terms shall have the following meanings:

- (a) "Obligation Category" means Payment, Borrowed Money, Reference Obligation Only, Bond, Loan, or Bond or Loan, only one of which shall be specified in the related Confirmation, and:
  - (i) "Payment" means any obligation (whether present or future, contingent or otherwise) for the payment or repayment of money, including, without limitation, Borrowed Money;
  - (ii) "Borrowed Money" means any obligation (excluding an obligation under a revolving credit arrangement for which there are no outstanding, unpaid drawings in respect of principal) for the payment or repayment of borrowed money (which term shall include, without limitation, deposits and reimbursement obligations arising from drawings pursuant to letters of credit);
  - (iii) "Reference Obligation Only" means any obligation that is a Reference Obligation and no Obligation Characteristics shall be applicable to Reference Obligation Only;



- (iv) "Bond" means any obligation of a type included in the "Borrowed Money" Obligation Category that is in the form of, or represented by, a bond, note (other than notes delivered pursuant to Loans), certificated debt security or other debt security and shall not include any other type of Borrowed Money;
  - (v) "Loan" means any obligation of a type included in the "Borrowed Money" Obligation Category that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement and shall not include any other type of Borrowed Money; and
  - (vi) "Bond or Loan" means any obligation that is either a Bond or a Loan.
- (b) "Obligation Characteristics" means any one or more of Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency, Not Domestic Law, Listed and Not Domestic Issuance, and:
- (i) (A) "Not Subordinated" means an obligation that is not Subordinated to (I) the Reference Obligation or (II) the Prior Reference Obligation, if applicable;
  - (B) "Subordination" means, with respect to an obligation (the "Second Obligation") and another obligation of the Reference Entity to which such obligation is being compared (the "First Obligation"), a contractual, trust or similar arrangement providing that (I) upon the liquidation, dissolution, reorganization or winding-up of the Reference Entity, claims of the holders of the First Obligation are required to be satisfied prior to the claims of the holders of the Second Obligation, or (II) the holders of the Second Obligation will not be entitled to receive or retain principal payments in respect of their claims against the Reference Entity at any time that the Reference Entity is in payment arrears or is otherwise in default under the First Obligation. "Subordinated" will be construed accordingly. For purposes of determining whether Subordination exists or whether an obligation is Subordinated with respect to another obligation to which it is being compared, (x) the existence of preferred creditors arising by operation of law or of collateral, credit support or other credit enhancement or security arrangements shall not be taken into account, except that, notwithstanding the foregoing, priorities arising by operation of law shall be taken into account where the Reference Entity is a Sovereign and (y) in the case of the Reference Obligation or the Prior Reference Obligation, as applicable, the ranking in priority of payment shall be determined as of the date as of which it was issued or incurred (or in circumstances where the Reference Obligation or a Prior Reference Obligation is the Standard Reference Obligation and "Standard Reference Obligation" is applicable, then the priority of payment of the Reference Obligation or the Prior Reference Obligation, as applicable, shall be determined as of the date of selection) and, in each case, shall not reflect any change to such ranking in priority of payment after such date; and
  - (C) "Prior Reference Obligation" means, in circumstances where there is no Reference Obligation applicable to a Credit Derivative Transaction, (I) the Reference Obligation most recently applicable thereto, if any, and otherwise, (II) the obligation specified in the related Confirmation as the Reference Obligation, if any, if such Reference Obligation was redeemed on or prior to the Trade Date and otherwise, (III) any unsubordinated Borrowed Money obligation of the Reference Entity;
  - (ii) "Specified Currency" means an obligation that is payable in the currency or currencies specified as such in the related Confirmation (or, if "Specified Currency" is specified in a Confirmation and no currency is so specified, any Standard Specified Currency), provided that if the euro is a Specified Currency, "Specified Currency" shall also include an obligation that was previously payable in the euro, regardless of any redenomination thereafter if such

redenomination occurred as a result of action taken by a Governmental Authority of a Member State of the European Union which is of general application in the jurisdiction of such Governmental Authority;

- (iii) "Not Sovereign Lender" means any obligation that is not primarily owed to (A) a Sovereign or (B) any entity or organization established by treaty or other arrangement between two or more Sovereigns including, without limiting the foregoing, the International Monetary Fund, European Central Bank, International Bank for Reconstruction and Development and European Bank for Reconstruction and Development, which shall include, without limitation, obligations generally referred to as "Paris Club debt";
- (iv) "Not Domestic Currency" means any obligation that is payable in any currency other than the applicable Domestic Currency, provided that a Standard Specified Currency shall not constitute a Domestic Currency;
- (v) "Not Domestic Law" means any obligation that is not governed by the applicable Domestic Law, provided that the laws of England and the laws of the State of New York shall not constitute a Domestic Law;
- (vi) "Listed" means an obligation that is quoted, listed or ordinarily purchased and sold on an exchange; and
- (vii) "Not Domestic Issuance" means any obligation other than an obligation that was issued (or reissued, as the case may be), or intended to be offered for sale primarily in the domestic market of the Reference Entity. Any obligation that is registered or, as a result of some other action having been taken for such purpose, is qualified for sale outside the domestic market of the Reference Entity (regardless of whether such obligation is also registered or qualified for sale within the domestic market of the Reference Entity) shall be deemed not to be issued (or reissued, as the case may be), or intended to be offered for sale primarily in the domestic market of the Reference Entity.

**Section 3.14. Method for Determining Deliverable Obligations.** For purposes of Section 3.2(a) (*Deliverable Obligation*), the term "Deliverable Obligation" may be defined as each obligation of the Reference Entity described by the Deliverable Obligation Category specified in the related Confirmation, and, subject to Section 3.15 (*Interpretation of Provisions*), having each of the Deliverable Obligation Characteristics, if any, specified in the related Confirmation, in each case, as of both the NOPS Effective Date and the Delivery Date (unless otherwise specified). The following terms shall have the following meanings:

- (a) "Deliverable Obligation Category" means one of Payment, Borrowed Money, Reference Obligation Only, Bond, Loan, or Bond or Loan (each as defined in Section 3.13(a) (*Method for Determining Obligations*)), except that, for purposes of determining Deliverable Obligations, Section 3.13(a)(iii) (*Method for Determining Obligations*) shall be amended to state that no Deliverable Obligation Characteristics shall be applicable to Reference Obligation Only).
- (b) "Deliverable Obligation Characteristics" means any one or more of Not Subordinated, Specified Currency, Not Sovereign Lender, Not Domestic Currency, Not Domestic Law, Listed, Not Domestic Issuance, Assignable Loan, Consent Required Loan, Direct Loan Participation, Transferable, Maximum Maturity, Accelerated or Matured and Not Bearer, and:
  - (i) "Assignable Loan" means a Loan that is capable of being assigned or novated to, at a minimum, commercial banks or financial institutions (irrespective of their jurisdiction of organization) that are not then a lender or a member of the relevant lending syndicate, without the consent of the Reference Entity or the guarantor, if any, of such Loan (or the

consent of the applicable borrower if the Reference Entity is guaranteeing such Loan) or any agent;

- (ii) "Consent Required Loan" means a Loan that is capable of being assigned or novated with the consent of the Reference Entity or the guarantor, if any, of such Loan (or the consent of the relevant borrower if the Reference Entity is guaranteeing such Loan) or any agent;
- (iii) "Direct Loan Participation" means a Loan in respect of which, pursuant to a participation agreement, Buyer is capable of creating, or procuring the creation of, a contractual right in favor of Seller that provides Seller with recourse to the participation seller for a specified share in any payments due under the relevant Loan which are received by such participation seller, any such agreement to be entered into between Seller and either (A) Buyer (to the extent Buyer is then a lender or a member of the relevant lending syndicate), or (B) a Qualifying Participation Seller (if any) (to the extent such Qualifying Participation Seller is then a lender or a member of the relevant lending syndicate);
- (iv) "Transferable" means an obligation that is transferable to institutional investors without any contractual, statutory or regulatory restriction, provided that none of the following shall be considered contractual, statutory or regulatory restrictions:
  - (A) contractual, statutory or regulatory restrictions that provide for eligibility for resale pursuant to Rule 144A or Regulation S promulgated under the United States Securities Act of 1933, as amended (and any contractual, statutory or regulatory restrictions promulgated under the laws of any jurisdiction having a similar effect in relation to the eligibility for resale of an obligation);
  - (B) restrictions on permitted investments such as statutory or regulatory investment restrictions on insurance companies and pension funds; or
  - (C) restrictions in respect of blocked periods on or around payment dates or voting periods;
- (v) "Maximum Maturity" means an obligation that has a remaining maturity of not greater than the period specified in the related Confirmation (or if no such period is specified, thirty years);
- (vi) "Accelerated or Matured" means an obligation under which the principal amount owed, whether by reason of maturity, acceleration, termination or otherwise, is due and payable in full in accordance with the terms of such obligation, or would have been but for, and without regard to, any limitation imposed under any applicable insolvency laws; and
- (vii) "Not Bearer" means any obligation that is not a bearer instrument unless interests with respect to such bearer instrument are cleared via the Euroclear system, Clearstream International or any other internationally recognized clearing system.

### **Section 3.15. Interpretation of Provisions.**

- (a) If either of the Obligation Characteristics "Listed" or "Not Domestic Issuance" is specified in the related Confirmation, the Confirmation shall be construed as though the relevant Obligation Characteristic had been specified as an Obligation Characteristic only with respect to Bonds.
- (b) If (i) either of the Deliverable Obligation Characteristics "Listed", "Not Domestic Issuance" or "Not Bearer" is specified in the related Confirmation, such Confirmation shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable Obligation Characteristic only with respect to Bonds, (ii) the Deliverable Obligation Characteristic

"Transferable" is specified in the related Confirmation, such Confirmation shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable Obligation Characteristic only with respect to Deliverable Obligations that are not Loans, or (iii) any of the Deliverable Obligation Characteristics "Assignable Loan", "Consent Required Loan" or "Direct Loan Participation" is specified in the related Confirmation, such Confirmation shall be construed as though such Deliverable Obligation Characteristic had been specified as a Deliverable Obligation Characteristic only with respect to Loans.

- (c) If more than one of "Assignable Loan", "Consent Required Loan" and "Direct Loan Participation" are specified as Deliverable Obligation Characteristics in the related Confirmation, the Deliverable Obligations may include any Loan that satisfies any one of such Deliverable Obligation Characteristics specified and need not satisfy all such Deliverable Obligation Characteristics.
- (d) If an Obligation or a Deliverable Obligation is a Relevant Guarantee, the following will apply:
  - (i) For purposes of the application of the Obligation Category or the Deliverable Obligation Category, the Relevant Guarantee shall be deemed to satisfy the same category or categories as those that describe the Underlying Obligation;
  - (ii) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics, both the Relevant Guarantee and the Underlying Obligation must satisfy on the relevant date or dates each of the applicable Obligation Characteristics or Deliverable Obligation Characteristics, if any, specified in the related Confirmation from the following list: "Not Subordinated", "Specified Currency", "Not Sovereign Lender", "Not Domestic Currency" and "Not Domestic Law";
  - (iii) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics, only the Underlying Obligation must satisfy on the relevant date or dates each of the applicable Obligation Characteristics or the Deliverable Obligation Characteristics, if any, specified in the related Confirmation from the following list: "Listed", "Not Domestic Issuance", "Assignable Loan", "Consent Required Loan", "Direct Loan Participation", "Transferable", "Maximum Maturity", "Accelerated" or "Matured" and "Not Bearer"; and
  - (iv) For purposes of the application of the Obligation Characteristics or the Deliverable Obligation Characteristics to an Underlying Obligation, references to the Reference Entity shall be deemed to refer to the Underlying Obligor.
- (e) For purposes of the application of the Deliverable Obligation Characteristic "Maximum Maturity", remaining maturity shall be determined on the basis of the terms of the Deliverable Obligation in effect at the time of making such determination and, in the case of a Deliverable Obligation that is due and payable, the remaining maturity shall be zero.
- (f) If "Financial Reference Entity Terms" and "Governmental Intervention" are specified as applicable in the related Confirmation, if an obligation would otherwise satisfy a particular Obligation Characteristic or Deliverable Obligation Characteristic, the existence of any terms in the relevant obligation in effect at the time of making the determination which permit the Reference Entity's obligations to be altered, discharged, released or suspended in circumstances which would constitute a Governmental Intervention, shall not cause such obligation to fail to satisfy such Obligation Characteristic or Deliverable Obligation Characteristic.
- (g) For purposes of determining the applicability of Deliverable Obligation Characteristics and the requirements specified in Sections 3.31(a) (*Mod R*) and 3.32(a) (*Mod Mod R*) to a Prior Deliverable Obligation or a Package Observable Bond, any such determination shall be made by reference to the terms of the relevant obligation in effect immediately prior to the Asset Package Credit Event.

- (h) If "Subordinated European Insurance Terms" is specified as applicable in the related Confirmation, if an obligation would otherwise satisfy the "Maximum Maturity" Deliverable Obligation Characteristic, the existence of any Solvency Capital Provisions in such obligation shall not cause it to fail to satisfy such Deliverable Obligation Characteristic.

**Section 3.16. Standard Specified Currency.** "Standard Specified Currency" means each of the lawful currencies of Canada, Japan, Switzerland, France, Germany, the United Kingdom and the United States of America and the euro and any successor currency to any of the aforementioned currencies (which in the case of the euro, shall mean the currency which succeeds to and replaces the euro in whole).

**Section 3.17. Domestic Currency.** "Domestic Currency" means the currency specified as such in the related Confirmation and any successor currency thereto (or if no such currency is specified, the lawful currency and any successor currency of (a) the Reference Entity, if the Reference Entity is a Sovereign, or (b) the jurisdiction in which the Reference Entity is organized, if the Reference Entity is not a Sovereign).

**Section 3.18. Domestic Law.** "Domestic Law" means each of the laws of (a) the Reference Entity, if such Reference Entity is a Sovereign, or (b) the jurisdiction in which the Reference Entity is organized, if such Reference Entity is not a Sovereign.

**Section 3.19. Solvency Capital Provisions.** "Solvency Capital Provisions" means any terms in an obligation which permit the Reference Entity's payment obligations thereunder to be deferred, suspended, cancelled, converted, reduced or otherwise varied and which are necessary in order for the obligation to constitute capital resources of a particular tier.

**Section 3.20. Qualifying Participation Seller.** "Qualifying Participation Seller" means any participation seller that meets the requirements specified in the related Confirmation. If no such requirements are specified, there shall be no Qualifying Participation Seller.

**Section 3.21. Qualifying Guarantee.** "Qualifying Guarantee" means a guarantee evidenced by a written instrument (which may include a statute or regulation), pursuant to which the Reference Entity irrevocably agrees, undertakes, or is otherwise obliged to pay all amounts of principal and interest (except for amounts which are not covered due to the existence of a Fixed Cap) due under an Underlying Obligation for which the Underlying Obligor is the obligor, by guarantee of payment and not by guarantee of collection (or, in either case, any legal arrangement which is equivalent thereto in form under the relevant governing law).

A Qualifying Guarantee shall not include any guarantee:

- (a) which is structured as a surety bond, financial guarantee insurance policy or letter of credit (or any legal arrangement which is equivalent thereto in form); or
- (b) pursuant to the terms applicable thereto, the principal payment obligations of the Reference Entity can be discharged, released, reduced, assigned or otherwise altered as a result of the occurrence or non-occurrence of an event or circumstance, in each case, other than:
  - (i) by payment;
  - (ii) by way of Permitted Transfer;
  - (iii) by operation of law;
  - (iv) due to the existence of a Fixed Cap; or

- (v) due to:
  - (A) provisions permitting or anticipating a Governmental Intervention, if "Financial Reference Entity Terms" is specified as applicable in the related Confirmation; or
  - (B) any Solvency Capital Provisions, if "Subordinated European Insurance Terms" is specified as applicable in the related Confirmation.

If the guarantee or Underlying Obligation contains provisions relating to the discharge, release, reduction, assignment or other alteration of the principal payment obligations of the Reference Entity and such provisions have ceased to apply or are suspended at the time of the relevant determination, in accordance with the terms of such guarantee or Underlying Obligation, due to or following the occurrence of (I) a non-payment in respect of the guarantee or the Underlying Obligation, or (II) an event of the type described in Section 4.2 (*Bankruptcy*) in respect of the Reference Entity or the Underlying Obligor, then it shall be deemed for these purposes that such cessation or suspension is permanent, notwithstanding the terms of the guarantee or Underlying Obligation.

In order for a guarantee to constitute a Qualifying Guarantee:

- (x) the benefit of such guarantee must be capable of being Delivered together with the Delivery of the Underlying Obligation; and
- (y) if a guarantee contains a Fixed Cap, all claims to any amounts which are subject to such Fixed Cap must be capable of being Delivered together with the Delivery of such guarantee.

**Section 3.22. Relevant Guarantee.** "Relevant Guarantee" means a Qualifying Affiliate Guarantee or, if "All Guarantees" is specified as applicable in the related Confirmation, a Qualifying Guarantee.

**Section 3.23. Underlying Obligation.** "Underlying Obligation" means, with respect to a guarantee, the obligation which is the subject of the guarantee.

**Section 3.24. Underlying Obligor.** "Underlying Obligor" means with respect to an Underlying Obligation, the issuer in the case of a Bond, the borrower in the case of a Loan, or the principal obligor in the case of any other Underlying Obligation.

