

ISDA®

International Swaps and Derivatives Association, Inc.

2002 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 2002 Master Agreement, which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties or otherwise effective for the purpose of confirming or evidencing those Transactions. This 2002 Master Agreement and the Schedule are together referred to as this "Master Agreement".

Accordingly, the parties agree as follows:—

1. Interpretation

(a) Definitions. The terms defined in Section 14 and elsewhere in this Master Agreement 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, 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

(仅供参考)*

ISDA®

国际掉期及衍生工具协会

2002年主协议

_____年_____月_____日

_____与_____

之间已进行及/或预期进行受本2002年主协议约制(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”)以及各方之间交换的或为确认或证明该些交易而生效的文件和其他确认证据(均称为“确认书”)。本2002年主协议及其附件统称为“主协议”。

据此, 双方同意如下:—

1. 释义

(a) 定义。就本主协议而言, 第14条以及本主协议其他部分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在有关确认书所规定的帐户所在地或按本协议其他规定另行支付; 款项应以自由可转

* This Chinese translation is for reference only. Parties should always execute the English original in conducting transactions. Although every effort has been made to ensure the accuracy of this translation, due to differences in grammar and legal terminologies, the possibility that terms or words used in the Chinese translation may have different meanings or connotations from the English original cannot be ruled out. Therefore, this Chinese translation should not be relied upon by any person in making any decision or taking any action. If there exists any difference between this Chinese version and the English version, the English version should govern.

本翻译稿仅用于参考。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, 中文译本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。

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

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

(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 Settlement 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 of Payments.** 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 which 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 and payment obligation will be determined in respect of all amounts payable on the same date in the same currency in respect of those Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or any Confirmation by specifying that "Multiple Transaction Payment Netting" applies to the Transactions identified as being subject to the election (in which case clause (ii) above will not apply to such Transactions). If Multiple Transaction Payment Netting is applicable to Transactions, it will apply to those Transactions with effect from the starting date specified in the Schedule or such Confirmation, or, if a starting date is not specified in the Schedule or such Confirmation, the starting date otherwise agreed by the parties in writing. 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.

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务的通用方式进行,有关确认书或本协议另有规定者除外。

(iii) 第2(a)(i)条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的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)本协议规定的作为本第2(a)(iii)条先决条件的其他各项条件。

(b) **更改帐户。**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,任何一方可在付款或交付的预定结算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。

(c) **付款净额结算。**若任何日期双方均须:—

(i) 以相同货币;及

(ii) 就相同交易,

向另一方付款,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,支付较大总额一方的付款义务则为向另一方缴付两者之间的差额。

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付款进行净额结算及履行付款义务,不论此等付款是否关于同一笔交易。该选择可于附件或任何确认书上作出,并规定“多项交易付款?额结算”适用于该选择所指定的交易(在此情况下上述第(ii)款将不适用于此等交易)。如多项交易付款?额结算适用的话,其生效日期为附件或确认书中规定的开始日期;如附件或确认书中未规定生效日期,则由双方书面另行约定开始日期。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) **Deduction or Withholding for Tax.**

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

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

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

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

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

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

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

(ii) **Liability.** If:—

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

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

(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)条要求从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)相等於在不需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)条所载的任何协议；或

(B) Y方按第3(f)条所作的陈述为不准确及不真实，除非该陈述是由于：(I)在进行某项交易以后，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一方提出)，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)条之规定，X方无须向Y方支付任何额外款项；

(2) X方没有扣除或预提款项；并且

(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)).

3. Representations

Each party makes the representations contained in Sections 3(a), 3(b), 3(c), 3(d), 3(e) and 3(f) and, if specified in the Schedule as applying, 3(g) 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). If any “Additional Representation” is specified in the Schedule or any Confirmation as applying, the party or parties specified for such Additional Representation will make and, if applicable, be deemed to repeat such Additional Representation at the time or times specified for such Additional Representation.

(a) *Basic Representations.*

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

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

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

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

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

(3) 税务责任直接加於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)条所载的任何协议时才包括任何有关惩罚性责任)。

3. 陈述

各方向另一方作出第3(a)、3(b)、3(c)、3(d)、3(e)和3(f)条以及(如按附件规定适用时的)第3(g)款所载的陈述(这些陈述将被视为在每次进行交易当日为各方复述, 按第3(f)条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)。如任何“其他陈述”按附件或确认书的规定适用时, 该陈述中规定的一方或各方将于该陈述规定的时候作出或被认为在重复(如适用的话)这一其他陈述。

(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? 触。* 此等签署、交付及履行并无违反或? 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;

(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(受限於适用的破产、重组、无偿还能力、延期偿还或通常影响债权人权利的类型法律, 并在有关执行方面受限於普遍适用的衡平原则(无论该执

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, any of its Credit Support Providers or any of its applicable Specified Entities 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.

(g) **No Agency.** It is entering into this Agreement, including each Transaction, as principal and not as agent of any person or entity.

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 clause (iii) below, to such government or taxing authority as the other party reasonably directs:—

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

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

(iii) upon reasonable demand by such other party, any form or document that may be required or reasonably requested in writing in order to allow such other party or its Credit Support Provider to make a payment under this Agreement or any applicable Credit Support

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，没有任何对其或其任何信用支持提供者或其任何有关特定机构构成威胁的基于普通法或衡平法或於任何法庭、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，或其履行本协议或这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)条的目的在附件上指明的所有适用资料，於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)条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)条目的在附件中所作的陈述均为正确及真实。

(g) **无代理。**其作为本人而非任何人或机构的代理人订立本协议。

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)款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，提供可能需要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

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 where an 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 (subject to Sections 5(c) and 6(e)(iv)) an event of default (an “Event of Default”) with respect to such party:—

(i) **Failure to Pay or Deliver.** Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 9(h)(i)(2) or (4) required to be made by it if such failure is not remedied on or before the first Local Business Day in the case of any such payment or the first Local Delivery Day in the case of any such delivery after, in each case, notice of such failure is given to the party;

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妥, 签署後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, 获取日後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)条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。** 除第11条另有规定外, 应缴付其成立、组织、被管理、被控制的司法管辖区, 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, 当一方或, 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(受第5(c)和第6(e)(iv)条限制)该方的违约事件(以下简称“违约事件”): —

(i) **未能付款或交付。** 该方未能於到期日按本协议付款或按第2(a)(i)、第9(h)(i)(2)或(4)条的规定履行交付义务, 并且在向该方发出逾期通知后的首个当地营业日(适用于付款)或首个当地交付日(适用于实物交付)或之前仍不予以纠正;

(ii) Breach of Agreement; Repudiation of Agreement.

(1) 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 9(h)(i)(2) or (4) 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 within 30 days after notice of such failure is given to the party; or

(2) the party disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, this Master Agreement, any Confirmation executed and delivered by that party or any Transaction evidenced by such a Confirmation (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(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, or any security interest granted by such party or such Credit Support Provider to the other party pursuant to any such Credit Support Document, to be in full force and effect for the purpose of this Agreement (in each 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 (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(iv) **Misrepresentation.** A representation (other than a representation under Section 3(e) or 3(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:—

(ii) 违反协议；否认协议。

(1) 该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(但不包括本协议第2(a)(i)、第9(h)(i)(2)或(4)条下的付款义务或交付义务,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)条项下的任何协议或义务),并且在向该方发出违约通知後的三十天内仍不予以纠正;或

(2) 该方取消、否认、放弃或拒绝全部或部分的本土协议、由该方签订和交付的任何确认书或此等确认书证明的任何交易,或对本土协议、上述确认书或交易的有效性提出异议(或该行动由经委派或授权管理该方的任何个人或实体作出或代表其作出);

(iii) 信用支持违约。

(1) 该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或该方或其信用支持提供者根据任何此等信用支持文件给予另一方的任何担保权益未能保持为本协议目的之充分效力(以上任一情况均不包括按协议条文的正常失效);或

(3) 该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(或该行动由经委派或授权管理该方的任何个人或实体作出或代表其作出);

(iv) **错误的陈述。**该方或该方的任何信用支持提供者於本协议或任何信用支持文件下作出或复述的,或被视为作出或复述的陈述(按第3(e)或3(f)条所作的陈述除外)被证实作出、复述或被视为作出或复述之时在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) defaults (other than by failing to make a delivery) under a Specified Transaction or any credit support arrangement relating to a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, such default results in 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 due on the last payment or exchange date of, or any payment on early termination of, a Specified Transaction (or, if there is no applicable notice requirement or grace period, such default continues for at least one Local Business Day);
- (3) defaults in making any delivery due under (including any delivery due on the last delivery or exchange date of) a Specified Transaction or any credit support arrangement relating to a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, such default results in a liquidation of, an acceleration of obligations under, or an early termination of, all transactions outstanding under the documentation applicable to that Specified Transaction; or
- (4) disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, a Specified Transaction or any credit support arrangement relating to a Specified Transaction that is, in either case, confirmed or evidenced by a document or other confirming evidence executed and delivered by that party, Credit Support Provider or Specified Entity (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) where the aggregate principal amount of such agreements or instruments, either alone or together with the amount, if any, referred to in clause (2) below, is 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 under such agreements or instruments on the date
- (1) 於特定交易或有关特定交易的任何信用支持安排下违约(未能履行交付义务除外),而在任何适用的通知要求或宽限期生效后,该违约导致该特定交易的清算、加速偿还、或提前终止的情形;
- (2) 於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或交换日到期时履行任何付款的义务,或未能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,该违约持续至少一个当地营业日);
- (3) 未能履行特定交易或有关特定交易的任何信用支持安排项下的任何交付义务(包括最后付款日或交换日到期的任何交付义务),并在适用的通知要求或宽限期生效后,该违约导致有关特定交易的文件下所有未完成交易的清算、加速偿还、或提前终止的情形;或
- (4) 全部或部分取消、否认、放弃或拒绝由该方、其信用支持提供者或特定机构签订和交付的文件或其他确认证据确认或证明的特定交易或有关特定交易的任何信用支持安排,或对特定交易或有关特定交易的任何信用支持安排的有效性提出异议(或该行动由经委派或授权管理该方的任何个人或实体作出或代表其作出);
- (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(单独的或总体的)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(不论如何描述),该协议或文件下的累计本金金额与以下第(2)款所述的金额(如有的话)分别或累计达到适用的起点金额(如附件中定义),从而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)未能在付款到期日(在任何适用的通知要求或宽限期生效后)按上述协议或文件付款,并且其累计金额

under such agreements or instruments on the due date for payment (after giving effect to any applicable notice requirement or grace period) in an aggregate amount, either alone or together with the amount, if any, referred to in clause (1) above, of not less than the applicable Threshold Amount;

(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)(A) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, 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 by it or such regulator, supervisor or similar official, or (B) 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 such proceeding or petition is instituted or presented by a person or entity not described in clause (A) above and either (I) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (II) is not dismissed, discharged, stayed or restrained in each case within 15 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 15 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) above (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

单独地或与以上第(1)款所述的金额(如有的话)分别或一并计算达到适用的起点金额;

(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(因联合、合并或兼并的除外);(2)资不抵债或无力偿还债务,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、安排或和解清偿;(4)(A)在该方成立或组建的司法管辖区或其总部或总办事处的司法管辖区内,对其拥有主要破产、重整或监管权的管理者、监督者或任何其他同类官员针对该方提出或已提出法律程序,按任何破产或无力偿付法律或影响债权人权利的其它类似法律寻求无力偿付或破产判决或任何其它救济方法,或该方、其管理者、监督者或同类官员提交关于业务结束或清算的请求,或(B)已经提出法律程序,按任何破产或无力偿付法律或影响债权人权利的其他类似法律寻求无力偿付或破产判决或任何其他救济方法,或就其业务结束或清算提交请求,并且该诉讼或请求并非由以上(A)款中的人士或机构提出,并且这一诉讼或请求:(I)导致无力偿付或破产之判决或救济命令,或其业务结束或清算的命令,或(II)该诉讼或请求在提出後十五天内未被驳回、撤销、中止或禁止;(5)就其业务结束、官方管理或清算(因联合、合并或兼并的除外)通过决议;(6)就该方或各方或其大部分的资产寻求任命或任命破产管理人、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,或对其所有或大部分资产提起或强制执行扣押、执行、查封、强制保管或其他法律程序,并且该担保权益持有人持续占有此等资产,或在其后十五日内该法律程序未被驳回、撤销、中止或禁止;(8)受制於在任何司法管辖区适用法律下产生与任何上述第(1)至(7)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) **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, or reorganises, reincorporates or reconstitutes into or as, another entity and, at the time of such consolidation, amalgamation, merger, transfer, reorganisation, reincorporation or reconstitution:—

(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; 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 (subject to Section 5(c)) an Illegality if the event is specified in clause (i) below, a Force Majeure Event if the event is specified in clause (ii) below, a Tax Event if the event is specified in clause (iii) below, a Tax Event Upon Merger if the event is specified in clause (iv) below, and, if specified to be applicable, a Credit Event Upon Merger if the event is specified pursuant to clause (v) below or an Additional Termination Event if the event is specified pursuant to clause (vi) below:—

