



International Swaps and Derivatives Association, Inc.

ISDA ILLEGALITY/FORCE MAJEURE PROTOCOL

published on 11 July 2012

by the International Swaps and Derivatives Association, Inc.

The International Swaps and Derivatives Association, Inc. (**ISDA**) has published this ISDA Illegality/Force Majeure Protocol (this **Illegality/Force Majeure Protocol**) to enable parties to Protocol Covered Master Agreements to amend the terms of each such Protocol Covered Master Agreement to reflect certain provisions of the ISDA 2002 Master Agreement, as published by ISDA.

Accordingly, a party that has entered into a Protocol Covered Master Agreement may adhere to this Illegality/Force Majeure Protocol and be bound by its terms by completing and delivering a letter substantially in the form of Exhibit 1 to this Illegality/Force Majeure Protocol (an **Adherence Letter**) to ISDA, as agent, as described below.

1. Amendments

By adhering to this Illegality/Force Majeure Protocol in the manner set forth in paragraph 2 below, a party (an **Adhering Party**) that wishes to amend the terms of a Protocol Covered Master Agreement, in each case on the terms and subject to the conditions set forth in this Illegality/Force Majeure Protocol and the relevant Adherence Letter, agrees that the terms of each Protocol Covered Master Agreement, if any, between it and each other Adhering Party will be amended with effect from the Implementation Date in accordance with the terms of Schedule 1 hereto.

2. Adherence and Effectiveness

- (a) Adherence to this Illegality/Force Majeure Protocol will be evidenced by the execution and delivery, in accordance with paragraph 4(e) below, to ISDA, as agent, of an Adherence Letter (in accordance with subparagraphs (i) and (ii) below). ISDA shall have the right, in its sole and absolute discretion, upon thirty calendar days' notice on the "Protocols" section of its website at www.isda.org (or by any other suitable means) to designate a closing date of this Protocol (such closing date, the **Cut-off Date**). After the Cut-off Date ISDA will not accept any further Adherence Letters to this Illegality/Force Majeure Protocol.
 - (i) Each Adhering Party will deliver two copies of the Adherence Letter, one a manually signed original and the other a conformed copy containing, in place of each signature, the printed or typewritten name of each signatory.
 - (ii) Each Adhering Party agrees that, for evidentiary purposes, a conformed copy of an Adherence Letter certified by the General Counsel (or other appropriate officer) of ISDA will be deemed to be an original.
- (b) As between any two Adhering Parties, the agreement to make the amendments contemplated by this Illegality/Force Majeure Protocol, on the terms and conditions set forth in this

Illegality/Force Majeure Protocol, will be effective on the date of delivery (determined in accordance with paragraph 4(f) below) to ISDA, as agent, of an Adherence Letter (in accordance with paragraphs 2(a)(i) and 2(a)(ii) above) from the later of such two Adhering Parties to adhere (such date with respect to such Adhering Parties, the **Implementation Date**).

- (c) This Illegality/Force Majeure Protocol is intended for use without negotiation, but without prejudice to any amendment, modification or waiver in respect of a Protocol Covered Master Agreement that the parties may otherwise effect in accordance with the terms of that Protocol Covered Master Agreement.
 - (i) In adhering to this Illegality/Force Majeure Protocol, an Adhering Party may not specify additional provisions, conditions or limitations in its Adherence Letter or otherwise.
 - (ii) Any purported adherence that ISDA, as agent, determines in good faith is not in compliance with this Illegality/Force Majeure Protocol will be void and ISDA will inform the relevant party of such fact as soon as reasonably possible after making such determination.
- (d) **Limited Right to Revoke.** Adherence to this Illegality/Force Majeure Protocol is irrevocable, except that on any Business Day during the Annual Revocation Period, an Adhering Party may deliver to ISDA, as agent, a notice substantially in the form of Exhibit 2 to this Illegality/Force Majeure Protocol (a **Revocation Notice**) to designate the next Annual Revocation Date as the last date on which any counterparty may adhere to this Illegality/Force Majeure Protocol in respect of any Protocol Covered Master Agreement then or in the future between the counterparty and such Adhering Party.
 - (i) Upon the effective designation of the next Annual Revocation Date by an Adhering Party, this Illegality/Force Majeure Protocol will not amend any agreement between that Adhering Party and a party which adheres to this Illegality/Force Majeure Protocol after that Annual Revocation Date occurs and such agreement will not be a Protocol Covered Master Agreement. The foregoing is without prejudice to any amendment effected pursuant to this Illegality/Force Majeure Protocol to any Protocol Covered Master Agreement between two Adhering Parties that each adhered to this Illegality/Force Majeure Protocol on or before the day on which that Annual Revocation Date occurs or is deemed to occur, regardless of the date on which such Protocol Covered Master Agreement is entered into, and any such amendment shall be effective notwithstanding the occurrence or deemed occurrence of such Annual Revocation Date.
 - (ii) Each Revocation Notice must be delivered by the means specified in paragraph 4(e) of this Illegality/Force Majeure Protocol below.
 - (iii) Each Adhering Party agrees that, for evidentiary purposes, a conformed copy of a Revocation Notice certified by the General Counsel or an appropriate officer of ISDA will be deemed to be an original.
 - (iv) Any purported revocation that ISDA, as agent, determines in good faith is not in compliance with this paragraph 2(d) will be void.