**Section 3.25. Permitted Transfer.** "Permitted Transfer" means, with respect to a Qualifying Guarantee, a transfer to and the assumption by any single transferee of such Qualifying Guarantee (including by way of cancellation and execution of a new guarantee) on the same or substantially the same terms, in circumstances where there is also a transfer of all (or substantially all) of the assets of the Reference Entity to the same single transferee.

**Section 3.26. Fixed Cap.** "Fixed Cap" means, with respect to a Guarantee, a specified numerical limit or cap on the liability of the Reference Entity in respect of some or all payments due under the Underlying Obligation, provided that a Fixed Cap shall exclude a limit or cap determined by reference to a formula with one or more variable inputs (and for these purposes, the outstanding principal or other amounts payable pursuant to the Underlying Obligation shall not be considered to be variable inputs).

**Section 3.27. Qualifying Affiliate Guarantee.** "Qualifying Affiliate Guarantee" means a Qualifying Guarantee provided by the Reference Entity in respect of an Underlying Obligation of a Downstream Affiliate of the Reference Entity.

**Section 3.28. Downstream Affiliate.** "Downstream Affiliate" means an entity whose outstanding Voting Shares were, at the date of issuance of the Qualifying Guarantee, more than fifty per cent-owned, directly or indirectly, by the Reference Entity.

**Section 3.29. Voting Shares.** "Voting Shares" means the shares or other interests that have the power to elect the board of directors or similar governing body of an entity.

**Section 3.30. Guarantee.** "Guarantee" means a Relevant Guarantee or a guarantee which is the Reference Obligation.

**Section 3.31. Mod R.**

- (a) If (i) "Physical Settlement" is specified to be the Settlement Method in the related Confirmation (or is applicable as the Fallback Settlement Method in accordance with Section 6.1 (*Auction Settlement*)), (ii) "Mod R" is specified as applicable in the related Confirmation and (iii) Restructuring is the only Credit Event specified in a Credit Event Notice delivered by Buyer, then unless the Deliverable Obligation is a Prior Deliverable Obligation and Asset Package Delivery applies due to a Governmental Intervention, a Deliverable Obligation may only be specified (or deemed specified pursuant to Section 9.8(i) (*Alternative Procedures Relating to Loans Not Delivered*)) in the Notice of Physical Settlement or in any NOPS Amendment Notice, as applicable, if such Deliverable Obligation (A) is a Fully Transferable Obligation and (B) has a final maturity date not later than the applicable Restructuring Maturity Limitation Date, in each case, as of both the NOPS Effective Date and the Delivery Date.
- (b) "Fully Transferable Obligation" means a Deliverable Obligation that is either Transferable, in the case of Bonds, or capable of being assigned or novated to all Eligible Transferees without the consent of any person being required, in the case of any Deliverable Obligation other than Bonds, in each case, as of both the NOPS Effective Date and the Delivery Date. Any requirement that notification of novation, assignment or transfer of a Deliverable Obligation be provided to a trustee, fiscal agent, administrative agent, clearing agent or paying agent for a Deliverable Obligation shall not be considered to be a requirement for consent for purposes of Section 3.31.
- (c) "Restructuring Maturity Limitation Date" means, with respect to a Deliverable Obligation, the Limitation Date occurring on or immediately following the Scheduled Termination Date. Notwithstanding the foregoing, if the final maturity date of the Restructured Bond or Loan with the latest final maturity date of any Restructured Bond or Loan occurs prior to the 2.5-year Limitation Date (such Restructured Bond or Loan, a "Latest Maturity Restructured Bond or Loan") and the Scheduled Termination Date occurs prior to the final maturity date of such Latest Maturity Restructured Bond or Loan, then the Restructuring Maturity Limitation Date will be the final maturity date of such Latest Maturity Restructured Bond or Loan.
- (d) "Eligible Transferee" means:
  - (i) any
    - (A) bank or other financial institution;
    - (B) insurance or reinsurance company;
    - (C) mutual fund, unit trust or similar collective investment vehicle (other than an entity described in Section 3.31(d)(iii)(A)); and
    - (D) registered or licensed broker or dealer (other than a natural person or proprietorship),provided, however, in each case that such entity has total assets of at least USD 500,000,000;
  - (ii) an Affiliate of an entity specified in Section 3.31(d)(i);

- (iii) each of a corporation, partnership, proprietorship, organization, trust or other entity:
  - (A) that is an investment vehicle (including, without limitation, any hedge fund, issuer of collateralized debt obligations, commercial paper conduit or other special purpose vehicle) that (I) has total assets of at least USD 100,000,000 or (II) is one of a group of investment vehicles under common control or management having, in aggregate, total assets of at least USD 100,000,000;
  - (B) that has total assets of at least USD 500,000,000; or
  - (C) the obligations of which under an agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support or other agreement by an entity described in Sections 3.31(d)(i), (ii), (iii)(B) or (iv); or
- (iv) (A) any Sovereign; or
  - (B) any entity or organization established by treaty or other arrangement between two or more Sovereigns including, without limiting the foregoing, the International Monetary Fund, European Central Bank, International Bank for Reconstruction and Development and European Bank for Reconstruction and Development.

All references in Section 3.31(d) to USD include equivalent amounts in other currencies, as determined by the Calculation Agent.

### **Section 3.32. Mod Mod R.**

- (a) If (i) "Physical Settlement" is specified to be the Settlement Method in the related Confirmation (or is applicable as the Fallback Settlement Method in accordance with Section 6.1 (*Auction Settlement*)), (ii) "Mod Mod R" is specified as applicable in the related Confirmation and (iii) Restructuring is the only Credit Event specified in a Credit Event Notice delivered by Buyer, then unless the Deliverable Obligation is a Prior Deliverable Obligation and Asset Package Delivery applies due to a Governmental Intervention, a Deliverable Obligation may only be specified (or deemed specified pursuant to Section 9.8(i) (*Alternative Procedures Relating to Loans Not Delivered*)) in the Notice of Physical Settlement or in any NOPS Amendment Notice, as applicable, if it (A) is a Conditionally Transferable Obligation and (B) has a final maturity date not later than the applicable Modified Restructuring Maturity Limitation Date, in each case, as of both the NOPS Effective Date and the Delivery Date. Notwithstanding the foregoing, for purposes of Section 3.32(a), in the case of a Restructured Bond or Loan with a final maturity date on or prior to the 10-year Limitation Date, the final maturity date of such Bond or Loan shall be deemed to be the earlier of such final maturity date or the final maturity date of such Bond or Loan immediately prior to the relevant Restructuring.
- (b) "Conditionally Transferable Obligation" means a Deliverable Obligation that is either Transferable, in the case of Bonds, or capable of being assigned or novated to all Modified Eligible Transferees without the consent of any person being required, in the case of any Deliverable Obligation other than Bonds, in each case, as of both the NOPS Effective Date and the Delivery Date, provided, however, that a Deliverable Obligation other than Bonds will be a Conditionally Transferable Obligation notwithstanding that consent of the Reference Entity or the guarantor, if any, of a Deliverable Obligation other than Bonds (or the consent of the relevant obligor if the Reference Entity is guaranteeing such Deliverable Obligation) or any agent is required for such novation, assignment or transfer so long as the terms of such Deliverable Obligation provide that such consent may not be unreasonably withheld or delayed. Any requirement that notification of novation, assignment or transfer of a Deliverable Obligation be provided to a trustee, fiscal agent, administrative agent, clearing agent or paying agent for a Deliverable Obligation shall not be considered to be a requirement for consent for purposes of Section 3.32(b).



- (c) If Section 3.32(a) applies and the Deliverable Obligation specified in the Notice of Physical Settlement (or in any NOPS Amendment Notice, as applicable) is a Conditionally Transferable Obligation with respect to which consent is required to novate, assign or transfer and the requisite consent is refused (whether or not a reason is given for such refusal and, where a reason is given for such refusal, regardless of that reason), or is not received by the Physical Settlement Date (in which case it shall be deemed to have been refused), Buyer shall promptly notify Seller of such refusal (or deemed refusal) and:
  - (i) Section 11.2(c)(iv) (*Additional Representations and Agreements for Physical Settlement*) shall apply with respect to Seller as the designator, provided, however, that the designee need not be an Affiliate of Seller; and
  - (ii) if Seller does not designate a third party that takes Delivery on or prior to the Loan Alternative Procedure Start Date, then Section 9.8 (*Alternative Procedures Relating to Loans Not Delivered*) shall apply.
- (d) "Modified Restructuring Maturity Limitation Date" means, with respect to a Deliverable Obligation, the Limitation Date occurring on or immediately following the Scheduled Termination Date.  
  
Subject to the foregoing, if the Scheduled Termination Date is later than the 10-year Limitation Date, the Modified Restructuring Maturity Limitation Date will be the Scheduled Termination Date.
- (e) "Modified Eligible Transferee" means any bank, financial institution or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities and other financial assets.

**Section 3.33. General Terms Relating to Mod R and Mod Mod R.**

- (a) "Limitation Date" means the first of March 20, June 20, September 20 or December 20 in any year to occur on or immediately following the date that is one of the following numbers of years after the Restructuring Date: 2.5 years (the "2.5-year Limitation Date"), 5 years, 7.5 years, 10 years (the "10-year Limitation Date"), 12.5 years, 15 years, or 20 years, as applicable. Limitation Dates shall not be subject to adjustment in accordance with any Business Day Convention.
- (b) "Restructured Bond or Loan" means an Obligation that is a Bond or Loan and in respect of which the relevant Restructuring has occurred.
- (c) "Restructuring Date" means the date on which a Restructuring is legally effective in accordance with the terms of the documentation governing such Restructuring.
- (d) For the purposes of making a determination pursuant to Sections 3.31 (*Mod R*) and 3.32 (*Mod Mod R*), final maturity date shall, subject to Section 3.32(a) (*Mod Mod R*), be determined on the basis of the terms of the Deliverable Obligation in effect at the time of making such determination and, in the case of a Deliverable Obligation that is due and payable, the final maturity date shall be deemed to be the date on which such determination is made.

## **ARTICLE IV CREDIT EVENTS**

**Section 4.1. Credit Event.** "Credit Event" means, with respect to a Credit Derivative Transaction, one or more of Bankruptcy, Failure to Pay, Obligation Acceleration, Obligation Default, Repudiation/Moratorium, Restructuring, or Governmental Intervention, as specified in the related Confirmation. If an occurrence would otherwise constitute a Credit Event, such occurrence will constitute a Credit Event whether or not such occurrence arises directly or indirectly from, or is subject to a defense based upon (a) any lack or alleged lack of authority or capacity of the Reference Entity to enter into any Obligation or, as applicable, an Underlying Obligor to enter into any Underlying Obligation, (b) any actual or alleged unenforceability, illegality, impossibility or invalidity with respect to any Obligation or, as applicable, any Underlying Obligation, however described, (c) any applicable law, order, regulation, decree or notice, however described, or the promulgation of, or any change in, the interpretation by any court, tribunal, regulatory authority or similar administrative or judicial body with competent or apparent jurisdiction of any applicable law, order, regulation, decree or notice, however described, or (d) the imposition of, or any change in, any exchange controls, capital restrictions or any other similar restrictions imposed by any monetary or other authority, however described.

**Section 4.2. Bankruptcy.** "Bankruptcy" means the Reference Entity (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger), (b) becomes insolvent or is unable to pay its debts or fails or admits in writing in a judicial, regulatory or administrative proceeding or filing its inability generally to pay its debts as they become due, (c) makes a general assignment, arrangement, scheme or composition with or for the benefit of its creditors generally, or such a general assignment, arrangement, scheme or composition becomes effective, (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other similar relief under any bankruptcy or insolvency law or other 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 (i) 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 (ii) is not dismissed, discharged, stayed or restrained in each case within thirty calendar days of the institution or presentation thereof, (e) has a resolution passed for its winding-up or liquidation (other than pursuant to a consolidation, amalgamation or merger), (f) 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, (g) 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 thirty calendar days thereafter, or (h) 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 Sections 4.2(a) to (g).

**Section 4.3. Obligation Acceleration.** "Obligation Acceleration" means one or more Obligations in an aggregate amount of not less than the Default Requirement have become due and payable before they would otherwise have been due and payable as a result of, or on the basis of, the occurrence of a default, event of default or other similar condition or event (however described), other than a failure to make any required payment, in respect of the Reference Entity under one or more Obligations.

**Section 4.4. Obligation Default.** "Obligation Default" means one or more Obligations in an aggregate amount of not less than the Default Requirement have become capable of being declared due and payable before they would otherwise have been due and payable as a result of, or on the basis of, the occurrence of a default, event of default or other similar condition or event (however described), other than a failure to make any required payment, in respect of the Reference Entity under one or more Obligations.

**Section 4.5. Failure to Pay.** "Failure to Pay" means, after the expiration of any applicable Grace Period (after the satisfaction of any conditions precedent to the commencement of such Grace Period), the failure by the Reference Entity to make, when and where due, any payments in an aggregate amount of not less than

the Payment Requirement under one or more Obligations, in accordance with the terms of such Obligations at the time of such failure.

#### **Section 4.6. Repudiation/Moratorium.**

- (a) "Repudiation/Moratorium" means the occurrence of both of the following events:
  - (i) an authorized officer of the Reference Entity or a Governmental Authority (A) disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, one or more Obligations in an aggregate amount of not less than the Default Requirement or (B) declares or imposes a moratorium, standstill, roll-over or deferral, whether de facto or de jure, with respect to one or more Obligations in an aggregate amount of not less than the Default Requirement; and
  - (ii) a Failure to Pay, determined without regard to the Payment Requirement, or a Restructuring, determined without regard to the Default Requirement, with respect to any such Obligation occurs on or prior to the Repudiation/Moratorium Evaluation Date.
- (b) "Repudiation/Moratorium Evaluation Date" means, if a Potential Repudiation/Moratorium occurs on or prior to the Scheduled Termination Date (i) if the Obligations to which such Potential Repudiation/Moratorium relates include Bonds, the date that is the later of (A) the date that is sixty days after the date of such Potential Repudiation/Moratorium and (B) the first payment date under any such Bond after the date of such Potential Repudiation/Moratorium (or, if later, the expiration date of any applicable Grace Period in respect of such payment date) and (ii) if the Obligations to which such Potential Repudiation/Moratorium relates do not include Bonds, the date that is sixty days after the date of such Potential Repudiation/Moratorium; provided that, in either case, the Repudiation/Moratorium Evaluation Date shall occur no later than the Scheduled Termination Date unless the Repudiation/Moratorium Extension Condition is satisfied.
- (c) "Potential Repudiation/Moratorium" means the occurrence of an event described in Section 4.6(a)(i).
- (d) The "Repudiation/Moratorium Extension Condition" is satisfied (i) if the DC Secretary publicly announces, pursuant to a valid request that was delivered and effectively received on or prior to the date that is fourteen calendar days after the Scheduled Termination Date, that the relevant Credit Derivatives Determinations Committee has Resolved that an event that constitutes a Potential Repudiation/Moratorium for purposes of the relevant Credit Derivative Transaction has occurred with respect to an Obligation of the Reference Entity and that such event occurred on or prior to the Scheduled Termination Date, or (ii) otherwise, by the delivery by the Notifying Party to the other party of a Repudiation/Moratorium Extension Notice and, unless "Notice of Publicly Available Information" is specified as not applicable in the related Confirmation, a Notice of Publicly Available Information that are each effective on or prior to the date that is fourteen calendar days after the Scheduled Termination Date. In all cases, the Repudiation/Moratorium Extension Condition will be deemed not to have been satisfied, or not capable of being satisfied, if, or to the extent that, the DC Secretary publicly announces that the relevant Credit Derivatives Determinations Committee has Resolved that either (A) an event does not constitute a Potential Repudiation/Moratorium for purposes of the relevant Credit Derivative Transaction with respect to an Obligation of the Reference Entity, or (B) an event that constitutes a Potential Repudiation/Moratorium for purposes of the relevant Credit Derivative Transaction has occurred with respect to an Obligation of the Reference Entity but that such event occurred after the Scheduled Termination Date.
- (e) "Repudiation/Moratorium Extension Notice" means an irrevocable notice from the Notifying Party to the other party that describes a Potential Repudiation/Moratorium that occurred on or prior to the Scheduled Termination Date. A Repudiation/Moratorium Extension Notice must contain a description in reasonable detail of the facts relevant to the determination that a Potential

Repudiation/Moratorium has occurred and indicate the date of the occurrence. The Potential Repudiation/Moratorium that is the subject of the Repudiation/Moratorium Extension Notice need not be continuing on the date the Repudiation/Moratorium Extension Notice is effective. A form of Repudiation/Moratorium Extension Notice is set forth in Exhibit D.

