

(Multicurrency - Cross Border)

(多种货币-跨国)

ISDA®

International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of

..... and

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

Accordingly, the parties agree as follows: -

1. Interpretation

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

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

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

2. Obligations

(a) **General Conditions.**

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

(ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the

(仅供参考)*

ISDA®

国际掉期及衍生工具协会

主协议

_____年_____月_____日

_____与_____

之间已进行及/或预期进行受本主协议约制(或将其约制)的一项或多项交易(均称为“交易”);本主协议包括附件(以下简称“附件”)以及各方之间为确认该些交易而交换的文件和其他确认证据(均称为“确认书”)。

据此,双方同意如下: -

1. 释义

(a) **定义。**就本主协议而言,第14款以及附件所定义的词汇将具有其所特定的含义。

(b) **不一致。**若附件的条款与本主协议的其他条款有不一致之处,以附件为准。若任何确认书与本主协议(包括附件)之条款有不一致之处,就有关交易而言,以确认书为准。

(c) **单一协议。**所有交易的进行乃基于本主协议以及所有确认书构成双方之间的单一协议(统称“协议”)这一事实,否则双方不会进行任何交易。

2. 义务

(a) **一般条件。**

(i) 受本协议的其他条款约束,双方应按各份确认书的规定进行各项付款或交付。

(ii) 本协议项下的付款应于到期日按当日价值在有关确认书所规定的帐户所在地或按本协议另行支付;款项应以自由可转让资金以及所需货币付款的通用方式支付。若结算以交付形式进行(即付款之外的方式),该交付应于到期日按有关义

*The Chinese translation is for reference purposes only. Parties should always execute the English version in conducting transactions. Although every effort has been made to ensure the accuracy of this translation, we can not exclude the possibility that, due to differences in the grammar and legal terminology, some terms or words used in the Chinese translation may have different meanings or connotations than in the English original. Therefore, the Chinese translation should not be relied upon by any person in making any decision or taking any action. If there are any differences between the Chinese and the English version, the English version should govern.

本翻译稿仅用于参考。双方在交易中应签署本主协议的英文本。虽然译者已尽力使该中文译本准确反映英文原文,但由于中英文用词、语法结构及法律术语之不同,中文译文不可避免与英文本存有一些差异,因此交易者不应仅依赖于本译本而做出任何决定或采取任何行动,中英文本不一致之处,应以英文本为准。

manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.

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

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

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

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

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

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

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

(i) **Gross-Up.** All payments under this Agreement will be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law, as modified by the practice of any

的通用方式经签收进行, 有关确认书或本协议另有规定者除外。

(iii) 第2(a)(i)款下各方的每项义务取决于以下先决条件: (1)对方没有发生及持续存在违约事件或潜在违约事件; (2)就有关交易而言尚未出现或尚未有效地指定提前终止日; 以及(3)本协议规定的其他各项适用的先决条件。

(b) **更改帐户。**任何一方可在预定付款或交付日前至少五个当地营业日通知对方变更接收款项或交付的帐户, 除非另一方及时发出通知对帐户更改提出合理的反对意见。

(c) **净额结算。**若任何日期双方均须: -

- (i) 以相同货币; 及
- (ii) 就相同交易,

给另一方付款, 双方支付该款项的义务将于当日自动地完成及解除, 若一方本应支付的总额高于对方本应支付的总额, 该方的付款义务则为支付较大总额一方向另一方缴付较大总额与较少总额之差的义务所取代。

双方可就两项或以上的交易选择就这些交易于同一日期以相同货币支付的所有款项进行净额结算, 不论此等付款是否关于同一笔交易。该选择可于附件或确认书上作出, 并规定上述第(ii)分段不适用于该选择所指定的交易, 同时指定一个开始日期(在此情况下上述第(ii)分段将于该日期开始不再(或停止)适用于此等交易)。此选择可就不同组别的交易分别作出并分别适用于双方用以交接款项或交付的每一组办事处。

(d) **税务的扣除或预提**

(i) **所扣税项补足。**本协议项下的所有付款应不因任何税项而予以扣除或预提, 除非此扣除或预提是按当时有效的并经有关政府税务机关的惯例加以修正的适用法律之要求而做出。若一方被要求扣除或预提任何款项, 该

relevant governmental revenue authority, then in effect. If a party is so required to deduct or withhold, then that party ("X") will: -

(1) promptly notify the other party ("Y") of such requirement;

(2) pay to the relevant authorities the full amount required to be deducted or withheld (including the full amount required to be deducted or withheld from any additional amount paid by X to Y under this Section 2(d)) promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against Y;

(3) promptly forward to Y an official receipt (or a certified copy), or other documentation reasonably acceptable to Y, evidencing such payment to such authorities; and

(4) if such Tax is an Indemnifiable Tax, pay to Y, in addition to the payment to which Y is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by Y (free and clear of Indemnifiable Taxes, whether assessed against X or Y) will equal the full amount Y would have received had no such deduction or withholding been required. However, X will not be required to pay any additional amount to Y to the extent that it would not be required to be paid but for: -

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

(B) the failure of a representation made by Y pursuant to Section 3(f) to be accurate and true unless such failure would not have occurred but for (I) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (II) a Change in Tax Law.

(ii) **Liability.** If: -

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

方("X方")应: -

(1) 及时将该要求通知另一方("Y方");

(2) 当确定需要支付该扣除或预提款项或收到通知获悉已向Y方评核该款项(二者之较早发生者)时,应及时向有关政府机关支付所需扣除或预提的全部款项(包括按本第2(d)款要求从X方付给Y方的任何额外款项中扣除或预提的全部款项);

(3) 及时向Y方发出正式收据(或经认证的副本),或Y方能合理接受的其他文件,证明已向有关政府机关付款;以及

(4) 若该税为可获补偿税项,则除了支付给Y方其在本协议项下应得的款项外,还应向Y方支付额外款项,使Y方实得的净额(不包括向X方或Y方评估的可获补偿税项)相等于在不需要扣除或预提款项时其应得的全部款项。但是如果X方的支付义务是由以下事件所引发的,则X方无须向Y方支付任何额外款项: -

(A) Y方未能遵守或履行第4(a)(i)、4(a)(iii)或4(d)款所载的任何协议;或

(B) Y方按第3(f)款所作的陈述为不准确及不真实,除非该陈述是由于(I)在某项交易进行该日或以后,税务机关采取的行动或在有管辖权的法庭内提出的诉讼(不论该行动或诉讼是否就本协议某方提出)或(II)税法的变更而变得不准确及不真实。

(ii) **责任。** 如果: -

(1) 因按经有关政府税务机关的惯例加以修正的任何适用法律之要求, X方需作出任何扣除或预提,但按第2(d)(i)(4)之规定, X方无须向Y方支付任何额外款项;

- (2) X does not so deduct or withhold;
and
- (3) a liability resulting from such Tax is assessed directly against X,

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

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

3. Representations

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

(a) **Basic Representations.**

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

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

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

- (2) X方没有扣除或预提款项; 并且
- (3) 税务责任直接加于X方,

则Y方除非已承担或将承担该税务所引致的责任外, Y方应及时向X方支付有关该责任的款项(包括任何有关利息, 但仅在Y方未能遵守或履行第4(a)(i)、4(a)(iii)或4(d)款所载的任何协议时才包括任何有关惩罚性责任)。

(e) **违约利息; 其他款项。** 就有关交易而言尚未出现或有效地指定提前终止日前, 未能履行付款义务一方应在法律允许范围内并受制于第6(c)款, (于判决之前及之后) 在另一方要求时, 向另一方就到期款项按违约利率以欠款相同的货币支付由原定付款到期日(包括当日)至实际付款日(不包括当日)期间的利息。该利息将按每日复式利率以及实际过期的日数计算。若就有关交易尚未出现或有效地指定提前终止日前, 一方未能履行所需的交付义务, 该方应按有关确认书或本协议有关规定在另一方要求时向另一方作出赔偿。

3. 陈述

各方应向另一方陈述(该陈述应被视为在每次进行交易当日为各方复述, 并且按第3(f)款所作的陈述, 将被视为直至本协议终止前不断为各方所复述): -

(a) **基本陈述。**

(i) **地位。** 其为适当地组成并按其成立或组织的司法管辖区之法律有效存续以及, 如与该等法律相关的话, 处于良好的状态;