3. Representations

On the later of (A) the date on which an Adhering Party adheres to this Illegality/Force Majeure Protocol in accordance with paragraph 2 above and (B) the date of the relevant Protocol Covered Master Agreement, such Adhering Party represents to each other Adhering Party with which it has entered into a Protocol Covered Master Agreement (and such representations will be deemed to be representations for purposes of Section 5(a)(iv) of such Protocol Covered Master Agreement) that:

- (a) **Status.** It is, if relevant, duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing or, if it otherwise represents its status in or pursuant to the Protocol Covered Master Agreement, has such status;
- (b) **Powers.** It has the power to execute and deliver the Adherence Letter and to perform its obligations under the Adherence Letter and the Protocol Covered Master Agreement, in each case as amended by the Adherence Letter and this Illegality/Force Majeure Protocol, and has taken all necessary action to authorize such execution, delivery and performance;
- (c) **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;
- (d) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to the Adherence Letter and the Protocol Covered Master Agreement, in each case as amended by the Adherence Letter and this Illegality/Force Majeure Protocol, have been obtained and are in full force and effect and all conditions of any such consents have been complied with;
- (e) **Obligations Binding.** Its obligations under the Adherence Letter and the Protocol Covered Master Agreement, in each case as amended by the Adherence Letter and this Illegality/Force Majeure Protocol, constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)); and
- (f) **Credit Support.** Its adherence to this Illegality/Force Majeure Protocol and any amendment contemplated by this Illegality/Force Majeure Protocol will not, in and of itself, adversely affect the enforceability, effectiveness or validity of any obligations owed, whether by it or by any third party, under any Credit Support Document or Third Party Credit Support Document in respect of its obligations relating to the Protocol Covered Master Agreement as amended by the Adherence Letter and this Illegality/Force Majeure Protocol.

4. Miscellaneous

- (a) **Entire Agreement; Restatement; Survival.**
 - (i) This Illegality/Force Majeure Protocol constitutes the entire agreement and understanding of the Adhering Parties with respect to its subject matter. Each Adhering Party acknowledges that in adhering to this Illegality/Force Majeure

Protocol it has not relied on any oral or written representation, warranty or other assurance (except as provided for or referred to elsewhere in this Illegality/Force Majeure Protocol or in Schedule 1) and waives all rights and remedies which might otherwise be available to it in respect thereof, except that nothing in this Illegality/Force Majeure Protocol will limit or exclude any liability of an Adhering Party for fraud.

