
2007 ISDA Property Index Derivatives Definitions

ISDA®

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INTRODUCTION

The 2007 ISDA Property Index Derivatives Definitions (the “**Definitions**”) are intended for use in confirmations of individual property index derivatives transactions governed by agreements such as the 2002 ISDA Master Agreement, the 1992 ISDA Master Agreement (Multicurrency – Cross Border) and the 1992 ISDA Master Agreement (Single Currency – Local Jurisdiction) (each, an “**ISDA Master Agreement**”), as 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).

ISDA has provided these Definitions to assist the smooth and efficient functioning of the property index derivatives market by providing a common set of terms for parties to use in preparing Confirmations for privately negotiated property index derivatives 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 these Definitions may be put. Each party to a transaction evidenced by a Confirmation referring to these 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(s) and that the Confirmation has generally been properly drafted, in each case, to reflect the commercial intentions of the parties.*

This Introduction and the Explanatory Notes below are not part of the Definitions and do not form part of any agreement between the parties to a transaction evidenced by a Confirmation referring to these Definitions. (Capitalized terms below are used as defined in these Definitions.)

EXPLANATORY NOTES

1. **Confirmations – Form X and Form Y**

ISDA has published forms of total return swap and forward confirmations to accompany these Definitions. Because of differences in Indices and in Index Transactions, ISDA has published both the total return swap and forward confirmations in two different forms, labeled Form X and Form Y. The main differences between these forms are as follows: the Form X confirmations provide that Republication (as described below) may apply; that Index Prices are linked to Publication Dates rather than Measurement Periods; and, with respect to the total return swap, that the Floating Amounts accrue from Scheduled Publication Date to Scheduled Publication Date and are payable on the same date that Property Amounts are payable. Form Y confirmations provide that Republication is Not Applicable; that Index Prices are linked to Measurement Periods; and that Floating Amounts accrue between and are payable on dates to be specified by the parties.

2. **Republication**

Certain indices periodically republish each index level so that the index sponsor can revise the index level if necessary. Certain provisions of these Definitions address such republication. For Form Y confirmations, it is contemplated that Republication will be Not Applicable and thus the provisions addressing republication will not be relevant. For Form X confirmations, the operation of provisions related to Republication is best understood with an example.

Sample Index. Consider a hypothetical index published monthly for which the Index Sponsor:

(A) publishes an index level two months after the relevant measurement period: for January property prices, the Index Sponsor first publishes an index level in March; for February prices, the Index Sponsor first publishes an index level in April; and so on; and

(B) re-publishes each level five additional times after the initial publication: so the January level is republished once a month from April through August; the February level is republished once a month from May through September; and so on. Each republication will sometimes, but not always, include a revision to the previously published level of the Index.

Republication Choice: With respect to this index and a transaction, the parties will need to make the following choice: Do they want to use the January level as published in March? or in June? For the sake of simplicity, these Definitions are drafted to offer only a choice between (i) March, without use of any republications, and (ii) June, the republication date that falls three months after the initial publication date. If the parties want to use the March publication, they should designate Republication to be Not Applicable. A designation of Not Applicable for Republication will mean republications are ignored. If the parties want to use the June publication, they should designate Republication to be Applicable. The designation of Republication as Applicable will result in the use of the June publication of the January level regardless of whether the January level has been revised since its initial publication.

Effective Index Price: The Effective Index Price will be the index level without republication, if Republication is Not Applicable; or the index level after three months of republications, if Republication is Applicable. Following the example above, if the parties have designated Republication as Not Applicable, then the Effective Index Price for January property prices will be the level published in March. If the parties have designated Republication as Applicable, then the Effective Index Price for January property prices will be the level published in June.

The chart below shows the date of publication of the Effective Index Price relative to the measurement period. The chart assumes a two month delay, as in the example above, between the measurement period and the initial publication date.