(ii) **权力。** 其有权签署本协议以及其为一方的与本协议有关的其它任何文件, 有权按本协议有关交付的要求交付本协议及有关本协议的任何其它文件, 及有权履行本协议项下的义务以及任何以其为一方的信用支持文件下的义务, 并已采取所有必要行动授权此等签署、交付及履行;

(iii) **无违反或抵触。** 此等签署、交付及履行并无违反或抵触任何适用的法律, 符合其组织章程性文件的任何规定, 符合适用于该方或其资产的任何法庭或政府机关所颁布的法令或判决, 或任何约束或影响该方或其资产的合同约定;

binding on or affecting it or any of its assets;

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

(v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

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

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

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

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

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

4. Agreements

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

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

(i) any forms, documents or certificates relating

(iv) **同意。**已获取有关本协议或其为一方的任何信用支持文件所需的一切政府同意及其它同意;此等同意已全面生效并且有关同意生效的所有条件已获遵守;以及

(v) **义务的约束。**其在本协议及其为一方的任何信用支持文件项下的义务均构成其合法、有效及有约束力的义务,并可按该些文件的有关条款强制执行(受制于适用的破产、重组、无偿还能力、延期偿还或通常影响债权人权利的类似法律,并在有关执行方面受制于普遍适用的衡平原则(无论该执行是诉诸于衡平法或普通法))。

(b) **不存在某些事件。**没有任何已经发生及持续的违约事件或潜在的违约事件,或据其所知并无有关该方的终止事件,并且签署或履行本协议或其为一方的任何信用支持文件下的义务,不会引致该终止事件或情况的发生。

(c) **不存在诉讼。**没有任何待决的,或据其所知,没有任何对其或其关联企业构成威胁的基于普通法或衡平法或于任何法庭、裁判所、政府实体、代理人、官员或仲裁者前进行的诉讼、控告或起诉将很可能影响本协议或其为一方的任何信用支持文件的合法性、有效性或可执行性,或其履行本协议或该些信用支持文件下的义务之能力。

(d) **指定资料的准确性。**以书面形式由其发出或以其名义发给另一方,并为本第3(d)款的目的在附件上指明的所有适用资料,于该资料的日期在各重要方面均为真实、正确及完整。

(e) **付款人税务陈述。**其为本第3(e)款目的在附件中所作的陈述均为正确及真实。

(f) **收款人税务陈述。**其为本第3(f)款目的在附件中所作的陈述均为正确及真实。

4. 协议

双方彼此同意,当任何一方在本协议或其为一方的任何信用支持文件下负有或可能负有任何义务时: -

(a) **提供指定资料。**其将向另一方,或在下面第(iii)分段的某些情形下向另一方合理地指示的政府或税务机关提供: -

(i) 附件或任何确认书规定的有关税

to taxation specified in the Schedule or any Confirmation;

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

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

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

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

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

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

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

5. Events of Default and Termination Events

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

务的表格、文件或证书;

(ii) 附件或任何确认书规定的任何其他文件; 以及

(iii) 按另一方的合理要求, 提供可能需或或以书面合理地要求的任何表格或文件, 使该另一方或其信用支持提供者在按本协议或任何适用的信用支持文件付款时无需就任何税务支付扣除或预提款项, 或以减低比率支付此等扣除或预提款项(只要是该表格或文件的完成、签署或递交不会严重地损害接受该要求一方的法律或商业地位), 此等表格或文件应准确地并按使另一方合理满意的方式填写, 签署后再附上任何合理要求的证明予以交付,

以上各项义务需按附件或该确认书规定的日期, 或者如无规定, 则以合理可行的最快速时间予以完成。

(b) **维持授权。** 应尽一切合理的努力使本协议或其为一方的任何信用支持文件中要求该方从政府或其它机关获取的一切同意维持充分的效力, 并将尽一切合理的努力, 获取日后可能必要的其它同意。

(c) **遵守法律。** 应在一切重要方面遵守对其有约束力的所有适用法律及法令, 如果不遵守该等法律、法令将会严重影响其履行本协议或其为一方的任何信用支持文件下的义务的能力。

(d) **税务协议。** 当该方得悉其按第3(f)款所作的陈述有不准确及不真实之处, 应及时就此发出通知。

(e) **印花税的缴付。** 受第11款约束, 应缴付其成立、组织、被管理、控制的司法管辖区, 或视该方拥有一席位, 或为履行本协议的某个分支或办事处所在的司法管辖区对该方或就其签署或履行本协议所征收的印花税("印花税司法管辖区"), 并当某印花税司法管辖区对非处于该印花税司法管辖区的一方或就其签署或履行本协议征收印花税时对另一方作出赔偿。

5. 违约事件和终止事件

(a) **违约事件。** 任何时候, 当某方或, 如适用的话, 该方的任何信用支持提供者或该方的任何特定机构发生以下任何事件, 将构成该方的违约事件("违约事件"): -

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

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

(iii) **Credit Support Default.**

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

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

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

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

(v) **Default under Specified Transaction.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or

(i) **未能付款或交付。**某方未能于到期日按本协议付款或按第2(a)(i)或2(e)款的规定履行交付义务,并且在向该方发出逾期通知的三个当地营业日或之前仍不予以纠正;

(ii) **违反协议。**某方未能按本协议规定遵守或履行其应该遵守或履行的任何协议或义务(但按本协议的付款义务,协议第2(a)(i)款或第2(e)款的交付义务或发出终止事件通知的义务,或第4(a)(i)款、第4(a)(iii)款或4(d)款项下的任何协议或义务除外),并且在向该方发出违约通知后的三十天或之前仍不予以纠正;

(iii) **信用支持违约。**

(1) 某方或该方的任何信用支持提供者未能按任何信用支持文件的规定遵守或履行其应该遵守或履行的任何协议或义务,并在任何适用的宽限期过后仍然不予以纠正;

(2) 未经另一方书面同意,在该方未就此等信用支持文件所涉及的每项交易履行所有义务前,此等信用支持文件届满或终止,或此等信用支持文件未能或停止保持为本协议目的之充分效力(以上任何一个情况均不包括按其条文的正常失效或停止生效);或

(3) 某方或该方的信用支持提供者取消、否认、放弃或拒绝全部或部分的信用支持文件,或对该信用支持文件的有效性提出异议;

(iv) **错误的陈述。**某方或该方的任何信用支持提供者于本协议或任何信用支持文件下作出或复述的,或被视作作出或复述的陈述(按第3(e)或(f)款所作的陈述除外)被证实在陈述作出或复述或被视作作出或复述之时在任何重要方面为错误或带有误导成分;

(v) **特定交易项下的违约。**某方、该方的任何信用支持提供者或该方的任何适用特定机构(1)于特定交易下违约,而在任何适用的通知要求或宽限期生效后,该特定交易发生清算、义务加速到期、或提前终止的情形,(2)于任何适用的通知要求或宽限期生效后,未能在特定交易的最后付款、交付或交易日到期时履行任何付款或交付的义务,或支付有关特定交易的提前终止的款项(或如无适用的通知要求或宽限期,该违约持续至少三个当地营业日)或(3)取消、否

exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) **Cross Default.** If "Cross Default" is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

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

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the

认、放弃或拒绝全部或部分的特定交易(或该行动由经委派或授权的任何个人或实体进行或代表其进行);

(vi) **交叉违约。**若“交叉违约”在附件中被指定为适用于某方,发生或存在以下事件:(1)该方、该方的任何信用支持提供者或该方的任何适用特定机构就有关任何一方特定债务的一份或多份协议或文件发生违约、违约事件或其它类似的情况或事件(不论是任何的描述),(单独的或总体的)累计金额为不少于适用协议的起点金额(如附件中定义),使特定债务在原定到期及应缴付的期限之前已按此等协议或文件得以宣告到期及应缴付或能够被宣告为到期及应缴付或(2)该方、该信用支持提供者或该特定机构(单独的或总体的)累计未能在到期日(在任何适用的通知要求或宽限期生效后)按不少于此等协议或文件中适用的起点金额支付一项或多项付款;