(i) **Illegality.** After giving effect to any applicable provision, disruption fallback or remedy specified in, or pursuant to, the relevant Confirmation or elsewhere in this Agreement, due to an event or circumstance (other than any action taken by a party or, if applicable, any Credit Support Provider of such party) occurring after a Transaction is entered into, it becomes unlawful under any applicable law (including without limitation the laws of any country in which payment, delivery or compliance is required by either party or any Credit Support Provider, as the case may be), on any day, or it would be unlawful if the relevant payment, delivery or compliance were required on that day (in each case, other than as a result of a breach by the party of Section 4(b)):—

(1) for the Office through which such party (which will be the Affected Party) makes and receives payments or deliveries with respect to such Transaction to perform any absolute or contingent obligation to make a payment or delivery in respect of such Transaction, 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) for such party or any Credit Support Provider of such party (which will be the Affected Party) to perform any absolute or contingent obligation to make a payment or delivery which such party or Credit Support Provider has under any Credit

(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联合、合并或兼并, 将其所有或大部分的资产转移给另一实体, 或重组、再设立或改组成为另一实体; 而在该联合、兼并、合并、转让、重组、再设立或改组时: -

(1) 最终的、续存的或受让的实体未能承担该方或该方信用支持提供者或其前任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在本协议下的履约行为。

(b) **终止事件.** 一方, (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在任何时候若发生以下(i)款所述的事件将构成(除第5(c)条另有规定外)非法, 若发生(ii)款所述的事件将构成不可抗力事件, 若发生(iii)款所述的事件将构成税务事件, 若发生(iv)款所述的事件将构成因合并造成的税务事件, 若指定为适用的话, 发生以下(v)款所述的事件将构成因合并造成的信用事件, 发生以下(vi)款所述的事件将构成其它终止事件: -

(i) **非法.** 在运用了有关确认书或本协议其他部分规定的任何适用条款、中断保障或补偿条款后, 因交易进行之后发生的任何事件或情况(一方或(如适用)该方的信用支持提供者采取的任何行动除外)使得以下行为按照任何适用法律(包括但不限于任何一方或任何信用支持提供者(视情况而定)需进行付款、交付和遵守协议时所在地国家的法律)于任何一日成为非法, 或使得有关付款、交付和遵守协议如作出时将会成为非法(因违反第4(b)条导致上述后果的除外): -

(1) 该方(即受影响方)就该交易交接款项或交付的办事处为该交易进行支付或交付而履行任何无条件或附条件义务, 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; 或

(2) 该方或该方的任何信用支持提供者(即受影响方)为作出该交易有关的信用支持文件中规定的该方或信用支持提供者的支付或交付而履行任何无条件或附条件义务, 或接受该信用支持文件项下的支付或交付, 或遵守

Credit Support Provider has under any Credit Support Document relating to such Transaction, to receive a payment or delivery under such Credit Support Document or to comply with any other material provision of such Credit Support Document;

(ii) **Force Majeure Event.** After giving effect to any applicable provision, disruption fallback or remedy specified in, or pursuant to, the relevant Confirmation or elsewhere in this Agreement, by reason of force majeure or act of state occurring after a Transaction is entered into, on any day:—

(1) the Office through which such party (which will be the Affected Party) makes and receives payments or deliveries with respect to such Transaction is prevented from performing any absolute or contingent obligation to make a payment or delivery in respect of such Transaction, from receiving a payment or delivery in respect of such Transaction or from complying with any other material provision of this Agreement relating to such Transaction (or would be so prevented if such payment, delivery or compliance were required on that day), or it becomes impossible or impracticable for such Office so to perform, receive or comply (or it would be impossible or impracticable for such Office so to perform, receive or comply if such payment, delivery or compliance were required on that day); or

(2) such party or any Credit Support Provider of such party (which will be the Affected Party) is prevented from performing any absolute or contingent obligation to make a payment or delivery which such party or Credit Support Provider has under any Credit Support Document relating to such Transaction, from receiving a payment or delivery under such Credit Support Document or from complying with any other material provision of such Credit Support Document (or would be so prevented if such payment, delivery or compliance were required on that day), or it becomes impossible or impracticable for such party or Credit Support Provider so to perform, receive or comply (or it would be impossible or impracticable for such party or Credit Support Provider so to perform, receive or comply if such payment, delivery or compliance were required on that day),

so long as the force majeure or act of state is beyond the control of such Office, such party or such Credit Support Provider, as appropriate, and such Office, party or Credit Support Provider could not, after using all reasonable efforts (which will not require such party or Credit Support Provider to incur a loss, other than immaterial, incidental expenses), overcome such prevention, impossibility or impracticability;

(iii) **Tax Event.** Due to (1) any action taken by a taxing authority, or brought in a court of competent jurisdiction, after a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (2) a

该信用支持文件的任何其他重要条款;

(ii) **不可抗力事件。**在运用了有关确认书或本协议其他部分规定的任何适用条款、中断保障或补偿条款后，因交易进行之后发生的不可抗力或政府行为，于任何一日：—

(1) 该方(即受影响方)就该交易交接款项或交付的办事处不能为该交易进行支付或交付而履行任何无条件或附条件的义务，或不能接受支付或交付，或不能就该交易遵守本协议的任何其他重要条款(或如该日提出该付款、交付或遵守协议的要求而不能做到)，或该办事处的履行、接受付款或遵守协议变得不可能或不可行(或如该日提出支付款项、交付或遵守协议的要求而该办事处按要求履约不可能或不可行); 或

(2) 该方或该方的任何信用支持提供者(即受影响方)不能履行该方或该信用支持提供者在有关该等交易的任何信用支持文件项下无条件或附条件的支付或交付义务，或不能接受支付或交付，或不能就该交易遵守本协议的任何其他重要条款(或如该日提出该付款、交付或遵守协议的要求而不能做到)，或该方或该信用支持提供者的履行、接受付款或遵守协议变得不可能或不可行(或如该日提出支付款项、交付或遵守协议的要求而该方或该信用支持提供者按要求履约不可能或不可行),

只要这一不可抗力或政府行为超出该办事处、该方或该信用支持提供者(视情况而定)的控制范围，并且该办事处、该方或信用支持提供者在尽所有合理努力(但该努力不应使该方或信用支持提供者承受损失，但不重要及附带开支以外的损失除外)之后仍无法克服上述不能，不可能或不可行的情况;

(iii) **税务事件。**由於：(1)在交易进行以後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(2)因税法的变更，一方(即受影响方)将有极大可能，於下一个预定结算日：(A)须按第

with respect to a party to this Agreement) or (2) 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 Settlement Date (A) 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 9(h)) or (B) 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 9(h)) 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));

(iv) **Tax Event Upon Merger.** The party (the “Burdened Party”) on the next succeeding Scheduled Settlement 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 9(h)) or (2) receive a payment from which an amount has been deducted or withheld for or on account of any 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 (or any substantial part of the assets comprising the business conducted by it as of the date of this Master Agreement) to, or reorganising, reincorporating or reconstituting into or as, another entity (which will be the Affected Party) where such action does not constitute a Merger Without Assumption;

(v) **Credit Event Upon Merger.** If “Credit Event Upon Merger” is specified in the Schedule as applying to the party, a Designated Event (as defined below) occurs with respect to such party, any Credit Support Provider of such party or any applicable Specified Entity of such party (in each case, “X”) and such Designated Event does not constitute a Merger Without Assumption, and the creditworthiness of X or, if applicable, the successor, surviving or transferee entity of X, after taking into account any applicable Credit Support Document, is materially weaker immediately after the occurrence of such Designated Event than that of X immediately prior to the occurrence of such Designated Event (and, in any such event, such party or its successor, surviving or transferee entity, as appropriate, will be the Affected Party). A “Designated Event” with respect to X means that:—

(1) X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets (or any substantial part of the assets comprising the business conducted by X as of the date of this Master Agreement) to, or reorganises, reincorporates or reconstitutes into or as, another entity;

(2) any person, related group of persons or entity acquires directly or indirectly the beneficial ownership of (A) equity securities having the power to elect a majority of the board of directors (or its equivalent) of X or (B) any other ownership

2(d)(i)(4)条就可获补偿税项向另一方支付额外款项(有关第9(h)条的利息除外), 或(B)收取一项需从该项付款中扣除或预提税款之款项(有关第9(h)条的利息除外), 而无权按第2(d)(i)(4)条之规定要求对方支付额外款项(基於第2(d)(i)(4)(A)或(B)条的原因除外);

(iv) **因合并造成的税务事件。**在下一个预定结算日, 一方(“有负担方”)将: (1)就第2(d)(i)(4)条下的可获补偿税项支付额外款项(有关第9(h)条有关的利息除外), 或(2)收取一项已在该付款中扣除或预提任何税款的款项, 而另一方不须就该税款支付额外款项(基於第2(d)(i)(4)(A)或(B)条的原因除外), 以上任何一情况, 皆由於一方将与另一实体联合、合并或兼并, 或将其所有或大部份资产(或本主协议日期起其从事的商业行为中运用的大部分资产)转移给另一实体, 或重组、再设立或改组为另一实体(称为受影响方)所导致, 并且该行动不构成不承担债务的合并;

(v) **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, 而该方、该方的任何信用支持提供者或该方的任何适用特定机构(各为“X方”)发生指定事件(定义如下), 并且该指定事件不构成不承担债务的合并, 而X方, 或(如适用的话)X方的继承的、存续的或受让的实体的资信情况, 在考虑任何适用的信用支持文件之后仍严重低于指定事件发生之前X方的资信情况(在任何此等情况下, 该方或其继承的、存续的或受让实体, 视情况而定将成为“受影响方”)。有关X方的“指定事件”是指:—

(1) X方与另一实体联合、合并或兼并, 或将其所有或大部份资产(或本主协议日期起其从事的商业行为中运用的大部分资产)转移给另一实体, 或重组、再设立或改组为另一实体;

(2) 任何人、相关联的人或实体直接或间接获得: (A)选举X方董事会(或同类机构)大多数成员的股权的受益权, 或(B)使其能对X方行使控制权的任何其他所有权的受益权; 或

(or its equivalent) of X or (B) any other ownership interest enabling it to exercise control of X; or

(3) X effects any substantial change in its capital structure by means of the issuance, incurrence or guarantee of debt or the issuance of (A) preferred stock or other securities convertible into or exchangeable for debt or preferred stock or (B) in the case of entities other than corporations, any other form of ownership interest; or

(vi) **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 will be as specified for such Additional Termination Event in the Schedule or such Confirmation).

(c) **Hierarchy of Events.**

(i) An event or circumstance that constitutes or gives rise to an Illegality or a Force Majeure Event will not, for so long as that is the case, also constitute or give rise to an Event of Default under Section 5(a)(i), 5(a)(ii)(1) or 5(a)(iii)(1) insofar as such event or circumstance relates to the failure to make any payment or delivery or a failure to comply with any other material provision of this Agreement or a Credit Support Document, as the case may be.

(ii) Except in circumstances contemplated by clause (i) above, if an event or circumstance which would otherwise constitute or give rise to an Illegality or a Force Majeure Event also constitutes an Event of Default or any other Termination Event, it will be treated as an Event of Default or such other Termination Event, as the case may be, and will not constitute or give rise to an Illegality or a Force Majeure Event.

(iii) If an event or circumstance which would otherwise constitute or give rise to a Force Majeure Event also constitutes an Illegality, it will be treated as an Illegality, except as described in clause (ii) above, and not a Force Majeure Event.

(d) **Deferral of Payments and Deliveries During Waiting Period.** If an Illegality or a Force Majeure Event has occurred and is continuing with respect to a Transaction, each payment or delivery which would otherwise be required to be made under that Transaction will be deferred to, and will not be due until:—

(i) the first Local Business Day or, in the case of a delivery, the first Local Delivery Day (or the first day that would have been a Local Business Day or Local Delivery Day, as appropriate, but for the occurrence of the event or circumstance constituting or giving rise to that Illegality or Force Majeure Event) following the end of any applicable Waiting Period in respect of that Illegality or Force Majeure Event, as the case may be; or

(ii) if earlier, the date on which the event or circumstance constituting or giving rise to that Illegality

(3) X方通过发债、负债或保证的方式对其资本结构进行重大改变，或(A)以发行优先股或可转换或交换成债券或优先股的其他证券，或(B)如X方并非公司，发行其他形式的所有权的方式对其资本结构进行重大改变；或

(vi) **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(在此情况下，受影响方或各受影响方将视附件或该确认书中有关其他终止事件的规定而定)。

(c) **事件的等级。**

(i) 任何构成或导致非法或不可抗力事件的事件或情况，如在其存续期间与未能付款或未能交付或未遵守本协议或信用支持文件(视情况而定)的任何其他重大规定有关，则将不构成或导致第5(a)(i)、第5(a)(ii)(1)或第5(a)(iii)(1)条下的违约事件。

(ii) 除上述(i)款规定的情况外，若任何可构成或导致非法或不可抗力事件的事件或情况，亦构成违约事件或其他终止事件(视情况而定)，而不构成或导致非法或不可抗力事件。

(iii) 若任何可构成或导致不可抗力事件的事件或情况亦构成非法，该事件或情况将被视作非法(上述第(ii)款规定的情况除外)，而非不可抗力事件。

(d) **等待期间的延迟付款及交付。**如就任何交易已发生非法或不可抗力事件且非法或不可抗力处于持续状态，该交易下须履行的每项付款或交付延迟至以下时间方才到期：—

(i) 有关非法或不可抗力事件(视情况而定)适用的等待期之后的首个当地营业日，在交付的情况下为首个当地交付日(或若无非法或不可抗力事件(视情况而定)的发生本应为当地营业日或当地交付日(视情况而定)的首日)；或

(ii) 如更早的话，构成或导致非法或不可抗力事件的事件或情况终止之日，或如该日不是当地营业日或就交付而言并非

or Force Majeure Event ceases to exist or, if such date is not a Local Business Day or, in the case of a delivery, a Local Delivery Day, the first following day that is a Local Business Day or Local Delivery Day, as appropriate.