- (ii) As between any two Adhering Parties that adhered to the EMU Protocol as published by ISDA on 6 May 1998 and/or the EMU Protocol (Greece) as published by ISDA on 10 October 2000 (together, the **EMU Protocols**), the amendments contemplated by this Illegality/Force Majeure Protocol shall be effective notwithstanding implementation of the amendments contemplated by Annex 1 of each of the EMU Protocols.
 - (iii) Except for any amendment deemed to be made pursuant to this Illegality/Force Majeure Protocol in respect of any Protocol Covered Master Agreement, all terms and conditions of each Protocol Covered Master Agreement will continue in full force and effect in accordance with its provisions as in effect immediately prior to the Implementation Date and nothing herein shall constitute a waiver or release of any rights of any Adhering Party under any Protocol Covered Master Agreement to which such Adhering Party is a party. This Illegality/Force Majeure Protocol will, with respect to its subject matter, survive, and any amendments deemed to be made pursuant to it, will form a part of each Protocol Covered Master Agreement between the Adhering Parties notwithstanding Section 9(a) of the Protocol Covered Master Agreement.
- (b) **Amendments.** An amendment, modification or waiver in respect of the matters contemplated by this Illegality/Force Majeure Protocol will only be effective in respect of a Protocol Covered Master Agreement if made in accordance with the terms of the Protocol Covered Master Agreement and then only with effect between the parties to that Protocol Covered Master Agreement (and will only be effective to amend or override the provisions set forth in this Illegality/Force Majeure Protocol (including Schedule 1 to this Illegality/Force Majeure Protocol) if it expressly refers in writing to this paragraph 4(b) of this Illegality/Force Majeure Protocol and would otherwise be effective in accordance with Section 9(b) of the Protocol Covered Master Agreement).
 - (c) **Headings.** The headings used in this Illegality/Force Majeure Protocol and any Adherence Letter are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Illegality/Force Majeure Protocol or any Adherence Letter.
 - (d) **Governing Law.** This Illegality/Force Majeure Protocol, each Adherence Letter and any non-contractual obligations arising out of or in connection with this Illegality/Force Majeure Protocol and each Adherence Letter will, as between two Adhering Parties and in respect of each Protocol Covered Master Agreement between them, be governed by and construed in accordance with English law and the amendments to each Protocol Covered Master Agreement shall be governed by and construed in accordance with the law specified to govern that Protocol Covered Master Agreement and otherwise in accordance with applicable choice of law doctrine.

- (e) **Notices.** Any Adherence Letter must be in writing and delivered as a locked PDF (portable document format) attachment to an email to ISDA at ISDAIFMprotocol@isda.org and will be deemed effectively delivered on the date it is delivered unless on the date of that delivery ISDA's New York office is closed or that communication is delivered after 5:00 p.m., New York time, in which case that communication will be deemed effectively delivered on the next day ISDA's New York office is open. Each Adhering Party agrees that the determination of the date and time of delivery of any Adherence Letter shall be determined by ISDA in its absolute discretion.

- (f) ***Ability of an Agent to Adhere to the Illegality/Force Majeure Protocol on Behalf of a Client.***
 - (i) An Agent may adhere to this Illegality/Force Majeure Protocol:
 - (A) on behalf of all Clients represented by such Agent (in which case such Agent need not identify each Client in its Adherence Letter);
 - (B) on behalf of Clients represented by such Agent that are specifically named or identified in the Adherence Letter or an attachment thereto; or
 - (C) on behalf of all Clients represented by such Agent, except any Client that the Agent and an Adhering Party that has entered into a Protocol Covered Master Agreement with such Client agree will not be covered by this Illegality/Force Majeure Protocol,provided, in each case, that such adherence shall only be effective with respect to Protocol Covered Master Agreements entered into by such Agent on behalf of such Clients.
 - (ii) Where an Agent adheres to this Illegality/Force Majeure Protocol on behalf of a Client by executing and delivering an Adherence Letter on behalf of such Client in accordance with paragraph 2 and this paragraph 4(f), references to the Adhering Party for purposes of this Illegality/Force Majeure Protocol (including Schedule 1 hereto) and the Adherence Letter shall be interpreted to refer to such Client.

- (g) ***Clients added to an Agent Covered Master Agreement after the Implementation Date.*** In respect of any Client added to an Agent Covered Master Agreement between an Agent and an Adhering Party after the Implementation Date (a **New Client**), the Agent and such Adhering Party agree that the terms of such Agent Covered Master Agreement as between such Adhering Party and any New Client will be subject to the amendments effected by this Illegality/Force Majeure Protocol, unless otherwise agreed between such Agent and such Adhering Party.

5. Definitions

As used in this Illegality/Force Majeure Protocol, **Credit Support Document** and **Transaction** each has the meaning given that term in the related Protocol Covered Master Agreement.

References in this Illegality/Force Majeure Protocol and Schedule 1 to the following terms shall have the meaning indicated below:

Agent means an entity that enters into a Protocol Covered Master Agreement and executes and delivers an Adherence Letter with respect to this Illegality/Force Majeure Protocol on behalf of and as agent for one or more clients, investors, funds, accounts and/or other principals.