#### **Section 4.7. Restructuring.**

- (a) "Restructuring" means that, with respect to one or more Obligations and in relation to an aggregate amount of not less than the Default Requirement, any one or more of the following events occurs in a form that binds all holders of such Obligation, is agreed between the Reference Entity or a Governmental Authority and a sufficient number of holders of such Obligation to bind all holders of the Obligation or is announced (or otherwise decreed) by the Reference Entity or a Governmental Authority in a form that binds all holders of such Obligation (including, in each case, in respect of Bonds only, by way of an exchange), and such event is not expressly provided for under the terms of such Obligation in effect as of the later of the Credit Event Backstop Date and the date as of which such Obligation is issued or incurred:
  - (i) a reduction in the rate or amount of interest payable or the amount of scheduled interest accruals (including by way of redenomination);
  - (ii) a reduction in the amount of principal or premium payable at redemption (including by way of redenomination);
  - (iii) a postponement or other deferral of a date or dates for either (A) the payment or accrual of interest, or (B) the payment of principal or premium;
  - (iv) a change in the ranking in priority of payment of any Obligation, causing the Subordination of such Obligation to any other Obligation; or
  - (v) any change in the currency of any payment of interest, principal or premium to any currency other than the lawful currency of Canada, Japan, Switzerland, the United Kingdom and the United States of America and the euro and any successor currency to any of the aforementioned currencies (which in the case of the euro, shall mean the currency which succeeds to and replaces the euro in whole).
- (b) Notwithstanding the provisions of Section 4.7(a), none of the following shall constitute a Restructuring:
  - (i) the payment in euros of interest, principal or premium in relation to an Obligation denominated in a currency of a Member State of the European Union that adopts or has adopted the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union;
  - (ii) the redenomination from euros into another currency, if (A) the redenomination occurs as a result of action taken by a Governmental Authority of a Member State of the European Union which is of general application in the jurisdiction of such Governmental Authority and (B) a freely available market rate of conversion between euros and such other currency existed at the time of such redenomination and there is no reduction in the rate or amount of interest, principal or premium payable, as determined by reference to such freely available market rate of conversion;
  - (iii) the occurrence of, agreement to or announcement of any of the events described in Section 4.7(a)(i) to (v) due to an administrative adjustment, accounting adjustment or tax adjustment or other technical adjustment occurring in the ordinary course of business; and

- (iv) the occurrence of, agreement to or announcement of any of the events described in Sections 4.7(a)(i) to (v) in circumstances where such event does not directly or indirectly result from a deterioration in the creditworthiness or financial condition of the Reference Entity, provided that in respect of Section 4.7(a)(v) only, no such deterioration in the creditworthiness or financial condition of the Reference Entity is required where the redenomination is from euros into another currency and occurs as a result of action taken by a Governmental Authority of a Member State of the European Union which is of general application in the jurisdiction of such Governmental Authority.
- (c) For purposes of Sections 4.7(a), 4.7(b) and 4.10 (*Multiple Holder Obligation*), the term Obligation shall be deemed to include Underlying Obligations for which the Reference Entity is acting as provider of a Guarantee. In the case of a Guarantee and an Underlying Obligation, references to the Reference Entity in Section 4.7(a) shall be deemed to refer to the Underlying Obligor and the reference to the Reference Entity in Section 4.7(b) shall continue to refer to the Reference Entity.
- (d) If an exchange has occurred, the determination as to whether one of the events described under Sections 4.7(a)(i) to (v) has occurred will be based on a comparison of the terms of the Bond immediately prior to such exchange and the terms of the resulting obligations immediately following such exchange.

#### **Section 4.8. Governmental Intervention.**

- (a) "Governmental Intervention" means that, with respect to one or more Obligations and in relation to an aggregate amount of not less than the Default Requirement, any one or more of the following events occurs as a result of action taken or an announcement made by a Governmental Authority pursuant to, or by means of, a restructuring and resolution law or regulation (or any other similar law or regulation), in each case, applicable to the Reference Entity in a form which is binding, irrespective of whether such event is expressly provided for under the terms of such Obligation:
  - (i) any event which would affect creditors' rights so as to cause:
    - (A) a reduction in the rate or amount of interest payable or the amount of scheduled interest accruals (including by way of redenomination);
    - (B) a reduction in the amount of principal or premium payable at redemption (including by way of redenomination);
    - (C) a postponement or other deferral of a date or dates for either (I) the payment or accrual of interest, or (II) the payment of principal or premium; or
    - (D) a change in the ranking in priority of payment of any Obligation, causing the Subordination of such Obligation to any other Obligation;
  - (ii) an expropriation, transfer or other event which mandatorily changes the beneficial holder of the Obligation;
  - (iii) a mandatory cancellation, conversion or exchange; or
  - (iv) any event which has an analogous effect to any of the events specified in Sections 4.8(a)(i) to (iii).
- (b) For purposes of Section 4.8(a), the term Obligation shall be deemed to include Underlying Obligations for which the Reference Entity is acting as provider of a Guarantee.

#### **Section 4.9. Certain Definitions Relating to Credit Events.**

- (a) "Default Requirement" means the amount specified as such in the related Confirmation or its equivalent in the relevant Obligation Currency (or, if no such amount is specified, USD 10,000,000 or its equivalent in the relevant Obligation Currency) in either case, as of the occurrence of the relevant Credit Event.
- (b) "Governmental Authority" means:
  - (i) any de facto or de jure government (or any agency, instrumentality, ministry or department thereof);
  - (ii) any court, tribunal, administrative or other governmental, inter-governmental or supranational body;
  - (iii) any authority or any other entity (private or public) either designated as a resolution authority or charged with the regulation or supervision of the financial markets (including a central bank) of the Reference Entity or some or of all of its obligations; or
  - (iv) any other authority which is analogous to any of the entities specified in Sections 4.9(b)(i) to (iii).
- (c) "Obligation Currency" means the currency or currencies in which an Obligation is denominated.
- (d) "Payment Requirement" means the amount specified as such in the related Confirmation or its equivalent in the relevant Obligation Currency (or, if no such amount is specified, USD 1,000,000 or its equivalent in the relevant Obligation Currency) in either case as of the occurrence of the relevant Failure to Pay or Potential Failure to Pay, as applicable.

#### **Section 4.10. Multiple Holder Obligation.**

- (a) Unless "Multiple Holder Obligation" is specified as not applicable in the related Confirmation, then, notwithstanding anything to the contrary in Section 4.7 (*Restructuring*), the occurrence of, agreement to or announcement of any of the events described in Sections 4.7(a)(i) to (v) (*Restructuring*) shall not be a Restructuring unless the Obligation in respect of any such events is a Multiple Holder Obligation.
- (b) "Multiple Holder Obligation" means an Obligation that (i) at the time of the event which constitutes a Restructuring Credit Event is held by more than three holders that are not Affiliates of each other and (ii) with respect to which a percentage of holders (determined pursuant to the terms of the Obligation as in effect on the date of such event) at least equal to sixty-six-and-two-thirds is required to consent to the event which constitutes a Restructuring Credit Event provided that any Obligation that is a Bond shall be deemed to satisfy the requirement in Section 4.10(b)(ii).

**Section 4.11. Redenomination.** If an occurrence that would constitute a Failure to Pay (a) is a result of a redenomination that occurs as a result of action taken by a Governmental Authority which is of general application in the jurisdiction of such Governmental Authority and (b) a freely available market rate of conversion existed at the time of the redenomination, then such occurrence will be deemed not to constitute a Failure to Pay unless the redenomination itself constituted a reduction in the rate or amount of interest, principal or premium payable (as determined by reference to such freely available market rate of conversion) at the time of such redenomination.

**ARTICLE V**  
**GENERAL TERMS RELATING TO SETTLEMENT**

**Section 5.1. Settlement.** Upon the occurrence of an Event Determination Date and, if "Physical Settlement" is specified as the Settlement Method in the related Confirmation or is applicable pursuant to the Fallback Settlement Method in accordance with Section 6.1 (*Auction Settlement*), delivery by Buyer of a Notice of Physical Settlement to Seller that is effective on or prior to the NOPS Cut-off Date, the parties will perform their respective obligations in accordance with the Settlement Method or Fallback Settlement Method, as applicable. Notwithstanding the occurrence of an Event Determination Date, if "Physical Settlement" is specified as the Settlement Method in the related Confirmation or is applicable pursuant to the Fallback Settlement Method in accordance with Section 6.1 (*Auction Settlement*) and an effective Notice of Physical Settlement is not delivered by Buyer on or prior to the NOPS Cut-off Date, then the NOPS Cut-off Date shall be the Termination Date.

**Section 5.2. Settlement Method.** "Settlement Method" means, if (a) "Auction Settlement" is specified as the Settlement Method in the related Confirmation, or if no Settlement Method is specified as applicable in the related Confirmation, Auction Settlement, (b) "Cash Settlement" is specified as the Settlement Method in the related Confirmation or is deemed to be applicable, Cash Settlement, or (c) "Physical Settlement" is specified as the Settlement Method in the related Confirmation, Physical Settlement.

**Section 5.3. Settlement Date.** "Settlement Date" means the Auction Settlement Date, the Cash Settlement Date or the Physical Settlement Date, as applicable.

**Section 5.4. Settlement Currency.** "Settlement Currency" means the currency of denomination of the Floating Rate Payer Calculation Amount.

**Section 5.5. Fallback Settlement Method.** "Fallback Settlement Method" means, with respect to a Credit Derivative Transaction for which "Auction Settlement" is the Settlement Method, if "Cash Settlement" is specified as the Fallback Settlement Method in the related Confirmation, Cash Settlement, otherwise Physical Settlement.

**Section 5.6. Reference Price.** "Reference Price" means the percentage specified as such in the related Confirmation (or, if no such percentage is specified, one hundred per cent).

## **ARTICLE VI**

### **TERMS RELATING TO AUCTION SETTLEMENT**

**Section 6.1. Auction Settlement.** If "Auction Settlement" is the applicable Settlement Method and an Event Determination Date occurs on or prior to the Auction Final Price Determination Date, Seller shall, subject to Section 5.1 (*Settlement*), pay to Buyer the Auction Settlement Amount on the Auction Settlement Date. Without prejudice to the foregoing, but without duplication of settlement, if (a) an Auction Cancellation Date occurs, (b) a No Auction Announcement Date occurs (and, in circumstances where such No Auction Announcement Date occurs pursuant to Section 6.11(b) or 6.11(c)(ii) (*No Auction Announcement Date*), neither party has exercised the Movement Option), (c) a DC Credit Event Question Dismissal occurs, (d) an Event Determination Date was determined pursuant to Section 1.16(a)(i) (*Event Determination Date*) or 14.1(a) (*Non-Standard Event Determination Date*) and no Credit Event Resolution Request Date has occurred on or prior to the date falling three Business Days after such Event Determination Date, or (e) an Event Determination Date was determined pursuant to Section 14.1(b)(ii)(B)(II)(y) (*Non-Standard Event Determination Date*), the parties shall, subject to Section 5.1 (*Settlement*), perform their respective obligations in accordance with the Fallback Settlement Method.

**Section 6.2. Auction.** "Auction" has the meaning set forth in the Transaction Auction Settlement Terms.

**Section 6.3. Auction Settlement Date.** "Auction Settlement Date" means the date that is the number of Business Days specified in the Transaction Auction Settlement Terms (or, if a number of Business Days is not so specified, three Business Days) immediately following the Auction Final Price Determination Date. The Auction Settlement Date shall be the Termination Date.

**Section 6.4. Auction Settlement Amount.** "Auction Settlement Amount" means the greater of:

- (a) (i) the Floating Rate Payer Calculation Amount; multiplied by
- (ii) an amount, expressed as a percentage, equal to the Reference Price minus the Auction Final Price; and
- (b) zero.

**Section 6.5. Auction Final Price.** "Auction Final Price" has the meaning set forth in the Transaction Auction Settlement Terms.

**Section 6.6. Auction Final Price Determination Date.** "Auction Final Price Determination Date" has the meaning set forth in the Transaction Auction Settlement Terms.

**Section 6.7. Credit Derivatives Auction Settlement Terms.** "Credit Derivatives Auction Settlement Terms" means any Credit Derivatives Auction Settlement Terms published by ISDA, a form of which will be published by ISDA on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto) from time to time and may be amended from time to time.

**Section 6.8. Transaction Auction Settlement Terms.** "Transaction Auction Settlement Terms" means the Credit Derivatives Auction Settlement Terms for which the relevant Credit Derivative Transaction would be an Auction Covered Transaction.

**Section 6.9. Parallel Auction Settlement Terms.** "Parallel Auction Settlement Terms" means, following the occurrence of an M(M)R Restructuring, any Credit Derivatives Auction Settlement Terms published by ISDA with respect to such M(M)R Restructuring, and for which the Deliverable Obligation Terms are the same as the Deliverable Obligation Provisions applicable to the relevant Credit Derivative Transaction and for which such Credit Derivative Transaction would not be an Auction Covered Transaction.



**Section 6.10. Auction Covered Transaction.** "Auction Covered Transaction" has the meaning set forth in the Transaction Auction Settlement Terms.

**Section 6.11. No Auction Announcement Date.** "No Auction Announcement Date" means, with respect to a Credit Event, the date on which the DC Secretary first publicly announces that (a) no Transaction Auction Settlement Terms and, if applicable, no Parallel Auction Settlement Terms will be published, (b) following the occurrence of an M(M)R Restructuring, no Transaction Auction Settlement Terms will be published, but Parallel Auction Settlement Terms will be published, or (c) the relevant Credit Derivatives Determinations Committee has Resolved that no Auction will be held following a prior public announcement by the DC Secretary to the contrary, in circumstances where either (i) no Parallel Auction will be held, or (ii) one or more Parallel Auctions will be held.

**Section 6.12. Auction Cancellation Date.** "Auction Cancellation Date" has the meaning set forth in the Transaction Auction Settlement Terms.

**Section 6.13. Parallel Auction Cancellation Date.** "Parallel Auction Cancellation Date" means "Auction Cancellation Date" as defined in the relevant Parallel Auction Settlement Terms.

**Section 6.14. Parallel Auction.** "Parallel Auction" means "Auction" as defined in the relevant Parallel Auction Settlement Terms.

**Section 6.15. Movement Option.** "Movement Option" means, with respect to an M(M)R Restructuring to which a No Auction Announcement Date has occurred pursuant to Section 6.11(b) or (c)(ii) (*No Auction Announcement Date*), the option of either (a) Buyer, regardless of which Notifying Party delivered the Credit Event Notice, to apply to the Credit Derivative Transaction, for purposes of settlement, the Parallel Auction Settlement Terms, if any, for purposes of which the Permissible Deliverable Obligations are more limited than the Deliverable Obligations that Buyer could specify in any Notice of Physical Settlement (provided that if more than one such set of Parallel Auction Settlement Terms are published, the Parallel Auction Settlement Terms specifying the greatest number of such Permissible Deliverable Obligations shall apply), or (b) Seller, if Buyer delivered the Credit Event Notice, to apply to such Credit Derivative Transaction, for purposes of settlement, the Parallel Auction Settlement Terms, if any, for purposes of which all Deliverable Obligations on the Final List will be Permissible Deliverable Obligations. The party that delivers to the other party an effective Notice to Exercise Movement Option on or prior to the Movement Option Cut-off Date will determine which Parallel Auction Settlement Terms, if any, apply with respect to such Credit Derivative Transaction. If both parties deliver an effective Notice to Exercise Movement Option on or prior to the Movement Option Cut-off Date, Buyer's Notice to Exercise Movement Option will prevail, regardless of which party was first in time to deliver an effective Notice to Exercise Movement Option. If neither party delivers an effective Notice to Exercise Movement Option on or prior to the Movement Option Cut-off Date, such Credit Derivative Transaction will be settled in accordance with the Fallback Settlement Method.

**Section 6.16. Permissible Deliverable Obligations.** "Permissible Deliverable Obligations" has the meaning set forth in the relevant Credit Derivatives Auction Settlement Terms, being either all or the portion of the Deliverable Obligations included on the Final List pursuant to the Deliverable Obligation Terms that are applicable to that Auction.

**Section 6.17. Movement Option Cut-off Date.** "Movement Option Cut-off Date" means the date that is one Relevant City Business Day following the Exercise Cut-off Date applicable to Buyer, or such other date as the relevant Credit Derivatives Determinations Committee has Resolved.

**Section 6.18. Notice to Exercise Movement Option.** "Notice to Exercise Movement Option" means, with respect to a Credit Derivative Transaction for which (a) an M(M)R Restructuring is applicable and (b) the Fallback Settlement Method would otherwise be applicable pursuant to Section 6.1(b) (*Auction Settlement*), an irrevocable notice from one party to the other party that (i) specifies the Parallel Auction Settlement Terms applicable with respect to such Credit Derivative Transaction in accordance with Section 6.15 (*Movement Option*) and (ii) is effective on or prior to the Movement Option Cut-off Date.

A form of Notice to Exercise Movement Option is set forth in Exhibit E.

**Section 6.19. Deliverable Obligation Terms.** "Deliverable Obligation Terms" has the meaning set forth in the relevant Credit Derivatives Auction Settlement Terms.

**Section 6.20. Deliverable Obligation Provisions.** "Deliverable Obligation Provisions" has the meaning set forth in the relevant Credit Derivatives Auction Settlement Terms.

## ARTICLE VII TERMS RELATING TO CASH SETTLEMENT

**Section 7.1. Cash Settlement.** If "Cash Settlement" is specified as the Settlement Method in the related Confirmation or if either (a) Cash Settlement is applicable as the Fallback Settlement Method in accordance with Section 6.1 (*Auction Settlement*), or (b) Cash Settlement is deemed to apply pursuant to Section 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*), 9.2 (*Partial Cash Settlement of Consent Required Loans*), 9.3 (*Partial Cash Settlement of Assignable Loans*) or 9.4 (*Partial Cash Settlement of Participations*), Seller shall, subject to Section 5.1 (*Settlement*), pay to Buyer the Cash Settlement Amount on the Cash Settlement Date.