If Republication is Not Applicable:

	<u>Measurement Period</u>											
	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>
Publication Date for Effective Index Price	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb

If Republication is Applicable:

	<u>Measurement Period</u>											
	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>
Publication Date for Effective Index Price	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May

3. Forward

The amount payable under a forward will depend on the Strike Price and the Final Effective Index Price. The Final Effective Index Price will be the Effective Index Price as of, for Form X, the Final

Publication Date or, for Form Y, for the Measurement Period ending immediately prior to the Termination Date.

For Form X forwards using Republication, an example may be helpful. Assume use of the sample index described above. If the Final Publication Date specified in respect of a forward is June, and Republication is Applicable, then the Final Effective Index Price will be the January level as published in June. If the Final Publication Date is July, and Republication is Applicable, then the Final Effective Index Price will be the February level as published in July.

4. Total Return Swap

The Property Amount payable under a total return swap will depend on the Current Effective Index Price and the Prior Effective Index Price. For any payment date, the Current Effective Index Price will be, for Form X, the most recently published Effective Index Price and, for Form Y, the Effective Index Price for the most recent Measurement Period.

Again, for purposes of explaining the application of Republication under Form X, consider the sample index described above. On a payment date for a total return swap in October (prior to the monthly publication date), if Republication is Applicable, the Current Effective Index Price would be the April level as published in September. The Prior Effective Index Price would be the March level as published in August.

Initial Effective Index Price: The Definitions provide that the Initial Effective Index Price for a total return swap is the price specified in the Confirmation. For Form X Index Transactions, this is expected to be the Effective Index Price on the Publication Date on or immediately before the Trade Date. For purposes of an example to explain Form X, assume the parties want to specify that the Initial Effective Index Price is the Effective Index Price on the Publication Date on or immediately before the Trade Date. If the Trade Date is June 15; the sample index is published on the 30th of every month; and Republication is Applicable, then the Initial Effective Index Price would be the December level published on May 30.

Floating Amounts: The Floating Amount payable under a total return swap will accrue, for Form X, from Scheduled Publication Date to Scheduled Publication Date (except that the first Floating Amount will start to accrue on the Initial Publication Date) and, for Form Y, between the dates specified by the parties. Floating Amounts will be payable, for Form X, on Property Amount Payment Dates and, for Form Y, on the dates specified by the parties.

5. Rebasing

Section 2.1 (“**Rebasing**”) of these Definitions is intended to address a change by an Index Sponsor in the base number used in determining the index.

For example, a hypothetical Index may set the level for January 1, 2007 at 100. Later Index levels will be determined relative to this base level. If the Index increases 25% over 2007, the January 1, 2008 index level will be 125. Rebasing will occur if the Index Sponsor resets the base level at some subsequent date: for example, if the Index Sponsor resets the Index to 100 on January 1, 2012. Section 2.1 of these Definitions sets out the corrections to be made for such a change.

Rebasing does not include a change to an Index that corrects for an error or adjusts for new data.

2007 ISDA PROPERTY INDEX 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 to the extent to which, the document is subject to the 2007 ISDA Property Index Derivatives Definitions (as published by ISDA). 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 these Definitions and used in any definition or provision that is incorporated by reference in a document will have the respective meanings set forth in these Definitions unless otherwise provided in that document. *Any capitalized term not herein defined shall have the meaning given to that term 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 1

GENERAL DEFINITIONS AND INTERPRETATION

Section 1.1. Agreement. “Agreement” means the ISDA Master Agreement specified as such in the related Confirmation.

Section 1.2. Calculation Agent Determination. If the related Confirmation specifies “Calculation Agent Determination” as the Disruption Procedure, then Section 2.5(b) will apply if an Index Disruption Event occurs.

Section 1.3. Computational Methodology. “Computational Methodology” means the formula or methodology used by the Index Sponsor to calculate the Index.

Section 1.4. Confirmation. “Confirmation” means, in respect of an Index Transaction, one or more documents and other confirming evidence exchanged between the parties or otherwise effective which, taken together, confirm or evidence all the terms of an Index Transaction.