Agent Covered Master Agreement means any 1992 ISDA Master Agreement that is signed as an umbrella agreement by an Agent and an Adhering Party prior to the date of receipt by ISDA of an Adherence Letter from the later of such Adhering Party or such Agent.

Annual Revocation Date means, with respect to each calendar year, 31 December of such calendar year. If 31 December in any calendar year is not a day on which the ISDA's New York office is open, the Annual Revocation Date with respect to such calendar year will be deemed to occur on the next day that the ISDA's New York office is open.

Annual Revocation Period means the period between 1 October and 31 October of any calendar year.

Base 1992 ISDA means the pre-printed form of the ISDA Master Agreement (Multicurrency – Cross Border) as published by ISDA.

Business Day means a day on which commercial banks and foreign exchange markets are generally open to settle payments in both London and New York.

Client means a client, investor, fund, account and/or other principal on whose behalf an Agent acts.

Implementation Date means, subject to an Adhering Party's right to delivery a Revocation Notice pursuant to paragraph 2(d) above, with respect to any two Adhering Parties, the date determined pursuant to paragraph 2(b) of this Protocol.

Protocol Covered Master Agreement means, subject to an Adhering Party's right to deliver a Revocation Notice pursuant to paragraph 2(d) above:

- (a) any of the following agreements:
 - (i) any agreement in the form of the ISDA Master Agreement (Multicurrency – Cross Border), as published by ISDA (a **1992 ISDA Master Agreement**) entered into by execution by Adhering Parties of a confirmation pursuant to which an Adhering Party is deemed to have entered into a 1992 ISDA Master Agreement with another Adhering Party until such time as a 1992 Master Agreement has been executed by such Adhering Parties and that is still outstanding as of the Implementation Date;
 - (ii) any 1992 ISDA Master Agreement executed by two Adhering Parties; and
 - (iii) any Agent Covered Master Agreement,

in each case, entered into by the Adhering Parties on or prior to the Implementation Date or, in the case of an Agent Covered Master Agreement signed by the Agent and the counterparty prior to adherence by both the counterparty and the Agent, on behalf of the relevant Client (and including all outstanding Transactions thereunder and outstanding Credit Support Documents entered into by such Adhering Parties in connection therewith); and

- (b) any 1992 ISDA Master Agreement entered into at any time after the Implementation Date (but on or before any Cut-off Date) by execution by Adhering Parties of a confirmation

pursuant to which an Adhering Party is deemed to have entered into a 1992 ISDA Master Agreement with another Adhering Party until such time as a 1992 ISDA Master Agreement has been executed by such Adhering Parties;

provided that if:

(1)(A)(x) any consent, approval, agreement, authorization or other action of any party to a Third Party Credit Support Document other than either of such Adhering Parties (a **Third Party**) is expressly required, under the terms of such Third Party Credit Support Document or such 1992 ISDA Master Agreement, to amend or otherwise modify such 1992 ISDA Master Agreement, or (y) such Third Party Credit Support Document or such 1992 ISDA Master Agreement includes express terms to the effect that any amendment or modification of such 1992 ISDA Master Agreement without the consent, approval, agreement, authorization or other action of any such Third Party would void, impair or otherwise adversely affect existing or future obligations owed under such Third Party Credit Support Document and (B) the required consent, approval, agreement, authorization or other action has not been obtained on or prior to the Implementation Date;

(2) the terms of such 1992 ISDA Master Agreement (including, but not limited to Section 5(b)(i), Section 5(c), Section 6 or Section 10) relating to the circumstances in which an Illegality (as defined in the Base 1992 ISDA) could occur or of the consequences under the relevant agreement if an Illegality were to occur (except for the election of a payment measure or the inclusion of any notice or grace period) are different from those of the Base 1992 ISDA; or

(3) unless the difference(s) are materially consistent with the inclusion in such 1992 ISDA Master Agreement of a Termination Event and related provisions in the form of the Impossibility Termination Event and related modifications suggested for consideration in Section VIII of the User's Guide to the 1992 ISDA Master Agreements (1993 Edition) as published by ISDA, the terms of such 1992 ISDA Master Agreement, including, but not limited to Section 5(b), Section 5(c), Section 6 or Section 10, are different from those of the Base 1992 ISDA to the extent that they relate to the consequences of an event pursuant to which a party is prevented from or finds it impossible or impracticable to perform or receive a payment or delivery or comply with any other material provision of the relevant agreement in respect of a transaction by reason of force majeure or an act of state occurring after the relevant transaction is entered into;

then such 1992 ISDA Master Agreement shall not be a Protocol Covered Master Agreement.