(vii) **破产。**若一方、该方的任何信用支持提供者或该方的任何适用特定机构: -

(1)解散(根据组合、合并或兼并的除外);(2)资不抵债或无力偿还债务,或未偿还到期债务或以书面承认其总体上无力偿还到期债务;(3)向其债权人、或为其债权人利益作出一般的转让、安排和解程序,按任何破产或无力偿付法律程序,按任何破产或无力偿付法律程序,或影响债权人权利的其它类似法律就有关无力偿付或破产寻求判决或任何其它救济方法,或就其业务结束或清算提交请求,并且在任何此等诉讼或请求针对其而提出的情况下,该诉讼或请求:(A)导致获得无力偿付或破产之判决或救济命令,或就其业务结束或清算制定命令,或(B)该诉讼或请求提出后三十天内未被驳回、撤销、中止或禁止;(5)就其业务结束、官管理或清算(根据整固、合并或兼并的除外)通过决议;(6)就该方或各或其大部分的资产寻求任命或任命行政人员、临时清算者、监护人、破产事务官、受托人、保管人或其它类似官员或受该类任命约束;(7)担保权益持有人取得其所有或大部分资产的占有权,或其所有或大部分资产提起或强制执行扣押、执行、查封、强制保管或其它法律程序,并且该担保

appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

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

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

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

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

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

益持有人持续占有此等资产,或在其后三十日内该法律程序未被驳回、撤销、中止或禁止;(8)受制于在任何司法管辖区适用法律下产生与任何第(1)至(7)条款(包括该条款)所指事件有类似效果的事件或促使该事件的发生;或(9)就上述任何行为采取支持行动、或对其表示同意、批准或默许;或

(viii) **不承担债务的合并。**一方或该方的任何信用支持提供者与另一实体整合、合并或兼并,或把其所有或大部分的资产转移到另一实体;而在该整合、合并、兼并或转让时: -

(1) 最终的、续存的或受让的实体未能根据法律的实施或本协议另一方合理地满意的协议承担该方或信用支持提供者在本协议下或任何信用支持文件下的所有义务;或

(2) 任何信用支持文件的利益(在未得到另一方同意前)未能延伸以涵盖该最终的、续存的或受让的实体履行本协议下义务的行为。

(b) **终止事件。**一方或该方的任何信用支持提供者,如适用的话,或该方的任何特定机构在任何时候若发生以下(i)所述的事件将构成非法行为,若发生(ii)所述的事件将构成税务事件,若发生以下(iii)所述的事件将构成因合并造成的税务事件,又若指定为适用的话,发生以下(iv)所述的事件将构成因合并造成的信用事件,或发生以下(v)所述的事件将构成其它终止事件: -

(i) **非法行为。**在某交易开始日期后任何适用法律获得通过或发生任何变更,或在该日期后任何有管辖权的法庭、裁判所或管理机关颁布、变更对适用法律的解释,该方作出的以下行为(该方即成为受影响方)将为非法(某方违反第4(b)款所导致的事件除外): -

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

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

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

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

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

(1) 为该交易进行支付或交付,或接受支付或交付,或就该交易遵守本协议的任何其它重要条款而履行任何无条件或附条件的义务;或

(2) 由该方履行,或该方任何信用支持提供者履行有关该交易任何信用支持文件规定该方(或其信用支持提供者)应履行的附条件义务或其它义务;

(ii) **税务事件。**由于(x)在交易进行当日或以后税务机关采取行动或在有合法管辖权的法庭提出的任何诉讼(不论该诉讼是否与本协议一方有关)或(y)税法的变更,一方(即受影响方)将或有极大可能,于继后的预定付款日(1)须按第2(d)(i)(4)款就可获补偿税项向另一方支付额外款项(除有关第2(e)、6(d)(ii)或6(e)款的利息外),或(2)收取一项需从该项付款中扣除或预提税务之款项(有关第2(e)、6(d)(ii)或6(e)款的利息除外),而无权按第2(d)(i)(4)款之规定要求对方支付额外款项(基于第2(d)(i)(4)(A)或(B)款的原因除外);

(iii) **因合并造成的税务事件。**在继后的预定付款日,一方("有负担方")将(1)就第2(d)(i)(4)款下的可获补偿税项支付额外款项(有关第2(e)、6(d)(ii)或6(e)款有关的利息除外),或(2)收取一项已经在该付款中已扣除或预提可获补偿税项的款项,而另一方不须就该税项支付额外款项(基于第2(d)(i)(4)(A)或(B)的原因除外),以上任何一情况,皆由于一方将与另一实体整固、合并或兼并,或将其所有或大部份资产转移到该实体(将是受影响方)所导致,并且该行动不构成第5(a)(viii)所述的事件;

(iv) **因合并造成的信用事件。**若附件中规定"因合并造成的信用事件"适用于某方("X方"),X方的任何信用支持提供者或X方的任何适用特定机构与另一实体整固、合并或兼并,或将其所有或大部份资产转移到另一实体,而该行为不构成第5(a)(viii)款所述的事件,但最终的、续存的或受让的实体的资信情况或严重地差于在该行动发生前X方的信用或其信用支持提供者或特定机构(视情况而定)的信用(在该情况下,X方或其继承者或受让者,视情况而定,将成为"受影响方");或

action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or

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

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

6. Early Termination

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

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

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

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

(v) **其他终止事件。**若附件或任何确认书规定“其他终止事件”适用时,发生该些事件(而在该情况下,受影响方或各受影响方应视附件或该确认书上的其他终止事件而定)。

(c) **违约事件及非法行为。**若任何构成或导致违约事件的事件或情况亦构成非法行为,该事件将被视作非法行为处理,而不构成违约事件。

6. 提前终止

(a) **违约事件发生后的终止权利。**在任何时候发生有关一方(“违约方”)的违约事件并持续存在,另一方(“守约方”)可以用通知期不超过二十天的通知形式通知违约方有关违约事件,并将不早于通知生效的日期指定为有关所有未完成的交易的提前终止日。但是,如果附件上规定“自动提前终止”适用于一方,则该方发生第 5(a)(vii)(1)、(3)、(5)、(6)款规定,或 5(a)(vii)(8)款规定的类似的违约事件之时,或在 5(a)(vii)(4)款所规定或 5(a)(vii)(8)款规定的类似的违约事件后提出有关诉讼或请求状之前,有关所有未完成交易的提前终止日立即生效。

(b) **终止事件后的终止权利。**

(i) **通知。**若发生终止事件,受影响方应在获悉该事件后立即通知另一方,说明该终止事件的性质及每项受影响交易,并按另一方合理的要求把有关终止事件的资料通知另一方。

(ii) **为避免终止事件而转让。**若发生第 5(b)(i)(1)款下的非法行为或税务事件,而只有一个受影响方,或发生因合并造成的税务事件而有负担方是受影响方,受影响方作为拥有第 6(b)(iv)款下指定提前终止日的权利之条件,将尽所有合理的努力(但该努力不应使该方承受损失,但不重要及附带开支以外的损失除外)在按第 6(b)(i)款发出通知后的二十天内就该受影响交易将其在本协议下的所有权利和义务转让到该方的其它办事处或关联企业,以停止有关终止事件。

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

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

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

(iv) **Right to Terminate.** If: -

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

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

either party in the case of an Illegality, the Burdened Party in the case of a Tax Event Upon Merger, any Affected Party in the case of a Tax Event or an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) **Effect of Designation.**

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

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

若受影响方未能作出以上转让,应在该二十天内通知另一方,而另一方可用于收到第6(b)(i)款下的通知后三十天内进行该转让。

一方按第6(b)(ii)款所作的任何转让均受另一方的事前书面同意约束以及受其条件限制,而当另一方届时生效的政策容许其与受让方按提出的条件进行交易时,另一方应同意该转让。

(iii) **两个受影响方。**若发生第5(b)(i)(1)款下的非法事件或税务事件而有两个受影响方时,各方应在收到第6(b)(i)款下的通知后三十天内以一切合理的努力达成协议,以防止该终止事件的发生。