Section 1.5. Cure Period. “Cure Period” means, for any Property Amount Payment Date:

(a) for Form Y Index Transactions: the period beginning on the relevant Property Amount Payment Date and ending on the earlier to occur of (i) the next Scheduled Publication Date or (ii) the 60th calendar day following the relevant Property Amount Payment Date; and

(b) for Form X Index Transactions:

(i) if Republication is Applicable: the period beginning on the relevant Property Amount Payment Date and ending on (i) the next following Scheduled Publication Date (for an Index that is scheduled to be published monthly) or (ii) the 30th calendar day following the relevant Property Amount Payment Date (for other Indices); or

(ii) if Republication is Not Applicable: the period beginning on the relevant Property Amount Payment Date and ending on (i) the third following Scheduled Publication Date (for an Index that is scheduled to be published monthly); (ii) the next following Scheduled Publication Date (for an Index that is scheduled to be published quarterly); or (iii) the 90th calendar day following the relevant Property Amount Payment Date (for other Indices).

Section 1.6. Current Effective Index Price. “Current Effective Index Price” means:

(a) for Form Y Index Transactions: in respect of a Property Amount Payment Date, the Effective Index Price in respect of the Measurement Period falling immediately prior to such Property Amount Payment Date; and

(b) for Form X Index Transactions, for any Property Amount Payment Date, the Effective Index Price most recently published by the Index Sponsor.

Section 1.7. Data Pool. “Data Pool” means the pool of properties underlying the Index.

Section 1.8. Delayed Publication Disruption Event. “Delayed Publication Disruption Event” means an event specified as such under Section 2.4(e).

Section 1.9. Disruption Procedure. “Disruption Procedure” will be either “Calculation Agent Determination” or “ISDA Meeting”, as specified in the related Confirmation.

Section 1.10. Effective Index Price. “Effective Index Price” means:

(a) for Form Y Index Transactions: the Index Price; and

(b) for Form X Index Transactions:

(i) if Republication is Applicable: and (A) the relevant Index is published monthly, the third republication of the Index Price following the initial publication of the Index Price; (B) the relevant Index is published quarterly, the first republication of the Index Price following the initial publication of the Index Price; or

(ii) if Republication is Not Applicable, the Index Price as published (ignoring any republications).

The determination of the Effective Index Price is subject to adjustments and disruptions under Article 2 below.

Section 1.11. Final Effective Index Price. “Final Effective Index Price” means:

(a) for Form Y Index Transactions: the Effective Index Price for the Measurement Period ending immediately prior to the Final Property Amount Payment Date (for Total Return Swaps) or the Termination Date (for Forwards); and

(b) for Form X Index Transactions: the Effective Index Price for the Final Publication Date.

Section 1.12. Final Property Amount Payment Date. “Final Property Amount Payment Date” means:

(a) for Form Y Index Transactions: the date specified as such in the related Confirmation; and

(b) for Form X Index Transactions: the Property Amount Payment Date immediately following the Final Publication Date.

Section 1.13. Final Publication Date. “Final Publication Date” means the date specified as such in the related Confirmation. If the Final Publication Date is “on or about” a specified date, then the Final Publication Date will be the actual publication date of the Effective Index Price that is expected to be published on or about the specified date.

Section 1.14. Final Scheduled Publication Date. “Final Scheduled Publication Date” means the Scheduled Publication Date on or about which the Final Effective Index Price is expected to be published.

Section 1.15. Floating Rate Payer. “Floating Rate Payer” means the party specified as such in the related Confirmation.

Section 1.16. Form X Index Transaction or Form Y Index Transaction. An Index Transaction will be a “Form X” Index Transaction if Form X is specified in the related Confirmation and an Index Transaction will be a “Form Y” Index Transaction if Form Y is specified in the related Confirmation.

Section 1.17. Forward. “Forward” means an Index Transaction specified as a forward in the related Confirmation.

Section 1.18. Index. “Index” means (i) each index specified as such in the related Confirmation, which may be specified using the Index Descriptions in Annex A to these Definitions, as amended from time to time, or by defining the Index in the Confirmation, or (ii) any Substitute Index as designated under the terms of these Definitions.

Section 1.19. Index Descriptions. “Index Descriptions” are published in Annex A to these Definitions, which may be amended from time to time. Unless otherwise specified in a Confirmation, the parties will be deemed to have incorporated Annex A as amended through the Trade Date of an Index Transaction.