Third Party Credit Support Document means, with respect to an Adhering Party to a 1992 ISDA Master Agreement, any document in effect on the Implementation Date and executed by one or more Third Parties (whether or not an Adhering Party is a party thereto), which by its terms secures, guarantees or otherwise supports such Adhering Party's obligations under the 1992 ISDA Master Agreement from time to time, as required by the other Adhering Party, whether or not such document is specified as such, or as a Credit Support Document, therein or in the 1992 ISDA Master Agreement.

Form of Adherence Letter

[Letterhead of Adhering Party]

[Date]

Send to: ISDAIFMprotocol@isda.org

Dear Sirs,

ISDA Illegality/Force Majeure Protocol – Adherence

The purpose of this letter is to confirm our adherence to the ISDA Illegality/Force Majeure Protocol as published by the International Swaps and Derivatives Association, Inc. on 11 July 2012 (the **Illegality/Force Majeure Protocol**). This letter constitutes an Adherence Letter as referred to in the Illegality/Force Majeure Protocol. The definitions and provisions contained in the Illegality/Force Majeure Protocol are incorporated into this Adherence Letter, which will supplement and form part of each Protocol Covered Master Agreement between us and each other Adhering Party.

1. Specified Terms

The amendments in Schedule 1 to the Illegality/Force Majeure Protocol shall apply to each Protocol Covered Master Agreement to which we are a party in accordance with the terms of the Illegality/Force Majeure Protocol and this Adherence Letter.

2. Appointment as Agent and Release

We hereby appoint ISDA as our agent for the limited purposes of the Illegality/Force Majeure Protocol and accordingly we waive, and hereby release ISDA from, any rights, claims, actions or causes of action whatsoever (whether in contract, tort or otherwise) arising out of or in any way relating to this Adherence Letter or our adherence to the Illegality/Force Majeure Protocol or any actions contemplated as being required by ISDA.

3. Contact Details

Our contact details for purposes of this Adherence Letter are:

Name:

Address:

Telephone:

Fax:

E-mail:

We consent to the publication of a conformed copy of this letter by ISDA and to the disclosure by ISDA of the contents of this letter.

Yours faithfully,

[ADHERING PARTY]¹

By:

Name:

Title:

Signature:

¹ Specify legal name of Adhering Party.

If you are an Agent and act on behalf of multiple Clients, you may sign the Adherence Letter using one of three options.

First, if you have the authority to adhere to this Illegality/Force Majeure Protocol as Agent on behalf of all Clients, you may indicate the following in the signature block: “[Investment/Asset Manager], acting on behalf of the clients, investors, funds, accounts and/or other principals listed in the relevant Protocol Covered Master Agreement (or other agreement which deems a Protocol Covered Master Agreement to have been created) entered into between it (as Agent) and another Adhering Party on or prior to [●]” or such other language that indicates the Clients to which this letter is applicable. If such a signature block is used, a separate Adherence Letter for each Client does *not* need to be submitted to ISDA and no specific names of Clients will be publicly disclosed on the ISDA website in connection with this Illegality/Force Majeure Protocol.

Second, if you have the authority to adhere to this Illegality/Force Majeure Protocol as Agent on behalf of certain Clients only, you may include with the Adherence Letter an attachment that names each Client. If you cannot or do not wish to name such Clients, then provided that you can identify the adhering Clients by way of specific identifiers which will be known and recognized by all other Adhering Parties with which the relevant Clients have entered into Protocol Covered Master Agreements, you may identify such Clients using specific identifiers and without including any names. In such case, the specific identifiers will be listed on the ISDA website with the Adherence Letter.