**Section 7.2. Cash Settlement Date.** "Cash Settlement Date" means (a) if the Cash Settlement Amount is not specified in the related Confirmation, subject to Section 10.1 (*Settlement Suspension*), the date that is the number of Business Days specified in the related Confirmation (or, if a number of Business Days is not so specified, three Business Days) following the calculation of the Final Price and (b) if the Cash Settlement Amount or the Final Price is specified in the related Confirmation, subject to Section 10.1 (*Settlement Suspension*), the date that is the number of Business Days specified in the related Confirmation (or, if a number of Business Days is not so specified, three Business Days) following (i) the Event Determination Date, or (ii) if the Event Determination Date occurs pursuant to Section 1.16(a)(ii) (*Event Determination Date*) or 14.1(b)(i) (*Non-Standard Event Determination Date*), the day on which the DC Credit Event Announcement occurs. The Cash Settlement Date shall be the Termination Date.

**Section 7.3. Cash Settlement Amount.** "Cash Settlement Amount" means, unless otherwise specified in the related Confirmation, the greater of:

- (a) (i) the Floating Rate Payer Calculation Amount; multiplied by
- (ii) the Reference Price minus the Final Price; and
- (b) zero.

**Section 7.4. Final Price.** "Final Price" means the price of the Reference Obligation, expressed as a percentage of its Outstanding Principal Balance or Due and Payable Amount, as applicable, determined in accordance with the Valuation Method. The Calculation Agent shall, as soon as practicable after obtaining all Quotations for a Valuation Date, notify the parties in writing of each such Quotation that it receives in connection with the calculation of the Final Price and shall provide to the parties a written computation showing its calculation of the Final Price.

**Section 7.5. Valuation Method.**

- (a) The following Valuation Methods may be specified in the related Confirmation for a Credit Derivative Transaction with only one Valuation Date:
  - (i) "Market" means the Market Value determined by the Calculation Agent with respect to the Valuation Date; or
  - (ii) "Highest" means the highest Quotation obtained by the Calculation Agent (or in accordance with Section 7.7(b) (*Quotation*)) with respect to the Valuation Date.

If no such Valuation Method is specified in the related Confirmation, the Valuation Method shall be Highest.

- (b) The following Valuation Methods may be specified in the related Confirmation for a Credit Derivative Transaction with more than one Valuation Date:
- (i) "Average Market" means the unweighted arithmetic mean of the Market Values determined by the Calculation Agent with respect to each Valuation Date;
  - (ii) "Highest" means the highest Quotation obtained by the Calculation Agent (or in accordance with Section 7.7(b) (*Quotation*)) with respect to any Valuation Date; or
  - (iii) "Average Highest" means the unweighted arithmetic mean of the highest Quotations obtained by the Calculation Agent (or in accordance with Section 7.7(b) (*Quotation*)) with respect to each Valuation Date.

If no such Valuation Method is specified, the Valuation Method shall be Average Highest.

- (c) Notwithstanding Sections 7.5(a) and (b), if Quotations include Weighted Average Quotations or fewer than two Full Quotations, the Valuation Method shall be Market or Average Market, as the case may be.

**Section 7.6. Market Value.** "Market Value" means, with respect to the Reference Obligation on a Valuation Date, (a) if more than three Full Quotations are obtained, the arithmetic mean of such Full Quotations, disregarding the Full Quotations having the highest and lowest values (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded), (b) if exactly three Full Quotations are obtained, the Full Quotation remaining after disregarding the highest and lowest Full Quotations (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded), (c) if exactly two Full Quotations are obtained, the arithmetic mean of such Full Quotations, (d) if fewer than two Full Quotations are obtained and a Weighted Average Quotation is obtained, such Weighted Average Quotation, (e) if fewer than two Full Quotations are obtained and no Weighted Average Quotation is obtained, subject to Section 7.7(b) (*Quotation*), an amount that the Calculation Agent shall determine on the next Business Day on which two or more Full Quotations or a Weighted Average Quotation is obtained and (f) if two or more Full Quotations or a Weighted Average Quotation are not obtained within the additional five Business Day period set forth in Section 7.7(b) (*Quotation*), the Market Value shall be determined as provided in Section 7.7(b) (*Quotation*).

**Section 7.7. Quotation.** "Quotation" means each Full Quotation and the Weighted Average Quotation obtained and expressed as a percentage of the Reference Obligation's Outstanding Principal Balance or Due and Payable Amount, as applicable, with respect to a Valuation Date in the manner that follows:

- (a) The Calculation Agent shall attempt to obtain Full Quotations with respect to each Valuation Date from five or more Dealers. If the Calculation Agent is unable to obtain two or more such Full Quotations on the same Business Day within three Business Days of a Valuation Date, then on the next following Business Day (and, if necessary, on each Business Day thereafter until the tenth Business Day following the relevant Valuation Date) the Calculation Agent shall attempt to obtain Full Quotations from five or more Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation.
- (b) If the Calculation Agent is a party to the Credit Derivative Transaction and is unable to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day on or prior to the tenth Business Day following the applicable Valuation Date, then the party that is not the Calculation Agent may attempt to obtain Full Quotations from five or more Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation. If such party is able to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day within an additional five Business Days, the Calculation Agent shall use such Full Quotations or Weighted Average Quotation to determine the Final Price in accordance with the specified Valuation

Method. If such party is unable to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day within an additional five Business Days, the Quotations shall be deemed to be any Full Quotation obtained from a Dealer at the Valuation Time on such fifth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations for the Reference Obligation obtained from Dealers at the Valuation Time on such fifth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations were not obtained on such day. If the Calculation Agent is a third party and is unable to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day on or prior to the tenth Business Day following the applicable Valuation Date, Buyer and Seller each may attempt to obtain Full Quotations from five or more Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation. If either or both parties is (or are) able to obtain two or more Full Quotations or a Weighted Average Quotation on the same Business Day within an additional five Business Days, the Calculation Agent shall use all such Full Quotations or Weighted Average Quotations to determine the Final Price in accordance with the specified Valuation Method. If the parties are unable to obtain between them two or more Full Quotations or a Weighted Average Quotation on the same Business Day within an additional five Business Days, the Quotations shall be deemed to be any Full Quotation obtained from a Dealer at the Valuation Time on such fifth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations for the Reference Obligation obtained from Dealers at the Valuation Time on such fifth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations were not obtained on such day.

**Section 7.8. Valuation Date.** "Valuation Date" means:

- (a) if "Single Valuation Date" is specified in the related Confirmation, subject to Section 10.1 (*Settlement Suspension*), the date that is the number of Business Days specified in the related Confirmation (or, if the number of Business Days is not so specified, five Business Days) following the Event Determination Date (or if the Event Determination Date occurs pursuant to Section 1.16(a)(ii) (*Event Determination Date*) or 14.1(b)(i) (*Non-Standard Event Determination Date*), the day on which the DC Credit Event Announcement occurs) (or, if "Cash Settlement" is applicable pursuant to the Fallback Settlement Method in accordance with Section 6.1(a) or (b) (*Auction Settlement*), the date that is the number of Business Days specified in the related Confirmation (or, if the number of Business Days is not so specified, five Business Days) following the Auction Cancellation Date, if any, or the relevant No Auction Announcement Date, if any, as applicable); and
- (b) if "Multiple Valuation Dates" is specified in the related Confirmation, each of the following dates:
  - (i) subject to Section 10.1 (*Settlement Suspension*), the date that is the number of Business Days specified in the related Confirmation (or, if the number of Business Days is not so specified, five Business Days) following the Event Determination Date (or if the Event Determination Date occurs pursuant to Section 1.16(a)(ii) (*Event Determination Date*) or 14.1(b)(i) (*Non-Standard Event Determination Date*), the day on which the DC Credit Event Announcement occurs) (or, if "Cash Settlement" is applicable pursuant to the Fallback Settlement Method in accordance with Section 6.1(a) or (b) (*Auction Settlement*), the date that is the number of Business Days specified in the related Confirmation (or, if the number of Business Days is not so specified, five Business Days) following the Auction Cancellation Date, if any, or the relevant No Auction Announcement Date, if any, as applicable); and
  - (ii) each successive date that is the number of Business Days specified in the related Confirmation (or, if the number of Business Days is not so specified, five Business Days) after the date on which the Calculation Agent obtains a Market Value with respect to the immediately preceding Valuation Date.

When "Multiple Valuation Dates" is specified, the total number of Valuation Dates shall be equal to the number of Valuation Dates specified in the related Confirmation (or, if the number of Valuation Dates is not so specified, five Valuation Dates).

If neither "Single Valuation Date" nor "Multiple Valuation Dates" is specified in the related Confirmation, Single Valuation Date shall apply.

**Section 7.9. Quotation Method.** The applicable Quotation Method may be specified in the related Confirmation by reference to one of the following terms:

- (a) "Bid" means that only bid quotations shall be requested from Dealers;
- (b) "Offer" means that only offer quotations shall be requested from Dealers; or
- (c) "Mid-market" means that bid and offer quotations shall be requested from Dealers and shall be averaged for purposes of determining a relevant Dealer's quotation.

If a Quotation Method is not specified in the related Confirmation, Bid shall apply.

**Section 7.10. Full Quotation.** "Full Quotation" means, in accordance with the Quotation Method, each firm quotation obtained from a Dealer at the Valuation Time, to the extent reasonably practicable, for an amount of the Reference Obligation with an Outstanding Principal Balance or Due and Payable Amount equal to the Quotation Amount.

**Section 7.11. Weighted Average Quotation.** "Weighted Average Quotation" means, in accordance with the Quotation Method, the weighted average of firm quotations obtained from Dealers at the Valuation Time, to the extent reasonably practicable, each for an amount of the Reference Obligation with an Outstanding Principal Balance or Due and Payable Amount, as applicable, of as large a size as available but less than the Quotation Amount (but of a size at least equal to the Minimum Quotation Amount) that in aggregate are approximately equal to the Quotation Amount.

**Section 7.12. Quotation Amount.** "Quotation Amount" means the amount specified as such in the related Confirmation (which may be specified by reference to an amount in a currency or by reference to "Representative Amount") or, if no amount is so specified, the Floating Rate Payer Calculation Amount (or, in either case, its equivalent in the relevant Obligation Currency, which shall be converted by the Calculation Agent in a commercially reasonable manner by reference to exchange rates in effect at the time that the relevant Quotation is being obtained).

**Section 7.13. Minimum Quotation Amount.** "Minimum Quotation Amount" means the amount specified as such in the related Confirmation or its equivalent in the relevant Obligation Currency (or, if no such amount is specified, the lower of (a) USD 1,000,000 (or its equivalent in the relevant Obligation Currency) and (b) the Quotation Amount).

**Section 7.14. Valuation Time.** "Valuation Time" means the time specified as such in the related Confirmation (or, if no such time is specified, 11:00 a.m. in the principal trading market for the Reference Obligation).

**Section 7.15. Dealer.** "Dealer" means a dealer (other than one of the parties or any Affiliate of one of the parties, unless otherwise specified in the related Confirmation) in obligations of the type of Obligation(s) for which Quotations are to be obtained, including each Dealer specified in the related Confirmation. If no Dealers are specified in the related Confirmation, the Calculation Agent shall select the Dealers in consultation with the parties, provided that in the case of Section 9.7 (*Buy-in of Bonds Not Delivered*), Seller shall select the Dealers in good faith and in a commercially reasonable manner. Upon a Dealer no longer being in existence (with no successors), or not being an active dealer in the obligations of the type for which

Quotations are to be obtained, the Calculation Agent may substitute any other Dealer(s) for one or more of the foregoing after consultation with the parties.

**Section 7.16. Representative Amount.** "Representative Amount" means an amount that is representative for a single transaction in the relevant market and at the relevant time, which amount the Calculation Agent shall determine in consultation with the parties.

## ARTICLE VIII

### TERMS RELATING TO PHYSICAL SETTLEMENT

**Section 8.1. Physical Settlement.** If "Physical Settlement" is specified as the Settlement Method in the related Confirmation (or if Physical Settlement is applicable as the Fallback Settlement Method in accordance with Section 6.1 (*Auction Settlement*)), Buyer shall, subject to Sections 5.1 (*Settlement*), 10.1 (*Settlement Suspension*) and 11.2(c)(ii) (*Additional Representations and Agreements for Physical Settlement*), on or prior to the Physical Settlement Date, Deliver to Seller the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, and Seller shall pay to Buyer the Physical Settlement Amount that corresponds to the Deliverable Obligations that Buyer has Delivered. If Buyer Delivers Deliverable Obligations in an amount greater than the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, Seller shall not be required to pay more than the Physical Settlement Amount that corresponds to the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable. For purposes of the foregoing, Delivery by Buyer and payment by Seller shall be made in accordance with market practice applicable to the Deliverable Obligation on the Delivery Date.

In the case of Deliverable Obligations that are (a) Borrowed Money, Buyer shall Deliver Deliverable Obligations with an Outstanding Principal Balance and (b) not Borrowed Money, Buyer shall Deliver Deliverable Obligations with a Due and Payable Amount (or, in the case of either (a) or (b), the equivalent Currency Amount of any such amount), in each case in the aggregate amount as of the relevant Delivery Dates that is equal to the Floating Rate Payer Calculation Amount; provided that Buyer may Deliver Deliverable Obligations with an Outstanding Principal Balance or a Due and Payable Amount, as applicable, (or the equivalent Currency Amount of any such amount), in the aggregate amount as of the relevant Delivery Dates that is either (i) greater than the Floating Rate Payer Calculation Amount, in which case Seller shall not be required to pay more than the Physical Settlement Amount to Buyer, or (ii) less than the Floating Rate Payer Calculation Amount, in which case Seller shall not be required to pay more than the proportion of the Physical Settlement Amount that corresponds to the Deliverable Obligations Delivered, subject to Section 11.2(c)(ii) (*Additional Representations and Agreements for Physical Settlement*).

**Section 8.2. Notice of Physical Settlement.** "Notice of Physical Settlement" means a notice from Buyer to Seller that (a) confirms that Buyer intends to settle the Credit Derivative Transaction and requires performance in accordance with Physical Settlement, (b) contains a detailed description of each Deliverable Obligation that Buyer intends to Deliver to Seller, including, if available and applicable, the CUSIP or ISIN number (or, if such identifying number is not available or applicable, the rate and tenor) of each such Deliverable Obligation and (c) specifies the Outstanding Principal Balance or Due and Payable Amount, as applicable, or the equivalent amount in the Settlement Currency (in each case, the "Outstanding Amount") and, if different, the face amount, of each such Deliverable Obligation and the aggregate Outstanding Amount of all Deliverable Obligations specified in the Notice of Physical Settlement that Buyer intends to Deliver to Seller (the "Aggregate Outstanding Amount").

Buyer may, from time to time, notify Seller in the manner specified above (each such notification, a "NOPS Amendment Notice") that Buyer is replacing, in whole or in part, one or more Deliverable Obligations specified in the Notice of Physical Settlement or a prior NOPS Amendment Notice, as applicable, (to the extent the relevant Deliverable Obligation has not been Delivered as of the date such NOPS Amendment Notice is effective). A NOPS Amendment Notice shall contain a revised detailed description of each replacement Deliverable Obligation that Buyer will Deliver to Seller (each, a "Replacement Deliverable Obligation") and shall also specify the Outstanding Amount of each Deliverable Obligation identified in the Notice of Physical Settlement or a prior NOPS Amendment Notice, as applicable, that is being replaced (with respect to each such Deliverable Obligation, the "Replaced Deliverable Obligation Outstanding Amount"). The Outstanding Amount of each Replacement Deliverable Obligation identified in a NOPS Amendment Notice shall be determined by applying the Revised Currency Rate to the relevant Replaced Deliverable Obligation Outstanding Amount. The Outstanding Amount of the Replacement Deliverable Obligations specified in any NOPS Amendment Notice in aggregate with the Outstanding Amount of the



Deliverable Obligations specified in the Notice of Physical Settlement or any earlier NOPS Amendment Notice which, in each case, are not being replaced must not be greater than the Aggregate Outstanding Amount. Each such NOPS Amendment Notice must be effective on or prior to the Physical Settlement Date (determined without reference to any change resulting from such NOPS Amendment Notice).

A form of Notice of Physical Settlement is set forth in Exhibit C.

Notwithstanding the foregoing, (i) Buyer may correct any errors or inconsistencies in the detailed description of each Deliverable Obligation contained in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, by notice to Seller prior to the relevant Delivery Date and (ii) if Asset Package Delivery is applicable, Buyer shall on the NOPS Effective Date, or as soon as reasonably practicable thereafter (but in any case, prior to the Delivery Date), notify Seller of the detailed description of the Asset Package, if any, that it intends to Deliver to Seller in lieu of the Prior Deliverable Obligation or Package Observable Bond, if any, specified in the Notice of Physical Settlement or NOPS Amendment Notice, as applicable, it being understood in each case that such notice shall not constitute a NOPS Amendment Notice.

**Section 8.3. NOPS Effective Date.** "NOPS Effective Date" means the date on which an effective Notice of Physical Settlement or NOPS Amendment Notice, as the case may be, is delivered by Buyer.

**Section 8.4. Relevant Holder.** "Relevant Holder" means a holder of the Prior Deliverable Obligation or Package Observable Bond, as the case may be, with an Outstanding Principal Balance or Due and Payable Amount, as applicable, immediately prior to the relevant Asset Package Credit Event, equal to the Outstanding Amount specified in respect of such Prior Deliverable Obligation or Package Observable Bond in the Notice of Physical Settlement, or NOPS Amendment Notice, as applicable.