(iv) **终止的权利。**如果: -

(1) 受影响方在发出第6(b)(i)款下的通知后三十天内,未能就所有受影响交易进行第6(b)(ii)款下的转让或达成第6(b)(iii)款下的协议(视情况而定);或

(2) 发生第5(b)(i)(2)款下的非法事件,因合并造成的信用事件或其他终止事件、或发生因合并造成的税务事件而有负担方并非受影响方,

非法事件中的任何一方、因合并造成的税务事件中的有负担方,税务事件中或其他终止事件中任何一个受影响方(若多于一个受影响方),或因合并造成的信用事件或其它终止事件中不受影响的一方(若只有一个受影响方),可以通过通知期不长于二十天的通知形式通知另一方,在有关终止事件仍持续的前提下就所有受影响交易指定不早于该通知生效之日的一天作为提前终止日。

(c) **指定的效力。**

(i) 如果按第6(a)或(b)款发出通知指定提前终止日,则不论有关的违约事件或终止事件仍否持续,该提前终止日将于指定的日期生效。

(ii) 当提前终止日来临或被有效指定时,无须再就已终止交易进行第2(a)(i)或2(e)款下的付款或交付,但本协议的其它规定将不受影响。有关提前终止日应支付的款项(如有的话)应按第6(e)款确定。

payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) **Calculations.**

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

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

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

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

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

(d) **计算。**

(i) **报告。**在提前终止日或之后合理可行的最短时间内,各方应按第6(e)款的规定计算其帐目,并向另一方提交一份报告:(1)合理详细地说明此等计算(包括一切有关报价,并说明第6(e)款下应付的任何款项),以及(2)详细说明其应收款项的存入的有关帐户。若在确定市场报价的过程中,就一项报价无法从其来源得到书面确认,则获取该报价一方的记录将成为该报价存在和准确性的结论性证明。

(ii) **付款日。**有关第6(e)款下任何提前终止日所计算的到期款项须在付款通知书生效当日支付(当提前终止日乃因违约事件所导致出现或被指定时),或于付款通知书生效日后的第二个当地营业日支付(当提前终止日乃因终止事件所导致而被指定时)。该款项应在适用法律的允许下连同与其有关的利息(于判决之前及之后)以终止货币一起支付,计算利息的期间从有关提前终止日(包括当日)至清还该款项之日(不包括当日)为止,并以适用利率计算。利息按每日复式利率及实际天数逐日计算。

(e) **提前终止的付款。**如出现提前终止日,下列规定应根据双方在附件中所选定的付款计算基础:"市场报价"或"亏损",及付款方法:"方法一"或"方法二"而决定。如双方未能在附件中指定付款计算基础或付款方法,则应被视为适用"市场报价"或"方法二"(视情况而定)。根据本条决定的就提前终止日应缴付的数额(如有的话)将受任何抵销的限制。

(i) **违约事件。**如提前终止日因违约事件产生:-

(1) **方法一及市场报价。**如使用方法一和市场报价,违约方将把(A)有关终止交易的结算款项(由守约方决定)与欠守约方的未付款项的终止货币等值额之和与(B)欠违约方的未付款项终止货币等值额的差额支付给守约方(如为正数)。

Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party.

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

(3) *Second Method and Market Quotation.* If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party less (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

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

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

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

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

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an

(2) 方法一及亏损。如使用方法一及亏损, 违约方向守约方支付守约方有关本协议的亏损(如为正数)。

(3) 方法二及市场报价。如使用方法二和市场报价, 应支付相等于(A)有关终止交易的结算款项(由守约方决定)和欠守约方的未付款项的终止货币等值额减去(B)欠违约方的未付款项的终止货币等值额。如数额为正数, 应由违约方向守约方支付; 如为负数, 守约方向违约方支付该数额的绝对值。

(4) 方法二和亏损。如使用方法二和亏损, 应付款应相等于守约方有关本协议的亏损。如数额为正数, 应由违约方向守约方支付; 如为负数, 守约方向违约方支付该数额的绝对值。

(ii) **终止事件。**如提前终止日因终止事件产生: -

(1) 一个受影响方; 如只有一个受影响方, 如使用市场报价, 应付款项应按第6(e)(i)(3)款决定。如使用亏损, 应按第6(e)(i)(4)款决定。在这两种情况下, 有关违约方和守约方的指称将分别被视为对受影响方和非受影响方的指称, 并且如使用亏损作为付款计算基础, 而不是所有交易均被终止, 则应计算有关所有终止交易的亏损。

(2) 两个受影响方。如有两个受影响方: -

(A) 如使用市场报价, 双方将决定其各自有关终止交易的结算款项, 应付数额应相等于(I)(a)结算款项较大的

amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount ("X") and the Settlement Amount of the party with the lower Settlement Amount ("Y") and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (II) the Termination Currency Equivalent of the Unpaid Amounts owing to Y; and

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

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

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

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

7. Transfer

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

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

交易一方("X方")与结算款项较小的交易一方("Y方")结算额的差额的一半加(b)欠X方的未付款项的终止货币等值额之和,减去(II)欠Y方的未付款项的终止货币等值额的数额;及

(B) 如使用亏损,双方应决定其各自有关协议的亏损(或,如不是所有交易都被终止,则有关所有终止交易)并且应付款额相等于亏损较大的交易一方("X方")与亏损较小的交易一方("Y方")的亏损之间的差额的一半。

如应付款项为正数, Y方应向X方支付; 如为负数, X方应向Y方支付该数额的绝对值。

(iii) **破产调整。**如提前终止日因“自动提前终止”适用于一方而产生, 根据第6(e)款决定的款项将根据法律作出适当的调整, 以反映在有关提前终止日起至第6(d)(ii)款决定的付款日止一段期间内, 一方在协议项下向另一方支付(并为该方保留的)的任何款项或其它支付。

(iv) **预先估计。**双方同意如使用市场报价, 在本第6(e)条项下的可收回款项是对亏损的合理预先估计而非罚款。支付该数额的目的是为了补偿交易的未能实现和预防风险安排的丧失。除非本协议另有规定, 任何一方均无权因该等未实现和丧失而收取任何额外赔偿。

7. 转让

受第6(b)(ii)款的限制, 未经另一方事先书面同意, 本协议任何一方不可转让本协议或本协议项下任何权益或义务(不论以担保或其它方式), 下列情况除外: -

(a) 一方可通过与另一实体整合或合并、兼并另一实体或并入另一实体, 或向另一实体转让其所有或大部份资产(但不影响本协议下任何其它权利或补救措施)以转让本协议; 及

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

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

8. Contractual Currency

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

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

(b) 一方可转让违约方依照第6(e)条规定应向其支付的任何款项的全部或任何部分的权益。

与本条不符的任何转让均为无效。

8. 合同货币

(a) **以合同货币进行的支付。**本协议项下各款项均以本协议规定的有关货币(下称“合同货币”)支付。在适用法律许可的范围内,本协议项下以合同货币付款的任何义务如果通过使用合同货币以外的其它货币偿付,不被视为已清偿或满足,但是,若该等偿付款项被应收的对方以合理和诚信原则把本协议项下应付的所有数额全数兑换为合同货币并实际收讫,则不受此限。如因任何原因,所收合同货币少于本协议项下应付的合同货币额,按要求的付款一方应在适用法律许可的范围内,立即以合同货币支付该等额外数额以补足缺额。如因任何原因,所收合同货币超过本协议项下应付的合同货币额,收款方应立即把该等超出额退回。

(b) **判决。**在适用法律许可的范围内,如任何判决或命令明示以合同货币以外的货币就下述目的偿付:(i)为支付本协议项下所欠任何款项;(ii)支付有关本协议任何提前终止的任何款项或(iii)另一法院作出的有关支付上述第(i)或第(ii)项所载款项的判决或命令,请求补偿的一方在收取其根据判决或命令有权获得的总金额后,有权立即从另一方获得该方因以该其它货币付款而造成的合同货币缺额,或立即向另一方退回因以该其它货币付款而令该方收取的任何超出额,如果该缺额或超出额因合同货币为该判决或命令的目的兑换为判决或命令中的货币时的汇率与该方以合理方法及诚信原则,在用实际收到的判决或命令中的货币款项购买合同货币时能够实际获得的汇率不同而引致或产生的。“兑换率”包括但不限于与合同货币的购买或兑换有关的任何应付费用或兑换费。

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

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

9. Miscellaneous

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

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

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

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

(e) Counterparts and Confirmations.