(e) **Inability of Head or Home Office to Perform Obligations of Branch.** If (i) an Illegality or a Force Majeure Event occurs under Section 5(b)(i)(1) or 5(b)(ii)(1) and the relevant Office is not the Affected Party's head or home office, (ii) Section 10(a) applies, (iii) the other party seeks performance of the relevant obligation or compliance with the relevant provision by the Affected Party's head or home office and (iv) the Affected Party's head or home office fails so to perform or comply due to the occurrence of an event or circumstance which would, if that head or home office were the Office through which the Affected Party makes and receives payments and deliveries with respect to the relevant Transaction, constitute or give rise to an Illegality or a Force Majeure Event, and such failure would otherwise constitute an Event of Default under Section 5(a)(i) or 5(a)(iii)(1) with respect to such party, then, for so long as the relevant event or circumstance continues to exist with respect to both the Office referred to in Section 5(b)(i)(1) or 5(b)(ii)(1), as the case may be, and the Affected Party's head or home office, such failure will not constitute an Event of Default under Section 5(a)(i) or 5(a)(iii)(1).

6. Early Termination; Close-Out Netting

(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 other than a Force Majeure 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 the other party such other information about that Termination Event as the other party may reasonably require. If a Force Majeure Event occurs, each party will, promptly upon becoming aware of it, use all reasonable efforts to notify the other party, specifying the nature of that Force Majeure Event, and will also give the other party such other information about that Force Majeure Event as the other party may reasonably require.

当地交付日, 则下一个构成当地营业日或当地交付日(视情况而定)之日。

(e) **总部或总办事处不能履行分支的义务。**如(i)发生第5(b)(i)(1)或第5(b)(ii)(1)条下的任何非法或不可抗力事件, 而有关办事处并非受影响方的总部或总办事处, (ii)第10(a)条适用, (iii)另一方要求受影响方的总部或总办事处履行有关义务或遵守有关规定, 并且(iv)某一事件或情况导致受影响方的总部或总办事处未能按要求履约, 而若该受影响方通过该总部或总办事处就有关交易进行付款和交付, 该事件会构成或导致非法或不可抗力事件, 而且该未能履约的行为可构成该方第5(a)(i)或第5(a)(iii)(1)条下的违约事件, 则在第5(b)(i)(1)或5(b)(ii)(1)条(视情况而定)所述办事处及受影响方的总部或总办事处皆持续存在有关事件或情况的整个期间, 该未能履约的行为不构成第5(a)(i)或第5(a)(iii)(1)条下的违约事件。

6. 提前终止; 终止交易时的净额结算

(a) **违约事件发生后的终止权利。**在任何时候发生有关一方(以下简称“违约方”)的违约事件并持续存在, 另一方(以下简称“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)条规定, 或第5(a)(vii)(8)条规定的类似的违约事件之时, 或在该方发生第5(a)(vii)(4)条所规定或第5(a)(vii)(8)条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。**若发生不可抗力事件以外的终止事件, 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其他资料通知另一方。如发生不可抗力事件, 每一方应在获悉该事件后立即尽所有合理的努力通知另一方, 说明该不可抗力事件的性质, 并按另一方合理的要求把有关不可抗力事件的其他资料通知另一方。

(ii) **Transfer to Avoid Termination Event.** If 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, other than immaterial, incidental expenses) to transfer within 20 days after it gives notice under Section 6(b)(i) all its rights and obligations under this Agreement in respect of the Affected Transactions to another of its Offices or Affiliates so that such Termination Event ceases to exist.

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

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

(iii) **Two Affected Parties.** If 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 of such occurrence is given under Section 6(b)(i) to avoid that Termination Event.

(iv) **Right to Terminate.**

(1) If:—

(A) 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

(B) 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,

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 are two Affected Parties, or the Non-affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, if the relevant Termination Event is then continuing, by not more than 20 days notice to the other party, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(ii) **为避免终止事件而转让。**若发生税务事件，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)条下指定提前终止日的权利之条件，应尽所有合理的努力(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)条发出通知后的二十天内将其在本协议下就该受影响交易的所有权利和义务转让给其他办事处或关联企业，以避免有关终止事件。

若受影响方未能作出以上转让，应在二十天内通知另一方，而另一方可於收到第6(b)(i)条下的通知后三十天内进行上述转让。

一方按第6(b)(ii)条所作的任何转让均须取得另一方的事前书面同意，如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，另一方不得拒绝同意该转让。

(iii) **两个受影响方。**若发生税务事件而有两个受影响方时，各方应在第6(b)(i)条下有关事件发生的通知作出后三十天内尽一切合理的努力达成协议，以避免该终止事件的发生。

(iv) **终止的权利。**

(1) 如果：—

(A) 受影响方在发出第6(b)(i)条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)条下的转让或达成第6(b)(iii)条下的协议(视情况而定)；或

(B) 发生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，

发生因合并造成的税务事件情况下的有负担方，发生税务事件或其他终止事件并且有两个受影响方情况下的任何受影响方，或发生因合并造成的信用事件或其他终止事件并且仅有一个受影响方的情况下的不受影响方，可在有关终止事件正在持续的情况下，用通知期不超过二十天的通知形式通知另一方，指定该通知生效后的一日作为所有受影响交易的提前终止日。

(2) If at any time an Illegality or a Force Majeure Event has occurred and is then continuing and any applicable Waiting Period has expired:—

(A) Subject to clause (B) below, either party may, by not more than 20 days notice to the other party, designate (I) a day not earlier than the day on which such notice becomes effective as an Early Termination Date in respect of all Affected Transactions or (II) by specifying in that notice the Affected Transactions in respect of which it is designating the relevant day as an Early Termination Date, a day not earlier than two Local Business Days following the day on which such notice becomes effective as an Early Termination Date in respect of less than all Affected Transactions. Upon receipt of a notice designating an Early Termination Date in respect of less than all Affected Transactions, the other party may, by notice to the designating party, if such notice is effective on or before the day so designated, designate that same day as an Early Termination Date in respect of any or all other Affected Transactions.

(B) An Affected Party (if the Illegality or Force Majeure Event relates to performance by such party or any Credit Support Provider of such party of an obligation to make any payment or delivery under, or to compliance with any other material provision of, the relevant Credit Support Document) will only have the right to designate an Early Termination Date under Section 6(b)(iv)(2)(A) as a result of an Illegality under Section 5(b)(i)(2) or a Force Majeure Event under Section 5(b)(ii)(2) following the prior designation by the other party of an Early Termination Date, pursuant to Section 6(b)(iv)(2)(A), in respect of less than all Affected Transactions.

(c) *Effect of Designation.*

(i) If notice designating an Early Termination Date is given under Section 6(a) or 6(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 9(h)(i) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date will be determined pursuant to Sections 6(e) and 9(h)(ii).

(d) *Calculations; Payment Date.*

(i) *Statement.* On or as soon as reasonably practicable following the occurrence of an Early Termination Date,

(2) 如任何时候非法和不可抗力事件发生并持续存在, 而适用的等待期已经届满: -

(A) 除下述(B)款另有规定外, 任何一方可以用通知期不超过二十天的通知形式通知另一方, (I)就所有受影响交易指定该通知生效日之後的一天作为提前终止日, 或(II)在通知中说明其指定提前终止日的受影响交易, 就部分受影响交易指定该通知生效日两个当地营业日之後的一天作为提前终止日。另一方在收到仅就部分受影响交易指定提前终止日的通知后可以通知指定方(该通知须于指定的提前终止日或之前生效)就任何或所有其他受影响交易指定同日为提前终止日。

(B) 任何受影响方(如非法或不可抗力事件与该方或该方的任何信用支持提供者履行有关信用支持文件下支付或交付的义务有关, 或与遵守有关信用支持文件任何其他重要条款有关)仅在另一方根据第6(b)(iv)(2)(A)条就部分受影响交易指定提前终止日之后, 方有权按第6(b)(iv)(2)(A)条就第5(b)(i)(2)条下的非法或第5(b)(ii)(2)条下的不可抗力事件造成的结果指定提前终止日。

(c) *指定的效力。*

(i) 如果按第6(a)或6(b)条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, 该提前终止日将於指定的日期生效。

(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)或第9(h)(i)条下的付款或交付, 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)将按第6(e)和第9(h)(ii)条确定。

(d) *计算; 付款日。*

(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)条的规定计算其帐目, 并向另一方提交一份报

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 any quotations, market data or information from internal sources used in making such calculations), (2) specifying (except where there are two Affected Parties) any Early Termination Amount payable and (3) 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 or market data obtained in determining a Close-out Amount, the records of the party obtaining such quotation or market data will be conclusive evidence of the existence and accuracy of such quotation or market data.

(ii) **Payment Date.** An Early Termination Amount due in respect of any Early Termination Date will, together with any amount of interest payable pursuant to Section 9(h)(ii)(2), be payable (1) on the day on which 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 (2) on the day which is two Local Business Days after the day on which notice of the amount payable is effective (or, if there are two Affected Parties, after the day on which the statement provided pursuant to clause (i) above by the second party to provide such a statement is effective) in the case of an Early Termination Date which is designated as a result of a Termination Event.

(e) **Payments on Early Termination.** If an Early Termination Date occurs, the amount, if any, payable in respect of that Early Termination Date (the “Early Termination Amount”) will be determined pursuant to this Section 6(e) and will be subject to Section 6(f).

(i) **Events of Default.** If the Early Termination Date results from an Event of Default, the Early Termination Amount will be an amount equal to (1) the sum of (A) the Termination Currency Equivalent of the Close-out Amount or Close-out Amounts (whether positive or negative) determined by the Non-defaulting Party for each Terminated Transaction or group of Terminated Transactions, as the case may be, and (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party less (2) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party. If the Early Termination 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 the Early Termination Amount to the Defaulting Party.

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

(1) **One Affected Party.** Subject to clause (3) below, if there is one Affected Party, the Early Termination Amount will be determined in accordance with Section 6(e)(i), except that references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and to the Non-affected Party,

告: (1)合理详细地说明此等计算(包括计算中使用的任何报价、市场数据或内部信息), (2)说明应付的任何提前终止款项(有两个受影响方的情况除外), 以及(3)详细说明其应收款项应存入的有关帐户。若在确定结算款项的过程中, 就一项报价或市场数据无法从其来源得到书面确认, 则获取该报价或市场数据一方的记录将成为该报价或市场数据存在和准确性的结论性证明。

(ii) **付款日。** 就任何提前终止日所计算的提前终止款项将连同根据第9(h)(ii)(2)条应付的任何利息款项(1)当因违约事件指定提前终止日时, 在付款通知书生效当日支付, 及(2)当因终止事件指定提前终止日时, 在付款通知书生效日后的第二个当地营业日支付(或如有两个受影响方, 在第二方根据第(i)款所提供的报告生效日之后支付)。

(e) **提前终止的付款。** 如出现提前终止日, 就提前终止日应缴付的款项(如有的话)(以下简称“提前终止款项”)将根据本第6(e)条确定并须遵守第6(f)条的规定。

(i) **违约事件。** 如提前终止日因违约事件产生, 提前终止款项等于(1)以下(A)项与(B)项之和: (A)为守约方就每一项终止交易或一组终止交易(视情况而定)决定的结算款项(无论是正数还是负数)的终止货币等值额; (B)为欠守约方的未付款项终止货币等值额, 减去(2)欠违约方的未付款项的终止货币等值额。如该提前终止款项为正数, 应由违约方向守约方支付; 如该提前终止款项为负数, 守约方向违约方支付该金额的绝对值。

(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。** 除下述第(3)款另有规定外, 如只有一个受影响方, 提前终止款项应按第6(e)(i)条决定, 但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。

respectively.

