



## BNP Paribas Standard Terms and Conditions for Uncommitted/On-Demand Credit Facilities (England) (August 2021 Version)

### 1. Definitions and Construction

- (a) In these Standard Terms and Conditions for Uncommitted/On-Demand Credit Facilities (England) (the "**Standard Terms**"), the following terms shall have the following meanings:

"**Acceptance Date**" means the date on which the Facility Letter and these Standard Terms are accepted by all of the Borrowers as evidenced by their signatures on the Facility Letter.

"**Advances Facility**" means either a Revolving Advances Facility or a Term Loan Facility.

"**Affiliates**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"**Alternative Currency**" means, in relation to any individual Facility, each currency specified as such in the Table in relation to that individual Facility.

"**Bank Instrument**" means any guarantee, indemnity, letter of credit (including any Import L/C and any standby letter of credit), tender bond, bid bond, performance bond or advance payment bond or any instrument of a similar nature (whether entailing autonomous, primary liability on the part of the issuer, or accessory, secondary liability) which is issued or to be issued by BNPP or a Correspondent Bank at the request of the Borrower pursuant to a Utilisation under a Bank Instrument Facility, in each case as the same may from time to time be supplemented, replaced or amended.

"**Bank Instrument Facility**" means a Facility which is described as such in the Table.

"**Base Currency**" means the currency specified as such in the Table.

"**Base Currency Amount**" means, in relation to any amount at any time, if the amount is denominated in the Base Currency, that amount and, if the amount is denominated in any other currency, the Base Currency amount of that other currency calculated using BNPP's spot rate of exchange for conversion of that other currency into the Base Currency at that time.

"**Base Rate**" means at any time, and in relation to a currency, the rate per annum that is BNPP's base rate for that currency at that time, as notified or otherwise made available by BNPP to the Borrower from time to time.

"**Beneficiary**" means a person in whose favour a Bank Instrument has been or is to be issued by BNPP or a Correspondent Bank pursuant to a Utilisation under a Bank Instrument Facility.

"**BNPP**" has the meaning given to that term in the Facility Letter.

"**Borrower**" means the borrower of the Facility which is identified in Clause 2 (*The Obligors*) of the Facility Letter, provided that if there is more than one "Borrower" under the Facility Letter, such term shall in these Standard Terms mean either (as the context may require) the relevant "Borrower" or all such "Borrowers".

"**Break Costs**" means the amount (if any) by which:

- (i) the interest which BNPP should have received for the period from the date of receipt or recovery of all or any part of a Utilisation under an Advances Facility or an overdue amount to the last day of the current Interest Period in respect of that Utilisation or overdue amount, had the principal amount or overdue amount received or recovered been paid on the last day of that Interest Period;

exceeds:

- (ii) the amount which BNPP would be able to obtain by placing an amount equal to the principal amount or overdue amount received by it on deposit with a leading bank in the relevant interbank market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London and also:



- (i) (in relation to any date for the payment or purchase of funds in, or for the determination of any interest rate for, any currency other than euro) a day on which banks are open for general business in the principal financial centre of the country of that currency;
- (ii) (in relation to any date for the payment or purchase of funds in, or for the determination of any interest rate for, euro) a day on which the Trans-European Automated Real-time Gross Settlement Express Transfer payment system (TARGET) is open for the settlement of payments in euro; and
- (iii) (in relation to either (a) the fixing of an interest rate in relation to a Compounded Rate Loan, (b) any date for the payment or purchase of an amount relating to a Compounded Rate Loan or (c) the determination of the first day or the last day of an Interest Period for a Compounded Rate Loan, or otherwise in relation to the determination of the length of such an Interest Period) an RFR Banking Day relating to the relevant Compounded Rate Currency of such loan or overdue amount relating to such loan.

"**CAS**" means, in relation to a Compounded Rate Loan in a Compounded Rate Currency, the rate (if any) which is specified as such in the Table.

"**Central Bank Rate**" has the meaning given to that term in the applicable Reference Rate Terms.

"**Central Bank Rate Adjustment**" has the meaning given to that term in the applicable Reference Rate Terms.

"**Claim**" has the meaning given in Clause 4(a)(ii).

"**Compounded Rate Currency**" means any currency which is not a Term Rate Currency.

"**Compounded Rate Interest Payment**" means the aggregate amount of interest that:

- (i) is, or is scheduled to become, payable under the Facility Letter and these Standard Terms; and
- (ii) relates to a Compounded Rate Loan.

"**Compounded Rate Loan**" means any loan granted under an Advances Facility or any overdue amount in relation to an Advances Facility and which (in any such case) is not a Term Rate Loan.

"**Compounded Reference Rate**" means, in relation to any RFR Banking Day during the Interest Period of a Compounded Rate Loan, the percentage rate per annum which is the aggregate of:

- (i) the Daily Non-Cumulative Compounded RFR Rate for that RFR Banking Day; and
- (ii) (if any) the applicable CAS.

"**Compounding Methodology Supplement**" means, in relation to the Daily Non-Cumulative Compounded RFR Rate or the Cumulative Compounded RFR Rate, a document which:

- (i) is notified in writing by BNPP to the Borrower from time to time at BNPP's sole discretion; and
- (ii) specifies a calculation methodology or screen page for that rate.

"**Correspondent Bank**" means a correspondent bank or an Affiliate or different branch office of BNPP, in each case which issues a Bank Instrument pursuant to a Utilisation under a Bank Instrument Facility.

"**Cost of Funds**" means, in relation to any amount in any currency for any period, the rate per annum determined by BNPP to be its cost of funding that amount in that currency for that period from whatever sources it may select in accordance with its usual procedures for sourcing funds, which determination may include without limitation any additional charges, and any market, regulatory or liquidity costs, as BNPP may deem appropriate from time to time.

"**CP Satisfaction Date**" means the date on which BNPP confirms to the Borrower that it has received (or that it has waived its requirement for it to receive) the documents and other evidence listed in Schedule 2 (*Conditions precedent*) to the Facility Letter in form and substance satisfactory to BNPP.

"**Credit Support Provider(s)**" means the credit support providers for the Facility which are identified in Clause 2 (*The Obligors*) of the Facility Letter.

"**Cumulative Compounded RFR Rate**" means, in relation to an Interest Period for a Compounded Rate Loan, the percentage rate per annum determined by BNPP in accordance with the methodology set out in Schedule 4 (*Cumulative Compounded RFR Rate*) or in any relevant Compounding Methodology Supplement.



**"Current Account"** means, for the purposes of an Overdraft Facility, the particular bank account of the Borrower maintained with BNPP and which is specified as such in the Table, and if the Table specifies more than one bank account as such then **"Current Account"** means any one of them and **"Current Accounts"** shall mean all of them together.