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

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

(f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this

(c) **独立赔偿。**在适用法律许可的范围内,这些赔偿权构成分别和独立的义务,有别于本协议项下其它义务,并将作为分别和独立的案由而执行,无论应收款一方是否授予任何宽宥均得到适用,并不受就本协议下应支付的任何其他款项而获得的判决或作出的要求或提供的证明所影响。

(d) **亏损的证明。**为本第8条的目的,如一方可证明若实际发生兑换或购买,该方将会蒙受损失,则该方视作已满足对亏损的证明责任。

9. 其它规定

(a) **完整协议。**本协议构成双方就该事宜的全部协议和谅解,并取代与此有关的所有之前的口头交流和书面协议。

(b) **修订。**除非以书面形式(包括有传真证明的书面文件)作出并经双方签署或经电传或电子信息系统发出的电子信息所确认,任何与本协议有关的修订、修改或放弃均为无效。

(c) **义务的续存。**在不影响第2(a)(iii)款和第6(c)(ii)款的情况下,双方在本协议下的义务在任何交易终止后仍然有效。

(d) **累积补救。**除本协议另有规定外,本协议规定的权利、权力、补救及特权具累积性,并不排除法律规定的任何权利、权力、补救及特权。

(e) 复本和确认。

(i) 本协议(及有关本协议的各修订、修改和弃权)可以复本签署和交付(包括以传真发送的复本),各复本均被视为正本。

(ii) 双方自其同意各交易的条款起,受各交易条款的法律约束(不论以口头或其它方式作出的)。在实际可行的情况下,应尽早签署交易之确认书,并可签署和交付复本(包括以传真发送的),或由交换电传或通过电子信息系统交换电子信息而建立确认书,上述各种方式均足以证明具有约束力的协议补充文件之存在。双方在该通讯中或通过另一有效途径规定,任何该等复本、电传或电子信息均构成一项确认书。

(f) **不放弃权利。**未能或延迟行使与本协议有关的任何权利、权力或特权不被视作弃

Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.

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

10. Offices; Multibranch Parties

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

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

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

11. Expenses

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees and Stamp Tax, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

12. Notices

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

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received;
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible

权, 单独或部份行使任何权利、权力或特权不视为放弃对以后或进一步对该权利、权力或特权的行使, 或任何其它权利、权力或特权的行使。

(g) **标题。** 本协议所用标题只为方便参考, 并不影响本协议的构成或用作解释本协议。

10. 办事处; 设有多个分支机构的交易方

(a) 如附件规定第10(a)条适用, 则通过“办事处”而非总部或总办事处达成交易的一方应向另一方声明, 尽管该方登记交易的办事处地点和该方成立或组成的司法管辖区不同, 该方的义务与通过总部或总办事处达成交易情况下的义务相同。本声明将被视作在达成交易的每一日获重述。

(b) 未经另一方事先书面同意, 任何一方不可更改为交易的目的而付款及收款或交付和接受交付的办事处。

(c) 如附件规定一方为设有多个分支机构的交易方, 该设有多个分支机构的交易方可通过附件所列明的任何办事处作出或接受任何交易项下的款项或交付, 有关确认书应指定为有关交易作出或接受付款或交付的办事处。

11. 开支

违约方将按的要求, 向另一方赔偿并报销其一切合理的开支, 包括该方因执行和保障本协议或违约方为一方的任何信贷支持文件项下的权利所产生的律师费及印花税, 或因任何交易提前终止而产生的费用, 包括但不限于收款费。

12. 通知

(a) **生效。** 有关本协议的任何通知或其它通讯可以下列任何方式送达下列地址或号码(第5条或第6条项下的通知或其它通讯不得以传真或电子信息送达者除外)或根据规定的电子信息系统送达(详见附件), 生效日期如下述: -

- (i) 如用书面方式及通过专人或速递服务送达, 则为送达当日;
- (ii) 如用电传发送, 则为收到收件人的回讯之日;
- (iii) 如用传真发送, 则为收件方之负责员工收到字迹清楚的传真当日(双方同

employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);

(iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or

(v) if sent by electronic messaging system, on the date that electronic message is received,

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

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

13. Governing Law and Jurisdiction

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

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

(i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City, if this Agreement is expressed to be governed by the laws of the State of New York; and

(ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

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

(c) **Service of Process.** Each party irrevocably appoints the Process Agent (if any) specified opposite its name in the

意, 发件方承担收件方是否收到该通知的举证责任, 发件方传真机列印的传真报告将不满足该举证责任);

(iv) 如用挂号邮递(如在外国, 则为空邮)或同等的邮递方式发出(需送件收据), 则为邮件发送或试图发送当日; 或

(v) 如用电子信息传送, 则为收到电子信息当日,

如果发件(或试图送件)或收件当日(按情况适用)并非当地的工作日或该通讯在当地营业日结束后才送达(或试图送达)或收到(按情况适用), 则该通讯联络应视作在该日之后的第一个当地营业日送达和生效。

(b) **更改地址。** 双方可向另一方发通知, 更改收取通知或其它通讯的地址、电传或传真号码或电子讯息系统。

13. 管辖法律和司法管辖区

(a) **管辖法律。** 本协议受附件规定的法律管辖并按该等法律解释。

(b) **司法管辖区。** 就与本协议有关的任何讼案、诉讼或诉讼程序(以下简称“诉讼”), 各方不可撤销地遵守下列规定: -

(i) 如本协议明确规定由英国法律管辖, 则接受英国法院管辖; 或者, 如本协议明确规定由纽约州法律管辖, 则接受纽约州法院及位于纽约市曼哈顿区的美国联邦地方法院的非排他性管辖; 及

(ii) 放弃任何对该等法院选择的诉讼地点提出异议的权利, 放弃因该等诉讼在不方便的法院进行而作出请求, 并放弃基于该等法院就有关诉讼对该方没有管辖权的反对权。

本协议并无规定阻止任何一方向任何其它管辖区(如协议明确规定由英国法律管辖, 则指“缔约国”之外的管辖区, “缔约国”定义见《1982年英国民事司法和判决法案》第1(3)款及对该款任何有效的修订、补充或重新颁布)提起诉讼, 或因在任何一个或多个司法管辖区提起诉讼而排除在任何其它司法管辖区起诉。

(c) **传票送达。** 双方不可撤销地委派附件指定的与其名对列的传票代理人(如有的话)为其

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

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

14. Definitions

As used in this Agreement: -

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

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

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

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

"**Applicable Rate**" means: -

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

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

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

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

并代表其 在任何诉讼中接收传票。如因任何原因,任何一方的传票代理人未能履行上述工作,该方应立即通知另一方,并在三十(30)日内委派另一方接受的替代传票代理人。双方不可撤销地同意第12条规定的通知送达方式。本协议的规定不影响任何一方以法律许可的任何其它方式送达传票的权利。

(d) **放弃豁免权。**在适用法律许可的所有范围内,各方不可撤销地放弃有关其本身、其收入和资产(不考虑其用途或试图用途)的基于主权或其他类似权利而享有的所有下列豁免权:(i)诉讼,(ii)任何法院的司法管辖,(iii)禁止令、实际履行或收回财产的命令,(iv)扣押资产(不论在判决之前或之后)及(v)任何司法管辖区内任何针对其本身的收入或资产判决的执行或强制执行,并且双方不可撤销的同意,在适用法律许可的范围内,其不会在任何诉讼中要求该等豁免。

14. 定义

在本协议内,下列词语有如下定义: -

"**其他终止事件**"为第5(b)条规定的含义。

"**受影响方**"为第5(b)条规定的含义。

"**受影响交易**"指(a)对于那些由非法行为、税务事件或因合并造成的税务事件所构成的任何终止事件,指所有受该终止事件影响的交易及(b)对于任何其他终止事件指有关的所有交易。