(2) *Two Affected Parties.* Subject to clause (3) below, if there are two Affected Parties, each party will determine an amount equal to the Termination Currency Equivalent of the sum of the Close-out Amount or Close-out Amounts (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions, as the case may be, and the Early Termination Amount will be an amount equal to (A) the sum of (I) one-half of the difference between the higher amount so determined (by party “X”) and the lower amount so determined (by party “Y”) and (II) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (B) the Termination Currency Equivalent of the Unpaid Amounts owing to Y. If the Early Termination Amount is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of the Early Termination Amount to Y.

(3) *Mid-Market Events.* If that Termination Event is an Illegality or a Force Majeure Event, then the Early Termination Amount will be determined in accordance with clause (1) or (2) above, as appropriate, except that, for the purpose of determining a Close-out Amount or Close-out Amounts, the Determining Party will:—

(A) if obtaining quotations from one or more third parties (or from any of the Determining Party’s Affiliates), ask each third party or Affiliate (I) not to take account of the current creditworthiness of the Determining Party or any existing Credit Support Document and (II) to provide mid-market quotations; and

(B) in any other case, use mid-market values without regard to the creditworthiness of the Determining Party.

(iii) *Adjustment for Bankruptcy.* In circumstances where an Early Termination Date occurs because Automatic Early Termination applies in respect of a party, the Early Termination Amount will be subject to such adjustments as are appropriate and permitted by applicable 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) *Adjustment for Illegality or Force Majeure Event.* The failure by a party or any Credit Support Provider of such party to pay, when due, any Early Termination Amount will not constitute an Event of Default under Section 5(a)(i) or 5(a)(iii)(1) if such failure is due to the occurrence of an event or circumstance which would, if it occurred with respect to payment, delivery or compliance related to a Transaction, constitute or give rise to an Illegality or a Force Majeure Event. Such amount will (1) accrue interest and otherwise be treated as an Unpaid Amount owing to the other party if subsequently an Early

(2) *两个受影响方。*除下述第(3)款另有规定外，如有两个受影响方，各方将就每一项终止交易或一组终止交易(视情况而定)决定一笔相等于结算款项(无论是正数还是负数)的终止货币等值额，而提前终止款项将等于(A)以下(I)项与(II)项之和：(I)为(由“X”方)确定的较高的金额与(由“Y”方)确定的较低金额的差额的一半；(II)为欠X方的未付款项的终止货币等值额，减去(B)欠Y方的未付款项的终止货币等值额。如提前终止款项为正数，Y方向X方支付；如提前终止款项为负数，X方向Y方支付该金额的绝对值。

(3) *市场中间价事件。*如该终止事件是非法或不可抗力事件，则提前终止款项将根据上述第(1)和第(2)款(视情况而定)决定，但决定方在确定结算款项时应当：—

(A) 若从一个或以上的第三方(或从决定方的任何关联公司)获取报价，则要求第三方或关联公司：(I)不考虑决定方目前的资信情况或任何现存的信用支持文件，及(II)提供中间市场报价；及

(B) 在其他情况下，使用市场中间价，并且不须考虑决定方的资信情况。

(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，提前终止款项将根据适用法律允许作出适当的调整，以反映在有关提前终止日起至第6(d)(ii)条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) *就非法或不可抗力事件作出的调整。*一方或该方的信用支持提供者未能于到期日支付任何提前终止款项，并且这一未能按期付款的事件或情况如发生于有关交易下的付款、交付或遵守协议的义务时将会构成或导致非法或不可抗力事件，这一行为将不构成第5(a)(i)、或5(iii)(1)条下的违约事件。该款项将：(1)累计利息，如随后由于有关违约事件、因合并造成的信用事件或其他终止事件使所有未完成交易变成受影响交易而导致提前终止日的到来，应被当作欠另一方的未付款项；并(2)根据第9(h)(ii)(2)条计算利息。

Termination Date results from an Event of Default, a Credit Event Upon Merger or an Additional Termination Event in respect of which all outstanding Transactions are Affected Transactions and (2) otherwise accrue interest in accordance with Section 9(h)(ii)(2).

(v) **Pre-Estimate.** The parties agree that 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 the termination of the Terminated Transactions.

(f) **Set-Off.** Any Early Termination Amount payable to one party (the “Payee”) by the other party (the “Payer”), in circumstances where there is a Defaulting Party or where there is one Affected Party in the case where either a Credit Event Upon Merger has occurred or any other Termination Event in respect of which all outstanding Transactions are Affected Transactions has occurred, will, at the option of the Non-defaulting Party or the Non-affected Party, as the case may be (“X”) (and without prior notice to the Defaulting Party or the Affected Party, as the case may be), be reduced by its set-off against any other amounts (“Other Amounts”) payable by the Payee to the Payer (whether or not arising under this Agreement, matured or contingent and irrespective of the currency, place of payment or place of booking of the obligation). To the extent that any Other Amounts are so set off, those Other Amounts will be discharged promptly and in all respects. X will give notice to the other party of any set-off effected under this Section 6(f).

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

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

Nothing in this Section 6(f) will be effective to create a charge or other security interest. This Section 6(f) will be without prejudice and in addition to any right of set-off, offset, combination of accounts, lien, right of retention or withholding or similar right or requirement to which any party is at any time otherwise entitled or subject (whether by operation of law, contract or otherwise).

7. Transfer

Subject to Section 6(b)(ii) and to the extent permitted by applicable law, 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:—

(v) **预先估计.** 双方同意，在按第6(e)条支付的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，任何一方均无权因终止交易的终止而收取任何额外赔偿。

(f) **抵销.** 在出现违约方或发生因合并造成的信用事件而产生一个受影响方的情况下，或发生任何其他终止事件而所有未完成交易变成受影响交易时，一方(以下简称“付款人”)应向另一方(以下简称“收款人”)支付的任何提前终止款项将按守约方或受影响方(视情况而定，以下简称“X”方)的选择(并在无需事先通知违约方或受影响方(视情况而定)的情况下)用于扣减抵销收款人应向付款人支付的任何其他款项(以下简称“其他款项”)(无论其是否是本协议下产生的、是到期的还是或有的，亦无论该债务的货种、支付地点或债务入册的地点如何)。在任何其他款项以此方式抵销时，此等其他款项将被立即全面解除。X方将通知另一方根据本第6(f)条实施的任何抵销。

为此目的，X方可以使用按诚信原则以合理的商业程序购得相关数额该种货币时的汇率将提前终止款项或其他款项(或这些款项的相关部分)兑换成另一款项票面所使用的货币。

如果一项债务尚未确定，X方可以按诚信原则预估该债务并就该预估数目进行抵销，只要该债务确定后由有关交易方向交易对方交帐即可。

本第6(f)条的规定不具有设立抵押或其他担保权益的效力。本第6(f)条不影响，并且额外存在于任何一方可能随时享有或受到的(法律、合同或其他规定下的)任何抵销权、充抵权、合并帐户权、留置权、保留权或预扣或类似的权利或要求。

7. 转让

受第6(b)(ii)条的限制并在适用法律允许的范围内，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) a party may make such a transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and

(b) a party may make such a transfer of all or any part of its interest in any Early Termination Amount payable to it by a Defaulting Party, together with any amounts payable on or with respect to that interest and any other rights associated with that interest pursuant to Sections 8, 9(h) and 11.

Any purported transfer that is not in compliance with this Section 7 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 good faith and using commercially reasonable procedures 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 clause (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 purpose of such judgment or order and the rate of exchange at which such party is able, acting in good faith and using commercially reasonable

(a) 一方可通过与另一实体联合或合并, 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以转让本协议(但不影响本协议下任何其它权利或补救措施); 及

(b) 一方可转让违约方向其支付的任何提前终止款项的全部或部分的权益, 以及其根据第8、第9(h)和第11条就上述款项享有的利息及任何其他权利。

与第7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(以下简称“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, 不被视作已清偿或满足, 但是, 若该等偿付款项被应收款方按诚信原则以合理的商业程序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差额。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, 如任何判决或命令中明示以合同货币以外的货币支付: (i)本协议项下所欠任何款项; (ii)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)款所载款项的判决或命令, 则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其它货币付款而少收的合同货币, 或立即向另一方退回因以其它货币付款而多收的合同货币, 如果该差额或超出是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, 与该方按诚信原则以合理的商业程序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。

procedures 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.

(c) **Separate Indemnities.** To the extent permitted by applicable law, the indemnities in this Section 8 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. Each of the parties acknowledges that in entering into this Agreement it has not relied on any oral or written representation, warranty or other assurance (except as provided for or referred to in this Agreement) and waives all rights and remedies which might otherwise be available to it in respect thereof, except that nothing in this Agreement will limit or exclude any liability of a party for fraud.

(b) **Amendments.** An amendment, modification or waiver in respect of this Agreement will only be effective if 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 by an exchange of 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 and by electronic messaging system), 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 will 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, by an exchange of electronic

(c) **独立赔偿。**在适用法律许可的范围内，本第8条的赔偿权构成分别和独立的义务，有别於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容均得到适用，并不受就本协议下应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。**本协议构成双方就本协议下事宜的全部协议和谅解。各方承认其在签订本协议时并无依赖任何口头或书面的陈述、担保或其他保证(本协议中规定或提及的除外)，并就以上所述放弃原本可以享有的一切权利和补救，但本协议的内容不得限制或排除一方的任何欺诈责任。

(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，或经交换电传或通过电子信息系统交换的电子信息系统确认，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)条和第6(c)(ii)条的情况下，双方在本协议下的义务在任何交易终止後仍然有效。

(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(包括以传真及电子信息系统发送的复本)，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或交换电子邮件而建立确认书，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

messages on an electronic messaging system or by an exchange of e-mails, 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, electronic message or e-mail constitutes a Confirmation.

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

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

(h) **Interest and Compensation.**

(i) **Prior to Early Termination.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction:—

(1) **Interest on Defaulted Payments.** If a party defaults in the performance of any payment obligation, it will, to the extent permitted by applicable law and subject to Section 6(c), pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as the overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment (and excluding any period in respect of which interest or compensation in respect of the overdue amount is due pursuant to clause (3)(B) or (C) below), at the Default Rate.

(2) **Compensation for Defaulted Deliveries.** If a party defaults in the performance of any obligation required to be settled by delivery, it will on demand (A) compensate the other party to the extent provided for in the relevant Confirmation or elsewhere in this Agreement and (B) unless otherwise provided in the relevant Confirmation or elsewhere in this Agreement, to the extent permitted by applicable law and subject to Section 6(c), pay to the other party interest (before as well as after judgment) on an amount equal to the fair market value of that which was required to be delivered in the same currency as that amount, for the period from (and including) the originally scheduled date for delivery to (but excluding) the date of actual delivery (and excluding any period in respect of which interest or compensation in respect of that amount is due pursuant to clause (4) below), at the Default Rate. The fair market value of any obligation referred to above will be determined as of the originally scheduled date for delivery, in good faith and using commercially reasonable procedures, by the party that was

另一有效途径规定,任何该等复本、电传、电子信息或电子邮件均构成一项确认书。

(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权,单独或部份行使任何权利、权力或特权不视作放弃对以后或进一步对该权利、权力或特权的行使,或任何其他权利、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。

(h) **利息和补偿。**

(i) **提前终止之前。**就有关交易出现或有效地指定提前终止日之前:—

(1) **违约付款的利息。**如一方未能履行付款义务,该方应在适用法律允许范围内并受限于第6(c)条的规定,(於判决之前及之后)在另一方要求时,向另一方就逾期款项按违约利率以与欠款相同的货币支付利息,计息的期间为从原定付款到期日(包括当日)起至实际付款日(不包括当日)为止(但不包括按以下第(3)(B)或第(C)款就逾期款项支付利息或补偿的期间)。

(2) **违约交付的补偿。**如一方未能履行任何交付义务,该方应在另一方要求时:(A)须按有关确认书或本协议的其他规定向另一方作出补偿,并且(B)除有关确认书或本协议另有规定外,在适用法律允许范围内并受限于第6(c)条的规定,(於判决之前及之后)向另一方按违约利率就交付义务的公平市值并以与该款项相同的货币支付利息,计息的期间为从原定交付日(包括当日)起至实际交付日(不包括当日)为止(但不包括根据以下第(4)款就逾期款项支付利息或补偿的期间)。以上所述的公平市值由有权接收交付的一方从原定交付日起,依据诚信原则以合理的商业程序确定。

entitled to take delivery.