**"Daily Non-Cumulative Compounded RFR Rate"** means, in relation to any RFR Banking Day during an Interest Period for a Compounded Rate Loan, the percentage rate per annum determined by BNPP in accordance with the methodology set out in Schedule 3 (*Daily Non-Cumulative Compounded RFR Rate*) or in any relevant Compounding Methodology Supplement.

**"Daily Rate"** means the rate specified as such in the applicable Reference Rate Terms.

**"Data Protection Notice"** has the meaning given in Clause 30(a).

**"Data Subject"** has the meaning given in Clause 30(a)(i).

**"Encumbrance"** means:

- (i) a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;
- (ii) a sale, transfer or disposal of either (a) any asset on terms whereby it is or may be leased to or re-acquired by the person selling, transferring or (as the case may be) disposing of it or by any of that person's Affiliates or (b) any receivables on recourse terms;
- (iii) any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; and
- (iv) any other preferential arrangement having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising financial indebtedness or of financing the acquisition of an asset.

**"EURIBOR"** means, in relation to an amount in euros and a particular Interest Period:

- (i) the Screen Rate for a period equal to that Interest Period; or
- (ii) (if no Screen Rate is available for a period equal to the required Interest Period, and if BNPP would, in accordance with its usual procedures for sourcing funds, refer to an Interpolated Screen Rate) the Interpolated Screen Rate for that period,

each at or about 11.00 a.m. (Brussels time) on the applicable Rate Fixing Day, provided that if any such interest rate is below zero, EURIBOR will be deemed to be zero.

**"Facility"** has the meaning given to that term in Clause 3 (*The Facility/ies*) of the Facility Letter, which meaning shall refer to either an Overdraft Facility, a Bank Instrument Facility, a Revolving Advances Facility or a Term Loan Facility.

**"Facility Document"** means the Facility Letter (including all Schedules thereto), these Standard Terms, any Reference Rate Supplement, any Compounding Methodology Supplement, any Security Document, and any other document entered into between BNPP and any Obligor in connection with the Facility and/or the Facility Letter.

**"Facility Letter"** means the facility letter from BNPP to the Borrower.

**"FATCA"** means:

- (i) sections 1471 to 1474 of the US Internal Revenue Code of 1986 or any associated regulations or other official guidance;
- (ii) any treaty, law, regulation or other official guidance enacted in any other jurisdiction, or relating to an intergovernmental agreement between the USA and any other jurisdiction, which (in either case) facilitates the implementation of paragraph (i) above; or
- (iii) any agreement pursuant to the implementation of paragraphs (i) or (ii) above with the US Internal Revenue Service, the US government or any governmental or Taxation authority in any other jurisdiction.

**"Final Repayment Date"**, in relation to an Advances Facility, has the meaning given in the Table.

**"GAAP"** means, in relation to an Obligor, the generally accepted accounting principles in that Obligor's jurisdiction of incorporation.



"**GDPR**" means the EU General Data Protection Regulation 2016/679 as amended and transposed into the laws of the United Kingdom pursuant to the European Union (Withdrawal) Act 2018 and the European Union (Withdrawal Agreement) Act 2020.

"**Group**" means the Borrower, the Credit Support Provider(s) (if any) and any of its/their Subsidiaries.

"**Group Member**" means any member of the Group.

"**Holding Company**" means, in relation to a person, any other person in respect of which it is a Subsidiary.

"**Import L/C**" means a letter of credit that is intended to operate as the means of payment of the purchase price under an underlying sale and purchase contract, and (for the avoidance of doubt) excluding a standby letter of credit.

"**Increased Costs**" means (i) a reduction in the rate of return from the Facility or on BNPP's (or its Affiliate's) overall capital (including, without limitation, as a result of any reduction in the rate of return on capital brought about by more capital being required to be allocated by BNPP); (ii) an additional or increased cost; or (iii) a reduction of any amount due and payable under any Facility Document, in each case which is incurred or suffered by BNPP or any of its Affiliates in connection with the Facility Documents.

"**Individual Facility Limit**" means, in relation to a Facility, the facility limit applicable to that Facility as set out in the Table.

"**Interest Period**" means:

- (i) in relation to any Utilisation under a Revolving Advances Facility, the single Interest Period of such duration as shall be determined in accordance with the Facility Letter and these Standard Terms;
- (ii) in relation to any Utilisation under a Term Loan Facility, each of the successive Interest Periods each of such duration as shall be determined in accordance with the Facility Letter and these Standard Terms; and
- (iii) in relation to any overdue amount (including all or part of any Utilisation that is not repaid in full on its due date), a period selected by BNPP (acting reasonably).

"**Interest Rate**" means (in relation to a Utilisation of either an Advances Facility or an Overdraft Facility) the interest rate as set out in the Table for that Facility, and (in relation to any overdue amount (including all or part of any Utilisation that is not repaid in full on its due date)) the interest rate determined in accordance with Clause 5(l), but subject always in all such cases to Clause 5(j).

"**Interpolated Screen Rate**" means, in relation to EURIBOR for any amount and any Interest Period, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (i) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is shorter than the required Interest Period; and
- (ii) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the required Interest Period.

"**Lookback Period**" means the number of days specified as such in the applicable Reference Rate Terms.

"**Margin**" means, in relation to an Advances Facility and a particular currency, the applicable percentage rate per annum referred to in the Table which shall be added to either (as the case may be) the Compounded Reference Rate or EURIBOR in order to determine the applicable Interest Rate.

"**Market Disruption Rate**" means the rate (if any) specified as such in the applicable Reference Rate Terms.

"**Material Adverse Effect**" means a material adverse effect on (i) the business, operations, property or condition (financial or otherwise) of the Group taken as a whole; (ii) the ability of an Obligor to perform its payment obligations under the Facility Documents; or (iii) the validity or enforceability of the whole or any part of any Facility Document or of any rights or remedies of BNPP under the Facility Documents.

"**Obligor(s)**" has the meaning given to that term in Clause 2 (*The Obligors*) of the Facility Letter.

"**Outstanding Amounts**" means (i) all monies advanced by BNPP (including amounts drawn under any Overdraft Facility) and not repaid; (ii) all liabilities (whether accrued or contingent) incurred by BNPP; and (iii) all interest, fees,



issuance fees, indemnities, costs and expenses (including legal fees) payable to BNPP, in each case under or in connection with the Facility Documents.