"**关联企业**"指受附件所限制,就某一实体或人而言,直接或间接对其进行控制、直接或间接接受其控制、或直接或间接与其共处同一控制之下的任何实体或人。本定义中"控制"任何实体或人指拥有该实体或人的大部份投票权。

"**适用利率**"指: -

(a) 对于违约方应支付或交付的义务(或非第2(a)(iii)条之规定则应支付或交付的义务),指违约利率;

(b) 对于任何一方自款项应付之日(根据第6(d)(ii)条而决定)起根据第6(e)条应支付款项的义务,指违约利率;

(c) 对于其它一切应由守约方支付或交付的义务(或非第2(a)(iii)条之规定,则应支付或交付的义务),指守约利率;及

(d) 在其它一切情况,则指终止利率。

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

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

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

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

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

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

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

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

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

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

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

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

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

"**Local Business Day**" means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so

"**有负担方**" 为第5(b)条规定的含义。

"**税法变更**" 指在有关交易达成之日或之后制定、发布、执行或批准的法律或这些法律(或任何法律的适用或官方解释)的任何变更或修订。

"**同意**" 包括同意、批准、行动、授权、豁免、通知、备案、注册或外汇管制同意。

"**因合并造成的信用事件**" 为第5(b)条规定的含义。

"**信用支持文件**" 指本协议规定为信用支持文件的任何协议或文件。

"**信用支持提供者**" 为附件规定的含义。

"**违约利率**" 指相等于收款人(经其认证的)获得有关资金的成本(无需对任何实际成本提供证明或证据)的年利率加1%。

"**违约方**" 为第6(a)条规定的含义。

"**提前终止日**" 指按第6(a)条或第6(b)(iv)款决定的日期。

"**违约事件**" 指第5(a)条规定的含义及附件(按情况适用)规定的含义。

"**非法行为**" 为第5(b)条规定的含义。

"**可获补偿税项**" 指任何税项, 不包括本来不会对本协议项下的付款征收, 而只是因为征收该税项的政府或税务机关的管辖地与该款项收款人或与该款项收款人有关的个人之间现时或之前有联系(这种联系包括但不限于因该收款人或有关人员为该管辖地的公民或居民, 或正在或已在该管辖地组织或从事贸易或其它业务, 或在该管辖地有永久机构或固定的营业地而产生的联系, 但是这种联系不包括仅因该收款人或有关人员签署、交付本协议或信用支持文件或按本协议或信用支持文件履行义务或收款, 或执行本协议或信用支持文件而产生的联系)方才征收的税项。

"**法律**" 包括任何条约、法律、规则或条例(经任何有关政府税务机关的惯例所修改的税务事宜), 并且 "**合法**" 和 "**非法**" 将据此予以解释。

"**当地营业日**" 指受附件的限制, 下列商业银行开门营业的工作日(包括外汇交易及外币存款): (a)对于第2(a)(i)款项下任何义务, 指确认书规定的地点, 或如果没有规定, 则双方以其它书面方式同意的, 或按本协议所载或纳为参考的规定而决定的地点, (b)对于其它任何付

specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

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

"Market Quotation" means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the "Replacement Transaction") that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction

款,指有关帐户的所在地,如不同,则在付款货币的主要金融中心(如有的话), (c)对于任何通知或其他通讯,包括第5(a)(i)款下的通知,指收款人提供的接收通知的城市,如为第2(b)条下的通知则指有关新帐户的所在地,及(d)对于第5(a)(v)(2)款,则指该特定交易执行的有关地点。

"亏损"对于本协议或一项或多项终止交易(按情况适用)及一方而言,指相等于该方就本协议或终止交易或终止交易组(按情况适用)按诚信原则确定的其总亏损及成本(或收益,如为收益则以负数表达)的终止货币等值额,包括任何易丧失的亏损、资金成本,或该方选择但不可重复计算的因其终止、清盘、取得或重建任何抗风险安排或有关交易地位(或因上述任何一项引致的任何收益)而产生的亏损或成本。亏损付应在有关提前终止日或之前应付但未先决条件的损失及成本(或收益),但如果第6(e)(i)(1)款或(3)款或6(e)(ii)(2)(A)款得到适用为免重复者除外。亏损不包括第11款所指的有关应付的律师费及实付费用。一方将在有关提前终止日时确定其亏损,或如果其不可行,在实际可行的最早日期确定其亏损。一方可(但不需)参考有关市场的一个或多个主要交易商提供的有关利率或价格报价决定其亏损。

"市场报价"对于一项或多项终止交易和作出决定的一方而言,指按参考造市商的报价为基础而决定的款额。每一报价为该方(应考虑有该方义务的任何现有文件)如应支付给该方(以负数表达)或该方应支付(以正数表达)的一个数额(如有的话),此等交易会使其继续享有该终止交易或终止交易组若在此日后作出的付款或交付(不论基本的义务为对或可能有的,并假设已满足各适用的条件)所应产生的经济效果。为此目的,有关终止交易或终止交易组的未付款项应被排除,是若非因提前终止日的出现本来应该在提前终止日后所作的付款或交付不受限制地被考虑在内(假设已满足各适用的条件)。替代交易受该方及参考造市商按诚信原则同意的文件要求所限制。作出决定一方(或代理)可要求各参考造市商在合理可行情况下从有关提前终止日那一天,那一刻起(或区)或在提前终止日后合理可行情况下尽早提供其报价。报价的日期和时间将由第6(e)条规定的义务作出决定的一方按诚信选择,且提供的报价超过三个,应除去最高及最低报价,取剩余报价的算术平均值。如提供的报价为三

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

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

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

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

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

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

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

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

"Set-off" means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section

个, 市场报价为最高及最低报价以外的报价。为此目的, 如多于一个报价有同样的最高或最低值, 应不予考虑其中一个报价。如少于三个报价, 应视作无法决定有关该终止交易或终止交易组的市场报价。

"守约利率"指相等于守约方(经其认证的)获得有关金额的成本(不用提供任何实际成本的证明或证据)的年利率。

"守约方"为第6(a)条规定的含义。

"办事处"指一方的分支机构或办事处, 其可能是该方的总部或总办事处。

"潜在违约事件"指任何经发送通知或随时间流逝(或两者同时发生)可构成违约事件的任何事件。

"参考造市商"指决定市场报价一方按诚信原则在有关市场选择的四名领先交易商, 其应该(a)拥有最高信用评级并满足该方在决定是否给予或是否扩大信用额时采用的所有标准, 及(b)在可行情况下, 挑选在同一城市设有办事处的该等交易商。

"有关管辖地"指有关一方而言, (a)该方成立、组成、被管理及控制或视作有其席位的管辖地, (b)该方为本协议的目的采取行动的办事处的管辖地, (c)一方签署本协议的管辖地, 及(d)若与支付款项有关, 则为该等款项支付或通过的管辖地。

"预定付款日"指有关一项交易根据第2(a)(i)款应作出付款或交付的日期。

"抵销"指第6条项下款项的付款方有权和须遵守的, 由付款方执行或加诸于付款方的抵销、冲销、合并帐户、保留或扣留权或类似的权利或要求(不论是否因本协议、另一合同、适

6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

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

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

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

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

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

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

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

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

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

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

"**Terminated Transactions**" means with respect to any Early Termination Date (a) if resulting from a Termination Event,

用法律或其它所引致)。

"**结算款项**" 对于一方及任何提前终止日而言, 指下列两项之和: -

(a) 相等于每一终止交易或终止交易组的市场报价(不论正数或负数)的终止货币等值额, 市场报价据此而决定; 及

(b) 该方在无法确定市场报价或市场报价不能(据决定一方的合理评估)产生合理的商业结果的情况下, 就交易或终止各终止交易组而确定的亏损(不论是正数或负数, 并不参考任何未付款项)。

"**特定机构**" 为附件规定的含义。

"**特定负债**" 指受附件限定的, 有关借款的任何义务(不论是现有的、将来的、可能有, 作为主债务人或担保性债务或其他)。

"**特定交易**" 指受附件限定的, (a)本协议一方(或该方的任何信用支持提供者或该方的任何适用特定机构)与本协议另一方(或该其他方的任何信用支持提供者或该其他方的任何适用特定机构)现在或日后达成的任何交易(包括与交易有关的协议), 包括利率掉期交易、利率基础掉期交易、远期利率交易、商品掉期交易、商品期权、股权或股权指数掉期交易, 股权或股权指数期权、债券期权、利率期权、外汇交易、上限交易、下限交易、上下限交易、货币掉期交易、交叉货币利率掉期交易、货币期权或任何其它类似交易(包括以上任何交易的期权), (b)任何该些交易的组合, 及(c)任何本协议或有关确认书定义为特定交易的任何其它交易。