Third, if you do not have the authority to adhere to this Illegality/Force Majeure Protocol as Agent on behalf of certain Clients but wish to adhere to this Illegality/Force Majeure Protocol on behalf of all other Clients, you may indicate the following in the signature block: “[Investment/Asset Manager], acting on behalf of the clients, investors, funds, accounts and/or other principals listed in the relevant Protocol Covered Master Agreement (or other agreement which deems a Protocol Covered Master Agreement to have been created) entered into between it (as Agent) and another Adhering Party on or prior to [●], unless the relevant Adhering Parties agree prior to the Implementation Date that a particular client, investor, fund, account or other principal is not a Adhering Party for purposes of this Illegality/Force Majeure Protocol”. It is the Agent’s responsibility to record properly any bilateral agreement to exclude a Client from the scope of this Illegality/Force Majeure Protocol.

EXHIBIT 2
to ISDA Illegality/Force Majeure Protocol

Form of Revocation Notice

[Letterhead of Adhering Party]

[Date]

Send to: ISDAIFMprotocol@isda.org

Dear Sirs,

ISDA Illegality/Force Majeure – Designation of Annual Revocation Date

The purpose of this letter is to notify you that we wish to designate this year's Annual Revocation Date as the last date on which any counterparty may adhere to the ISDA Illegality/Force Majeure Protocol as published by the International Swaps and Derivatives Association, Inc. on 11 July 2012 (the **Illegality/Force Majeure Protocol**) in respect of any Protocol Covered Master Agreement (now or in the future) between us.

This letter constitutes a Revocation Notice as referred to in the Illegality/Force Majeure Protocol.

We consent to the publication of the conformed copy of this notice by ISDA on and after the Annual Revocation Date and to the disclosure by ISDA of the contents of this letter.

Yours faithfully,

[ADHERING PARTY]²

² Specify legal name of Adhering Party.

If you are an Agent and act on behalf of multiple Clients, you may sign the Revocation Notice using one of three options.

First, if you have the authority to revoke adherence to this Illegality/Force Majeure Protocol as Agent on behalf of all Clients, you may indicate the following in the signature block: “[Investment/Asset Manager], acting on behalf of the clients, investors, funds, accounts and/or other principals listed in the relevant Protocol Covered Master Agreement (or other agreement which deems a Protocol Covered Master Agreement to have been created) entered into between it (as Agent) and another Adhering Party on or prior to [●]” or such other language that indicates the Clients to which this letter is applicable. If such a signature block is used, a separate Revocation Notice for each Client does *not* need to be submitted to ISDA and no specific names of Clients will be publicly disclosed on the ISDA website in connection with this Illegality/Force Majeure Protocol.

Second, if you have the authority to revoke adherence to this Illegality/Force Majeure Protocol as Agent on behalf of certain Clients only, you may include with the Revocation Notice an attachment that names each Client. If you cannot or do not wish to name such Clients, then provided that you can identify the revoking Clients by way of specific identifiers which will be known and recognized by all other Adhering Parties with which the relevant Clients have entered into Protocol Covered Master Agreements, you may identify such Clients using specific identifiers and without including any names. In such case, the specific identifiers will be listed on the ISDA website with the Revocation Notice.

Third, if you do not have the authority to revoke adherence to this Illegality/Force Majeure Protocol as Agent on behalf of certain Clients but wish to revoke adherence to this Illegality/Force Majeure Protocol on behalf of all other Clients, you may indicate the following in the signature block: “[Investment/Asset Manager], acting on behalf of the clients, investors, funds, accounts and/or other principals listed in the relevant Protocol Covered Master Agreement (or other agreement which deems a Protocol Covered Master Agreement to have been created) entered into between it (as Agent) and another Adhering Party on or prior to [●], unless the relevant Adhering Parties have agreed that a particular client, investor, fund, account or other principal is not a Adhering Party for purposes of this Illegality/Force Majeure Protocol or is not revoking its adherence to this Illegality/Force Majeure Protocol”. It is the Agent’s responsibility to record properly any bilateral agreement to exclude a Client from the scope of this Illegality/Force Majeure Protocol or the scope of any revocation from this Illegality/Force Majeure Protocol.

By:

Name:

Title:

Signature:

SCHEDULE 1

With effect from the Implementation Date, each Protocol Covered Master Agreement shall be modified as follows.