(3) *Interest on Deferred Payments.* If:—

(A) a party does not pay any amount that, but for Section 2(a)(iii), would have been payable, it will, to the extent permitted by applicable law and subject to Section 6(c) and clauses (B) and (C) below, pay interest (before as well as after judgment) on that amount to the other party on demand (after such amount becomes payable) in the same currency as that amount, for the period from (and including) the date the amount would, but for Section 2(a)(iii), have been payable to (but excluding) the date the amount actually becomes payable, at the Applicable Deferral Rate;

(B) a payment is deferred pursuant to Section 5(d), the party which would otherwise have been required to make that payment will, to the extent permitted by applicable law, subject to Section 6(c) and for so long as no Event of Default or Potential Event of Default with respect to that party has occurred and is continuing, pay interest (before as well as after judgment) on the amount of the deferred payment to the other party on demand (after such amount becomes payable) in the same currency as the deferred payment, for the period from (and including) the date the amount would, but for Section 5(d), have been payable to (but excluding) the earlier of the date the payment is no longer deferred pursuant to Section 5(d) and the date during the deferral period upon which an Event of Default or Potential Event of Default with respect to that party occurs, at the Applicable Deferral Rate; or

(C) a party fails to make any payment due to the occurrence of an Illegality or a Force Majeure Event (after giving effect to any deferral period contemplated by clause (B) above), it will, to the extent permitted by applicable law, subject to Section 6(c) and for so long as the event or circumstance giving rise to that Illegality or Force Majeure Event continues and no Event of Default or Potential Event of Default with respect to that party has occurred and is continuing, pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as the overdue amount, for the period from (and including) the date the party fails to make the payment due to the occurrence of the relevant Illegality or Force Majeure Event (or, if later, the date the payment is no longer deferred pursuant to Section 5(d)) to (but excluding) the earlier of the date the event or circumstance giving rise to that Illegality or Force Majeure Event ceases to exist and the date during the period upon which an Event of Default or Potential Event of Default with respect to that party

(3) *迟延履行款的利息。*如： -

(A) 一方不支付若非第2(a)(iii)条的规定则原应支付的任何款项的话，该方应在适用法律允许范围内并受限于第6(c)条和以下第(B)和第(C)款的规定，(於判决之前及之后)在另一方要求时(在该款项应予支付时)以与该款项相同的货币按适用的迟延履行率支付利息，计息期间从若非第2(a)(iii)条的规定则原应支付款项之日(包括当日)起，至实际应予支付之日(不包括当日)为止；

(B) 若某项付款按第5(d)条的规定迟延履行支付的话，本须支付该款项的一方将在适用法律允许范围内并受限于第6(c)条的规定，在该方未发生及持续存在违约事件或潜在的违约事件的整个期间内，(於判决之前及之后)在另一方要求时(在该款项应予支付时)以与该迟延履行款项相同的货币就迟延履行按适用的迟延履行率支付利息，计息的期间为从若非第5(d)条规定则原应支付款项之日(包括当日)起，至该付款根据第5(d)条规定不再延迟交付或该方在迟延履行期间发生违约事件或潜在的违约事件之日(以较早的日期为准，不包括当日)为止；或

(C) 如一方(於以上第(B)款下的任何迟延履行生效后)因发生非法或不可抗力事件不能支付任何款项，该方将在适用法律允许范围内并受限于第6(c)条的规定，在导致非法或不可抗力事件的事件或情况持续存在并且该方没有发生并持续存在的违约事件或潜在的违约事件的整个期间，(於判决之前及之后)在另一方要求时以与该逾期款项相同的货币就欠款按适用的迟延履行率支付利息，计息的期间为从该方因非法或不可抗力事件无法付款之日(或更迟的话，该付款根据第5(d)条规定不再推迟支付之日)(包括当日)起，至导致该非法或不可抗力事件的事件或情况不复存在之日或该方在迟延履行期间发生违约事件或潜在的违约事件之日(以较早的日期为准，不包括当日)为止(但不包括有关逾期款项的利息或补偿根据以上(B)款支付的期间)。

occurs (and excluding any period in respect of which interest or compensation in respect of the overdue amount is due pursuant to clause (B) above), at the Applicable Deferral Rate.

(4) *Compensation for Deferred Deliveries.* If:—

(A) a party does not perform any obligation that, but for Section 2(a)(iii), would have been required to be settled by delivery;

(B) a delivery is deferred pursuant to Section 5(d); or

(C) a party fails to make a delivery due to the occurrence of an Illegality or a Force Majeure Event at a time when any applicable Waiting Period has expired,

the party required (or that would otherwise have been required) to make the delivery will, to the extent permitted by applicable law and subject to Section 6(c), compensate and pay interest to the other party on demand (after, in the case of clauses (A) and (B) above, such delivery is required) if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

(ii) *Early Termination.* Upon the occurrence or effective designation of an Early Termination Date in respect of a Transaction:—

(1) *Unpaid Amounts.* For the purpose of determining an Unpaid Amount in respect of the relevant Transaction, and to the extent permitted by applicable law, interest will accrue on the amount of any payment obligation or the amount equal to the fair market value of any obligation required to be settled by delivery included in such determination in the same currency as that amount, for the period from (and including) the date the relevant obligation was (or would have been but for Section 2(a)(iii) or 5(d)) required to have been performed to (but excluding) the relevant Early Termination Date, at the Applicable Close-out Rate.

(2) *Interest on Early Termination Amounts.* If an Early Termination Amount is due in respect of such Early Termination Date, that amount will, to the extent permitted by applicable law, be paid together with interest (before as well as after judgment) on that amount in the Termination Currency, for the period from (and including) such Early Termination Date to (but excluding) the date the amount is paid, at the Applicable Close-out Rate.

(iii) *Interest Calculation.* Any interest pursuant to this Section 9(h) will be calculated on the basis of daily compounding and the actual number of days elapsed.

(4) *迟延交付的补偿。* 如： -

(A) 一方不履行若非第2(a)(iii)条的规定则原应交付的义务；

(B) 交付根据第5(d)条推迟；或

(C) 一方在任何适用的等待期届满之后因非法或不可抗力事件而无法进行交付，

按要求(或按要求本应)进行交付的一方应在适用法律允许范围内并受限于第6(c)条的规定，按有关确认书或本协议其他规定在另一方要求时(在以上(A)条和(B)款的情况下，在该交付被要求之后)向另一方作出补偿并支付利息。

(ii) *提前终止。* 就有关交易出现或有效地指定提前终止日之时： -

(1) *未付款项。* 在确定有关交易的未付款项时，在适用法律允许范围内，应就任何应付款项或交付义务的公平市值以该款项相同的货币按适用的结算利率支付利息，计算利息的期间为有关义务须(或非按第2(a)(iii)条或第5(d)条规定应当)予以履行之日(包括当日)至有关提前终止日(不包括当日)为止。

(2) *提前终止款项的利息。* 如提前终止款项于该提前终止日到期，该款项将在适用法律允许范围内，与以终止货币在该提前终止日(包括当日)至该款项实际支付之日(不包括当日)的期间内，按适用的结算利率计算的利息(於判决之前及之后)一起支付。

(iii) *利息的计算。* 任何根据本第9(h)条支付的利息将按每日复式利率以及实际过期的日数计算。

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 and agrees with the other party that, notwithstanding the place of booking or its jurisdiction of incorporation or organisation, its obligations are the same in terms of recourse against it as if it had entered into the Transaction through its head or home office, except that a party will not have recourse to the head or home office of the other party in respect of any payment or delivery deferred pursuant to Section 5(d) for so long as the payment or delivery is so deferred. This representation and agreement will be deemed to be repeated by each party on each date on which the parties enter into a Transaction.

(b) If a party is specified as a Multibranch Party in the Schedule, such party may, subject to clause (c) below, enter into a Transaction through, book a Transaction in and make and receive payments and deliveries with respect to a Transaction through any Office listed in respect of that party in the Schedule (but not any other Office unless otherwise agreed by the parties in writing).

(c) The Office through which a party enters into a Transaction will be the Office specified for that party in the relevant Confirmation or as otherwise agreed by the parties in writing, and, if an Office for that party is not specified in the Confirmation or otherwise agreed by the parties in writing, its head or home office. Unless the parties otherwise agree in writing, the Office through which a party enters into a Transaction will also be the Office in which it books the Transaction and the Office through which it makes and receives payments and deliveries with respect to the Transaction. Subject to Section 6(b)(ii), neither party may change the Office in which it books the Transaction or the Office through which it makes and receives payments or deliveries with respect to a Transaction without the prior written consent of the other party.

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, execution 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 described below (except that a notice or other communication under Section 5 or 6 may not be given by electronic messaging system or e-mail) to the address or number or in accordance with the electronic messaging system or e-mail details provided (see the Schedule) and will be deemed effective as indicated:—

10. 办事处；拥有多个办事处的交易方

(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并约定：尽管登记交易的办事处地点与其成立或组成的司法管辖区不同，但就追索权而言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，但根据第5(d)条迟延履行付款或交付则例外，在这种例外情况下，在迟延的整个期间内一方对另一方的总部或总办事处不拥有追索权。本声明和约定将被视作在双方达成交易的每一日由每一方重述。

(b) 如附件规定一方为拥有多个办事处的交易方，依下述第(c)款的规定，该方可通过在附件中列明的任何办事处达成交易、登记交易、作出或接受任何交易项下的款项或交付(除非双方另有书面约定则不可使用其他办事处)。

(c) 一方达成交易的办事处即是有关确认书中为该方指定的或由双方另外书面约定的办事处，如该方的办事处未在有关确认书中指定或由双方另外书面约定，则是其总部或总办事处。除双方另有书面约定外，一方达成交易的办事处亦是其登记交易的办事处以及其作出或接收任何交易项下的款项或交付的办事处。除依第6(b)(ii)条的规定外，未经另一方事先书面同意，任何一方不可更改其登记交易的办事处以及其作出或接收任何交易项下的款项或交付的办事处。

11. 开支

违约方将按要求，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违约方为一方当事人之本协议或任何信贷支持文件项下的权利所产生的律师费、签署费及印花税，或因任何交易提前终止而产生的费用，包括但不限于催收费用。

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所述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电子信息或电子邮件送达者除外)或根据提供的电子信息系统或电子邮件送达(详见附件)，通知的生效日期如下：—

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

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

(v) if sent by electronic messaging system, on the date it is received; or

(vi) if sent by e-mail, on the date it is delivered,

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 will be deemed given and effective on the first following day that is a Local Business Day.

(b) **Change of Details.** Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system or e-mail 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 any dispute arising out of or in connection with this Agreement ("Proceedings"), each party irrevocably:—

(i) submits:—

(1) if this Agreement is expressed to be governed by English law, to (A) the non-exclusive jurisdiction of the English courts if the Proceedings do not involve a Convention Court and (B) the exclusive jurisdiction of the English courts if the Proceedings do involve a Convention Court; or

(2) if this Agreement is expressed to be governed by the laws of the State of New York, 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;

(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

(i) 如用书面方式及通过专人或速递服务交付, 则为交付当日;

(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(如在国外, 则为空邮)或同等的邮递方式发出(需送件收据), 则为邮件交付或试图交付当日;

(v) 如用电子信息传送, 则为收到电子信息当日; 或

(vi) 如用电子邮件传送, 则为交付当日,

如果交付(或试图交付)或收件当日(按情况适用)并非当地营业日或该讯息在当地营业日结束后才交付(或试图交付)或收到(按情况适用), 则该讯息将视作在该日之后的第一个当地营业日送达和生效。

(b) **更改详情.** 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或电子邮件。

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.** 就与本协议中产生的或相关的任何争议有关的任何诉讼、法律行动或程序(以下简称“诉讼”), 各方不可撤销地遵守下列规定:—

(i) 接受管辖:—

(1) 如本协议明确规定由英国法律管辖, (A)而该诉讼不涉及公约法院, 则接受英国法院的非排他性管辖, 及(B)而该诉讼涉及公约法院, 则接受英国法院的排他性管辖; 或者

(2) 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;

(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。及

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; and

(iii) agrees, to the extent permitted by applicable law, that the bringing of Proceedings in any one or more jurisdictions will not preclude the bringing of Proceedings in any other jurisdiction.

(c) **Service of Process.** Each party irrevocably appoints the Process Agent, if any, specified opposite its name in the Schedule to receive, for it and on its behalf, service of process in any Proceedings. If for any reason any party's Process Agent is unable to act as such, such party will promptly notify the other party and within 30 days appoint a substitute process agent acceptable to the other party. The parties irrevocably consent to service of process given in the manner provided for notices in Section 12(a)(i), 12(a)(iii) or 12(a)(iv). Nothing in this Agreement will affect the right of either party to serve process in any other manner permitted by applicable law.

(d) **Waiver of Immunities.** Each party irrevocably waives, to the 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 or order for specific performance or 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 Representation**” has the meaning specified in Section 3.