"**印花税**" 指任何印花税、登记税、文件税或类似的税项。

"**税项**" 指印花税、登记税、文件税或类似的税项以外的与本协议项下任何付款有关的任何政府或其它税务机关征收的任何性质的现有或将征收的税项、征税、进口税、关税、收费评估或费用(包括其等的利息、罚款及附加费)。

"**税务事件**" 指第5(b)条规定的含义。

"**因合并造成的税务事件**" 指第5(b)条规定的含义。

"**已终止交易**" 对于任何提前终止日而言(a)如因终止事件产生, 指所有受影响的交易及(b)如

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

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

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

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

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

"**Unpaid Amounts**" owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The

因违约事件产生,指所有交易。以上两者均指在载明提前终止日的通知生效前(或如适用“自动提前终止”则指在该提前终止日之前)的有效交易。

“**终止货币**”指附件规定的含义。

“**终止货币等值额**”对于以终止货币为单位的任何款项,指该终止货币额,对于以终止货币以外货币为单位的任何数额(“其他货币”),则指作出决定的一方在有关提前终止日,或如有关市场报价或亏损(按情况适用)在较后日期才确定,则于该日,用以购买该数额的其他货币所需的终止货币,汇率适用(按以下方式选择的)外汇机构的现货兑换率:在该日上午十一时或左右(以该外汇机构所在的城市为准),在提前终止日或该较后日期用终止货币在购买其他货币时,通常适用的汇率。如果只有一方有义务按第6(e)条件决定,该方应以诚信的原则选择外汇机构,如果不只有一方则以各方的方式选择。

“**终止事件**”指非法行为、税务事件或因合并造成的税务事件,或者如果规定为适用,指因合并造成的信用事件或其他终止事件。

“**终止利率**”指相等于各方(经该方认证的)获得有关金额的成本(无需提供任何实际成本的证明或证据)的算术平均值的年利率。

“**未付款项**”对于提前终止日而言,指欠任何一方的下列两项之和:(a)就所有已终止交易而言,指按第2(a)(i)款应在该提前终止日当日或之前支付给该方但在该提前终止日仍未付(或本来应付,但因按第2(a)(iii)款未付)的数额,及(b)对于每一笔已终止交易,就第2(a)(i)款之下的每一项需在该终止日或之前已向该方交付而结清但未结清(或本应结清但因第2(a)(iii)款而未结清)的义务而言,指应该或本来应该在原定交付日交付的实物公平市场价,在以上两种情况下均包括(在适用法律许可的范围内)以该货币支付的利息,计息期为该款项或义务应该或本来应该按要求支付或履行之日(包括当日)至该提前终止日(不包括当日),并按适用利率计算。该利率的数额按复利(按日计)及实际日数计算。上述(b)款所指的任一义务的公平市值应由根据第6(e)条有义务作决定的一方合理地决定,或如各方均有责任,则应为各方合理决定的公平市值的平均终止货币等值额。

fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.

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

兹证明双方已于下列日期签署本文件，生效日为本文件首页载明的日期。

..... (Name of Party) (Name of Party)	_____ (签署方名称)	_____ (签署方名称)
By:..... Name: Title: Date:	By:..... Name: Title: Date:	签名:_____ 姓名: 职位: 日期:	签名:_____ 姓名: 职位: 日期:

(Multicurrency—Cross Border)

(多种货币—跨国)

ISDA®

International Swap Dealers Association, Inc.

**SCHEDULE
to the
Master Agreement**

dated as of

between and
("Party A") ("Party B")

Part 1. Termination Provisions.

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

Section 5(a)(v),
Section 5(a)(vi),
Section 5(a)(vii),
Section 5(b)(iv),

and in relation to Party B for the purpose of: -

Section 5(a)(v),
Section 5(a)(vi),
Section 5(a)(vii),
Section 5(b)(iv),

(b) "**Specified Transaction**" will have the meaning specified in Section 14 of this Agreement unless another meaning is specified here

(c) The "**Cross Default**" provisions of Section 5(a)(vi) will/will not * apply to Party A
will/will not * apply to Party B

If such provisions apply: -

"**Specified Indebtedness**" will have the meaning specified in Section 14 of this Agreement unless another meaning is specified here
"**Threshold Amount**" means

(d) The "**Credit Event Upon Merger**" provisions of Section 5(b)(iv) will/will not * apply to Party A
will/will not * apply to Party B

(e) The "**Automatic Early Termination**" provision of Section 6(a) will/will not * apply to Party A
will/will not * apply to Party B

ISDA®

国际掉期及衍生工具协会

主协议附件

_____年_____月_____日

_____与_____
("A方") ("B方")

第一部分 终止条款。

(a) "**特定机构**" 就A方而言, 为下列条款的目的意指: -

第5(a)(v)款, _____
第5(a)(vi)款, _____
第5(a)(vii)款, _____
第5(b)(iv)款, _____

就B方而言, 为以下条款的目的意指: -

第5(a)(v)款, _____
第5(a)(vi)款, _____
第5(a)(vii)款, _____
第5(b)(iv)款, _____

(b) "**特定交易**" 具有本协议第14款规定的含义, 除非此附件另有规定 _____

(c) 第5(a)(vi)款 "**交叉违约**"
将会/不会*适用于A方
将会/不会*适用于B方

如此条款适用: -

"**特定负债**" 除非此外另有规定, 具有本协议第14款之含义
"**起点金额**" 指 _____

(d) 第5(b)(iv)款 "**因合并造成的信用事件**"
将会/不会*适用于A方
将会/不会*适用于B方

(e) 第6(a)款 "**自动提前终止**"
将会/不会*适用于A方
将会/不会*适用于B方

* Delete as applicable.

* 视情况删除

- (f) **Payments on Early Termination.** For the purpose of Section 6(e) of this Agreement: -
- (i) Market Quotation/Loss * will apply.
- (ii) The First Method/The Second Method * will apply.
- (g) "**Termination Currency**" means, if such currency is specified and freely available, and otherwise United States Dollars.
- (h) **Additional Termination Event** will/will not apply*. The following shall constitute an Additional Termination Event: -
- For the purpose of the foregoing Termination Event, the Affected Party or Affected Parties shall be: -
- (f) **提前终止的付款。** 为本协议第6(e)款之目的: -
- (i) 市场报价/亏损*将适用。
- (ii) 方法一/方法二*将适用。
- (g) "**终止货币**"指_____, 如果此等货币经指定并且可在市场上自由获得, 否则指美元。
- (h) **其他终止事件**将会/不会*适用。下列事件构成一项其他终止事件: - _____
- 为上述终止事件之目的, 受影响方或各受影响方指: - _____

Part 2. Tax Representations.