- (a) Section 5(a)(i) of the Protocol Covered Master Agreement is amended by the replacement of the words "2(a)(i) or 2(e)" with "2(a)(i), 2(e) or 9(h)(i)(2)".
- (b) Section 5(a)(ii) of the Protocol Covered Master Agreement is amended by the replacement of the words "2(a)(i) or 2(e)" with "2(a)(i), 2(e) or 9(h)(i)(2)".
- (c) The first paragraph of Section 5(b) of the Protocol Covered Master Agreement is amended in its entirety as follows:

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

- (d) Section 5(b)(i) of the Protocol Covered Master Agreement is amended in its entirety as follows:

"(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 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;"

- (e) Section 5(b)(ii) of the Protocol Covered Master Agreement is amended by the replacement of the words "6(d)(ii) or 6(e)" with "6(d)(ii), 6(e) or 9(h)" at lines seven and nine of that sub-Section.
- (f) Section 5(b)(iii) of the Protocol Covered Master Agreement is amended by the replacement of the words "6(d)(ii) or 6(e)" with "6(d)(ii), 6(e) or 9(h)".
- (g) The word "or" at the end of Section 5(b)(iv) of the Protocol Covered Master Agreement is deleted, and "." at the end of Section 5(b)(v) is deleted and replaced by "; or".

(h) A new Section 5(b)(vi) is added to the Protocol Covered Master Agreement as follows:

"(vi) **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;"

(i) Section 5(c) of the Protocol Covered Master Agreement is amended in its entirety as follows:

"(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) 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."

(j) A new Section 5(d) is added to the Protocol Covered Master Agreement as follows:

"(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 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."

(k) A new Section 5(e) is added to the Protocol Covered Master Agreement as follows:

"(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)(vi)(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)(vi)(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)."

(l) Section 6(b)(i) of the Protocol Covered Master Agreement is amended in its entirety as follows:

"(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."

(m) The first paragraph of Section 6(b)(ii) of the Protocol Covered Master Agreement is amended in its entirety as follows:

"(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."

(n) Section 6(b)(iii) of the Protocol Covered Master Agreement is amended in its entirety as follows:

"(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."

(o) Section 6(b)(iv) of the Protocol Covered Master Agreement is amended in its entirety as follows:

"(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.

(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)(vi)(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."

(p) Section 6(c)(ii) of the Protocol Covered Master Agreement is amended by the replacement of the words "2(a)(i) or 2(e)" with "2(a)(i), 2(e) or 9(h)(i)"

(q) Section 6(e).

- (A) If (i) such Protocol Covered Master Agreement has been amended by an agreement between the Adhering Parties using the ISDA Form of Amendment to the 1992 ISDA Master Agreement published March 2003 or any other form of bilateral amendment which results in the introduction of "Close-out Amount" (or any analogous method) as the method for determining amounts due on early termination or (ii) the terms of such Protocol Covered Master Agreement have been amended by the Close-Out Amount Protocol as published by ISDA on 27 February 2009, then Section 6(e)(ii) is amended by the addition of the following sub-Section:

"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 the appropriate provisions above, except that, for the purpose of determining a Close-out Amount or Close-out Amounts (or analogous amount or amounts), the party determining a Close-out Amount (or analogous amount) (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."

- (B) If such Protocol Covered Master Agreement is not amended as described in sub-paragraph (A)(i) or (ii) above then Section 6(e)(ii) of the Protocol Covered Master Agreement is amended in its entirety as follows:

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

(1) *One Affected Party.* If there is one Affected Party:-

(A) if Market Quotation applies:-

(I) if that Termination Event is not an Illegality or a Force Majeure Event, the amount payable will be determined in accordance with Section 6(e)(i)(3), except that references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively; and

(II) if that Termination Event is either an Illegality or a Force Majeure Event, the amount payable will be determined in accordance with Section 6(e)(ii)(1)(A)(I), except that for the purpose of determining Market Quotation, (a) Reference Market-makers will be asked to assume that the party requesting the quotations is a dealer in the relevant market of the highest credit standing which satisfies all the credit criteria which such Reference Market-makers apply generally at the time in deciding whether to offer to make an extension of credit, and no account will be taken of

any existing Credit Support Document and (b) Reference Market-makers will be asked to provide mid-market quotations; and

(B) if Loss applies:

(I) the amount payable will be determined in accordance with Section 6(e)(i)(4), except that references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and if fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions; and

(II) if that Termination Event is either an Illegality or a Force Majeure Event, Loss shall be determined on the basis of mid-market values in respect of the Terminated Transactions and, in particular, if any quotations of relevant rates or prices are used for the purpose of determining Loss under this section, (a) third parties supplying such quotations will be asked to assume that the party requesting the quotations is a dealer in the relevant market of the highest credit standing which satisfies all the credit criteria which those third parties apply generally at the time in deciding whether to offer to make an extension of credit, and no account will be taken of any existing Credit Support Document and (b) those third parties will be asked to provide mid-market quotations.