**Section 8.5. Asset Package.** "Asset Package" means, in respect of an Asset Package Credit Event, all of the Assets in the proportion received or retained by a Relevant Holder in connection with such relevant Asset Package Credit Event (which may include the Prior Deliverable Obligation or Package Observable Bond, as the case may be). If the Relevant Holder is offered a choice of Assets or a choice of combinations of Assets, the Asset Package will be the Largest Asset Package. If the Relevant Holder is offered, receives and retains nothing, the Asset Package shall be deemed to be zero.

**Section 8.6. Largest Asset Package.** "Largest Asset Package" means, in respect of a Prior Deliverable Obligation or a Package Observable Bond, as the case may be, the package of Assets for which the greatest amount of principal has been or will be exchanged or converted (including by way of amendment), as determined by the Calculation Agent by reference to Eligible Information. If this cannot be determined, the Largest Asset Package will be the package of Assets with the highest immediately realizable value, determined by the Calculation Agent in accordance with the methodology, if any, determined by the relevant Credit Derivatives Determinations Committee.

**Section 8.7. Asset.** "Asset" means each obligation, equity, amount of cash, security, fee (including any "early-bird" or other consent fee), right and/or other asset, whether tangible or otherwise and whether issued, incurred, paid or provided by the Reference Entity or a third party (or any value which was realized or capable of being realized in circumstances where the right and/or other asset no longer exists).

**Section 8.8. Asset Package Delivery.** Asset Package Delivery will apply if an Asset Package Credit Event occurs, unless (i) such Asset Package Credit Event occurs prior to the Credit Event Backstop Date determined in respect of the Credit Event specified in the Credit Event Notice or DC Credit Event Announcement applicable to the Event Determination Date, or (ii) if the Reference Entity is a Sovereign, no Package Observable Bond exists immediately prior to such Asset Package Credit Event.

**Section 8.9. Asset Package Credit Event.** "Asset Package Credit Event" means:

- (a) if "Financial Reference Entity Terms" and "Governmental Intervention" are specified as applicable in the related Confirmation:

- (i) a Governmental Intervention; or
  - (ii) a Restructuring in respect of the Reference Obligation, if "Restructuring" is specified as applicable in the related Confirmation and such Restructuring does not constitute a Governmental Intervention; and
- (b) if the Reference Entity is a Sovereign and "Restructuring" is specified as applicable in the related Confirmation, a Restructuring,

in each case, whether or not such event is specified as the applicable Credit Event in the Credit Event Notice or the DC Credit Event Announcement.

**Section 8.10. NOPS Cut-off Date.** "NOPS Cut-off Date" means, subject, where applicable, to Section 10.1 (*Settlement Suspension*):

- (a) subject to Section 8.10(b), the later of:
  - (i) the thirtieth calendar day after the Event Determination Date; and
  - (ii) the tenth calendar day after either the date of the relevant DC Credit Event Announcement or of the relevant DC Credit Event Question Dismissal, if any (or, if the relevant Credit Event is an M(M)R Restructuring, the tenth calendar day after the Non-Standard Exercise Cut-off Date); or
- (b) if "Physical Settlement" is applicable pursuant to the Fallback Settlement Method in accordance with Section 6.1(a) or (b) (*Auction Settlement*) and:
  - (i) the relevant Credit Event is not an M(M)R Restructuring, the later of (A) the date determined pursuant to Section 8.10(a)(i) and (B) the thirtieth calendar day after the Auction Cancellation Date or the No Auction Announcement Date occurring pursuant to Section 6.11(a) or (c)(i) (*No Auction Announcement Date*), as applicable; or
  - (ii) the relevant Credit Event is an M(M)R Restructuring, either:
    - (A) the later of:
      - (I) the date determined pursuant to Section 8.10(a)(i); and
      - (II) the thirtieth calendar day after:
        - (x) a No Auction Announcement Date occurring pursuant to Section 6.11(a) (*No Auction Announcement Date*), if any;
        - (y) a No Auction Announcement Date occurring pursuant to Section 6.11(c)(i) (*No Auction Announcement Date*), if any; or
        - (z) the Auction Cancellation Date, if any, as applicable; or
    - (B) the later of the Parallel Notice of Physical Settlement Date (or, if more than one should occur, the last Parallel Notice of Physical Settlement Date), and the Relevant City Business Day immediately following the Parallel Auction Cancellation Date, if any (or, if more than one should occur, the last Parallel Auction Cancellation Date), as applicable, in circumstances where either:

- (I) a No Auction Announcement Date occurs pursuant to Section 6.11(b) (*No Auction Announcement Date*) and such Credit Derivative Transaction has not been subject to exercise of the Movement Option; or
- (II) a No Auction Announcement Date occurs pursuant to Section 6.11(c)(ii) (*No Auction Announcement Date*) and such Credit Derivative Transaction has not been subject to exercise of the Movement Option,

provided that in the case of Sections 8.10(a)(ii) and (b), the relevant Credit Event Resolution Request Date, if any, occurred on or prior to the date described in Section 8.10(a)(i).

**Section 8.11. Parallel Notice of Physical Settlement Date.** "Parallel Notice of Physical Settlement Date" means "Notice of Physical Settlement Date" as defined in the relevant Parallel Auction Settlement Terms.

**Section 8.12. Deliver.**

- (a) "Deliver" means to deliver, novate, transfer (including, in the case of a Guarantee, transfer of the benefit of the Guarantee), assign or sell, as appropriate, in the manner customary for the settlement of the applicable Deliverable Obligations (which shall include executing all necessary documentation and taking any other necessary actions), in order to convey all right, title (or, with respect to Deliverable Obligations where only equitable title is customarily conveyed, all equitable title) and interest in the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, to Seller free and clear of any and all liens, charges, claims or encumbrances (excluding any liens routinely imposed on all securities in a relevant clearance system, but including, without limitation, any counterclaim, defense (other than a counterclaim or defense based on the factors set forth in Section 4.1(a) to (d) (*Credit Event*)) or right of set-off by or of the Reference Entity or any applicable Underlying Obligor); provided that (i) if a Deliverable Obligation is a Direct Loan Participation, "Deliver" means to create (or procure the creation of) a participation in favor of Seller and (ii) if a Deliverable Obligation is a Guarantee, "Deliver" means to Deliver both the Underlying Obligation and the Guarantee, provided further that if the Guarantee has a Fixed Cap, (A) "Deliver" means to Deliver the Underlying Obligation, the Guarantee and all claims to any amounts which are subject to such Fixed Cap and (B) those claims shall be deemed to be Deliverable Obligations for purposes of Section 11.2 (*Additional Representations and Agreements for Physical Settlement*). "Delivery" and "Delivered" will be construed accordingly.

In the case of a Loan, Delivery shall be effected using documentation substantially in the form of the documentation customarily used in the relevant market for Delivery of such Loan at that time, provided further that Buyer and Seller agree to comply with the provisions of any documentation (which shall include any market advisory that the relevant Credit Derivatives Determinations Committee Resolves to approve for such purpose) that the relevant Credit Derivatives Determinations Committee Resolves constitutes documentation customarily used in the relevant market for Delivery of such Loan at that time, as such documentation may be amended to the extent the relevant Credit Derivatives Determinations Committee Resolves is appropriate, which is consistent with the delivery and payment obligations of the parties hereunder. Buyer and Seller further agree that compliance by Buyer and Seller with the provisions of any such documentation, shall be required for, and, without further action, constitute, Delivery for purposes of Section 8.12 (to the extent that such documentation contains provisions describing how Delivery should be effected) and neither Buyer nor Seller shall be permitted to request that the other party take, nor shall Buyer or Seller be required to take, any action under Sections 11.2(c)(i), (v) or (vi) (*Additional Representations and Agreements for Physical Settlement*), as applicable, unless otherwise contemplated by such documentation.

- (b) If Asset Package Delivery applies, (i) Delivery of a Prior Deliverable Obligation or a Package Observable Bond specified in the Notice of Physical Settlement or NOPS Amendment Notice, as applicable, may be satisfied by Delivery of the related Asset Package, and such Asset Package shall

be treated as having the same currency, Outstanding Principal Balance or Due and Payable Amount, as applicable, as the Prior Deliverable Obligation or Package Observable Bond to which it corresponds had immediately prior to the Asset Package Credit Event, (ii) Sections 8.12(a) and 11.2 (*Additional Representations and Agreements for Physical Settlement*) shall be deemed to apply to each Asset in the Asset Package provided that if any such Asset is not a Bond, it shall be treated as if it were a Loan for these purposes, (iii) if the Asset Package is zero, the Outstanding Amount of the Prior Deliverable Obligation or Package Observable Bond shall be deemed to have been Delivered in full three Business Days following the date on which Buyer has notified Seller of the detailed description of the Asset Package that it intends to Deliver in accordance with Section 8.2 (*Notice of Physical Settlement*), (iv) Buyer may satisfy its obligation to make Delivery of the Prior Deliverable Obligation or Package Observable Bond in part by Delivery of each Asset in the Asset Package in the correct proportion and (v) if the relevant Asset is a Non-Transferable Instrument or Non-Financial Instrument, the Asset shall be deemed to be an amount of cash equal to the Asset Market Value.

**Section 8.13. Non-Transferable Instrument.** "Non-Transferable Instrument" means any Asset which is not capable of being transferred to institutional investors, excluding due to market conditions.

**Section 8.14. Non-Financial Instrument.** "Non-Financial Instrument" means any Asset which is not of the type typically traded in, or suitable for being traded in, financial markets.

**Section 8.15. Asset Market Value.** "Asset Market Value" means the market value of an Asset, as the Calculation Agent shall determine by reference to an appropriate specialist valuation or in accordance with the methodology determined by the Credit Derivatives Determinations Committee.

**Section 8.16. Delivery Date.** "Delivery Date" means, with respect to a Deliverable Obligation or an Asset Package, the date on which such Deliverable Obligation is Delivered (or deemed Delivered under Section 8.12(b)(iii) (*Deliver*)).

**Section 8.17. Physical Settlement Date.** "Physical Settlement Date" means the last day of the longest Physical Settlement Period following the NOPS Cut-off Date. If all Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable are Delivered on or before the Physical Settlement Date, the date that Buyer completes Delivery of such Deliverable Obligations shall be the Termination Date.

**Section 8.18. Physical Settlement Amount.** "Physical Settlement Amount" means the Floating Rate Payer Calculation Amount multiplied by the Reference Price.

**Section 8.19. Physical Settlement Period.** "Physical Settlement Period" means, subject to Section 10.1 (*Settlement Suspension*), the number of Business Days specified as such in the related Confirmation or, if a number of Business Days is not so specified, then, with respect to a Deliverable Obligation specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, the longest number of Business Days for settlement in accordance with then current market practice of such Deliverable Obligation, as the Calculation Agent shall determine after consultation with the parties; provided that if Buyer has notified Seller that it intends to Deliver an Asset Package in lieu of a Prior Deliverable Obligation or a Package Observable Bond, the Physical Settlement Period shall be thirty Business Days.

**Section 8.20. Currency Amount.** "Currency Amount" means with respect to (a) a Deliverable Obligation specified in a Notice of Physical Settlement that is denominated in a currency other than the Settlement Currency, an amount converted to the Settlement Currency using a conversion rate determined by reference to the Currency Rate and (b) a Replacement Deliverable Obligation specified in a NOPS Amendment Notice, an amount converted to the Settlement Currency (or, if applicable, back into the Settlement Currency) using a conversion rate determined by reference to the Currency Rate, if any, and each Revised Currency Rate used to convert each Replaced Deliverable Obligation Outstanding Amount specified in each NOPS

Amendment Notice with respect to that portion of the Credit Derivative Transaction into the currency of denomination of the relevant Replacement Deliverable Obligation.

**Section 8.21. Currency Rate.** "Currency Rate" means with respect to (a) a Deliverable Obligation specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, the rate of conversion between the Settlement Currency and the currency in which the Outstanding Amount of such Deliverable Obligation is denominated that is either (i) determined by reference to the Currency Rate Source as at the Next Currency Fixing Time, or (ii) if such rate is not available at such time, as the Calculation Agent shall determine in a commercially reasonable manner after consultation with the parties and (b) a Replacement Deliverable Obligation specified in a NOPS Amendment Notice, the Revised Currency Rate.

**Section 8.22. Revised Currency Rate.** "Revised Currency Rate" means, with respect to a Replacement Deliverable Obligation specified in a NOPS Amendment Notice, the rate of conversion between the currency in which the Replaced Deliverable Obligation Outstanding Amount is denominated and the currency in which the Outstanding Amount of such Replacement Deliverable Obligation is denominated that is determined either (a) by reference to the Currency Rate Source as at the Next Currency Fixing Time, or (b) if such rate is not available at such time, as the Calculation Agent shall determine in a commercially reasonable manner after consultation with the parties.

**Section 8.23. Next Currency Fixing Time.** "Next Currency Fixing Time" means 4:00 p.m. (London time) on the London Business Day immediately following the date on which the Notice of Physical Settlement or relevant NOPS Amendment Notice, as applicable, is effective.

**Section 8.24. Currency Rate Source.** "Currency Rate Source" means the mid-point rate of conversion published by WM/Reuters at 4:00 p.m. (London time), or any successor rate source approved by the relevant Credit Derivatives Determinations Committee.

**ARTICLE IX**  
**FALLBACK PROVISIONS APPLICABLE TO PHYSICAL SETTLEMENT**

**Section 9.1. Partial Cash Settlement Due to Impossibility or Illegality.** If, due to an event beyond the control of Buyer, it is impossible or illegal for Buyer to Deliver, or due to an event beyond the control of Seller it is impossible or illegal for Seller to accept Delivery of, any of the Deliverable Obligations (other than a Deliverable Obligation described in Section 3.2(d) (*Deliverable Obligation*)) specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable on the Physical Settlement Date (including, without limitation, failure of the relevant clearance system or due to any law, regulation or court order, but excluding market conditions or the failure to obtain any requisite consent with respect to the Delivery of Loans), then on or before such date (a) Buyer shall Deliver and Seller shall take Delivery of any of the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable for which it is possible and legal to take Delivery and Seller shall make a payment of that portion of the Physical Settlement Amount that corresponds to the amount of Deliverable Obligations that are Delivered in accordance with market practice applicable to the Deliverable Obligation on the Delivery Date and (b) Buyer or Seller, as applicable, shall provide a description in reasonable detail of the facts giving rise to such impossibility or illegality and, as soon as practicable thereafter, Buyer shall Deliver and Seller shall take Delivery of the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable which were not Delivered and Seller shall make a payment of that portion of the Physical Settlement Amount that corresponds to the amount of Deliverable Obligations that are Delivered in accordance with market practice applicable to the Deliverable Obligation on the Delivery Date. The date on which the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable which were not Delivered are subsequently delivered shall be the Termination Date. If, following the occurrence of any such impossibility or illegality, the amount of Deliverable Obligations that are to be Delivered as specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable are not Delivered to Seller on or prior to the Latest Permissible Physical Settlement Date, Cash Settlement pursuant to Section 9.6 (*Partial Cash Settlement Terms*) shall be deemed to apply to the Credit Derivative Transaction with respect to the Deliverable Obligations that cannot be Delivered (the "Undeliverable Obligations").

**Section 9.2. Partial Cash Settlement of Consent Required Loans.** If:

- (a) "Partial Cash Settlement of Consent Required Loans" is specified as applicable in the related Confirmation;
- (b) the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable include Consent Required Loans that, due to the non-receipt of any requisite consents, are not, on the Physical Settlement Date, capable of being assigned or novated to Seller or its designee and such consents are not obtained or deemed given by the Latest Permissible Physical Settlement Date; and
- (c) (i) "Direct Loan Participation" is not specified as a Deliverable Obligation Characteristic in the related Confirmation, or (ii) "Direct Loan Participation" is specified as a Deliverable Obligation Characteristic in the related Confirmation and the relevant participation is not effected on or before the Latest Permissible Physical Settlement Date,

Cash Settlement pursuant to Section 9.6 (*Partial Cash Settlement Terms*) shall be deemed to apply to the Credit Derivative Transaction with respect to the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable that consist of Consent Required Loans for which consents are not obtained or deemed given (the "Undeliverable Loan Obligations").

**Section 9.3. Partial Cash Settlement of Assignable Loans.** If:

- (a) "Partial Cash Settlement of Assignable Loans" is specified as applicable in the related Confirmation;

- (b) the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable include Assignable Loans that, due to the non-receipt of any requisite consents, are not, on the Physical Settlement Date, capable of being assigned or novated to Seller or its designee and such consents are not obtained or deemed given by the Latest Permissible Physical Settlement Date; and
- (c) (i) "Direct Loan Participation" is not specified as a Deliverable Obligation Characteristic in the related Confirmation, or (ii) "Direct Loan Participation" is specified as a Deliverable Obligation Characteristic in the related Confirmation and the relevant participation is not effected on or before the Latest Permissible Physical Settlement Date,

Cash Settlement pursuant to Section 9.6 (*Partial Cash Settlement Terms*) shall be deemed to apply to the Credit Derivative Transaction with respect to the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, that consist of Assignable Loans for which consents are not obtained or deemed given (the "Unassignable Obligations").

**Section 9.4. Partial Cash Settlement of Participations.** If:

- (a) "Partial Cash Settlement of Participations" is specified as applicable in the related Confirmation; and
- (b) the Deliverable Obligations include Direct Loan Participations and the relevant participation is not effected on or before the Latest Permissible Physical Settlement Date,

Cash Settlement pursuant to Section 9.6 (*Partial Cash Settlement Terms*) shall be deemed to apply to the Credit Derivative Transaction with respect to the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, that consist of Direct Loan Participations in respect of which the relevant participation is not effected (the "Undeliverable Participations").