第二部分 税务陈述。

- (a) **Payer Representations.** For the purpose of Section 3(e) of this Agreement, Party A will/will not* make the following representation and Party B will/will not* make the following representation: -
- It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on (i) the accuracy of any representations made by the other party pursuant to Section 3(f) of this Agreement, (ii) the satisfaction of the agreement contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement and (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement, *provided* that it shall not be a breach of this representation where reliance is placed on clause (ii) and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.
- (a) **付款人陈述。** 为本协议第3(e)款的目的, A方将会/不会*作出如下陈述, B方将会/不会*作出如下陈述: -
- 经有关政府财税部门的惯例修改的任何有关管辖地的任何适用的法律均不要求从该方根据本协议向另一方支付的任何款项(本协议第2(e)款、第6(d)(ii)款或第6(e)款下的利息除外)中扣除或预提任何税项。在作出此项陈述时, 该方可以依赖: (i)另一方按本协议第3(f)款所作出任何陈述的准确性; (ii)本协议第4(a)(i)款或4(a)(iii)款中所载的约定的履行, 以及另一方按本协议第4(a)(i)款或4(a)(iii)款所提供的任何文件的准确性和有效性; 和(iii)本协议第4(d)款中所载另一方约定的履行, 惟若依赖第(ii)项, 以及另一方为免对其法律或商业地位造成严重损害而没有递交第4(a)(iii)款项下的表格或文件, 不应构成对本陈述的违反。
- (b) **Payee Representations.** For the purpose of Section 3(f) of this Agreement, Party A and Party B make the representations specified below, if any: -
- (i) The following representation will/will not* apply to Party A and will/will not* apply to Party B: -
- It is fully eligible for the benefits of the "Business Profits" or "Industrial and Commercial Profits" provision, as the case may be, the "interest"
- (b) **收款人陈述。** 为本协议第3(f)款的目的, A方和B方作出如下陈述: -
- (i) 下列陈述将会/不会*适用于A方, 将会/不会*适用于B方: -
- 该方具有完全资格获得适用于本协议项下收到或将收到之款项的特定条款中规定的“商业利润”或“工商业利润”条款(视情况而定), 及“利息”条款或“其他收入”条款(如有的话)所赋予之利益, 并且该款项与该方在特定

* Delete as applicable.

* 视情况删除

provision or the "Other Income" provision (if any) of the Specified Treaty with respect to any payment described in such provisions and received or to be received by it in connection with this Agreement and no such payment is attributable to a trade or business carried on by it through a permanent establishment in the Specified Jurisdiction.

管辖区的永久营业地从事的商业或贸易没有任何关联。

If such representation applies, then: -

如该陈述适用的话, 则: -

"Specified Treaty" means with respect to Party A

"特定条约"就A方而言, 指 _____

"Specified Jurisdiction" means with respect to Party A

"特定管辖区"就A方而言, 指 _____

"Specified Treaty" means with respect to Party B

"特定条约"就B方而言, 指 _____

"Specified Jurisdiction" means with respect to Party B

"特定管辖区"就B方而言, 指 _____

(ii) The following representation will/will not* apply to Party A and will/will not* apply to Party B: -

(ii) 下列陈述将会/不会*适用于A方, 将会/不会适用于B方: -

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

其就本协议收到或将收到的每一笔款项将会与该方在特定管辖区从事的贸易或商业行为具有实际联系。

If such representation applies, then: -

如此陈述适用, 则: -

"Specified Jurisdiction" means with respect to Party A

"特定管辖区"就A方而言, 指 _____

"Specified Jurisdiction" means with respect to Party B

"特定管辖区"就B方而言, 指 _____

(iii) The following representation will/will not* apply to Party A and will/will not* apply to Party B: -

(iii) 下列陈述将会/不会*适用于A方, 将会/不会*适用于B方: -

(A) It is entering into each Transaction in the ordinary course of its trade as, and is, either (1) a recognised U.K. bank or (2) a recognised U.K. swaps dealer (in either case (1) or (2), for purposes of the United Kingdom Inland Revenue extra statutory concession C17 on interest and currency swaps dated March 14, 1989), and (B) it will bring into account payments made and received in respect of each Transaction in computing its income for United Kingdom tax purposes.

(A) 该方正正在其通常贸易过程中进行每项交易, 并且是(1)一家公认的英国银行或(2)一家公认的英国掉期交易商(无论(1)或(2), 均为1989年3月4日“英国国内税收法”关于利息和货币掉期交易的额外法定特许权C17之目的), 并且(B)在就英国税款计算收入时, 将考虑本交易项下所支付和收到的款项。

(iv) Other Payee Representations: -

(iv) 其他受款人陈述: -- _____

N.B. The above representations may need modification if either party is a Multibranch Party.

注意: 如任何一方为“拥有多个分支机构的交易方”, 上述陈述可能需进行适当调整。

Part 3. Agreement to Deliver Documents.

第三部分 同意交付文件。

* Delete as applicable.

* 视情况删除

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

为第4(a)(i)和(ii)款的目的, 每一方同意交付下列适用的文件: -

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

(a) 须交付的税务表、文件或证书为: -

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered	须交付文件一方	表格/文件/证书	交付的期限
.....	_____	_____	_____
.....	_____	_____	_____
.....	_____	_____	_____

(b) Other documents to be delivered are: -

(b) 其他须交付的文件为: -

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered	Covered by Section 3(d) Representation	须交付文件的一方	表格/文件/证书	交付的期限	是否为3(d)款下之陈述所包括
.....	Yes/No*	_____	_____	_____	是/否*
.....	Yes/No*	_____	_____	_____	是/否*
.....	Yes/No*	_____	_____	_____	是/否*
.....	Yes/No*	_____	_____	_____	是/否*
.....	Yes/No*	_____	_____	_____	是/否*

Part 4. Miscellaneous.

第四部分 其他规定。

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

(a) **通知地址。** 为本协议第12(a)款之目的: -

Address for notices or communications to Party A: -

A 方收取通知或通讯的地址为: -

Address:
 Attention:
 Telex No.:
 Answerback:
 Facsimile No.:
 Telephone No.:
 Electronic Messaging System Details:

地址: _____
 收件人: _____
 电传号码: _____
 应答码: _____
 传真号码: _____
 电话号码: _____
 电子信息系统资料: _____

Address for notices or communications to Party B: -

B 方收取通知或通讯的地址为: -

Address:
 Attention:
 Telex No.:
 Answerback:
 Facsimile No.:
 Telephone No.:
 Electronic Messaging System Details:

地址: _____
 收件人: _____
 电传号码: _____
 应答码: _____
 传真号码: _____
 电话号码: _____
 电子信息系统资料: _____

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

(b) **传票代理人。** 为本协议第13(c)款之目的: -

Party A appoints as its Process Agent

A 方指定其传票代理人如下 _____

Party B appoints as its Process Agent

B 方指定其传票代理人如下 _____

(c) **Offices.** The provisions of Section 10(a) will/will not* apply to this Agreement.

(c) **办事处。** 10(a)款的规定将会/不会*适用于本协议。

* Delete as applicable.

* 视情况删除

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

Party A is/is not* a Multibranch Party and, if so, may act through the following Offices: -

.....
.....

Party B is/is not* a Multibranch Party and, if so, may act through the following Offices: -

.....
.....

(e) **Calculation Agent.** The Calculation Agent is, unless otherwise specified in a Confirmation in relation to the relevant Transaction.

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

.....
.....

(g) **Credit Support Provider.** Credit Support Provider means in relation to Party A,
Credit Support Provider means in relation to Party B,

.....
.....

(h) **Governing Law.** This Agreement will be governed by and construed in accordance with English law/the laws of the State of New York (without reference to choice of law doctrine)*.

(i) **Netting of Payments.** Subparagraph (ii) of Section 2(c) of this Agreement will not apply to the following Transactions or groups of Transactions (in each case starting from the date of this Agreement/in each case starting from.....*)

.....
.....

(j) **"Affiliate"** will have the meaning specified in Section 14 of this Agreement unless another meaning is specified here

.....
.....

Part 5. **Other Provisions.**

(d) **拥有多个分支机构的交易方。** 为本协议10(c)款之目的： -

A方将会/不会*是一个拥有多个分支机构的交易方，并且如是的话，A方可以通过以下办事处进行交易： -

B方将会/不会*是一个拥有多个分支机构的交易方，并且如是的话，B方可以通过以下办事处进行交易： -

(e) **计算代理人。** 除非有关交易的确认书另有指明，否则计算代理人为_____

(f) **信用支持文件。** 信用支持文件的详情如下： - _____

(g) **信用支持提供者。** 就A方而言，信用支持提供者指_____

就B方而言，信用支持提供者指_____

(h) **管辖法律。** 本协议将受英国法律/纽约州法律* (不包括法律选择原则)的管辖并按其解释。

(i) **所付款项以净额结算。** (每种情况下从本协议之日期起/每种情况下从_____起*)第2(c)款第(ii)分段将不适用于下列交易或交易组_____

(j) **"关联企业"** 具有本协议第14款规定的含义，但此处另有规定者除外_____

第五部分 **其它规定。**

* Delete as applicable.

* 视情况删除