Section 1.20. Index Discontinuance. “Index Discontinuance” means the Index Sponsor discontinues the calculation and publication of the Index.

Section 1.21. Index Disruption Event. “Index Disruption Event” means any of the following events:

- (a) a Delayed Publication Disruption Event;
- (b) an Index Discontinuance; and/or
- (c) a Methodology Event.

Section 1.22. Index Price. “Index Price” means,

- (a) for Form Y Index Transactions: with respect to a Measurement Period, the final level of the Index for such Measurement Period as published by the Index Sponsor (or otherwise determined in accordance with the provisions of these Definitions);
- (b) for Form X Index Transactions: with respect to a Publication Date, the level of the Index that is published by the Index Sponsor (or otherwise determined in accordance with the provisions of these Definitions) for such Publication Date.

Section 1.23. Index Sponsor. “Index Sponsor” means the entity that publishes the level of the relevant Index.

Section 1.24. Index Transaction. “Index Transaction” means a Transaction relating to an Index.

Section 1.25. Initial Effective Index Price. “Initial Effective Index Price” means the price specified as such in the related Confirmation. For Form X Index Transactions, this price is expected to be the Effective Index Price on the Initial Publication Date.

Section 1.26. Initial Property Amount Payment Date. “Initial Property Amount Payment Date” means:

(a) for Form Y Index Transactions: the date specified as such in the related Confirmation; and

(b) for Form X Index Transactions: the Property Amount Payment Date immediately following the first Publication Date to occur after the Initial Publication Date.

Section 1.27. Initial Publication Date. “Initial Publication Date” means the Publication Date that occurs on or immediately prior to the Trade Date.

Section 1.28. ISDA Meeting. If the related Confirmation specifies “ISDA Meeting” as the Disruption Procedure, then Section 2.5(a) will apply if an Index Disruption Event occurs.

Section 1.29. Licensee. “Licensee” means an entity that has purchased the license to the relevant Index.

Section 1.30. Long Party. “Long Party” means the party specified as such in the related Confirmation.

Section 1.31. Measurement Period. “Measurement Period” means, for Form Y Index Transactions, the period specified as such in the related Confirmation.

Section 1.32. Methodology Adjustment. “Methodology Adjustment” means a change, as published or announced by the Index Sponsor, becomes effective with respect to the Computational Methodology or the Data Pool, including, without limitation, the type, maximum or minimum valuation or geographical distribution of such properties; *provided* that a change in the individual properties or in the number of individual properties included in the Data Pool will not be a Methodology Adjustment.

Section 1.33. Methodology Event. “Methodology Event” has the meaning specified in Section 2.3.

Section 1.34. Payment Month. “Payment Month” means, for Form X Index Transactions: (a) if the Effective Index Price is published on or before the fifth day of a month, the month in which the Effective Index Price is published; or (b) otherwise, the month following the month in which the Effective Index Price is published.

Section 1.35. Prior Effective Index Price. “Prior Effective Index Price” means, for any Property Amount Payment Date, the Current Effective Index Price for the preceding Property Amount

Payment Date; *provided* that, for the Initial Property Amount Payment Date, the Prior Effective Index Price is the Initial Effective Index Price.

Section 1.36. Property Amount. “Property Amount” means, in respect of each Property Amount Payment Date, the amount specified as such the related Confirmation. If no amount is so specified, “Property Amount” means:

(a) for Index Transactions that are Total Return Swaps:

$$\left[\frac{\text{Current Effective Index Price}}{\text{Prior Effective Index Price}} - 1 \right] \times \text{Notional Amount}$$

(b) for Index Transactions that are Forwards:

$$\left[\frac{\text{Final Effective Index Price}}{\text{Strike Price}} - 1 \right] \times \text{Notional Amount}$$

Section 1.37. Property Amount Payer. “Property Amount Payer” means each party specified as such in the related Confirmation.

Section 1.38. Property Amount Payment Date. “Property Amount Payment Date” means each date specified as such in the related Confirmation.