**Section 9.5. Latest Permissible Physical Settlement Date.** "Latest Permissible Physical Settlement Date" means, in respect of Section 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*), the date that is thirty calendar days after the Physical Settlement Date and, in respect of Sections 9.2 (*Partial Cash Settlement of Consent Required Loans*), 9.3 (*Partial Cash Settlement of Assignable Loans*) and 9.4 (*Partial Cash Settlement of Participations*), the date that is fifteen Business Days after the Physical Settlement Date.

**Section 9.6. Partial Cash Settlement Terms.** Unless otherwise specified in the related Confirmation, the following terms are deemed to be defined as follows for purposes of the Partial Cash Settlement Terms referred to in Sections 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*), 9.2 (*Partial Cash Settlement of Consent Required Loans*), 9.3 (*Partial Cash Settlement of Assignable Loans*) and 9.4 (*Partial Cash Settlement of Participations*):

- (a) "Cash Settlement Amount" is deemed to be, for each Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation, the aggregate of the greater of (i)(A) the Outstanding Principal Balance, Due and Payable Amount or Currency Amount, as applicable, of each Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation multiplied by (B) the Reference Price minus the Final Price with respect to such Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation and (ii) zero;
- (b) "Cash Settlement Date" is deemed to be the date that is three Business Days after the calculation of the Final Price, which date shall also be the Termination Date;
- (c) "Reference Obligation" is deemed to be each Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation and "Reference Price" is deemed to be one hundred per cent;

- (d) "Valuation Date" is deemed to be the date that is two Business Days after the Latest Permissible Physical Settlement Date;
- (e) "Valuation Method" is deemed to be Highest unless fewer than two Full Quotations are obtained or a Weighted Average Quotation applies (or, if applicable, Indicative Quotations), in which case, "Valuation Method" is deemed to be Market;
- (f) "Quotation Method" is deemed to be Bid;
- (g) "Quotation Amount" is deemed to be, with respect to each type or issue of Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation, an amount equal to the Outstanding Principal Balance or Due and Payable Amount (or, in either case, its equivalent in the relevant Obligation Currency, which shall be converted by the Calculation Agent in a commercially reasonable manner by reference to exchange rates in effect at the time that the relevant Quotation is being obtained), as applicable, of such Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation;
- (h) there shall be no "Minimum Quotation Amount";
- (i) "Valuation Time" is the time specified as such in the related Confirmation (or, if no such time is specified, 11:00 a.m. in the principal trading market for the Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation (as applicable));
- (j) "Market Value" means, with respect to an Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation (as applicable) on a Valuation Date, (i) if more than three Full Quotations are obtained, the arithmetic mean of such Full Quotations, disregarding the Full Quotations having the highest and lowest values (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded), (ii) if exactly three Full Quotations are obtained, the Full Quotation remaining after disregarding the highest and lowest Full Quotations (and, if more than one such Full Quotations have the same highest value or lowest value, then one of such highest or lowest Full Quotations shall be disregarded), (iii) if exactly two Full Quotations are obtained, the arithmetic mean of such Full Quotations, (iv) if fewer than two Full Quotations are obtained and a Weighted Average Quotation is obtained, such Weighted Average Quotation, (v) if Indicative Quotations are applicable and exactly three Indicative Quotations are obtained, the Indicative Quotation remaining after disregarding the highest and lowest Indicative Quotations (and, if more than one such Indicative Quotations have the same highest or lowest value, then one of such highest or lowest Indicative Quotations shall be disregarded), (vi) if fewer than two Full Quotations are obtained, no Weighted Average Quotation is obtained (and, if Indicative Quotations are applicable, fewer than three Indicative Quotations are obtained) then, subject to Section 9.6(k)(ii), an amount that the Calculation Agent shall determine on the next Business Day on which two or more Full Quotations, a Weighted Average Quotation or, if applicable, three Indicative Quotations are obtained and (vii) if fewer than two Full Quotations are obtained, no Weighted Average Quotation is obtained (and, if Indicative Quotations are applicable, fewer than three Indicative Quotations are obtained) within the additional five Business Day period set forth in Section 9.6(k)(ii), the Market Value shall be determined as provided in Section 9.6(k)(ii);
- (k) "Quotation" means each Full Quotation, the Weighted Average Quotation and, if Indicative Quotations are applicable, each Indicative Quotation obtained and expressed as a percentage of the Reference Obligation's Outstanding Principal Balance or Due and Payable Amount, as applicable, with respect to a Valuation Date in the manner that follows:
  - (i) The Calculation Agent shall attempt to obtain Full Quotations with respect to each Valuation Date from five or more Dealers. If the Calculation Agent is unable to obtain two or more such Full Quotations on the same Business Day within three Business Days of a Valuation



Date, then on the next following Business Day (and, if necessary, on each Business Day thereafter until the tenth Business Day following the relevant Valuation Date) the Calculation Agent shall attempt to obtain Full Quotations from five or more Dealers, and, if two or more Full Quotations are not available, a Weighted Average Quotation. If two or more such Full Quotations or a Weighted Average Quotation are not available on any such Business Day and Indicative Quotations are applicable, the Calculation Agent shall attempt to obtain three Indicative Quotations from five or more Dealers.

- (ii) If the Calculation Agent is a party to the Credit Derivative Transaction and is unable to obtain two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day on or prior to the tenth Business Day following the applicable Valuation Date, then the party that is not the Calculation Agent may attempt to obtain Full Quotations from five or more Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations). If such party is able to obtain two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day within an additional five Business Days, the Calculation Agent shall use such Full Quotations or Weighted Average Quotation (or, if applicable, Indicative Quotations) to determine the Final Price in accordance with the specified Valuation Method. If such party is unable to obtain two or more Full Quotations, a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day within an additional five Business Days, the Quotations shall be deemed to be any Full Quotation obtained from a Dealer at the Valuation Time on such fifth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations (or, if applicable, Indicative Quotations) for the Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation (as applicable) obtained from Dealers at the Valuation Time on such fifth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations (or, if applicable, Indicative Quotations) were not obtained on such day. If the Calculation Agent is a third party and is unable to obtain two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day on or prior to the tenth Business Day following the applicable Valuation Date, Buyer and Seller each may attempt to obtain Full Quotations from five or more Dealers and, if two or more Full Quotations are not available, a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations). If either or both parties are able to obtain two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day within an additional five Business Days, the Calculation Agent shall use all such Full Quotations or Weighted Average Quotations (or, if applicable, Indicative Quotations) to determine the Final Price in accordance with the specified Valuation Method. If the parties are unable to obtain between them two or more Full Quotations or a Weighted Average Quotation (or, if Indicative Quotations are applicable, three Indicative Quotations) on the same Business Day within an additional five Business Days, the Quotations shall be deemed to be any Full Quotation obtained from a Dealer at the Valuation Time on such fifth Business Day or, if no Full Quotation is obtained, the weighted average of any firm quotations (or, if applicable, Indicative Quotations) for the Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation (as applicable) obtained from Dealers at the Valuation Time on such fifth Business Day with respect to the aggregate portion of the Quotation Amount for which such quotations were obtained and a quotation deemed to be zero for the balance of the Quotation Amount for which firm quotations (or, if applicable, Indicative Quotations) were not obtained on such day.

- (iii) All Quotations shall be obtained in accordance with the specification or determination made pursuant to Section 3.12 (*Accrued Interest*);
- (l) "Indicative Quotation" shall mean, in accordance with the Quotation Method, each quotation obtained from a Dealer at the Valuation Time for (to the extent reasonably practicable) an amount of the Undeliverable Obligation equal to the Quotation Amount, which reflects such Dealer's reasonable assessment of the price of such Undeliverable Obligation based on such factors as such Dealer may consider relevant, which may include historical prices and recovery rates; and
- (m) Indicative Quotations shall be applicable under Section 9.6 only if the Partial Cash Settlement Terms become applicable to a Credit Derivative Transaction due to the occurrence of an event giving rise to an impossibility or illegality under Section 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*).

**Section 9.7. Buy-in of Bonds Not Delivered.** At any time after the date that is five Business Days after the Physical Settlement Date, if Buyer has not Delivered any Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, that are Bonds (other than any Bond which (i) is a Prior Deliverable Obligation or a Package Observable Bond which Buyer has notified Seller it intends to Deliver an Asset Package in lieu thereof, or (ii) forms part of an Asset Package which Buyer has notified Seller it intends to Deliver), Seller may exercise a right to close out all or a portion of the Credit Derivative Transaction by the purchase of such Bonds under the terms of Section 9.7 (a "buy-in"), unless such failure to Deliver is due to an event described in Section 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*) (in which case Section 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*) shall apply). Seller will provide Buyer two or more Business Days' notice (which may be provided prior to the expiration of the five Business Day period after the Physical Settlement Date) of its intention to buy-in (a "Buy-in Notice"), specifying the date of the anticipated buy-in (the "Buy-in Date"), the Bonds to be subject to the buy-in (to the extent not Delivered prior to the Buy-in Date, the "Relevant Bonds") and the Outstanding Principal Balance thereof sought to be bought-in.

On the Buy-in Date, Seller shall attempt to obtain from five or more Dealers firm quotations for the sale ("Buy-in Offers") of the specified Outstanding Principal Balance of the Relevant Bonds (together with any accrued interest thereon to the extent not already included as part of the Outstanding Principal Balance). The lowest Buy-in Offer or, if Seller obtains only one Buy-in Offer, such Buy-in Offer, for the Outstanding Principal Balance of the Relevant Bonds shall be the "Buy-in Price". If Seller is unable to obtain at least one Buy-in Offer from such Dealers on the relevant Buy-in Date for the specified Outstanding Principal Balance of the Relevant Bonds, Seller will attempt to obtain Buy-in Offers for all or a portion of the specified Outstanding Principal Balance of the Relevant Bonds from five or more Dealers on each Business Day following the Buy-in Date until the earlier of (a) the fourth Business Day (inclusive) following such Buy-in Date and (b) the date a Buy-in Price or Prices are determined for all of the specified Outstanding Principal Balance of the Relevant Bonds (such period commencing on the Buy-in Date, the "Buy-in Period"). Seller will conduct the buy-in in a commercially reasonable manner and in accordance with the procedures set forth herein.

Buyer's right to Deliver the specified Outstanding Principal Balance of the Relevant Bonds shall be suspended only during the Buy-in Period and shall recommence on the first Business Day following the end of the Buy-in Period to the extent Seller has not determined a Buy-in Price or Prices for the specified Outstanding Principal Balance of the Relevant Bonds. Seller shall commit to purchase such Outstanding Principal Balance of the Relevant Bonds at the applicable Buy-in Price or Prices. Thereafter, to the extent a Buy-in Price has not been determined during a Buy-in Period with respect to all of the specified Outstanding Principal Balance of the Relevant Bonds, on or at any time after the sixth Business Day after such Buy-in Period, Seller may give another Buy-in Notice for purposes of commencing another Buy-in Period for the Relevant Bonds in accordance with the procedures set forth herein. This process may be repeated until the final settlement of the Credit Derivative Transaction.

On the date a Buy-in Price is determined (or as soon as practicable thereafter), Seller will provide notice of the Outstanding Principal Balance of the Relevant Bonds for which a Buy-in Price or Prices were determined and the Buy-in Price or Prices therefor. On the third Business Day following such notice, Buyer will be deemed to have Delivered an Outstanding Principal Balance of the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, for which a Buy-in Price was determined and Seller will pay to Buyer that portion of the Physical Settlement Amount that corresponds to such portion of the Deliverable Obligations, reduced (but not below zero) by the Buy-in Price multiplied by the corresponding Outstanding Principal Balance of the Relevant Bonds for which a Buy-in Price was determined, plus any reasonable brokerage costs incurred by Seller in connection with any purchases by it of the Relevant Bonds as part of the buy-in.

Unless otherwise agreed by Buyer and Seller, Section 9.7 shall replace any otherwise applicable buy-in rules.

**Section 9.8. Alternative Procedures Relating to Loans Not Delivered.** If Buyer has not Delivered any Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, that are Loans (other than any Loan which (i) is a Prior Deliverable Obligation which Buyer has notified Seller it intends to Deliver an Asset Package in lieu thereof, or (ii) forms part of an Asset Package which Buyer has notified Seller it intends to Deliver) on or prior to the date that is five Business Days after the Physical Settlement Date (the "Loan Alternative Procedure Start Date"), the following provisions shall apply unless (a) "Reference Obligation Only" has been specified as the Deliverable Obligation Category in the related Confirmation, (b) in the case of a Consent Required Loan, "Partial Cash Settlement of Consent Required Loans" is specified as applicable in the related Confirmation (in which case Section 9.2 (*Partial Cash Settlement of Consent Required Loans*) shall apply), (c) in the case of an Assignable Loan, "Partial Cash Settlement of Assignable Loans" is specified as applicable in the related Confirmation (in which case Section 9.3 (*Partial Cash Settlement of Assignable Loans*) shall apply), (d) in the case of a Direct Loan Participation, "Partial Cash Settlement of Participations" is specified as applicable in the related Confirmation (in which case Section 9.4 (*Partial Cash Settlement of Participations*) shall apply), or (e) in any case, such failure to Deliver is due to an event described in Section 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*) (in which case Section 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*) shall apply):

- (i) If Buyer has failed to obtain the requisite consents to Deliver a Loan specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable and has provided a certificate signed by a Managing Director (or other substantively equivalent title) of Buyer, which certifies that Buyer has used reasonable efforts to obtain such consents, at any time following the Loan Alternative Procedure Start Date, Buyer may Deliver, in lieu of all or part of such Loan, subject to Section 3.31 (*Mod R*) or 3.32 (*Mod Mod R*), any Bond that is Transferable and Not Bearer or any Assignable Loan, in either case selected by Buyer and having on both the Physical Settlement Date and the Delivery Date each of the Deliverable Obligation Characteristics (other than Consent Required Loan or Direct Loan Participation), if any, specified in the related Confirmation and otherwise satisfying the requirements to constitute a Deliverable Obligation (and such instrument shall be deemed specified in a NOPS Amendment Notice which will be effective notwithstanding the fact that it is deemed specified after the Physical Settlement Date).
- (ii) At any time after the fifteenth Business Day following the Loan Alternative Procedure Start Date, to the extent that there still remains to be Delivered any Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable that are Loans and Buyer has not Delivered any Bond or Loan in lieu thereof under Section 9.8(i), Seller may require Buyer to Deliver, in lieu of all or part of a Loan specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, any Bond that is Transferable and Not Bearer or any Assignable Loan, in either case selected by Seller and having on both the Physical Settlement Date and the Delivery Date each of the Deliverable Obligation Characteristics (other than Consent Required Loan or Direct Loan Participation), if any, specified in the related Confirmation and otherwise satisfying the requirements to constitute a Deliverable Obligation (and such instrument shall be deemed specified in a NOPS Amendment Notice which will be effective notwithstanding the fact that it is

deemed specified after the Physical Settlement Date), so long as (A) Seller identifies a holder of, or dealer in, the selected instrument (other than Seller or an Affiliate of Seller) that is ready, willing and able to Deliver such instrument to Buyer at a price (expressed as a percentage) less than the Reference Price and (B) such instrument may be further Delivered by Buyer to Seller without the consent of any person being required.

**Section 9.9. Alternative Procedures Relating to Assets Not Delivered.** If and to the extent that Delivery of the Prior Deliverable Obligation or Package Observable Bond has not been satisfied by Delivery of the Assets which form part of the Asset Package which Buyer has notified Seller that it intends to Deliver in lieu of the Prior Deliverable Obligation or Package Observable Bond specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, in the correct proportion, on or prior to the date that is five Business Days after the Physical Settlement Date, Seller may require Buyer to Deliver instead any other Deliverable Obligation selected by Seller and having on both the Physical Settlement Date and the Delivery Date each of the Deliverable Obligation Characteristics, if any, specified in the related Confirmation and otherwise satisfying the requirements to constitute a Deliverable Obligation (and such Deliverable Obligation shall be deemed specified in a NOPS Amendment Notice which will be effective notwithstanding the fact that it is deemed specified after the Physical Settlement Date), so long as (a) Seller identifies a holder of, or dealer in, the selected instrument (other than Seller or an Affiliate of Seller) that is ready, willing and able to Deliver such Deliverable Obligation to Buyer at a price (expressed as a percentage) less than the Reference Price and (b) such Deliverable Obligation may be further Delivered by Buyer to Seller without the consent of any person being required.

**Section 9.10. Cap on Settlement.** If "60 Business Day Cap on Settlement" is specified as applicable in the related Confirmation and the Termination Date has not occurred on or prior to the date that is sixty Business Days following the Physical Settlement Date, notwithstanding Sections 9.7 (*Buy-in of Bonds Not Delivered*) 9.8 (*Alternative Procedures Relating to Loans Not Delivered*) and 9.9 (*Alternative Procedures Relating to Assets Not Delivered*) and without prejudice to Sections 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*), 9.2 (*Partial Cash Settlement of Consent Required Loans*), 9.3 (*Partial Cash Settlement of Assignable Loans*) and 9.4 (*Partial Cash Settlement of Participations*), such sixtieth Business Day shall be deemed to be the Termination Date with respect to the Credit Derivative Transaction except in relation to any portion of such Credit Derivative Transaction (an "Affected Portion") in respect of which:

- (a) a valid notice of Buy-in Price has been delivered that is effective fewer than three Business Days prior to such sixtieth Business Day, in which case the Termination Date for that Affected Portion shall be the third Business Day following the date on which such notice is effective; or
- (b) Buyer has purchased but not Delivered Deliverable Obligations validly specified by Seller pursuant to Sections 9.8(ii) (*Alternative Procedures Relating to Loans Not Delivered*) or 9.9 (*Alternative Procedures Relating to Assets Not Delivered*), in which case the Termination Date for that Affected Portion shall be the tenth Business Day following the date on which Seller validly specified such Deliverable Obligations to Buyer.