**"Overdraft Facility"** means a Facility which is described as such in the Table.

**"Personal Data"** means personal data as this term is defined in the GDPR.

**"Rate Fixing Day"** means, in relation to any period for which an interest rate is to be determined:

- (i) (if in relation to a Compounded Rate Loan) the Business Day which follows the day which is the Lookback Period prior to the last day of the relevant Interest Period; or
- (ii) (if in relation to a Term Rate Loan) two Business Days before the first day of that period,

unless market practice differs in the relevant market for a currency, in which case the Rate Fixing Day for that currency will be determined by BNPP in accordance with market practice in the relevant market.

**"Reference Rate Supplement"** means, in relation to any currency, a document which:

- (i) is notified in writing by BNPP to the Borrower from time to time at BNPP's sole discretion;
- (ii) specifies for that currency the relevant terms which are expressed in these Standard Terms to be determined by reference to Reference Rate Terms; and
- (iii) specifies whether that currency is a Compounded Rate Currency or a Term Rate Currency.

**"Reference Rate Terms"** means, in relation to:

- (i) a currency;
- (ii) a loan in that currency granted under an Advances Facility or any overdue amount in that currency in relation to an Advances Facility;
- (iii) an Interest Period for that loan or overdue amount (or other period for the accrual of commission or fees in a currency); or
- (iv) any term of the Facility Letter or these Standard Terms relating to the determination of a rate of interest in relation to such a loan or overdue amount,

the terms set out for that currency, and (where such terms are set out for different categories of loan or overdue amount or commission or fees in that currency) for the category of that loan or overdue amount or commission or fees), in Schedule 2 (*Reference Rate Terms*) or in any Reference Rate Supplement.

**"Revolving Advances Facility"** means a Facility which is described as such in the Table.

**"RFR"** means the rate specified as such in the applicable Reference Rate Terms.

**"RFR Banking Day"** means any day specified as such in the applicable Reference Rate Terms.

**"Sanctioned Country"** means a country or territory that is, or whose government is, the subject of Sanctions broadly prohibiting dealings with such government, country or territory.

**"Sanctioned Person"** means a person that is the target of any Sanctions.

**"Sanctions"** means any economic or trade sanctions or restrictive measures enacted, administered, imposed or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), the U.S. Department of State, the United Nations Security Council, the European Union (or any of its member states), the United Kingdom of Great Britain and Northern Ireland, the French Republic, Her Majesty's Treasury, or any other relevant sanctions authority.

**"Screen Rate"** means, in relation to EURIBOR, the euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate), or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, BNPP may specify another page or service displaying the relevant rate after consultation with the Borrower.



**"Security Documents"** means the security documents and/or other credit support documents as set out in Clause 4 (*Security/Support*) of the Facility Letter (if such a Clause 4 is included in the Facility Letter) and any other document pursuant to which an Encumbrance, guarantee or other form of credit support is created or arises in favour of BNPP in respect of the obligations of any Obligor under any Facility Document.

**"Subsidiary"** means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006 and a subsidiary within the meaning of section 1159 of the Companies Act 2006.

**"Table"** has the meaning given to that term given in Clause 3 (*The Facility/ies*) of the Facility Letter.

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest or amount payable in connection with any failure to pay or any delay in paying any of the same or the tax status of any person under any applicable laws) (and **"Taxation"** shall be construed accordingly).

**"Term"** means, in relation to a particular Bank Instrument, the period for which BNPP may be under a liability under or in relation to that Bank Instrument.

**"Termination Date"** means the date on which all moneys, obligations and liabilities from time to time due, owing or incurred by the Borrower to BNPP pursuant to the Facility Documents (whether express or implied, present or future, actual or contingent, joint or several, and regardless of the currency or manner incurred) have been paid and discharged in full to the satisfaction of BNPP, and the Facility has been withdrawn in full, and (in relation to any Bank Instrument Facility) BNPP is satisfied that it has no further liability under or in relation to any Bank Instrument.

**"Term Loan Facility"** means a Facility which is described as such in the Table.

**"Term Rate Currency"** means euro and any other currency specified as such in a Reference Rate Supplement relating to that currency, to the extent, in any case, not specified otherwise in a subsequent Reference Rate Supplement.

**"Term Rate Loan"** means any loan granted under an Advances Facility in a Term Rate Currency or any overdue amount in relation to an Advances Facility in a Term Rate Currency.

**"Total Facility Limit"** has the meaning given to that term in the Table.

**"Transfer Certificate"** means a certificate substantially in the form set out in Schedule 1 (*Form of Transfer Certificate*) or any other form agreed between BNPP and the Borrower.

**"US Tax Obligor"** means an Obligor:

- (i) which is resident for tax purposes in the United States of America ("**US**"); or
- (ii) some or all of whose payments under the Facility Documents are from sources within the US for US federal income tax purposes.

**"Utilisation"** means, in relation to a Facility, a drawing, utilisation or the issuance of an instrument under that Facility or, as the case may be, the principal amount outstanding of that drawing, utilisation or issuance plus any compounded interest in respect of that drawing, utilisation or issuance from time to time.

- (b) Headings are for ease of reference only and are to be ignored when interpreting these Standard Terms, and in addition, unless a contrary indication appears, a reference to:
- (i) a "**Central Bank Rate**" shall include any successor rate to, or replacement rate for, that rate.
  - (ii) "**BNPP**", any "**Obligor**" or any other person shall be construed so as to include its successors in title to, and its permitted assigns and permitted transferees of, its rights and/or obligations under the Facility Documents;
  - (iii) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) of two or more of the above;
  - (iv) a provision of law is a reference to that provision as amended or re-enacted from time to time;
  - (v) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (vi) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;



