

Supplementary Exhibit NY-SUPP 5 NEW

This Supplementary Exhibit to the ISDA 2016 Variation Margin Protocol is applicable if the Agreed Method is New CSA Method and the CSA Type is NY CSA.



International Swaps and Derivatives Association, Inc.

AMENDMENT

to the

**2016 CREDIT SUPPORT ANNEX FOR VARIATION
MARGIN (VM)**

The parties have entered into a New CSA in the form of Exhibit NY-NEW (the “**Annex**”), which forms part of, and is subject to, a Protocol Covered Agreement and is part of its Schedule pursuant to the terms of the ISDA 2016 Variation Margin Protocol, as published on August 16, 2016 by the International Swaps and Derivatives Association, Inc. (the “**ISDA 2016 Variation Margin Protocol**”). The parties have now agreed to amend and supplement the Annex by the terms of this amendment (this “**Supplemental Amendment**”). Capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the ISDA 2016 Variation Margin Protocol.

Accordingly, in consideration of the mutual agreements contained in this Supplemental Amendment, the parties agree as follows:

1. Amendment of the Annex. Paragraph 13(h) of the Annex is deleted in its entirety and replaced with the following:

(h) ***Holding and Using Posted Collateral (VM)***.

(i) ***Eligibility to Hold Posted Collateral (VM); Custodians (VM)***. Segregating Party or its Custodian (VM) will be entitled to hold Posted Collateral (VM) pursuant to Paragraph 6(b); *provided* that the following conditions applicable to it are satisfied:

Segregating Party is not a Defaulting Party.

Initially, the **Custodian (VM)** for Segregating Party is:

as specified in Segregating Party’s Matched Questionnaire or as otherwise specified by Segregating Party in writing.

This Annex is intended to be used in connection with a segregated account (the “**Segregated Account**”) maintained by a third-party custodian agreed to by the parties (the “**Segregating Party Custodian**”) for the custody of variation margin posted by Segregating Party as the Pledgor. The Segregated Account is maintained in accordance with a control agreement among Dealer, Segregating Party and such custodian, which has been specified to be the “control agreement” for purposes of this Annex in a written agreement executed by the parties (which may be the control agreement itself or a separate agreement) (the “**Control Agreement**”).

Accordingly, Paragraphs 6(b)(i) and 6(b)(iii) will not apply to Dealer as the Secured Party, and prior to the enforcement of its rights under Paragraph 8, Dealer will not be entitled to hold Posted Collateral (VM), except as provided in the Control Agreement or as otherwise agreed between the parties. The Segregating Party Custodian will be entitled to hold Posted Collateral (VM) for the protection of Dealer as the Secured Party and in accordance with the Control Agreement among Dealer, Segregating Party and the Segregating Party Custodian.

Initially, the “**Segregating Party Custodian**” is the “custodian” or “securities intermediary” specified in the Control Agreement, or if none, the Custodian (VM) for Segregating Party.

In the event that Dealer and Segregating Party enter into a replacement for the Control Agreement, the references herein to the Segregating Party Custodian shall, upon the effectiveness of such agreement, be deemed to be references to the “custodian” or “securities intermediary” (or other person, however described or denominated therein, that will hold Posted Collateral (VM)) identified in such agreement and the references

herein to the “Control Agreement” shall be deemed to be references to such agreement, as amended from time to time.

(ii) ***Use of Posted Collateral (VM)***. The provisions of Paragraph 6(c) **will not apply to Dealer and will apply to Segregating Party, provided that if each party has specified “No” in its Matched Supplemental Questionnaire for Segregation Amendments under “Segregating Party Use of Posted Collateral (VM)?”, then the provisions of Paragraph 6(c) will not apply to Segregating Party.**

2. Supplements to the Annex. The following provisions are hereby added at the end of Paragraph 13 of the Annex:

- (q) ***Security Interest***. Solely with respect to Segregating Party as the Pledgor, Paragraph 2 of the Annex is hereby deleted in its entirety and replaced with the following:

The Pledgor hereby pledges to the Secured Party, as security for its Obligations, and grants to the Secured Party a first priority continuing security interest in, lien on and right of Set-off against (i) all Posted Collateral (VM) Transferred to or received by the Secured Party hereunder or the Segregating Party Custodian pursuant to the Control Agreement, and (ii) each Segregated Account. Upon the Transfer to the Pledgor of Posted Collateral (VM) on the instruction of the Secured Party or as otherwise permitted under this Annex, the security interest in and lien granted hereunder on that Posted Collateral (VM) will be released immediately and, to the extent possible, without further action by either party.