## ARTICLE X EFFECT OF DC RESOLUTIONS

**Section 10.1. Settlement Suspension.** If, following the occurrence of an Event Determination Date but prior to the Physical Settlement Date or, to the extent applicable, a Valuation Date, there is a DC Credit Event Meeting Announcement, the timing requirements of Sections 7.2 (*Cash Settlement Date*), 7.8 (*Valuation Date*), 8.1 (*Physical Settlement*), 8.10 (*NOPS Cut-off Date*), and 8.19 (*Physical Settlement Period*), as applicable, or any other Section of the Definitions that pertains to settlement, shall toll and remain suspended until the date of the relevant DC Credit Event Announcement or DC Credit Event Question Dismissal. During such suspension period, the parties are not obliged to, nor are they entitled to, take any action in connection with the settlement of any relevant Credit Derivative Transaction. Once the relevant DC Credit Event Announcement or DC Credit Event Question Dismissal, as applicable, has occurred, the relevant timing requirements of Sections 7.2 (*Cash Settlement Date*), 7.8 (*Valuation Date*), 8.1 (*Physical Settlement*), 8.10 (*NOPS Cut-off Date*), and 8.19 (*Physical Settlement Period*), as applicable, or any other Section of the Definitions that pertains to settlement that have previously tolled or been suspended shall resume on the Business Day following such public announcement by the DC Secretary with the parties having the benefit of the full day notwithstanding when the tolling or suspension began in accordance with Section 10.1.

**Section 10.2. Effect of DC Resolutions.** Any DC Resolution of the relevant Credit Derivatives Determinations Committee that is applicable to such Credit Derivative Transaction, including a DC Resolution that reverses a previous DC Resolution, shall be binding on Buyer and Seller:

(a) provided that:

- (i) if the effect of a DC Resolution would be to reverse (A) a prior DC Resolution of the relevant Credit Derivatives Determinations Committee, (B) any determination made by the Calculation Agent that is effectively notified to the parties to the Credit Derivative Transactions prior to the fifth Business Day which immediately precedes the Successor Resolution Request Date or a Substitute Reference Obligation Resolution Request Date, as applicable, or (C) the occurrence of an Event Determination Date, that, in any case, has resulted in:
  - (I) the identification of one or more Successors;
  - (II) the identification of a Substitute Reference Obligation; or
  - (III) the occurrence of an Auction Final Price Determination Date, Physical Settlement Date or Termination Date, as applicable, or to the extent of the occurrence of a Valuation Date or Delivery Date, as applicable, in each case, on or prior to the date that the DC Secretary publicly announces such DC Resolution of the relevant Credit Derivatives Determinations Committee,

then such DC Resolution shall not be effective for purposes of the Credit Derivative Transaction, or, in the case of a Valuation Date or Delivery Date only, shall not be effective to the extent that a Valuation Date or Delivery Date has occurred; and

- (ii) if Buyer and Seller have included any provision in the terms of the applicable Credit Derivative Transaction that seeks to amend or override the agreement contained in Section 10.2 by expressly referring in writing to Section 10.2 and which would otherwise be effective in accordance with the terms of the relevant Credit Derivative Transaction, then any DC Resolution shall not be effective for purposes of such Credit Derivative Transaction; and

- (b) notwithstanding:
- (i) that the Definitions, as supplemented, or any provisions incorporated in the related Confirmation, as applicable, may require such determination to be made by the Calculation Agent;
  - (ii) any provision in the master agreement between Buyer and Seller that governs the relevant Credit Derivative Transaction and/or the related Confirmation, as applicable (but in each case, without prejudice to Section 10.2(a)(ii)), that describes an alternative mechanism for resolving, in the absence of agreement between Buyer and Seller, any matter that is Resolved by the relevant Credit Derivatives Determinations Committee;
  - (iii) that in order to reach such DC Resolution, the relevant Credit Derivatives Determinations Committee may be required to Resolve one or more factual matters before being able to reach such DC Resolution; and
  - (iv) any actual or perceived conflict of interest on the part of a DC Party, legal counsel or other third-party professional hired by such DC Party in connection with such DC Party's performance of its duties under the DC Rules.

**ARTICLE XI**  
**ADDITIONAL REPRESENTATIONS AND AGREEMENTS OF THE PARTIES**

**Section 11.1. Additional Representations and Agreements of the Parties.**

- (a) Buyer and Seller shall each be deemed to represent to the other party on the Trade Date that, in connection with such Credit Derivative Transaction, neither the other party nor any of the other party's Affiliates have made any representation whatsoever with respect to the Reference Entity, the Reference Obligation, any Obligation, any Deliverable Obligation, any Underlying Obligor or any Underlying Obligation on which it is relying or is entitled to rely.
- (b) On the Trade Date, Buyer and Seller shall each be deemed to agree with the other that, so long as either party has or may have any obligation under the Credit Derivative Transaction:
  - (i) the parties will be obligated to perform their respective obligations, in accordance with Section 5.1 (*Settlement*), irrespective of the existence or amount of the parties' credit exposure to the Reference Entity, and Buyer need not suffer any loss nor provide evidence of any loss as a result of the occurrence of a Credit Event;
  - (ii) such Credit Derivative Transaction does not create any rights or impose any obligations in respect of any entity that is not a party to such Credit Derivative Transaction;
  - (iii) each party and its Affiliates and the Calculation Agent may deal in the Reference Obligation, each Obligation, each Deliverable Obligation and each Underlying Obligation and may, where permitted, accept deposits from, make loans or otherwise extend credit to, and generally engage in any kind of commercial or investment banking or other business with, the Reference Entity, any Underlying Obligor, any Affiliate of the Reference Entity or of the Underlying Obligor, or any other person or entity having obligations relating to the Reference Entity, any Underlying Obligor, or any Affiliate of the Reference Entity or of the Underlying Obligor, and may act (but is not obliged to act) with respect to such business in the same manner as each of them would if such Credit Derivative Transaction did not exist, regardless of whether any such action might have an adverse effect on the Reference Entity, any Underlying Obligor, any Affiliate of the Reference Entity or of the Underlying Obligor, or the position of the other party to such Credit Derivative Transaction or otherwise (including, without limitation, any action which might constitute or give rise to a Credit Event);
  - (iv) each party and its Affiliates and the Calculation Agent may, whether by virtue of the types of relationships described herein or otherwise, on the Trade Date or at any time thereafter, be in possession of information in relation to the Reference Entity, any Underlying Obligor or any Affiliate of the Reference Entity or of the Underlying Obligor, that is or may be material in the context of such Credit Derivative Transaction and that may or may not be publicly available or known to the other party, and such Credit Derivative Transaction does not create any obligation on the part of such party, its Affiliates or the Calculation Agent to disclose to the other party any such relationship or information (whether or not confidential);
  - (v) unless it is otherwise bound by or subject to a confidentiality obligation or agreement, a party receiving any information from the other party with respect to such Credit Derivative Transaction shall not become subject to any obligation of confidentiality in respect of that information and the transferor of such information shall indemnify and hold harmless the transferee for any loss, liability, claim, damage and expense whatsoever incurred by the transferee arising out of the breach of any law or understanding or agreement with respect to the confidentiality of that information to which the transferor may be party;

- (vi) each party has determined to enter into such Credit Derivative Transaction notwithstanding any information described in Section 11.1(b)(iv) that the other party may have possession of, and notwithstanding that such party may be contractually prohibited from disclosing or offering to disclose such information to the other party by virtue of any credit agreement or other agreement with the Reference Entity, any Underlying Obligor, any Affiliate of the Reference Entity or of the Underlying Obligor, or any other person or entity having obligations relating to the Reference Entity, any Underlying Obligor, any Affiliate of the Reference Entity or the Underlying Obligor or otherwise; and
  - (vii) neither party shall have any liability to the other party (or its officers, directors, agents, partners, members, controlling entities or employees) and each party waives and releases any claims that it might have against the other party (or its officers, directors, agents, partners, members, controlling entities or employees) whether under applicable securities laws or otherwise, with respect to the non-disclosure of any information described in Section 11.1(b)(iv) in connection with such Credit Derivative Transaction; provided, however, that such information does not and shall not affect the truth or accuracy of any representation made by such party herein or in the related Confirmation.
- (c) On the Trade Date, Buyer and Seller shall each be deemed to agree with the other:
- (i) that no DC Party and no legal counsel or other third-party professional hired by a DC Party in connection with such DC Party's performance of its respective duties under the DC Rules and/or any Credit Derivatives Auction Settlement Terms, as applicable, shall be liable, whether for negligence or otherwise, to Buyer or Seller for any form of damages, whether direct, indirect, special, consequential or otherwise, that might arise in connection with such DC Party's performance of its duties, or any advice given by legal counsel or any other third-party professional hired by such DC Party in connection with such DC Party's performance of its respective duties, under the DC Rules and/or any Credit Derivatives Auction Settlement Terms, as applicable, except in the case of fraud or willful misconduct on the part of such DC Party, legal counsel or other third-party professional, as applicable; provided that, notwithstanding the foregoing, legal counsel or any other third-party professional hired by a DC Party in connection with such DC Party's performance of its duties under the DC Rules and/or any Credit Derivatives Auction Settlement Terms, as applicable, may still be liable to such DC Party;
  - (ii) to waive any claim, whether for negligence or otherwise, that may arise against a DC Party and any legal counsel or other third-party professional hired by such DC Party in connection with such DC Party's performance of its duties under the DC Rules, except in the case of fraud or willful misconduct on the part of such DC Party, legal counsel or other third-party professional, as applicable; provided that, notwithstanding the foregoing, legal counsel or any other third-party professional hired by a DC Party in connection with such DC Party's performance of its duties under the DC Rules and/or any Credit Derivatives Auction Settlement Terms, as applicable, may still be liable to such DC Party;
  - (iii) that no DC Party is (A) under any obligation to research, investigate, supplement, or verify the veracity of, any information on which the relevant Credit Derivatives Determinations Committee bases its decision and (B) acting as a fiduciary for, or as an advisor to, Buyer or Seller in connection with the relevant Credit Derivative Transaction;
  - (iv) that, in reaching any DC Resolution that is applicable to such Credit Derivative Transaction, the relevant Credit Derivatives Determinations Committee shall be under no requirement to consult with, or individually notify, Buyer or Seller, notwithstanding any provision of the Definitions, as supplemented, or of the relevant additional provisions published by ISDA and incorporated in the related Confirmation to the contrary; and



- (v) that, with respect to any DC Resolution of the relevant Credit Derivatives Determinations Committee, if there is any inconsistency between (A) any provision of either (I) the Definitions, as supplemented, or (II) any provisions incorporated in the related Confirmation and (B) the DC Rules, the DC Rules will govern.
- (d) On the Trade Date, Buyer and Seller shall be deemed to acknowledge the Disclaimer by the DC Parties provision contained in the DC Rules.

**Section 11.2. Additional Representations and Agreements for Physical Settlement.**

- (a) If Physical Settlement applies to a Credit Derivative Transaction (except in relation to Direct Loan Participations), Buyer shall be deemed to represent to Seller on each Delivery Date (which representation shall survive any such Delivery Date) that it has conveyed (or, if applicable, caused to be conveyed) to Seller (or, if applicable, its designee) all right, title (or, with respect to Deliverable Obligations where only equitable title is customarily conveyed, all equitable title) and interest in the Deliverable Obligations being Delivered on such date free and clear of any and all liens, charges, claims or encumbrances (excluding any liens routinely imposed on all securities in a relevant clearance system, but including, without limitation, any counterclaim, defense (other than a counterclaim or defense based on the factors set forth in Section 4.1(a) to (d) (*Credit Event*)) or right of set-off by or of the Reference Entity or any applicable Underlying Obligor). Subject to reasonable verification by Buyer, Buyer shall indemnify, and hold harmless, Seller for any loss, liability, claim, damage and expense whatsoever incurred arising out of Buyer's breach of the representations contained in Section 11.2(a). The indemnification in the preceding sentence shall survive the Termination Date. Any breach of the representations contained in Section 11.2(a) shall not constitute an event of default in any master agreement governing the Credit Derivative Transaction.
- (b) If Physical Settlement applies to a Credit Derivative Transaction, Buyer shall be deemed to represent to Seller on each Delivery Date (which representation shall survive any such Delivery Date) that, unless Seller has received an indemnity acceptable to Seller from Buyer with respect to the following, Delivery of such Deliverable Obligations to Seller and transfer of such Deliverable Obligations by Seller to a third party will not require or cause Seller to assume, and will not subject Seller to, any obligation, liability or commitment to lend additional funds (including any outstanding contingent commitment) (in each case other than (i) immaterial, non-payment obligations and any assignment or transfer fee in respect of Loans and (ii) obligations arising under customary provisions in respect of Borrowed Money, including but not limited to requirements that holders thereof indemnify or reimburse a trustee, fiscal agent, administrative agent, clearing agent, paying agent, facility agent or agent bank or similar person or entity for costs, liabilities or expenses and customary pro rata sharing provisions requiring any amount received by a lender through payment, set-off or otherwise other than through the procedures set forth in the relevant Loan documentation to be shared with other lenders).
- (c) If Physical Settlement applies to a Credit Derivative Transaction, the following will apply:
  - (i) Buyer and Seller agree (which agreement shall survive the Termination Date) to execute, deliver, file and record any specific assignment, novation or other document and to take any other action that may be necessary or customary or desirable and reasonably requested by the other party in connection with Buyer's Delivery of the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable (including demonstrating to the reasonable satisfaction of Seller that Buyer has taken all reasonable steps to obtain any requisite consents and keeping Seller apprised of any occurrence of which Buyer is (or reasonably should be) aware that may affect Buyer's ability to Deliver to Seller Deliverable Obligations as specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable) and Buyer and Seller agree to cooperate reasonably in connection with the foregoing.

- (ii) Subject to Sections 8.1 (*Physical Settlement*), 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*), 9.2 (*Partial Cash Settlement of Consent Required Loans*), 9.3 (*Partial Cash Settlement of Assignable Loans*), 9.4 (*Partial Cash Settlement of Participations*), 9.7 (*Buy-in of Bonds Not Delivered*), 9.8 (*Alternative Procedures Relating to Loans Not Delivered*), 9.9 (*Alternative Procedures Relating to Assets Not Delivered*) and 9.10 (*Cap on Settlement*), Buyer may Deliver only the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable and only up to the amounts specified therein for each such Deliverable Obligation. Buyer may continue to attempt to Deliver the whole of the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable after the Physical Settlement Date.

If Buyer fails to Deliver Deliverable Obligations as specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, such failure shall not constitute a breach of agreement, or an event of default in any master agreement governing the Credit Derivative Transaction.

Subject to Sections 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*), 9.2 (*Partial Cash Settlement of Consent Required Loans*), 9.3 (*Partial Cash Settlement of Assignable Loans*), 9.4 (*Partial Cash Settlement of Participations*) and 9.10 (*Cap on Settlement*), the latest of (A) the date that Buyer completes Delivery of the Deliverable Obligations specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, (B) the date that Seller completes a buy-in pursuant to Section 9.7 (*Buy-in of Bonds Not Delivered*) with respect to all Bonds specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, that Buyer has failed to Deliver (or, if earlier, the latest date all such Bonds cease to exist), (C) the date that alternative delivery pursuant to Section 9.8 (*Alternative Procedures Relating to Loans Not Delivered*) has been completed with respect to all Loans specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, that Buyer has failed to Deliver and (D) the date that alternative delivery pursuant to Section 9.9 (*Alternative Procedures Relating to Assets Not Delivered*) has been completed with respect to all Assets specified in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, that Buyer has failed to Deliver, shall be deemed to be the Termination Date.

- (iii) If an event that would otherwise constitute or give rise to an impossibility or illegality under Section 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*) occurs and would also constitute an event which would entitle a party to terminate such Credit Derivative Transaction under a master agreement governing the Credit Derivative Transaction, it will be governed by Section 9.1 (*Partial Cash Settlement Due to Impossibility or Illegality*) and will not entitle a party to terminate such Credit Derivative Transaction under a master agreement governing the Credit Derivative Transaction.
- (iv) Either party (the "designator") may designate any of its Affiliates (the "designee") to Deliver or take Delivery, as the case may be, and otherwise to perform such party's obligations to Deliver or take Delivery, as the case may be, in respect of a Credit Derivative Transaction and the designee may assume such obligations. Such designation shall not relieve the designator of any of its obligations under such Credit Derivative Transaction. If the designee has performed the obligations of the designator under such Credit Derivative Transaction, then the designator shall be discharged of its obligations to the other party to the extent of such performance. If, as a result of such designation, (A) it would be illegal due to any applicable law or regulation for the designee to so Deliver or take Delivery, the designator shall not be permitted to designate such designee to Deliver or to take Delivery, or (B) such Delivery would give rise to any Tax, any transaction tax or any loss or cost to the non-designating party, then the designator shall not be permitted to designate such designee to Deliver or to take Delivery unless the non-designating party has received an

indemnity acceptable to it from the designating party with respect to such Tax, transaction tax, loss or cost.