- (vii) the "**amount outstanding**" of a Bank Instrument at any time is to the maximum principal amount that is or may be payable by the Borrower in respect of that Bank Instrument at that time, but provided that the "**amount outstanding**" of a Bank Instrument at any time will be calculated ignoring any cash cover provided by the Borrower (in accordance with Clause 1(b)(ix) below) for the purposes of both:
- (1) determining the extent to which the relevant Total Facility Limit and/or any applicable Individual Facility Limit has been utilised from time to time; and
  - (2) calculating the issuance fees payable to BNPP in accordance with the relevant provisions of the Table and these Standard Terms;
- (viii) the Borrower "**repaying**" or "**prepaying**" a Bank Instrument means:
- (1) the Borrower providing cash cover for that Bank Instrument;
  - (2) the maximum amount payable under that Bank Instrument being reduced in accordance with its terms; or
  - (3) BNPP being satisfied that it has no further liability under that Bank Instrument,
- and the amount by which a Bank Instrument is repaid or prepaid under (1) and (2) above is the amount of the relevant cash cover or reduction;
- (ix) the Borrower "**providing cash cover**" for a Bank Instrument means the Borrower paying an amount in the currency of the Bank Instrument to an account as directed by BNPP from which withdrawals may only be made to pay BNPP amounts due and payable in respect of that Bank Instrument until no amount is or may be outstanding under that Bank Instrument, and where such account is subject to such other restrictions (including to such Security Documents) as BNPP may require;
- (x) BNPP (or any other person) "**issuing**" a Bank Instrument shall be construed to include any other means by which BNPP may assume liability in respect of a Bank Instrument, including confirmation, countersignature and acceptance, and shall also be construed as including the issuance of a Bank Instrument at the request of BNPP by a Correspondent Bank or other agent of BNPP. Consequently, a reference to BNPP shall be construed, where appropriate, as including Correspondent Banks and other agents of BNPP;
- (xi) a particular "**Clause**" or "**Schedule**" is a reference to a clause of, or to a schedule to, these Standard Terms; and
- (xii) any document refers to that document as amended, varied, supplemented or replaced from time to time.
- (c) Any Reference Rate Supplement relating to a currency overrides anything relating to that currency in:
- (i) Schedule 2 (*Reference Rate Terms*); or
  - (ii) any earlier Reference Rate Supplement.
- (d) Any Compounding Methodology Supplement relating to the Daily Non-Cumulative Compounded RFR Rate or the Cumulative Compounded RFR Rate overrides anything relating to that rate in:
- (i) Schedule 3 (*Daily Non-Cumulative Compounded RFR Rate*) or Schedule 4 (*Cumulative Compounded RFR Rate*), as the case may be; or
  - (ii) any earlier Compounding Methodology Supplement.
- (e) "**USD**", "**\$**" and "**dollars**" denote the lawful currency of the US. "**GBP**", "**£**" and "**sterling**" denote the lawful currency of the United Kingdom. "**EUR**", "**€**" and "**euro**" denote the single currency of the member states of the European Union that have the euro as their lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union. "**CHF**" and "**Swiss francs**" denote the lawful currency of Switzerland.

## 2. The Facility

- (a) The Facility is made available in the Base Currency but, if requested by the Borrower, BNPP may, subject to the availability of funds and of the applicable Interest Rate, and subject also to applicable laws, regulations and rules, make any individual Facility available in one or more Alternative Currencies.
- (b) BNPP may, at any time, calculate the aggregate amount of all outstanding Utilisations (including recalculating the Base Currency Amount of any or all Utilisations that are denominated in an Alternative Currency at that time) in order to determine whether the amount of the Facilities, or of any individual Facility, currently being utilised exceeds the Total





Facility Limit, or any applicable Individual Facility Limit. Without prejudice always to the generality of BNPP's rights under Clause 6 (*Right of Review*), if, following such recalculation, it is found that the Total Facility Limit or any applicable Individual Facility Limit is being exceeded, the relevant Borrower shall, within two Business Days of BNPP's demand, repay or prepay such amount of any Utilisation as is necessary to reduce the aggregate amount of all Utilisations (or all Utilisations under the relevant individual Facility, as the case may be) to below or equal to the Total Facility Limit and/or any relevant Individual Facility Limit (as applicable).

- (c) In the event that BNPP is unable or it is impracticable for BNPP to grant or continue to grant all or any part of the Facility in the Base Currency by reason of any of the following:
- (i) changes in national or international financial, political or economic conditions or currency availability or exchange rates or exchange controls; or
  - (ii) it becomes unlawful or illegal under, or contrary to, or additional conditions have been imposed by, any laws, regulations, directives, ruling or guidelines of any governmental or non-governmental or statutory authority for BNPP to grant or to continue to grant the Facility in the Base Currency,

then, notwithstanding any other provision of the Facility Documents, BNPP shall have the right in its absolute discretion to convert the Base Currency into any other currency as selected by BNPP, with prior notice to the Borrower to the extent reasonably possible.

### 3. **Bank Instrument Facilities – Utilisation**

- (a) Any Utilisation request for a Bank Instrument must be accompanied by the proposed form of the Bank Instrument that is required by the Borrower (or, where the relevant Bank Instrument is an Import L/C, the Utilisation request must provide the Bank with all information necessary for the Bank to be able to generate itself the form of the Bank Instrument), and such form must comply with the relevant requirements of the Facility Documents and must otherwise be acceptable to BNPP.
- (b) A Bank Instrument must:
- (i) be in favour of an acceptable person (as determined by BNPP in its absolute discretion);
  - (ii) have a Term which is not longer than the maximum Term specified in the Table;
  - (iii) (unless BNPP agrees otherwise) create only an autonomous, primary liability on the part of the issuer (rather than any accessory, secondary liability); and
  - (iv) be otherwise upon terms acceptable to BNPP and, as regards any Import L/C, be subject to the Uniform Customs and Practice for Documentary Credits (2007 revision) Publication 600 published by the International Chamber of Commerce.
- (c) In the event that the Borrower requests the issuance of a Bank Instrument without any amendment or otherwise with drafting that it imposes on BNPP, the Borrower shall assume full liability and responsibility in the event that the text of the Bank Instrument that BNPP may issue in accordance with the Borrower's instructions is not deemed suitable for the Beneficiary, or may cause risks or loss to the Borrower, including (without limitation) a refusal of a tender in any invitation to tender.
- (d) If BNPP agrees at the Borrower's request to issue a Bank Instrument in a language other than English, the Borrower hereby releases BNPP from any liability in connection with the use or interpretation of such other language. BNPP shall have no liability for a Correspondent Bank issuing a Bank Instrument in a language other than English, whether or not BNPP issued instructions on the use of language to such Correspondent Bank.
- (e) Notwithstanding any agreement by BNPP to issue such a Bank Instrument, where the legal nature of a Bank Instrument which is a guarantee either (i) is clearly accessory or (ii) is or may be ambiguous or uncertain (including not clearly autonomous or not clearly accessory), the Borrower agrees that (without prejudice to the Bank's other rights and discretions under the Facility Documents in relation to any such Bank Instrument and any Claim thereunder) BNPP may (but is not obliged to) consider and treat such Bank Instrument as an autonomous guarantee.
- (f) The Borrower hereby represents and warrants that it is acting with the consent of any third party whose obligations would be covered by a Bank Instrument or whose name is specified in any Utilisation request for a Bank Instrument, and that the Borrower will not receive any remuneration in connection with any Bank Instrument. BNPP shall have no responsibility or obligation to interact with any such third party, and shall have no responsibility for monitoring such third party's economic, accounting, legal or financial situation. In the event that the Borrower and any such third party have one or more directors, officers or senior managers in common, the Borrower hereby represents that each such Utilisation request and each such Bank Instrument have been duly authorised, including (where relevant and without limitation) as a related party or similar transaction.