- (r) ***Transfer***. Notwithstanding anything to the contrary in Agreement, the parties understand and agree that for purposes of this Annex, (i) a Transfer of Eligible Credit Support (VM) to the Segregated Account is a Transfer of such Eligible Credit Support (VM) to Dealer as Secured Party, (ii) Eligible Credit Support (VM) Transferred to the Segregated Account is Posted Credit Support (VM) for purposes of the Annex, and (iii) an obligation of Dealer as the Secured Party, to Transfer, or cause the Segregating Party Custodian to Transfer Posted Collateral (VM) held by the Segregating Party Custodian to the Pledgor will be deemed satisfied by Dealer’s sending appropriate instructions to the Segregating Party Custodian in accordance with the terms of the Control Agreement to effect such Transfer. Except as may otherwise be provided in the Control Agreement, Dealer will bear no liability for the failure of Segregating Party Custodian to comply with such instructions and no such failure will constitute an Event of Default with respect to Dealer.

- (s) ***Distributions and Interest Payment (VM)***.

(i) Notwithstanding anything to the contrary in the Agreement, including Paragraph 13(i) of this Annex, the provisions of Paragraph 6(d)(ii) will not apply with respect to Posted Collateral (VM) held for Dealer as the Secured Party, and neither Interest Transfer nor Interest Adjustment will apply with respect to such Posted Collateral (VM). Dealer shall have no obligation hereunder to pay or to Transfer to Segregating Party any amount of interest in respect of Posted Collateral (VM) in the form of Cash or any Distributions in respect of Posted Credit Support (VM). The parties acknowledge that the Segregating Party Custodian may transfer distributions, interest or income in respect of any Posted Collateral (VM) held under the Control Agreement in accordance with the terms of the Control Agreement.

(ii) Notwithstanding anything to the contrary in the Agreement, including Paragraph

13(i) of this Annex, if each party has specified “No” in its Matched Supplemental Questionnaire for Segregation Amendments under “Segregating Party Use of Posted Collateral (VM)?”, then the provisions of Paragraph 6(d)(ii) will not apply with respect to Posted Collateral (VM) held by Segregating Party as Secured Party, and neither Interest Transfer nor Interest Adjustment will apply with respect to such Posted Collateral (VM).

- (t) **Posted Collateral.** With respect to Dealer as the Secured Party only, the definition of Posted Collateral (VM) in Paragraph 12 is hereby deleted in its entirety and replaced with the following:

“**Posted Collateral (VM)**” means all Eligible Collateral (VM), other property, Distributions, and all proceeds thereof that have been Transferred to or received by the Secured Party under this Annex or otherwise credited to the relevant Segregated Account by the Segregating Party Custodian and not Transferred to the Pledgor pursuant to Paragraph 3(b), 4(d)(ii), 6(d)(i) or 11(h), released by the Secured Party under Paragraph 8 or otherwise transferred or released from a Segregated Account to Pledgor in accordance with the terms of the Control Agreement.

- (u) **Representations.**

- (i) Paragraph 9(ii) and 9(iv) of the Annex are each hereby amended by adding at the ends thereof, “or any security interest in favor of the Segregating Party Custodian expressly referred to in the Control Agreement”.
- (ii) Paragraph 9(iii) of the Annex is hereby amended by adding at the end thereof, “except to the extent subordinate to any security interest in favor of the Segregating Party Custodian expressly referred to in the Control Agreement.”

- (v) **Additional Definitions.** Paragraph 12 of the Annex is amended by adding the following definitions in the appropriate alphabetical order:

- (i) “**Dealer**” means the party to the Agreement that is not Segregating Party.
- (ii) A party’s “**Matched Supplemental Questionnaire for Segregation Amendments**” is the “Matched Supplemental Questionnaire” of such party with respect to the other party for purposes of the ISDA 2016 Variation Margin Protocol Supplemental Rules Exhibit for Segregation Amendments.
- (iii) “**Segregating Party**” means the party that selected “Request to be Segregating Party” in its Matched Supplemental Questionnaire for Segregation Amendments.