- (v) Unless otherwise specified in the related Confirmation, any recordation, processing or similar fee reasonably incurred by Buyer and payable to the agent under a Loan in connection with an assignment or novation (where Deliverable Obligations include Assignable Loans or Consent Required Loans) or participation (where Deliverable Obligations include Direct Loan Participations) shall be payable by Buyer and Seller equally on the Delivery Date or Latest Permissible Physical Settlement Date, as applicable.
- (vi) Notwithstanding any other provision of the Credit Derivative Transaction, if any Stamp Tax or transaction tax is payable in connection with the Delivery of Deliverable Obligations, payment of such Stamp Tax or transaction tax (as applicable) shall be made by the party or parties that would in the ordinary course bear such cost under a contract for purchase of the Deliverable Obligation.

**Section 11.3. No Frustration.** In the absence of other reasons, a Credit Derivative Transaction will not be considered frustrated, or otherwise void or voidable (whether for mistake or otherwise) solely because:

- (a) the Reference Entity does not exist on, or ceases to exist on or following, the Trade Date; and/or
- (b) Obligations, Deliverable Obligations or the Reference Obligation do not exist on, or cease to exist on or following, the Trade Date.

**Section 11.4. Merger of Reference Entity and Seller.** If Seller or the Reference Entity consolidates or amalgamates with, or merges into, or transfers all or substantially all its assets to, the Reference Entity or Seller, as applicable, or Seller and the Reference Entity become Affiliates, an Additional Termination Event under the 2002 ISDA Master Agreement will be deemed to have occurred with Seller as the sole Affected Party, with each Credit Derivative Transaction referencing the Reference Entity as the Affected Transactions and Close-out Amount as the applicable payment measure (irrespective of the payment measure specified by the parties in any master agreement between them) and each such Credit Derivative Transaction will be terminated in accordance with any applicable provisions set forth in the 2002 ISDA Master Agreement.

**ARTICLE XII**  
**INITIAL PAYMENT AMOUNT, FIXED AMOUNTS AND FLOATING RATE PAYER**  
**CALCULATION AMOUNT**

**Section 12.1. Initial Payment.** If an Initial Payment Payer and an Initial Payment Amount are specified in the related Confirmation, the Initial Payment Payer will pay to the other party an amount equal to the Initial Payment Amount on the Initial Payment Date.

**Section 12.2. Initial Payment Payer.** "Initial Payment Payer" means the party specified as such in the related Confirmation.

**Section 12.3. Initial Payment Amount.** "Initial Payment Amount" means the amount specified as such in the related Confirmation.

**Section 12.4. Initial Payment Date.** "Initial Payment Date" means the date specified as such in the related Confirmation, or, if no such date is specified, the date that is three Business Days immediately following the Trade Date.

**Section 12.5. Fixed Amount.** "Fixed Amount" means, in respect of a Credit Derivative Transaction and a Fixed Rate Payer, an amount that, subject to any applicable condition precedent, is payable by the Fixed Rate Payer on a Fixed Rate Payer Payment Date and is specified in the related Confirmation or, if no such amount is specified, is determined in accordance with Section 12.12 (*Calculation of Fixed Amount*).

**Section 12.6. Fixed Rate Payer.** "Fixed Rate Payer" means, in respect of a Credit Derivative Transaction, the party specified as such in the related Confirmation.

**Section 12.7. Fixed Rate Payer Calculation Amount.** "Fixed Rate Payer Calculation Amount" means the amount specified as such in the related Confirmation or, if an amount is not so specified, the Floating Rate Payer Calculation Amount.

**Section 12.8. Fixed Rate Payer Period End Date.** "Fixed Rate Payer Period End Date" means each date specified as such in the related Confirmation or, if no such dates are specified, each date specified in the related Confirmation as a Fixed Rate Payer Payment Date.

**Section 12.9. Fixed Rate Payer Calculation Period.** "Fixed Rate Payer Calculation Period" means each period from, and including, one Fixed Rate Payer Period End Date to, but excluding, the next following Fixed Rate Payer Period End Date, except that (a) the initial Fixed Rate Payer Calculation Period will commence on and include the Effective Date and (b) the final Fixed Rate Payer Calculation Period will end on and include the earliest to occur of (i) the Scheduled Termination Date, (ii) the Event Determination Date and (iii) with respect to a Reference Obligation Only Trade only, the Termination Date.

**Section 12.10. Effective Date.** "Effective Date" means the date specified as such in the related Confirmation, and if a date is not so specified, the Fixed Rate Payer Payment Date falling on or immediately prior to the calendar day immediately following the Trade Date. The Effective Date shall not be subject to adjustment in accordance with any Business Day Convention.

**Section 12.11. Fixed Rate Payer Payment Date.** "Fixed Rate Payer Payment Date" means each date specified as such in the related Confirmation, provided that (a) if an Event Determination Date occurs, the earlier of the Termination Date and the first Settlement Date with respect to the Credit Event to which such Event Determination Date relates, shall be the final Fixed Rate Payer Payment Date and (b) if the Credit Derivative Transaction is a Reference Obligation Only Trade and the Termination Date occurs other than following the occurrence of an Event Determination Date, the final Fixed Rate Payer Payment Date shall be the Termination Date.

**Section 12.12. Calculation of Fixed Amount.** The Fixed Amount payable by a Fixed Rate Payer on a Fixed Rate Payer Payment Date will be:

- (a) if an amount is specified in the related Confirmation as the Fixed Amount payable by the Fixed Rate Payer for that Fixed Rate Payer Payment Date or for the related Fixed Rate Payer Calculation Period, such amount; or
- (b) if an amount is not specified in the related Confirmation as the Fixed Amount payable by the Fixed Rate Payer for that Fixed Rate Payer Payment Date or for the related Fixed Rate Payer Calculation Period, an amount calculated on a formula basis for that Fixed Rate Payer Payment Date or for the related Fixed Rate Payer Calculation Period as follows:

$$\begin{array}{ccccccc} \text{Fixed} & & & & & & \\ \text{Amount} & = & \text{Fixed Rate Payer} & \times & \text{Fixed Rate} & \times & \text{Fixed Rate Day} \\ & & \text{Calculation Amount} & & & & \text{Count Fraction} \end{array}$$

**Section 12.13. Fixed Rate.** "Fixed Rate" means, for any Fixed Rate Payer Payment Date or for any Fixed Rate Payer Calculation Period in respect of a Fixed Rate Payer Payment Date, a rate, expressed as a decimal, equal to the per annum rate specified in the related Confirmation.

**Section 12.14. Fixed Rate Day Count Fraction.** "Fixed Rate Day Count Fraction" means, in respect of a Credit Derivative Transaction and the calculation of a Fixed Amount:

- (a) if "Actual/365" or "Actual/Actual" is specified as applicable in the related Confirmation, the actual number of days in the Fixed Rate Payer Calculation Period in respect of which payment is being made divided by 365 (or, if any portion of that Fixed Rate Payer Calculation Period falls in a leap year, the sum of (i) the actual number of days in that portion of the Fixed Rate Payer Calculation Period falling in a leap year divided by 366 and (ii) the actual number of days in that portion of the Fixed Rate Payer Calculation Period falling in a non-leap year divided by 365);
- (b) if "Actual/365 (Fixed)" is specified as applicable in the related Confirmation, the actual number of days in the Fixed Rate Payer Calculation Period in respect of which payment is being made divided by 365;
- (c) if "Actual/360", "Act/360" or "A/360" is specified as applicable in the related Confirmation, the actual number of days in the Fixed Rate Payer Calculation Period in respect of which payment is being made divided by 360;
- (d) if "30/360" or "Bond Basis" is specified as applicable in the related Confirmation, the number of days in the Fixed Rate Payer Calculation Period in respect of which payment is being made divided by 360 (the number of days to be calculated on the basis of a year of 360 days with twelve thirty-day months unless (i) the last day of the Fixed Rate Payer Calculation Period is the thirty-first day of a month but the first day of the Fixed Rate Payer Calculation Period is a day other than the thirtieth or thirty-first day of a month, in which case the month that includes that last day shall not be considered to be shortened to a thirty-day month, or (ii) the last day of the Fixed Rate Payer Calculation Period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a thirty-day month);
- (e) if "30E/360" or "Eurobond Basis" is specified as applicable in the related Confirmation, the number of days in the Fixed Rate Payer Calculation Period in respect of which payment is being made divided by 360 (the number of days to be calculated on the basis of a year of 360 days with twelve thirty-day months, without regard to the date of the first day or last day of the Fixed Rate Payer Calculation Period unless, in the case of the final Fixed Rate Payer Calculation Period, the last day of the final Fixed Rate Payer Calculation Period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a thirty-day month); and

- (f) if neither "Actual/365", "Actual/Actual", "Actual/365 (Fixed) ", "Actual/360", "Act/360", "A/360", "30/360", "Bond Basis", "30E/360" nor "Eurobond Basis" is specified as applicable in the related Confirmation, the Fixed Rate Day Count Fraction shall be "Actual/360".

**Section 12.15. Relating Fixed Rate Payer Payments to Fixed Rate Payer Calculation Periods.** Unless otherwise specified in the related Confirmation, where the Fixed Amount is calculated by reference to a Fixed Rate Payer Calculation Period, the Fixed Amount applicable to a Fixed Rate Payer Payment Date will be the Fixed Amount calculated with reference to the Fixed Rate Payer Calculation Period ending on, but excluding, the Fixed Rate Payer Period End Date that is (or is closest in time to) that Fixed Rate Payer Payment Date or, in the case of the final Fixed Rate Payer Calculation Period, ending on and including the earliest to occur of (a) the Scheduled Termination Date, (b) the Event Determination Date and (c) in the case of a Reference Obligation Only Trade only, the Termination Date.

**Section 12.16. Floating Rate Payer.** "Floating Rate Payer" means, in respect of a Credit Derivative Transaction, the party specified as such in the related Confirmation.

**Section 12.17. Floating Rate Payer Calculation Amount.** "Floating Rate Payer Calculation Amount" means, on the Trade Date, the amount specified as such in the related Confirmation and on any day thereafter, such amount as may have been reduced pursuant to Sections 1.18 (*Different Event Determination Dates*), 1.33 (*Credit Event Notice after M(M)R Restructuring*), or 2.2(n)(ii) (*Provisions for Determining a Successor*).

**ARTICLE XIII**  
**CREDIT DERIVATIVES PHYSICAL SETTLEMENT MATRIX**

**Section 13.1. Application of Credit Derivatives Physical Settlement Matrix.** In respect of a Credit Derivative Transaction whose Confirmation identifies a "Transaction Type" that is included in the Credit Derivatives Physical Settlement Matrix, the terms set out in the Credit Derivatives Physical Settlement Matrix with respect to such "Transaction Type" shall be deemed to apply to that Credit Derivative Transaction, provided that the relevant Confirmation does not specify any inconsistent terms, in which case the terms specified in such Confirmation shall prevail.

**Section 13.2. Credit Derivatives Physical Settlement Matrix.** "Credit Derivatives Physical Settlement Matrix" means the "Credit Derivatives Physical Settlement Matrix", as most recently amended and supplemented as at the Trade Date (unless otherwise agreed by the parties) and as published by ISDA on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto).

**ARTICLE XIV**  
**NON-STANDARD EVENT DETERMINATION DATE AND NON-STANDARD EXERCISE CUT-  
OFF DATE**

**Section 14.1. Non-Standard Event Determination Date.** "Non-Standard Event Determination Date" means with respect to a Credit Event and a Credit Derivative Transaction to which Section 1.16(a) (*Event Determination Date*) does not apply:

- (a) subject to Section 14.1(b), the Notice Delivery Date, if the Notice Delivery Date occurs during either the Notice Delivery Period or the Post Dismissal Additional Period, provided that neither (i) a DC Credit Event Announcement has occurred nor (ii) a DC No Credit Event Announcement has occurred, in each case, with respect to the Credit Event specified in the Credit Event Notice; or
- (b) notwithstanding Section 14.1(a), if a DC Credit Event Announcement has occurred and the Credit Event Resolution Request Date has occurred on or prior to the last day of the Notice Delivery Period (including prior to the Trade Date) either:
  - (i) the Credit Event Resolution Request Date, if either:
    - (A) (I) "Buyer or Seller" is the Notifying Party;
    - (II) "Auction Settlement" is not the applicable Settlement Method;
    - (III) the relevant Credit Event is not an M(M)R Restructuring; and
    - (IV) the Trade Date occurs on or prior to the date of the DC Credit Event Announcement; or
    - (B) (I) either:
      - (x) "Buyer" is the only Notifying Party and "Auction Settlement" is the applicable Settlement Method; or
      - (y) "Buyer or Seller" is the Notifying Party and the relevant Credit Event is an M(M)R Restructuring; and
    - (II) a Credit Event Notice is delivered by a Notifying Party to the other party and is effective on or prior to the Non-Standard Exercise Cut-off Date, or
  - (ii) the first date on which a Credit Event Notice is delivered by a Notifying Party to the other party and is effective during either the Notice Delivery Period or the period from and including the date of the DC Credit Event Announcement to and including the date that is fourteen calendar days thereafter (provided, in each case, that the relevant Credit Event Resolution Request Date occurred on or prior to the end of the last day of the Notice Delivery Period (including prior to the Trade Date)), if either:
    - (A) (I) "Buyer or Seller" is the Notifying Party;
    - (II) "Auction Settlement" is not the applicable Settlement Method;
    - (III) the relevant Credit Event is not an M(M)R Restructuring; and
    - (IV) the Trade Date occurs following the date of the related DC Credit Event Announcement and on or prior to a DC Announcement Coverage Cut-off Date; or



- (B) (I) "Buyer" is the only Notifying Party and the Trade Date occurs on or prior to a DC Announcement Coverage Cut-off Date; and
- (II) either:
  - (x) "Auction Settlement" is not the applicable Settlement Method; or
  - (y) "Auction Settlement" is the applicable Settlement Method and a Credit Event Notice is delivered by a Notifying Party to the other party and is effective on a date that is later than the relevant Non-Standard Exercise Cut-off Date;

provided that:

- (aa) no Physical Settlement Date, if applicable, or Termination Date has occurred on or prior to the date on which the DC Credit Event Meeting Announcement occurs;
- (bb) if any Valuation Date or Delivery Date, as applicable, has occurred on or prior to the date on which the DC Credit Event Meeting Announcement occurs, a Non-Standard Event Determination Date shall be deemed to have occurred only with respect to the portion of the Floating Rate Payer Calculation Amount, if any, with respect to which no Valuation Date or Delivery Date, as applicable, has occurred; and
- (cc) no Credit Event Notice specifying an M(M)R Restructuring as the only Credit Event has previously been delivered to Seller by Buyer as Notifying Party, (xx) unless the M(M)R Restructuring specified in such Credit Event Notice is also the subject of the DC Credit Event Question resulting in the occurrence of the Credit Event Resolution Request Date, (yy) unless, and to the extent that, the Exercise Amount specified in any such Credit Event Notice was less than the Floating Rate Payer Calculation Amount or (zz) unless the Credit Derivative Transaction is an Auction Covered Transaction and the Deliverable Obligations set out on the Final List are identical to the Permissible Deliverable Obligations for such Credit Derivative Transaction.

**Section 14.2. Non-Standard Exercise Cut-off Date.** "Non-Standard Exercise Cut-off Date" means, with respect to a Credit Event and a Credit Derivative Transaction to which Section 1.16(a) (*Event Determination Date*) does not apply:

- (a) if such Credit Event is not an M(M)R Restructuring, either:
  - (i) the Relevant City Business Day prior to the Auction Final Price Determination Date, if any;
  - (ii) the Relevant City Business Day prior to the Auction Cancellation Date, if any; or
  - (iii) the date that is fourteen calendar days following the No Auction Announcement Date, if any,
 as applicable; or
- (b) if such Credit Event is an M(M)R Restructuring and:
  - (i) the DC Secretary publishes a Final List applicable to the Transaction Auction Settlement Terms and/or Parallel Auction Settlement Terms, the date that is (A) two Relevant City Business Days, if the Credit Event Notice is delivered by Seller, or (B) five Relevant City Business Days, if the Credit Event Notice is delivered by Buyer, in each case following the date on which such Final List is published; provided that if Seller delivers a Credit Event Notice on or prior to the Non-Standard Exercise Cut-off Date applicable to Seller and Buyer

delivers a Credit Event Notice on or prior to the Non-Standard Exercise Cut-off Date applicable to Buyer, the Credit Event Notice delivered by Seller on or prior to the Non-Standard Exercise Cut-off Date applicable to Seller shall prevail; or

- (ii) otherwise, the date that is fourteen calendar days following the relevant No Auction Announcement Date.

## **EXHIBITS**

The following Exhibits will be made available separately by ISDA on its website at [www.isda.org](http://www.isda.org) (or any successor website thereto):

Exhibit A	Form of Confirmation
Exhibit B	Form of Credit Event Notice and Notice of Publicly Available Information
Exhibit C	Form of Notice of Physical Settlement
Exhibit D	Form of Repudiation/Moratorium Extension Notice and Notice of Publicly Available Information
Exhibit E	Form of Notice to Exercise Movement Option

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