Section 1.39. Provisional Index Price. “Provisional Index Price” means a provisional (and not definitive) Index Price, howsoever defined by the Index Sponsor.

Section 1.40. Publication Date. “Publication Date” means each date on which the relevant Index is published by the Index Sponsor (being the date of initial publication of such Index and, if Republication is Applicable, each date of republication of such Index).

Section 1.41. Rebasing. “Rebasing” means the revaluation of the Index by the Index Sponsor by the application of a new Reference Price, without amendment to the formula for or the method of calculating the Index, and “**Rebased**” will be construed accordingly.

Section 1.42. Reference Price. “Reference Price” means the historic value of the Data Pool used by the Index Sponsor as the benchmark for the Index.

Section 1.43. Republication. “Republication” will be either applicable or not applicable, as specified in the related Confirmation. The applicability of Republication will affect the determination of the Effective Index Price and determinations under Section 2.4 (Delay in Publication) below.

Section 1.44. Scheduled Publication Date. “Scheduled Publication Date” means:

(a) for Form Y Index Transactions: the date on which the Index Price in respect of the relevant Measurement Period is scheduled to be published; and

(b) for Form X Index Transactions: each date specified as such in the related Confirmation or, if none is specified in the related Confirmation, the next date on which the Index Price is scheduled to be published.

Section 1.45. Short Party. “Short Party” means the party specified as such in the related Confirmation.

Section 1.46. Strike Price. “Strike Price” means the level of the relevant Index specified in the related Confirmation.

Section 1.47. Substitute Index. “Substitute Index” means an index designated as a Substitute Index under Section 2.3 or Section 2.5.

Section 1.48. Termination Event. “Termination Event” has the meaning given to it in the ISDA Master Agreement specified in the related Confirmation to govern the Index Transaction (or if none, as defined in the 2002 ISDA Master Agreement).

Section 1.49. Total Return Swap. “Total Return Swap” means an Index Transaction specified as a total return swap in the related Confirmation.

ARTICLE 2

ADJUSTMENTS AND DISRUPTIONS

Section 2.1. Rebasing. If the Calculation Agent determines that an Index has been Rebased (the Index as so Rebased, the “**Rebased Index**”):

(a) the Calculation Agent shall as soon as reasonably practicable notify the parties to any affected Index Transaction of such occurrence;

(b) the Rebased Index will be used for purposes of determining the Index from the date of such Rebasing, *provided, however*, that the Calculation Agent shall make adjustments, in consultation with the parties, to the Strike Price or Index Prices so that use of the Rebased Index reflects what would have been the performance of the Index had the Rebasing not occurred; and

(c) any such Rebasing shall not affect any prior payments made under such Index Transaction.

Section 2.2. Error in Publication. An “**Error in Publication**” will occur if the Index Sponsor announces that an error has occurred with respect to the Index Price as published on any Publication Date; the Index Price for such Publication Date is corrected to remedy such error; and the correction is published by the Index Sponsor at any time prior to (i) the Scheduled Publication Date next following the Final Publication Date or (ii) if the Termination Date (or Early Termination Date) for the relevant Transaction occurs prior to such Scheduled Publication Date, the 90th calendar day after the Termination Date. An Error in Publication will not include a routine revision in the Index Price in a regularly scheduled republication of the Index.

Following an Error in Publication, the Calculation Agent will notify the parties to any affected Index Transaction of the relevant correction, and

(a) the Calculation Agent will determine and notify the parties to such Index Transaction of the amount that is payable by either party to the Index Transaction as a result of that correction as an adjustment payment to any previous amounts paid under the Index Transaction (taking into account the amounts previously paid by either party to the Index Transaction with respect to the relevant Publication Date and comparing them to what would have been required to be paid had the Index in the original publication reflected such correction);

(b) the relevant party to the Index Transaction, as determined by the Calculation Agent in accordance with paragraph (a) above, shall pay such adjustment amount (with no interest accruing thereon) to the other party within two Business Days of its receipt of the Calculation Agent notification described in paragraph (a) above; and

(c) if necessary, the parties will negotiate in good faith and in a commercially reasonable manner to adjust the terms of the relevant Index Transaction to account for such correction.