- (g) The Borrower acknowledges that it understands and accepts the risks of the following provisions commonly appearing in guarantees, and hereby waives any obligation that BNPP might otherwise have to provide any information or warning in respect of a Bank Instrument with any such provisions:
- (i) Evergreen guarantees: a guarantee (or counter-guarantee) is extended automatically, unless terminated by the guarantor by notification to the Beneficiary (or to the Correspondent Bank, as applicable); in the event of a termination at the initiative of BNPP or any Correspondent Bank, BNPP will inform the Borrower of the same; in the event that the Borrower wishes to request that BNPP terminate the guarantee or counter-guarantee, the Borrower shall give BNPP prior written notice of its request not later than thirty (30) calendar days prior to the last day on which BNPP may serve a termination notice on the Beneficiary under the terms of the guarantee (or counter-guarantee);
  - (ii) Revolving guarantees and guarantees with uncertain monetary limits: the amount specified in a guarantee may be neither an absolute limit nor an amount that is eligible for successive reductions following payments made thereunder, regardless of the limit specified in the relevant Utilisation request (such as guarantees which are reconstitutable or available for their maximum amount for successive periods, known as "revolving"), or the guarantees may cover (in addition to a maximum amount of principal) costs, expenses and other ancillary amounts without limitation of amount; and
  - (iii) Uncertain expiry date: the expiry date of a guarantee may not be binding or clearly defined (whether as a result of drafting and/or of applicable law), such that the Borrower will not be released from its obligations to BNPP under the Facility Documents in relation to such a guarantee, notwithstanding the occurrence of the expiry date set out in the Utilisation request.
- (h) The Borrower agrees that it will not, without the prior written consent of BNPP:
- (i) amend, or acquiesce in any amendment of, any document or instrument relating to any underlying transaction to which a Bank Instrument relates; or
  - (ii) enter into any agreement, arrangement or understanding with a Beneficiary,
- in each case in any way which could increase BNPP's exposure or alter the nature of BNPP's risk under any Bank Instrument.
- (i) To the extent that any Bank Instrument is issued by a Correspondent Bank rather than by BNPP itself, the relevant provisions of the Facility Documents shall apply as if such Bank Instrument had been issued by BNPP, and in addition any references in the Facility Documents:
- (i) to any such Bank Instrument shall (where the context requires) be construed to include any guarantee, indemnity, reimbursement or similar arrangements between BNPP and the Correspondent Bank; and
  - (ii) to losses, claims, demands, liabilities or payments under any such Bank Instrument shall be construed to include losses, claims, demands, liabilities or payments in connection with any such guarantee, indemnity, reimbursement or similar arrangements between BNPP and the Correspondent Bank.

#### 4. **Claims under Bank Instruments**

- (a) The Borrower irrevocably and unconditionally authorises BNPP to:
- (i) honour any Bank Instrument requested by (or purporting to have been requested by) the Borrower; and
  - (ii) otherwise pay any claim made (or purporting to have been made) under such a Bank Instrument which appears on its face to be in order (a "**Claim**"),

even if the Borrower or any other person contests the honouring of that Bank Instrument or the payment of that Claim. A Claim so made shall by itself be sufficient authority to BNPP to make payment of the amount claimed. Any honouring or other payment of a Claim that is made by BNPP in compliance with this authority shall, as between BNPP and the Borrower, be conclusive evidence of BNPP's liability to honour or otherwise pay that Claim, including as to the manner and amount of it.

- (b) The Borrower acknowledges that BNPP shall at all times be entitled:
- (i) to deal in documents only;
  - (ii) to make payment in respect of each Claim without further investigation or enquiry and without any reference to or further authority from the Borrower or any other person; and



- (iii) not to be concerned with the validity, genuineness, propriety, accuracy or legality of any Claim, any document received by it under or pursuant to any Bank Instrument, any underlying transaction, debt or state of account or any possible set-off, counterclaim or other defence of the Borrower or any other person,

notwithstanding that the Borrower or any other person may dispute the validity of a Claim or that BNPP may (in its absolute discretion) discuss a Claim or related matters (such as related documents or the underlying transaction or any possible set-off, counterclaim or other defence of any person) with the Borrower or any other person, and it shall not be a defence to any demand made against the Borrower under the relevant Facility Documents that BNPP was or might have been justified in refusing to perform in whole or in part the obligations in respect of which demand is made against the Borrower.

- (c) If the Beneficiary of a Bank Instrument is an emanation of a state, any request or Claim from its representative or from any regulatory authority of such state, or from any entity of any form whatsoever which replaces or succeeds such state or regulatory authority, shall in each case be deemed to have been issued by the Beneficiary.
- (d) The Borrower irrevocably and unconditionally authorises BNPP to (or to permit that a Correspondent Bank or confirming bank does) discount or offer to discount or otherwise negotiate or honour any deferred Bank Instrument and to pay under that Bank Instrument (or any draft presented under it) before its maturity date in favour of an acceptable person (as determined by BNPP).
- (e) The Borrower unconditionally and irrevocably undertakes to provide BNPP on demand (and without set-off) with sufficient funds in the relevant currency of the Bank Instrument to meet all Claims that BNPP has paid or that BNPP determines that it shall pay under or in connection with each Bank Instrument.
- (f) The Borrower unconditionally and irrevocably undertakes to indemnify and hold harmless BNPP on demand from and against all losses, costs, damages, expenses, liabilities, actions, claims and demands whatsoever (together "**Losses**") which BNPP determines it may incur or sustain or which may be made against BNPP in connection with the issuance or entry into of, or the payment of Claims or the performance of obligations or the exercise of rights under, any Bank Instrument or any Facility Document, including without limitation:
  - (i) any legal fees incurred by BNPP in preserving or enforcing (or attempting to preserve or enforce) any of its rights under a Bank Instrument or any Facility Document (including, but not limited to, as a result of BNPP becoming a party to any legal proceedings that may be commenced against BNPP by a Beneficiary in the event that BNPP has determined that it is entitled to refuse to pay a Claim (but without prejudice always to BNPP's other rights under this Clause 4 (*Claims under Bank Instruments*))); and
  - (ii) all taxes and stamp, documentary, registration and similar duties (other than any tax in the United Kingdom which is calculated by reference to net income actually received or receivable by BNPP).
- (g) Notwithstanding any other provision of the Facility Documents or any law, the Borrower hereby expressly waives:
  - (i) any right it may have to require BNPP (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or to claim payment from any other person before claiming from the Borrower under the Facility Documents; and
  - (ii) any formal notice and all other formalities of any kind in relation to its obligations under Clauses 4(e) and 4(f) above.
- (h) The obligations of the Borrower under Clauses 4(e) and 4(f) above are continuing and shall remain in full force and effect until the Termination Date, regardless of any intermediate payment or discharge in whole or in part. Such obligations shall be in addition to and not in substitution for any other present or future guarantee, indemnity, other credit support or other right or remedy at any time held by or available to BNPP, and shall not be in any way prejudiced or affected thereby or by any invalidity, release, amendment, enforcement or non-enforcement thereof. Furthermore such obligations will not be affected by any act, omission, matter or thing which, but for this Clause 4(h), would reduce, release or prejudice any of such obligations (without limitation and whether or not known to BNPP or any other person) including:
  - (i) the sufficiency, accuracy or genuineness of any Claim or any other document;
  - (ii) any amendment, variation or extension of any Bank Instrument, any Facility Document or any other document;
  - (iii) any time, waiver or consent granted to, or composition with, the Borrower, any Beneficiary or any other person;
  - (iv) the release of any person under the terms of any composition or arrangement with any creditor of any member of the Group;
  - (v) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Beneficiary or any other person, or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;