“**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, Force Majeure Event, Tax Event or Tax Event Upon Merger, all Transactions affected by the occurrence of such Termination Event (which, in the case of an Illegality under Section 5(b)(i)(2) or a Force Majeure Event under Section 5(b)(ii)(2), means all Transactions unless the relevant Credit Support Document references only certain Transactions, in which case those Transactions and, if the relevant Credit Support Document constitutes a Confirmation for a Transaction, that Transaction) 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

弃基于该等法院就有关诉讼对该方没有管辖权的反对权；及

(iii) 同意在适用法律允许范围内在任何一个或多个司法管辖区提起诉讼不排除在任何其它司法管辖区提起诉讼的权利。

(c) **送达法律程序文件。** 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)替其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以第12(a)(i)条、第12(a)(iii)或第12(a)(iv)条规定的通知方式送达法律程序文件。本协议的规定不影响任何一方以适用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)禁止令或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:—

“**其他陈述**”具有第3条规定的含义。

“**其他终止事件**”具有第5(b)条规定的含义。

“**受影响方**”具有第5(b)条规定的含义。

“**受影响交易**”指(a)对于那些由非法行为、不可抗力事件、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(第5(b)(i)(2)条的非法或第5(b)(ii)(2)条的不可抗力事件下的受影响交易指所有交易,除非有关信用支持文件仅提及某些交易,在信用支持文件将受影响交易限定为某些交易时,指这些被限定的交易,如有关信用支持文件构成一项交易的确认书,指这项交易)及(b)对于任何其他终止事件,指所有交易。

“**关联企业**”除非附件另有规定,就某一实体或人而言,指直接或间接对其进行控制、直接或间接接受其控制、或直接或间接与其非外同一控制之下的任何实体或人。本定义中“控制”任何实体

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.

共受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。

“Agreement” has the meaning specified in Section 1(c).

“协议”具有第1(c)条规定的含义。

“Applicable Close-out Rate” means:—

“适用的结算利率”指：—

(a) in respect of the determination of an Unpaid Amount:—

(a) 在确定以下的未付款项时：—

(i) 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;

(i) 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;

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

(ii) 对于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;

(iii) in respect of obligations deferred pursuant to Section 5(d), if there is no Defaulting Party and for so long as the deferral period continues, the Applicable Deferral Rate; and

(iii) 对于根据第5(d)条而迟延履行义务, 如无违约方, 在延长期内指适用的迟延利率; 及

(iv) in all other cases following the occurrence of a Termination Event (except where interest accrues pursuant to clause (iii) above), the Applicable Deferral Rate; and

(iv) 在发生终止事件(除按上述第(iii)款累计利息的情况外)后的其它一切情况, 则指适用的迟延利率; 及

(b) in respect of an Early Termination Amount:—

(b) 对于提前终止款项指：—

(i) for the period from (and including) the relevant Early Termination Date to (but excluding) the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable:—

(i) 从有关提前终止日(包括当日)至该款项应付之日为止(根据第6(d)(ii)条确定)(不包括当日)的期间内：—

(1) if the Early Termination Amount is payable by a Defaulting Party, the Default Rate;

(1) 如应由违约方支付提前终止款项, 指违约利率;

(2) if the Early Termination Amount is payable by a Non-defaulting Party, the Non-default Rate; and

(2) 如应由守约方支付提前终止款项, 指守约利率;

(3) in all other cases, the Applicable Deferral Rate; and

(3) 在其情况下, 则指适用的迟延利率; 及

(ii) for the period from (and including) the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable to (but excluding) the date of actual payment:—

(ii) 从该款项应付之日(根据第6(d)(ii)条确定)(包括当日)至实际付款日(不包括当日)的期间内：—

(1) if a party fails to pay the Early Termination Amount due to the occurrence of an event or circumstance which would, if it occurred with respect to a payment or delivery under a Transaction, constitute or give rise to an Illegality or a Force Majeure Event, and for so long as the Early Termination Amount remains unpaid due to the continuing existence of such event or circumstance, the Applicable Deferral Rate;

(1) 造成一方不能支付提前终止款项的事件或情况是因为发生于某项交易下的付款或交付会构成或导致非法或不可抗力事件, 当该提前终止款项因该事件或情况的持续存在而仍未支付时, 指适用的迟延利率;

(2) if the Early Termination Amount is payable by a Defaulting Party (but excluding any period in respect of which clause (1) above applies), the Default Rate;

(2) 如应由违约方支付提前终止款项(但不包括上述(1)款适用的期间), 指违约利率;

(3) if the Early Termination Amount is payable by a Non-defaulting Party (but excluding any period in respect of which clause (1) above applies), the Non-default Rate; and

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

“Applicable Deferral Rate” means:—

(a) for the purpose of Section 9(h)(i)(3)(A), the rate certified by the relevant payer to be a rate offered to the payer by a major bank in a relevant interbank market for overnight deposits in the applicable currency, such bank to be selected in good faith by the payer for the purpose of obtaining a representative rate that will reasonably reflect conditions prevailing at the time in that relevant market;

(b) for purposes of Section 9(h)(i)(3)(B) and clause (a)(iii) of the definition of Applicable Close-out Rate, the rate certified by the relevant payer to be a rate offered to prime banks by a major bank in a relevant interbank market for overnight deposits in the applicable currency, such bank to be selected in good faith by the payer after consultation with the other party, if practicable, for the purpose of obtaining a representative rate that will reasonably reflect conditions prevailing at the time in that relevant market; and

(c) for purposes of Section 9(h)(i)(3)(C) and clauses (a)(iv), (b)(i)(3) and (b)(ii)(1) of the definition of Applicable Close-out Rate, a rate equal to the arithmetic mean of the rate determined pursuant to clause (a) above and 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.

“Automatic Early Termination” has the meaning specified in Section 6(a).

“Burdened Party” has the meaning specified in Section 5(b)(iv).

“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 after the parties enter into the relevant Transaction.

“Close-out Amount” means, with respect to each Terminated Transaction or each group of Terminated Transactions and a Determining Party, the amount of the losses or costs of the Determining Party that are or would be incurred under then prevailing circumstances (expressed as a positive number) or gains of the Determining Party that are or would be realised under then prevailing circumstances (expressed as a negative number) in replacing, or in providing for the Determining Party the economic equivalent of, (a) the material terms of that Terminated Transaction or group of Terminated Transactions, including the payments and deliveries by the parties under Section 2(a)(i) in respect of that 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 (assuming satisfaction of the conditions precedent in Section 2(a)(iii)) and (b) the option rights of the parties in respect of that Terminated Transaction or group of

(3) 如应由守约方支付提前终止款项(但不包括上述(1)款适用的期间), 指守约利率; 及

(4) 在其它一切情况, 则指终止利率。

“适用的延迟利率” 指: -

(a) 就第9(h)(i)(3)(A)条的目的而言, 指有关付款人认证的有关银行同业市场上一家主要银行就相关货币隔夜存款给予付款人的利率, 该银行由付款人按诚信原则选择以便获得可合理反映该有关市场当时状况的有代表性的利率;

(b) 就第9(h)(i)(3)(B)条和适用的结算利率的定义中第(a)(iii)条的目的而言, 指有关付款人认证的为有关银行同业市场上一家主要银行就相关货币隔夜存款给予主要银行的利率, 该银行由付款人经与另一方(如可行)协商后按诚信原则选择以便获得可合理反映该有关市场当时状况的有代表性的利率; 及

(c) 就第9(h)(i)(3)(C)条以及适用的结算利率的定义中第(a)(iv)、第(b)(i)(3)和第(b)(ii)(1)条的目的而言, 指根据以上(a)款确定的利率和有关收款人(经其认证的)如获得有关金额须付的资金成本的年利率(无需提供任何实际成本的证明或证据)的算术平均值。

“自动提前终止” 具有第6(a)条规定的含义。

“有负担方” 具有第5(b)(iv)条规定的含义。

“税法变更” 指在双方达成有关交易之后制定、发布、执行、批准、变更或修订法律(或任何法律的适用或官方解释)。

“结算款项” 对于每项终止交易或每组终止交易及某一决定方而言, 指为决定方替换或提供与(a)、(b)项相同的经济效果在当时的情况下决定方所付或将付的损失或费用(以正数表达), 或由决定方所实现或将实现的收益(以负数表达); (a)该项终止交易或该组终止交易的主要条款, 包括关于该终止交易或该组终止交易若未出现提前终止日时, 根据第2(a)(I)款的规定本应由各方在此日之后作出的付款或交付(假设已满足第2(a)(iii)条中规定的先决条件); 以及(b)各方对于该终止交易或该组终止交易的期权。

Terminated Transactions.

Any Close-out Amount will be determined by the Determining Party (or its agent), which will act in good faith and use commercially reasonable procedures in order to produce a commercially reasonable result. The Determining Party may determine a Close-out Amount for any group of Terminated Transactions or any individual Terminated Transaction but, in the aggregate, for not less than all Terminated Transactions. Each Close-out Amount will be determined as of the Early Termination Date or, if that would not be commercially reasonable, as of the date or dates following the Early Termination Date as would be commercially reasonable.

Unpaid Amounts in respect of a Terminated Transaction or group of Terminated Transactions and legal fees and out-of-pocket expenses referred to in Section 11 are to be excluded in all determinations of Close-out Amounts.

In determining a Close-out Amount, the Determining Party may consider any relevant information, including, without limitation, one or more of the following types of information:—

(i) quotations (either firm or indicative) for replacement transactions supplied by one or more third parties that may take into account the creditworthiness of the Determining Party at the time the quotation is provided and the terms of any relevant documentation, including credit support documentation, between the Determining Party and the third party providing the quotation;

(ii) information consisting of relevant market data in the relevant market supplied by one or more third parties including, without limitation, relevant rates, prices, yields, yield curves, volatilities, spreads, correlations or other relevant market data in the relevant market; or

(iii) information of the types described in clause (i) or (ii) above from internal sources (including any of the Determining Party's Affiliates) if that information is of the same type used by the Determining Party in the regular course of its business for the valuation of similar transactions.

The Determining Party will consider, taking into account the standards and procedures described in this definition, quotations pursuant to clause (i) above or relevant market data pursuant to clause (ii) above unless the Determining Party reasonably believes in good faith that such quotations or relevant market data are not readily available or would produce a result that would not satisfy those standards. When considering information described in clause (i), (ii) or (iii) above, the Determining Party may include costs of funding, to the extent costs of funding are not and would not be a component of the other information being utilised. Third parties supplying quotations pursuant to clause (i) above or market data pursuant to clause (ii) above may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors, brokers and other sources of market information.

决定方(或其代理人)将按诚信原则并按合理的商业程序确定任何结算款项,以达到合理的商业效益。决定方可为任何一组终止交易或一项终止交易(但总数不得少于所有被终止交易)确定结算款项。每笔结算款项应在提前终止日确定,或如果这一日期在商业上不合理可行的话,亦可按提前终止日之后商业上合理之日确定。

在决定结算款项时不应考虑有关一项终止交易或一组终止交易的未付款项和第11条所指的律师费及实付费用。

决定方可在确定结算款项时参考任何有关信息,包括但不限于以下一类或多类信息:—

(i) 一个或多个第三方提供的有关替换交易的(确定的或指示性的)报价,第三方在提供这些报价时可以考虑决定方在提供报价之时的资信状况以及决定方与提供报价的第三方之间的任何有关文件,包括信用支持文件的条款;

(ii) 一个或多个第三方提供的相关市场数据的资料,包括但不限于相关利率、价格、收益率、收益率曲线、波动性、利差、相关性以及相关市场的其他相关市场数据;或

(iii) 源于内部的(包括源于决定方的任何关联公司)的以上(i)和(ii)款所述类型的资料,但该资料应是决定方在评估同类交易的日常商务过程中使用的同类资料。

决定方将按本定义中的标准及程序考虑以上(i)款的报价或以上(ii)款的相关市场数据,除非决定方按诚信原则合理地认为无法获得此类报价或有关市场数据或其产生的结果可能不符合本定义下的标准。决定方在参考以上(i)、(ii)和(iii)款所述的资料时亦可参考资金成本,只要其使用的其他资料没有包括资金成本。根据以上(i)款提供报价或根据以上(ii)款提供市场数据的第三方可包括但不限于相关市场的交易商、相关产品的最终用户、资料销售者、经纪和市场资料的其他来源。

Without duplication of amounts calculated based on information described in clause (i), (ii) or (iii) above, or other relevant information, and when it is commercially reasonable to do so, the Determining Party may in addition consider in calculating a Close-out Amount any loss or cost incurred in connection with its terminating, liquidating or re-establishing any hedge related to a Terminated Transaction or group of Terminated Transactions (or any gain resulting from any of them).

Commercially reasonable procedures used in determining a Close-out Amount may include the following:—

(1) application to relevant market data from third parties pursuant to clause (ii) above or information from internal sources pursuant to clause (iii) above of pricing or other valuation models that are, at the time of the determination of the Close-out Amount, used by the Determining Party in the regular course of its business in pricing or valuing transactions between the Determining Party and unrelated third parties that are similar to the Terminated Transaction or group of Terminated Transactions; and

(2) application of different valuation methods to Terminated Transactions or groups of Terminated Transactions depending on the type, complexity, size or number of the Terminated Transactions or group of Terminated Transactions.

“**Confirmation**” has the meaning specified in the preamble.

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

“**Contractual Currency**” has the meaning specified in Section 8(a).

“**Convention Court**” means any court which is bound to apply to the Proceedings either Article 17 of the 1968 Brussels Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters or Article 17 of the 1988 Lugano Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters.

“**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.

“**Cross-Default**” means the event specified in Section 5(a)(vi).

“**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).