Section 2.3. Methodology Adjustment and Methodology Event. If a Methodology Adjustment occurs, but the Index Sponsor continues to publish an index price based on the original Computational Methodology and Data Pool, such index shall constitute a “**Substitute Index**” and shall apply to the Index Transaction in lieu of the original Index, notwithstanding the occurrence of the Methodology Adjustment. If the Index Sponsor does not publish such an index price following a Methodology Adjustment, then (whether or not an Index Price based on the original Index is published),

a “**Methodology Event**” will occur. Such a Methodology Event will be subject to Section 2.5 (*Index Disruption Events*), below.

Section 2.4. Delay in Publication.

(a) **Cure for Delay:** If the Index Sponsor has not published an Index Price on or prior to the relevant Property Amount Payment Date, then the Property Amount will not be payable on the scheduled Property Amount Payment Date and the following will apply:

(A) if the Sponsor publishes the Effective Index Price within the Cure Period, then the Property Amount Payment Date will be deferred until the second Business Day following the date of publication of such Effective Index Price and the relevant Property Amount shall be calculated by reference to such Effective Index Price; and

(B) if (A) above does not apply but the Index Sponsor publishes a Provisional Index Price during the Cure Period, then the Property Amount Payment Date will be deferred until the second Business Date following the end of the Cure Period, the Provisional Index Price will be deemed to be the Effective Index Price and the relevant Property Amount will be calculated by reference to such Provisional Index Price.

(C) Only for Form X Index Transactions if Republication is Applicable: If the Index Sponsor fails to publish an Effective Index Price or Provisional Index Price within the Cure Period, then the Effective Index Price will be deemed to be the latest publication of the Index Price, if any, published for the same measurement period as the measurement period for the Effective Index Price. The Property Amount Payment Date shall be deferred until the day that is two Business Days after the end of the Cure Period following the originally scheduled Property Amount Payment Date.

(b) **Interest.** No interest shall accrue as a result of a deferral of a Property Amount Payment Date under (a) above.

(c) **Notification.** The Calculation Agent shall notify each party of (i) the occurrence of a delay in publication and (ii) any amounts that are payable by the parties as a result of the delayed publication of the Index Price under the terms of (a) above.

(d) **Payment.** Upon the receipt of a notice by the Calculation Agent, the paying party shall pay the relevant amount to the receiving party on the relevant Property Amount Payment Date (as amended in accordance with the terms set out above).

(e) A “**Delayed Publication Disruption Event**” will occur if, following the failure of an Index Sponsor to publish the Effective Index Price, such Effective Index Price cannot be determined within the time frames set out in (a) above.

Section 2.5. Index Disruption Events.

(a) **ISDA Meeting.** If the related Confirmation specifies “ISDA Meeting” under “Disruption Procedure”, then:

(i) **Notice to ISDA.** If, at any time during the Index Transaction, an Index Disruption Event occurs, then the Calculation Agent will promptly give notice to ISDA and the parties to the Index Transaction. If ISDA has stated publicly that it is aware of the Index Disruption Event, then the Calculation Agent need not give notice to ISDA, and (for purposes of (b) below) the date of such

statement by ISDA will be deemed to be the date on which ISDA received notice from the Calculation Agent.

(ii) **Meeting.** ISDA will attempt to convene a meeting of major market participants with exposure to the relevant Index and dealers in property derivatives (who need not be dealers in Index Transactions relating to the relevant Index) as determined by ISDA in its sole discretion after consultation with its membership (such participants and dealers, “**Participants**”). Such meeting shall be held within 30 calendar days of receipt of the notice delivered by the Calculation Agent, pursuant to clause (i) above, and Participants may join in person, by telephone or any other means selected by ISDA. A minimum of five Participants will be required for the meeting. Failure to hold the meeting within 30 calendar days of receipt of the notice from the Calculation Agent will result in an Additional Termination Event under (d) below.