- (vi) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Beneficiary or any other person;
- (vii) any amendment (however fundamental) or replacement of a Facility Document, any Bank Instrument or any other document or security;
- (viii) any unenforceability, illegality or invalidity of any obligation of any person under any Facility Document, any Bank Instrument or any other document or security; or
- (ix) any insolvency or similar proceedings.

**5. Interest and Issuance Fees**

- (a) Interest Periods under a Revolving Advances Facility and a Term Loan Facility shall be selected by the Borrower in a Utilisation request or any other document agreed to by BNPP, and (unless provided otherwise in the Table) shall be for 1, 3, or 6 months or such other period as BNPP may agree, but provided always that no Compounded Rate Loan shall have an Interest Period of less than 1 week or longer than 6 months, and provided further that to the extent that any Interest Period would otherwise extend beyond the Final Repayment Date, that Interest Period shall instead end on the Final Repayment Date. Each Interest Period for a Utilisation shall start on its drawdown date or (in the case of a Term Loan Facility and if such Utilisation has already been made) on the last day of its preceding Interest Period. In the case of a Revolving Advances Facility, a Utilisation has one Interest Period only.
- (b) The Borrower shall pay interest on a Revolving Advances Facility and a Term Loan Facility at the applicable Interest Rate on the last day of the relevant Interest Period and also (in the case of any Interest Period that is longer than six (6) months) on the last day of each six- (6)-month period during that Interest Period. The rate of interest on each Compounded Rate Loan for any day during an Interest Period is the percentage rate per annum which is the aggregate of the applicable Compounded Reference Rate for that day and the relevant Margin and if any day during an Interest Period for a Compounded Rate Loan is not an RFR Banking Day, the rate of interest on that Compounded Rate Loan for that day will be the rate applicable to the immediately preceding RFR Banking Day.
- (c) BNPP shall promptly upon a Compounded Rate Interest Payment being determinable notify the Borrower of:
  - (i) that Compounded Rate Interest Payment; and
  - (ii) to the extent it is then determinable, the Market Disruption Rate (if any) relating to the relevant Compounded Rate Loan;

and thereafter, if so requested by the Borrower in relation to that Compounded Rate Interest Payment, BNPP shall within 2 Business Days after such request provide the Borrower with details of each applicable rate of interest relating to the determination of that Compounded Rate Interest Payment.

BNPP's obligations in this Clause 5(c) shall not apply to any Compounded Rate Interest Payment that is determined by reference to Cost of Funds in accordance with Clause 5(j) below.

BNPP shall not be required to make any such notification to the Borrower on a day which is not a Business Day.

- (d) If two or more Interest Periods each relating to a separate Utilisation under a Term Loan Facility are in the same currency, are made to the same Borrower and end on the same date, those Utilisations will be consolidated into, and treated as, a single Utilisation under that Term Loan Facility on the last day of the Interest Period, and where the duration of each subsequent Interest Period of such consolidated single Utilisation shall be the longer, or (as the case may be) the longest, of the respective Interest Periods of the separate Utilisations immediately prior to such consolidation or alternatively any other period agreed between the relevant Borrower and BNPP.
- (e) The Borrower shall pay interest on an Overdraft Facility at the applicable Interest Rate. For this purpose, the Borrower hereby agrees that BNPP is authorised, without any notice to the Borrower, to debit such interest that is due and payable on an Overdraft Facility from the Current Account (or, if the Overdraft Facility is made available on more than one Current Account, from any of those Current Accounts as BNPP may (in its discretion) decide) on a monthly basis in accordance with the normal practice of BNPP or on any date on which an Overdraft Facility is withdrawn. In addition, if the Borrower fails to pay to BNPP any other sum due and payable by it in relation to an Overdraft Facility, BNPP shall have the right, without any notice to the Borrower, to debit any such sum from the Current Account (or, if an Overdraft Facility is made available on more than one Current Account, from any of those Current Accounts as BNPP may (in its discretion) decide), without prejudice to any other rights and remedies of BNPP against the Obligors.
- (f) In relation to the calculation of interest on any Overdraft Facility, the balances of the accounts of the Borrower held in different currencies or in the same currency will not be set off for the purposes of calculating such interest, and interest will be charged on the full gross amount of all Utilisations under such Overdraft Facility unless the Borrower has entered into separate cash pooling agreements with BNPP.