在不重复计算根据以上(i)、(ii)和(iii)款所述的资料或其他有关资料计算出的款项的前提下，并在商业上合理可行时，决定方在计算结算款项时可另外参考就有关一项终止交易或一组终止交易而终止、清算或重建任何抗风险安排所产生的任何亏损或成本(或因此引致的任何收益)。

确定结算款项合理的商业程序可包括：—

(1) 适用按以上(ii)款由第三方提供的相关市场数据或适用按以上(iii)款来源于内部的信息或其他评估模式，只要这些数据、信息或模式是在决定结算款项时，决定方在日常商业过程中评估与第三方之间的类似于该项或该组终止交易的过程中所使用的模式；及

(2) 根据一项终止交易或一组终止交易的类型、复杂性、规模和数量对该项或该组终止交易适用不同的评估办法。

“**确认书**” 具有前言规定的含义。

“**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。

“**合同货币**” 具有第8(a)条规定的含义。

“**公约法院**” 指需要在诉讼中适用1968年《关于民商事案件的司法管辖以及承认和执行判决的布鲁塞尔规定》第17条以及1988年《关于民商事案件的司法管辖以及承认和执行判决的卢根诺公约》第17条的任何法院。

“**因合并造成的信用事件**” 具有第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**” 具有附件规定的含义。

“**交叉违约**” 指第5(a)(vi)条规定的事件。

“**违约利率**” 指相等於收款人(经其认证的)获得有关资金的资金成本的年利率(无需对任何实际成本提供证明或证据)加1%。

“**违约方**” 具有第6(a)条规定的含义。

“**Designated Event**” has the meaning specified in Section 5(b)(v).

“**Determining Party**” means the party determining a Close-out Amount.

“**Early Termination Amount**” has the meaning specified in Section 6(e).

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

“**electronic messages**” does not include e-mails but does include documents expressed in markup languages, and “**electronic messaging system**” will be construed accordingly.

“**English law**” means the law of England and Wales, and “**English**” will be construed accordingly.

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

“**Force Majeure Event**” has the meaning specified in Section 5(b).

“**General Business Day**” means a day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits).

“**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 “**unlawful**” will be construed accordingly.

“**Local Business Day**” means (a) in relation to any obligation under Section 2(a)(i), a General Business Day in the place or places specified in the relevant Confirmation and a day on which a relevant settlement system is open or operating as specified in the relevant Confirmation or, if a place or a settlement system is not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) for the purpose of determining when a Waiting Period expires, a General Business Day in the place

“**指定事件**” 具有第5(b)(v)条规定的含义。

“**决定方**” 指确定结算款项的当事方。

“**提前终止款项**” 具有第6(e)条规定的含义。

“**提前终止日**” 指按第6(a)条或第6(b)(iv)条决定的日期。

“**电子信息**” 不包括电子邮件，但包括以标记语言表达的文件。“**电子信息系统**” 将据此予以解释。

“**英国法律**” 指英格兰及威尔士的法律。“**英国的**” 将据此予以解释。

“**违约事件**” 具有第5(a)条规定的含义及附件(按情况适用)规定的含义。

“**不可抗力事件**” 具有第5(b)条规定的含义。

“**一般营业日**” 指商业银行开门营业(包括外汇交易及外币存款)的日子。

“**非法**” 具有第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(及经任何有关政府税务机关的惯例所修改的税务事宜)，并且“**非法**” 将据此予以解释。

“**当地营业日**” (a)对于第2(a)(i)项下任何义务，指有关确认书规定的地点的一般营业日并且有关确认书规定的有关结算系统开门营业的日子，或如果没有规定相关地点或结算系统，则双方以其它书面方式同意的或按本协议所载或纳入的规定而决定的地点；(b)当确定等待期何时届满时，指构成或导致非法或不可抗力事件(视情况而定)事件或情况发生地的一般营业日；(c)对于其它任何付款，指有关帐户的所在地的一般营业日，如帐户所在地不同则指付款货币的主要金融中心(如有的话)的一般营业日，或如果该货币没有一个单独获认可的主要金融中心，则指结算系统为

where the event or circumstance that constitutes or gives rise to the Illegality or Force Majeure Event, as the case may be, occurs, (c) in relation to any other payment, a General Business Day 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 and, if that currency does not have a single recognised principal financial centre, a day on which the settlement system necessary to accomplish such payment is open, (d) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), a General Business Day (or a day that would have been a General Business Day but for the occurrence of an event or circumstance which would, if it occurred with respect to payment, delivery or compliance related to a Transaction, constitute or give rise to an Illegality or a Force Majeure Event) in the place 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 (e) in relation to Section 5(a)(v)(2), a General Business Day in the relevant locations for performance with respect to such Specified Transaction.

“Local Delivery Day” means, for purposes of Sections 5(a)(i) and 5(d), a day on which settlement systems necessary to accomplish the relevant delivery are generally open for business so that the delivery is capable of being accomplished in accordance with customary market practice, in the place specified in the relevant Confirmation or, if not so specified, in a location as determined in accordance with customary market practice for the relevant delivery.

“Master Agreement” has the meaning specified in the preamble.

“Merger Without Assumption” means the event specified in Section 5(a)(viii).

“Multiple Transaction Payment Netting” has the meaning specified in Section 2(c).

“Non-affected Party” means, so long as there is only one Affected Party, the other party.

“Non-default Rate” means the rate certified by the Non-defaulting Party to be a rate offered to the Non-defaulting Party by a major bank in a relevant interbank market for overnight deposits in the applicable currency, such bank to be selected in good faith by the Non-defaulting Party for the purpose of obtaining a representative rate that will reasonably reflect conditions prevailing at the time in that relevant market.

“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.

“Other Amounts” has the meaning specified in Section 6(f).

“Payee” has the meaning specified in Section 6(f).

“Payer” has the meaning specified in Section 6(f).

果该货币没有一个单独获认可的主要金融中心，则指结算系统为完成该付款而需开门的日子；(d)對於任何通知或其他通讯，包括第5(a)(I)条下的通知，指收款人提供的接收通知地的一般营业日(或非某一事件或情况的发生而本应为一般营业日的一日，条件是这一事件或情况如发生于某项交易的付款、交付或遵行协议的行为时会构成非法或不可抗力)，如为第2(b)条下的通知则指有关新帐户的所在地的一般营业日；及(e)對於第5(a)(v)(2)条，则指该特定交易的履行地的一般营业日。

“当地交付日” 就第5(a)(i)和5(d)条而言，指有关确认书规定地点的完成有关交付所必须的结算系统能够按照市场惯例为完成有关交付而通常开门营业的一日，或如果确认书没有规定地点，则指按有关交付的市场惯例决定的地点。

“主协议” 具有前言规定的含义。

“不承担债务的合并” 具有第5(a)(iii)条规定的事件。

“多项交易付款？ 额结算” 具有第2(c)条规定的含义。

“不受影响方” 若仅有一个受影响方的，指另一方。

“守约利率” 指经守约方认证的在有关银行同业市场上一家主要银行就有关货币隔夜存款给予守约方的利率，该银行由守约方按诚信原则选择以获得可合理反映该市场当时状况的有代表性的利率。

“守约方” 具有第6(a)条规定的含义。

“办事处” 指一方的分支机构或办事处，有可能是该方的总部或总办事处。

“其他款项” 具有第6(f)条规定的含义。

“收款人” 具有第6(f)条规定的含义。

“付款人” 具有第6(f)条规定的含义。

“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.

“Proceedings” has the meaning specified in Section 13(b).

“Process Agent” has the meaning specified in the Schedule.

“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.

“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.

“Schedule” has the meaning specified in the preamble.

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

“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 to any such transaction) 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 not a Transaction under this Agreement but (i) which is a rate swap transaction, swap option, 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, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, weather index transaction or forward purchase or sale of a security, commodity or other financial instrument or interest (including any option with respect to any of these transactions) or (ii) which is a type of transaction that is similar to any transaction referred to in clause (i) above that is currently, or in the future becomes, recurrently entered into in the financial markets (including terms and conditions incorporated by reference in such agreement) and which is a forward, swap, future, option or other derivative on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt

“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。

“诉讼” 具有第13(b)条规定的含义。

“传票代理人” 具有附件规定的含义。

“兑换率” 包括但不限于就购买或兑换合同货币应付的任何溢价或兑换成本。

“有关管辖区” 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区, (b)该方为本协议的目的采取行动的办事处的管辖区, (c)一方签署本协议的管辖区, 及(d)若与支付款项有关, 则为该等支付款项的管辖区。

“附件” 具有前言规定的含义。

“预定结算日” 指有关交易根据第2(a)(i)条应作出付款或交付的日期。

“特定机构” 具有附件规定的含义。

“特定负债” 除非附件另有规定, 指有关借款的任何义务(不论是现有的或将来的、或有的或其他的, 作为主债务人或担保人的债务或其他义务)。

“特定交易” 除非附件另有规定, 指(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(或该方的任何信用支持提供者或该方的任何适用特定机构)现在或日後达成的任何交易(包括与任何此等交易有关的协议), 该特定交易不包括本协议项下的交易, 但属于: (i)利率掉期交易、掉期期权、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、信用保护交易、信用掉期、信用违约掉期、信用违约期权、全部利润掉期、信用利差交易、回购交易、逆回购交易, 买回/卖回交易, 证券出借交易、天气指数交易或证券、商品或其它其他金融工具或利益(包括以上任何交易的期权); 或(ii)任何与(i)款中所列交易类似的, 目前或将来在金融市场上重复进行的交易(包括该协议中的条款和条件), 并且该交易是以一种或多种利率、货币、商品、股票或其他股权凭证、债券或其他债权凭证、经济指数或经济风险或价值的测量方法或其他基准作为付款和交易基础的远期、掉期、期货、期权或其他衍生交易, (b)任何该些交易的组合, 及(c)任何本协议或有关确认书中规定为特定交易的任何其它交易。

instruments, economic indices or measures of economic risk or value, or other benchmarks against which payments or deliveries are to be made, (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.

“Stamp Tax Jurisdiction” has the meaning specified in Section 4(e).

“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 an Illegality or a Force Majeure Event, all Affected Transactions specified in the notice given pursuant to Section 6(b)(iv), (b) if resulting from any other Termination Event, all Affected Transactions and (c) if resulting from an Event of Default, all Transactions in effect either 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” means (a) if a Termination Currency is specified in the Schedule and that currency is freely available, that currency, and (b) otherwise, euro if this Agreement is expressed to be governed by English law or United States Dollars if this Agreement is expressed to be governed by the laws of the State of New York.

“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 Close-out Amount 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.

“印花稅” 指任何印花稅、登記稅、文件稅或類似的稅項。

“印花稅司法管轄區” 具有第4(e)條規定的含義。

“稅項” 指印花稅、登記稅、文件稅或類似的稅項以外的與本協議項下任何付款有關的任何政府或其他稅務機關徵收的任何性質的現有或將徵收的稅項、徵稅、進口稅、關稅、收費評估或費用(包括其利息、罰款及附加費)。

“稅務事件” 具有第5(b)條規定的含義。

“因合併造成的稅務事件” 具有第5(b)條規定的含義。

“已終止交易” 對於任何提前終止日而言(a)如因非法或不可抗力事件產生,指根據第6(b)(iv)條作出的通知中規定的所有受影響交易, (b)如因任何其他終止事件產生,指所有受影響的交易及(c)如因違約事件產生,指在載明提前終止日的通知生效前,或如適用自動提前終止指在該提前終止日之前有效的所有交易。

“終止貨幣” 如附件中規定終止貨幣,而該貨幣可無限制獲得,指該貨幣;(b)否則,如本協議表明是適用英國法律,指歐元,或如本協議表明是適用紐約州法律,則指美元。

“終止貨幣等值額” 對於以終止貨幣為單位的任何款項,指該終止貨幣額,對於以終止貨幣以外貨幣為單位的任何數額(“其他貨幣”),則指作出決定的一方在有關提前終止日,或如果有關結算款項在較後日期才確定,則於該日用以購買該數額的其他貨幣所需的終止貨幣,購買時使用的匯率應為(按以下方式選擇的)外匯機構的現貨兌換率:在該日上午十一時或左右(以該外匯機構所在的城市為準),在有關提前終止日或該較後日期用終止貨幣購買其他貨幣時,通常適用的匯率。如果只有一方有義務按第6(e)條決定,該方應以誠信的原則選擇外匯機構,如果不只有一方則以各方同意的方式選擇。

“Termination Event” means an Illegality, a Force Majeure Event, a Tax Event, 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.

“Threshold Amount” means the amount, if any, specified as such in the Schedule.

“Transaction” has the meaning specified in the preamble.