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

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount (“X”) and the Settlement Amount of the party with the lower Settlement Amount (“Y”) and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (II) the Termination Currency Equivalent of the Unpaid Amounts owing to Y and, if that Termination Event is either an Illegality or a Force Majeure Event, for the purpose of determining Market Quotations (a) Reference Market-makers will be asked to assume that the party requesting the quotations is a dealer in the relevant market of the highest credit standing which satisfies all the credit criteria which such Reference Market-makers apply generally at the time in deciding whether to offer to make an extension of credit, and no account will be taken of any existing Credit Support Document and (b) Reference Market-makers will be asked to provide mid-market quotations; and

(B) if Loss applies:

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

(II) if that Termination Event is either an Illegality or a Force Majeure Event, Loss shall be determined on the basis of mid-market values in respect of the Terminated Transactions and, in particular, if any quotations of relevant rates or prices are used for the purpose of determining Loss under this section, (a) third parties supplying such quotations will be asked to assume that the party requesting the quotations is a dealer in the relevant market of the highest credit standing which satisfies all the credit criteria which those third parties apply generally at the time in deciding whether to offer to make an extension of credit, and no account will be taken of any existing Credit Support Document and (b) those third parties will be asked to provide mid-market quotations.

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

(r) A new Section 6(e)(v) is added to the Protocol Covered Master Agreement as follows:

"(v) **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 amount determined pursuant to Section 6(e) 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 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 at the Applicable Deferral Rate."

(s) A new Section 9(h) is added to the Protocol Covered Master Agreement as follows:

"(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 Deferred Payments.** If:—

(A) 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

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

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

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

(B) 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 clause (A) above, such delivery is required) if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

(ii) ***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."

(t) Section 10(a) of the Protocol Covered Master Agreement is amended in its entirety as follows:

"(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."

- (u) The terms “ **Affected Transactions**”, “**Terminated Transactions**”, “**Termination Event**” and “**Unpaid Amounts**” in Section 14 of the Protocol Covered Master Agreement are amended in their entirety as follows:

“**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)(vi)(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.”

“**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 any case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if “Automatic Early Termination” applies, immediately before that Early Termination Date).”

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

“**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) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii) 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 as of the originally scheduled date for delivery 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 amount determined pursuant to Section 6(e) due prior to such Early Termination Date and which remains unpaid as of such Early Termination Date, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate or, in the case of amounts referred to in Section 6(e)(v), the Applicable Deferral Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.”

- (v) The following terms are added to Section 14 of the Protocol Covered Master Agreement:

“**Applicable Deferral Rate**” means:—

(a) for purposes of Section 9(h)(i)(1)(A), 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

(b) for purposes of Section 9(h)(i)(1)(B), Section 6(e)(v) and the definition of Unpaid Amount, a rate equal to the arithmetic mean of (i) 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, and (ii) 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."

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

"***Local Delivery Day***" means, for purposes of Section 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.

"***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

(b) in respect of an event or circumstance under Section 5(b)(vi), other than in the case of Section 5(b)(vi)(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."

- (w) If (i) the terms of such Protocol Covered Master Agreement, prior to any amendment effected pursuant to this Illegality/Force Majeure Protocol, are different from those of the Base 1992 ISDA to the extent that they relate to the consequences of an event pursuant to which a party is prevented from or finds it impossible or impracticable to perform or receive a payment or delivery or comply with any other material provision of the relevant agreement in respect of a transaction by reason of force majeure or an act of state occurring after the relevant transaction is entered into and (ii) such difference(s) are materially consistent with the inclusion in such Protocol Covered Master Agreement of a Termination Event and related provisions in the form of the Impossibility Termination Event and related modifications suggested for consideration in Section VIII of the User's Guide to the 1992 ISDA Master Agreements (1993 Edition) as published by ISDA, then the provisions of the Protocol Covered Master Agreement creating such difference(s) are deleted.