- (g) The issuance fees for a Bank Instrument do not include any out-of-pocket expenses or ancillary costs (including, without limitation, any Correspondent Bank fees or charges) that BNPP may incur in connection with the Bank Instrument or the costs or charges relating to any amendment of the Bank Instrument. These types of out-of-pocket expenses, ancillary costs, fees, costs and charges will be levied in accordance with BNPP's standard practices and BNPP shall be entitled to recover them from the (relevant) Borrower upon demand.
- (h) Where any Interest Rate is to be determined in relation to a Term Rate Loan, BNPP shall promptly notify the Borrower if BNPP determines at any time that:
  - (i) at or about noon on the Rate Fixing Day, either (A) no Screen Rate is available for the currency of the relevant amount or (B) no Screen Rate is available for a period equal to the required Interest Period and (if applicable) it is not possible to calculate an Interpolated Screen Rate for the relevant period; or
  - (ii) before close of business on the Rate Fixing Day, the cost to it of funding the relevant Utilisation from whatever source it may reasonably select would be in excess of EURIBOR; or
  - (iii) (in relation to any Utilisation yet to be granted) before close of business on the Rate Fixing Day, the relevant currency is not available to BNPP in the amount and for the period required.
- (i) Where any Interest Rate is to be determined in relation to a Compounded Rate Loan, BNPP shall promptly notify the Borrower if BNPP determines at any time that:
  - (i) there is neither an applicable RFR nor an applicable Central Bank Rate for the purposes of calculating the Daily Non-Cumulative Compounded RFR Rate for an RFR Banking Day during an Interest Period for a Compounded Rate Loan; or
  - (ii) before close of business on the Rate Fixing Day, the cost to it of funding the relevant Utilisation from whatever source it may reasonably select would be in excess of the relevant Market Disruption Rate.
- (j) If either Clause 5(h)(i), Clause 5(h)(ii), Clause 5(i)(i) or Clause 5(i)(ii) applies, the Interest Rate applicable to the Term Rate Loan or (as the case may be) Compounded Rate Loan for the relevant Interest Period shall be determined by reference to the Cost of Funds instead of (as the case may be) either EURIBOR or the relevant Compounded Reference Rate. If Clause 5(h)(iii) applies, such Utilisation shall not be granted.
- (k) The Borrower shall, within three Business Days of demand by BNPP, pay to BNPP its Break Costs attributable to all or any part of a Utilisation under an Advances Facility or an overdue amount being paid by the Borrower on a day other than the last day of an Interest Period for that Utilisation or overdue amount, but provided that Break Costs shall not apply to any Compounded Rate Loan.
- (l) If any Obligor fails to pay any amount payable by it under a Facility Document on its due date, that Obligor shall pay BNPP interest on that overdue amount from the due date up to the date of actual payment (both before and after judgment) calculated by reference to successive Interest Periods at the rate per annum that is equal to:
  - (i) if the overdue amount relates to an Advances Facility:
    - (1) (subject to sub-paragraph (2) below) two per cent. higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Utilisation under the relevant Advances Facility in the currency of the overdue amount for successive Interest Periods; or
    - (2) (if the overdue amount consists of all or part of a Utilisation under the relevant Advances Facility which became due on a day which was not the last day of an Interest Period relating to that Utilisation):
      - (A) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Utilisation; and
      - (B) the rate of interest applying to the overdue amount during that first Interest Period shall be two per cent. higher than the rate which would have applied if the overdue amount had not become due;
  - (ii) if the overdue amount relates to an Overdraft Facility, two per cent. higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Utilisation under the relevant Overdraft Facility in the currency of the overdue amount; or
  - (iii) if the overdue amount relates to a Bank Instrument Facility, the aggregate of: (A) two per cent; (B) the issuance fees applicable to that Bank Instrument Facility; and (C) the Base Rate for the currency of that overdue amount.



- (m) Any default interest accruing under Clause 5(l) above is immediately payable on demand by BNPP, and (if unpaid) shall be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but shall remain immediately due and payable.

## 6. **Right of Review**

- (a) Notwithstanding any other provision of the Facility Documents, the availability of the Facility is subject to review by BNPP at any time and BNPP shall have the right at any time upon written notice to the Borrower (which written notice may either have immediate effect or alternatively be subject to any notice period (as BNPP may in its absolute discretion specify therein, and without BNPP being under any obligation to give any reason or explanation for its decision)):

- (i) to decline to allow any Utilisation under any Facility to proceed; and/or
- (ii) to terminate, cancel (in whole or in part) and/or amend any Facility (including, without limitation, reducing or suspending, in whole or in part, that Facility) and/or amend the provisions of the Facility Documents; and/or
- (iii) to declare all or any part of the Outstanding Amounts to be due and payable at any time and demand their immediate repayment; and/or
- (iv) to enforce its rights under the Security Documents (where applicable); and/or
- (v) (in relation to a Bank Instrument Facility) with respect to each Bank Instrument issued by BNPP or any Correspondent Bank under that Facility, to require the Borrower to:
  - (1) procure that another bank issues a bank guarantee, letter of credit, bond or other relevant instrument to replace each such Bank Instrument issued by BNPP, so that BNPP is satisfied that it has no further liability under that Bank Instrument;
  - (2) procure that another bank satisfactory to BNPP issues a counter-guarantee in favour of BNPP in a form satisfactory to BNPP; and/or
  - (3) provide immediate cash cover,

in the case of (2) and/or (3) above, to cover the full liabilities of BNPP under each such Bank Instrument (inclusive of interest, costs, charges and expenses), and in each case if the Borrower fails to comply with any such requirement of (1), (2) and/or (3) above, BNPP shall be entitled to exercise any right of lien it may have over, and to set off against, any sums or securities held in any accounts of the Borrower with BNPP and for that purpose BNPP shall be entitled to debit and/or block the relevant accounts of the Borrower.

- (b) For the avoidance of doubt, any termination or cancellation of a Bank Instrument Facility pursuant to this Clause 6 (*Right of Review*) shall not affect any Bank Instruments previously issued by BNPP or any Correspondent Bank under that Bank Instrument Facility. However, if BNPP so terminates or cancels a Bank Instrument Facility or makes demand for repayment in respect of that Bank Instrument Facility, the Borrower shall, within the timeframe specified by BNPP or promptly if no timeframe is specified, repay the Bank Instruments, together with all accrued issuance fees and all other amounts outstanding under the Facility Documents in relation to that Bank Instrument Facility.
- (c) Notwithstanding the other provisions of this Clause 6 (*Right of Review*), if BNPP notifies the Borrower that it is or becomes unlawful in any applicable jurisdiction for BNPP or any Correspondent Bank to perform any of its obligations as contemplated by the Facility Documents or any particular Bank Instrument or to fund or maintain any particular Bank Instrument, the Borrower shall use its best endeavours to procure the release of each affected Bank Instrument by no later than the date specified by BNPP (being no earlier than the last day of any applicable grace period permitted by law).

## 7. **Voluntary Prepayment**

- (a) Subject to the terms of the Facility Letter, the Borrower may voluntarily prepay the whole or any part of any outstanding Utilisation, but provided always that:
  - (i) in the case of a Term Rate Loan, the Borrower must give BNPP not less than three Business Days' prior written notice;
  - (ii) in the case of a Compounded Rate Loan, the Borrower must give BNPP not less than five RFR Banking Days' prior written notice and provided furthermore that the Borrower shall not in any one-year period make more than three voluntary prepayments in aggregate of any Compounded Rate Loans; and
  - (iii) in the case of a Term Loan Facility, no such voluntary prepayment may be made earlier than the day following the last date on which that Term Loan Facility is available for utilisation in accordance with the "Utilisation mechanics" provision of the Table.