“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) or due but for Section 5(d)) to such party under Section 2(a)(i) or 2(d)(i)(4) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date, (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) or 5(d)) 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 and (c) if the Early Termination Date results from an Event of Default, a Credit Event Upon Merger or an Additional Termination Event in respect of which all outstanding Transactions are Affected Transactions, any Early Termination Amount due prior to such Early Termination Date and which remains unpaid as of such Early Termination Date, in each case together with any amount of interest accrued or other compensation in respect of that obligation or deferred obligation, as the case may be, pursuant to Section 9(h)(ii)(1) or (2), as appropriate. The fair market value of any obligation referred to in clause (b) above will be determined as of the originally scheduled date for delivery, in good faith and using commercially reasonable procedures, by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it will be the average of the Termination Currency Equivalents of the fair market values so determined by both parties.

“Waiting Period” means:—

(a) in respect of an event or circumstance under Section 5(b)(i), other than in the case of Section 5(b)(i)(2) where the relevant payment, delivery or compliance is actually required on the relevant day (in which case no Waiting Period will apply), a period of three Local Business Days (or days that would have been Local Business Days but for the occurrence of that event or circumstance) following the occurrence of that event or circumstance; and

“终止事件” 指非法、不可抗力事件、税务事件或因合并造成的税务事件, 或(如规定适用)因合并造成的信用事件或其他终止事件。

“终止利率” 指相等於各方(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。

“起点金额” 如附件加以规定的话, 具有附件规定的含义。

“交易” 具有前言规定的含义。

“未付款项” 對於提前终止日而言, 指欠任何一方的下列各项之和: (a)就所有已终止交易而言, 指按第2(a)(i)或2(d)(i)(4)条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)条未付或第5(d)款到期未付)的数额, 及(b)對於每一笔已终止交易, 就第2(a)(i)条之下的每一项需在该终止日或之前向该方交付而未交付(或本应交付但因第2(a)(iii)条或第5(d)条而未交付)的义务而言, 指应该或本来应该在原定交付日交付的实物的公平市值, 以及(c)如因违约事件、因合并造成的信用事件或其他终止事件导致提前终止日, 而使所有未完成交易变成受影响交易, 指该提前终止日前到期, 而截至该提前终止日仍未清偿的任何提前终止款项。在以上任何一种情况下均包括根据第9(h)(ii)(1)或(2)条(视情况而定)决定的有关该义务或迟延履行义务(视情况而定)累计的利息或其他补偿。上述(b)款所指的任何义务的公平市值将由根据第6(e)条由有义务作决定的一方按诚信原则并使用合理的商业程序于原定交付日确定, 或如各方均有责任, 则为各方按上述办法确定的公平市值的平均终止货币等值额。

“等待期” 指: —

(a) 除第5(b)(i)(2)条实际上于当日要求有关付款、交付或遵守协议(此时不适用等待期)的情况以外, 就第5(b)(i)条下的事件或情况而言, 指发生事件或情况之後的三个当地工作日(或若非该事件或情况的发生本应为当地营业日之日); 及

(b) in respect of an event or circumstance under Section 5(b)(ii), other than in the case of Section 5(b)(ii)(2) where the relevant payment, delivery or compliance is actually required on the relevant day (in which case no Waiting Period will apply), a period of eight Local Business Days (or days that would have been Local Business Days but for the occurrence of that event or circumstance) following the occurrence of that event or circumstance.

(b) 除第5(b)(ii)(2)条规定的实际上于当日要求有关付款、交付或遵守规定(此时不适用等待期)的情况以外,就第5(b)(ii)条事件或情况而言,指发生事件或情况之後的八个当地工作日(或若非该事件或情况的发生本应为当地营业日之日)。

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.

兹证明双方已於下列日期签署本文件,生效日为本文档首页载明的日期。

_____ (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:

ISDA®

International Swaps and Derivatives Association, Inc.

SCHEDULE to the 2002 Master Agreement

dated as of

ISDA®

国际掉期及衍生工具协会

2002主协议附件

____年____月____日

between _____ and _____ (“Party A”) (“Party B”)

_____与_____ (“A方”) (“B方”)

[established as a [COUNTERPARTY TYPE]] [established as a [COUNTERPARTY TYPE]] [with company number [NUMBER]] [with company number [NUMBER]] [under the laws of [JURISDICTION]] [under the laws of [JURISDICTION]] [acting through its [BRANCH]]# [acting through its [BRANCH]]#

[成立的[有关方的类型]] [成立的[有关方的类型]] [公司号码[号码]] [公司号码[号码]] [依照[司法管辖区]法律] [依照[司法管辖区]法律] [通过其[办事处]交易]# [通过其[办事处]交易]#

Part 1. Termination Provisions.

第一部分 终止条款。

(a) “Specified Entity” means in relation to Party A for the purpose of:—

(a) “特定机构” 就A方而言，为下列条款的目的指：—

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

第5(a)(v)条, 第5(a)(vi)条, 第5(a)(vii)条, 第5(b)(v)条,

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

就B方而言，为以下条款的目的指：—

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

第5(a)(v)条, 第5(a)(vi)条, 第5(a)(vii)条, 第5(b)(v)条,

(b) “Specified Transaction” [will have the meaning specified in Section 14 of this Agreement.][means]*

(b) “特定交易” [具有本协议第14款规定的含义。][指]*

(c) The “Cross-Default” provisions of Section 5(a)(vi) [will][will not]* apply to Party A [will][will not]* apply to Party B

(c) 第5(a)(vi)条“交叉违约” [将会][不会]*适用于A方 [将会][不会]*适用于B方

[“Specified Indebtedness” [will have the meaning specified in Section 14 of this Agreement.][means]*

[“特定负债” [具有本协议第14条之含义。][指]*

“Threshold Amount” means]**

“起点金额”指]**

(d) The “Credit Event Upon Merger” provisions of Section

(d) 第5(b)(v)条 “因合并造成的信用事件”

Include if applicable. * Delete as applicable. ** Include if Cross-Default will apply to either Party A or Party B.

视情况包括。 * 视情况删除。 ** 如交叉违约适用于A方或B方，应包括。

5(b)(v) [will][will not]* apply to Party A
[will][will not]* apply to Party B

[将会][不会]*适用于A方
[将会][不会]*适用于B方

(e) The “Automatic Early Termination” provision of Section 6(a) [will][will not]* apply to Party A
[will][will not]* apply to Party B

(e) 第6(a)条“自动提前终止”
[将会][不会]*适用于A方
[将会][不会]*适用于B方

(f) “Termination Currency” [will have the meaning specified in Section 14 of this Agreement.][means]
.....]

(f) “终止货币” [具有本协议第14条规定的含义。][指]
.....]

(g) Additional Termination Event [will][will not]* apply. [The following will constitute an Additional Termination Event:—
.....
.....]

(g) 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： -
.....
.....]

For the purpose of the foregoing Termination Event, the Affected Party or Affected Parties will be:—
.....]

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 and Party B do not make any representations.]:—

(a) 付款人陈述。为本协议第3(e)条的目的[, A方和B方不会*作出任何陈述。]: -

[[i)] [Party A] [and] [Party B] [each] make[s] the following representation:—

[[i)] [A方][和][B方][各自]作出陈述如下： -

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

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9(h)条下的利息除外)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)条所作出任何陈述的准确性；(ii)本协议第4(a)(i)条或4(a)(iii)条中所载的约定的履行，以及另一方按本协议第4(a)(i)条或4(a)(iii)条所提供的任何文件的准确性和有效性；和(iii)本协议第4(d)条中所载另一方约定的履行，但是，若该方依赖上述(ii)款时，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)条项下的表格或文件则不构成对本陈述的违反。]*

[[ii)] [Party A] [and] [Party B] [each] make[s] the following representation[s]:—

[[ii)] [A方][和][B方][各自]作出陈述如下： -

* Delete as applicable.
*** Include if Additional Termination Event will apply.
**** N.B.: the following representations may need modification if either party is a Multibranch Party.

* 视情况删除。
*** 如其他终止事件适用的话，应包括。
**** 注意：如任何一方为拥有多个办事处的交易方，下述陈述可能需进行调整。

.....
.....]]*
.....]]*

.....]]*

(b) **Payee Representations.** For the purpose of Section 3(f) of this Agreement[, Party A and Party B do not make any representations.]:—

(b) **收款人陈述。** 为本协议第3(f)条的目的[, A方和B方不会作出任何陈述。]: -

[[i)] [Party A] [and] [Party B] [each] make[s] the following representation:—

[[i)] [A方][和][B方][各自]作出陈述如下: -

It is fully eligible for the benefits of the “Business Profits” or “Industrial and Commercial Profits” provision, as the case may be, the “interest” 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.

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约中规定的“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司法管辖区的永久营业地从事的商业或贸易没有任何关联。

“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

“特定司法管辖区”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

“特定司法管辖区”就B方而言, 指

[[ii)] [Party A] [and] [Party B] [each] make[s] the following representation:—

[[ii)] [A方][和][B方][各自]作出陈述如下: -

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司法管辖区从事的贸易或商业行为具有实际联系。

“Specified Jurisdiction” means with respect to Party A

“特定司法管辖区”就A方而言, 指

“Specified Jurisdiction” means with respect to Party B

“特定司法管辖区”就B方而言, 指

[[iii)] [Party A] [and] [Party B] [each] make[s] the following representation:—

[[iii)] [A方][和][B方][各自]作出陈述如下: -

It is a “U.S. person” (as that term is used in section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for United States federal income tax purposes.]*

就美国联邦税务目的而言, 其为一名“美国人”(如美国财政法规第1.441-4(a)(3)(ii)条中所使用的该词的含义)]*

[[iv)] [Party A] [and] [Party B] [each] make[s] the following representation:—

[[iv)] [A方][和][B方][各自]作出陈述如下: -

It is a “non-U.S. branch of a foreign person” (as that term is used in section 1.1441-4(a)(3)(ii) of United

就美国联邦税务目的而言, 其为一个“外国人的非美国办事处”(如美国财政法规第1.441-4(a)(3)(ii)条中所使用的该词

* Delete as applicable.

* 视情况删除。

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)条之目的: -

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.:
E-mail:
Electronic Messaging System Details:
Specific Instructions:

地址:
收件人:
电传号码: 应答码:
传真号码: 电话号码:
电子邮件:
电子信息系统资料:
特殊指示:

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.:
E-mail:
Electronic Messaging System Details:
Specific Instructions:

地址:
收件人:
电传号码: 应答码:
传真号码: 电话号码:
电子邮件:
电子信息系统资料:
特殊指示:

(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)条之目的: -

Party A appoints as its Process Agent: [not applicable] [.....]*
Party B appoints as its Process Agent: [not applicable] [.....]*

A方指定其传票代理人如下: [不适用][.....]*
B方指定其传票代理人如下: [不适用][.....]*

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

(c) **办事处。** 第10(a)条的规定将[会][不会]*适用于本协议。

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

(d) **拥有多个办事处的交易方。** 为本协议10(b)条之目的: -

Party A [is not a Multibranch Party.][is a Multibranch Party and may enter into a Transaction through any of the following Offices:—

A方[不是一个拥有多个办事处的交易方。][A方是一个拥有多个办事处的交易方, 可以通过以下任何办事处进行交易: -

.....
.....]*

.....
.....]*

Party B [is not a Multibranch Party.][is a Multibranch Party and may enter into a Transaction through any of the following Offices:—

B方[不是一个拥有多个办事处的交易方。][B方是一个拥有多个办事处的交易方, 可以通过以下办事处进行交易: -

.....
.....]*

.....
.....]*

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

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

(f) **Credit Support Document.** Details of any Credit Support Document:— [none][.....]

(f) **信用支持文件。** 信用支持文件的详情如下: - [无][.....]

* Delete as applicable.
** Include if applicable.

* 视情况删除。
** 视情况包括。

recommendation to enter into that Transaction, it being understood that information and explanations related to the terms and conditions of a Transaction will not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party will be deemed to be an assurance or guarantee as to the expected results of that Transaction.

[(2)] *Assessment and Understanding.* It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.

[(3)] *Status of Parties.* The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.]]*

[[n)] *Recording of Conversations.* Each party (i) consents to the recording of telephone conversations between the trading, marketing and other relevant personnel of the parties in connection with this Agreement or any potential Transaction, (ii) agrees to obtain any necessary consent of, and give any necessary notice of such recording to, its relevant personnel and (iii) agrees, to the extent permitted by applicable law, that recordings may be submitted in evidence in any Proceedings.]**

Part 5. **Other Provisions.**

[(2)] *评估和理解。* 该方能够评估该交易的价值并(自己或通过独立的专业意见的帮助)能够理解并且理解和接受该交易的条款、条件和风险。该方能够承担并会承担该交易的风险。

[(3)] *地位。* 另一方就该交易而言并非该方的受托人或顾问。]]*

[[n)] *谈话录音。* 各方(i)同意对交易双方的交易、营销和其他人员进行的有关本协议或任何潜在交易的电话谈话进行录音, (ii)同意从其有关人员就此等录音获取任何必要的同意及签发必要的通知, 及(iii)同意在适用法律允许范围内此等录音可在任何诉讼中作为证据提交。]**

第五部分 其它规定。

(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:

* Delete as applicable.
** Include if applicable.

* 视情况删除。
** 视情况包括。