(iii) **Result of Meeting.** Such a meeting will attempt to agree on a replacement Index, the appropriate level of such replacement Index, and any adjustments or payments that are commercially appropriate to place the parties, as far as reasonably possible, in the economic position they would have been in had the relevant Index Disruption Event not occurred. Such agreement will be determined by whatever mechanism ISDA chooses, which may include a vote of the Participants. If the meeting agrees on a replacement index and on the appropriate levels, adjustments and payments, such Index will be the “**Substitute Index**”. ISDA may determine, in its sole discretion, that the meeting is unable to agree on a replacement index or on the appropriate levels, adjustments and payments (even if over half the Participants agree on a replacement Index.) Such Substitute Index will be in effect from a date specified by the meeting or, if the meeting fails to specify a date, the date of the Index Disruption Event.

(b) **Calculation Agent.** If the related Confirmation specifies “Calculation Agent Determination” under “Disruption Procedure”, then:

(i) **Notice.** If, at any time during the Index Transaction, an Index Disruption Event occurs, then the Calculation Agent will promptly give notice to the parties to the Index Transaction.

(ii) **Calculation Agent Determination.** The Calculation Agent will then determine, within 30 calendar days of delivery of the notice: (A) a replacement Index (the “**Substitute Index**”); (B) the appropriate level for the Substitute Index; (C) any adjustments or payments that are commercially appropriate to place the parties, as far as reasonably possible, in the economic position they would have been in had the relevant Index Disruption Event not occurred, and (D) the date that the Substitute Index will take effect for the Index Transaction. If there is more than one Calculation Agent, and the Calculations Agents cannot agree on the Substitute Index and related matters, then an Additional Termination Event will occur under (d) below.

(c) **Bilateral Agreement on Adjustments or Payments.** Notwithstanding (a) or (b) above, the parties may bilaterally agree on a replacement Index and related matters. If the parties so agree, then the agreed-upon replacement Index will be the “**Substitute Index**”. If the parties do not so agree, then the terms of the Index Transaction will include the Substitute Index and related matters determined under (a) or (b) above.

(d) **Termination.** If (1) a Substitute Index and related matters are not determined under (a) or (b) above; and (2) the parties are unable to agree under (c) above, then an Additional Termination Event will occur under the Agreement and termination payments will be determined on the basis that (i) the sole Affected Transactions are the Index Transactions that reference the Index that is subject to the Index Disruption Event, (ii) the Early Termination Date is the date of the Index Disruption

Event, and (iii) there are two Affected Parties for purposes of the termination provisions of the ISDA Master Agreement specified in the related Confirmation.

ARTICLE 3

ADDITIONAL REPRESENTATIONS AND AGREEMENTS

Section 3.1. Additional Representations. Each party to an Index Transaction shall be deemed to represent to the other party on the Trade Date of such Index Transaction and at all times until termination of such Index Transaction that, in connection with such Index Transaction, it is not relying on any representations or other communications, whether written or oral, of the other party or its Affiliates with respect to the relevant Index (or its components), the relevant Index Sponsor, or any hedging activities of the other party or its Affiliates.

Section 3.2. Agreements. At the time an Index Transaction is entered into, each party to such Index Transaction shall be deemed to agree with the other that, so long as either party has or may have any obligation under such Index Transaction:

(a) each party and its Affiliates and the Calculation Agent may engage in any hedging activity with respect to the relevant Index (or its components) 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 relevant Index Sponsor or its Affiliates, or any other person or entity having obligations directly or indirectly connected to the relevant Index (or its components), and may act with respect to such business in the same manner as each of them would as if such Index Transaction did not exist, regardless of whether such action might have an adverse effect on such Index (or its components), Index Sponsor or its Affiliates or other person or entity, or the position of the other party to such Index Transaction; and

(b) each party and its Affiliates and the Calculation Agent may, whether by virtue of the types of relationships described above or otherwise, on the Trade Date or at any time thereafter, be in possession of information in relation to the relevant Index (or its components) or the relevant Index Sponsor that is or may be material in the context of such Index Transaction and that may or may not be publicly available or known to the other party, and such Index 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).