- (b) Any notice of voluntary prepayment given by a Borrower pursuant to the terms of the Facility Letter shall be irrevocable and shall specify the date upon which the relevant prepayment is to be made and the amount to be prepaid. Any prepayment shall be made together with accrued interest on the amount prepaid and, subject (where applicable) to Break Costs, without premium or penalty. Unless specified otherwise by the Borrower in the relevant notice of prepayment, any prepayment shall be applied *pro rata* against all Utilisations (excluding any Bank Instrument) then outstanding under the Facility.

## 8. Payments and Calculations

- (a) All payments to be made by the Obligors under the Facility Documents shall be paid (i) in immediately available, freely transferable cleared funds on the due date to such account(s) with such bank(s) as BNPP may notify to the Obligors, and in the currency in which they are required by the terms of the Facility Documents to be paid; (ii) exclusive of any Tax; and (iii) in full, without any set-off or counter-claim and free and clear of any withholding or deduction (including, but not limited to, in respect of Tax), except as required by law.
- (b) If any withholding or deduction (including, but not limited to, in respect of Tax) is required by law from any payment, the relevant Obligor shall:
  - (i) increase the sum payable by it under the relevant Facility Document so that, after making the minimum deduction or withholding required, BNPP shall receive and be entitled to retain a net sum at least equal to the sum which it would have received had the deduction or withholding not been made; and
  - (ii) within 30 days of that payment, forward to BNPP confirmation from the relevant tax authority evidencing receipt by it of that deduction or withholding.
- (c) All sums set out or expressed in a Facility Document to be payable by any Obligor to BNPP are exclusive of any applicable value added tax or other tax of a similar nature that BNPP may be obliged to charge in connection with such sums. Accordingly each Obligor shall pay to BNPP (in addition to and at the same time as paying each such sum) the amount of any such value added tax or other tax of a similar nature.
- (d) The Base Currency is the currency of account and payment for any sum due from an Obligor under any Facility Document, except that:
  - (i) any repayment or prepayment of a Utilisation or overdue amount shall be made in the currency in which that Utilisation or overdue amount is denominated, pursuant to the Facility Documents, on its due date;
  - (ii) each payment of interest (including default interest) or of issuance fees on a Utilisation under a Bank Instrument Facility shall be made in the currency in which the sum in respect of which the interest or issuance fees is/are payable was denominated, pursuant to the Facility Documents, when that interest or those issuance fees accrued;
  - (iii) each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred; and
  - (iv) any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.
- (e) Any payment under the Facility Documents which would otherwise be due to be made on a day that is not a Business Day shall instead be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not). In either case interest and issuance fees calculations shall, where necessary, be adjusted accordingly.
- (f) Unless otherwise agreed between the Borrower and BNPP, all fees and issuance fees payable are non-refundable (regardless of whether and to what extent the Facility may have been drawn or is subsequently withdrawn) and are exclusive of any Tax or similar charges.
- (g) Interest (including, for the avoidance of doubt, any default interest payable in accordance with Clause 5(l)), as well as any issuance fees on any Utilisation under a Bank Instrument Facility and also (where expressed as a percentage rate per annum) any other fees due under the Facility Letter, shall accrue from day to day and shall be calculated:
  - (i) on the basis of (A) the actual number of days that have elapsed (or, as the case may be, that will elapse) during the relevant period over which they shall be calculated and (B) a year of 360 or 365 days (depending on the relevant currency (as determined by BNPP)); and
  - (ii) without rounding, except only that the aggregate amount of any such accrued interest, issuance fees or other fees which are, or become, payable by an Obligor under a Facility Document shall be rounded to 2 decimal places.





- (h) If no other arrangements that comply with the requirements of this Clause 8 for payment have been notified to BNPP, BNPP is authorised without notice to debit when due amounts owing from any Obligor under any Facility Document against any account of that Obligor selected by BNPP.

## 9. Representations and Warranties

Each Obligor represents and warrants to BNPP that:

- (a) (*status*) it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation;
- (b) (*binding obligations*) subject to any laws of general application limiting debtors' obligations, the obligations expressed to be assumed by it in the Facility Documents are legal, valid, binding and enforceable obligations;
- (c) (*non-conflict*) the entry into, acceptance and performance by it of, and the transactions contemplated by, the Facility Documents do not and will not (i) conflict with any law or regulation applicable to any Obligor or its constitutional documents; (ii) cause any limitation on any Obligor or the powers of its directors (where applicable), whether imposed by or contained in any law, order, judgment, agreement, instrument or otherwise, to be exceeded; (iii) conflict with any agreement or instrument binding upon any Obligor or any of its assets; or (iv) result in the creation or imposition of any Encumbrance over any assets of any Obligor other than those created pursuant to the Facility Documents;
- (d) (*power and authority*) it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Facility Documents and the transactions contemplated by the Facility Documents;
- (e) (*sanctions*) none of the Obligors, nor any of their respective Subsidiaries, directors or officers, nor (to the best of its knowledge) any of their respective other Affiliates, agents or employees, nor (to its knowledge) any Beneficiary, is a person that is, or is owned or controlled by persons that are, either (i) a Sanctioned Person or (ii) located, organised or resident in a Sanctioned Country;
- (f) (*anti-bribery, anti-corruption and anti-money laundering*) none of the Obligors, nor any of their respective Subsidiaries, directors or officers, nor (to the best of its knowledge) any of their respective other Affiliates, agents or employees, nor (to its knowledge) any Beneficiary, has engaged in any activity or conduct which would violate any applicable anti-bribery, anti-corruption or anti-money laundering laws, regulations or rules in any applicable jurisdiction, and it has instituted and maintains policies and procedures designed to prevent the violation of such laws, regulations and rules;
- (g) (*validity and admissibility*) all authorisations, consents, approvals, resolutions, licences, exemptions, filings, notarisations, lodgements or registrations required or desirable (i) in connection with its entry into of, and its compliance with its obligations under, the Facility Documents; (ii) to make the Facility Documents admissible in evidence in its jurisdiction of incorporation; and (iii) in order for it and its Subsidiaries to carry on their business, have been obtained or effected and are in full force and effect;
- (h) (*solvency*) no steps have been taken or are being taken to appoint a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any of its assets, or to wind up any member of the Group;
- (i) (*financial statements*) each Obligor's most recent audited financial statements and (if any) audited consolidated financial statements delivered to BNPP pursuant to the Facility Documents present a true and fair view of the financial position and operations of that Obligor and its Subsidiaries as at the date to which they were drawn up and have been prepared in accordance with GAAP, consistently applied;
- (j) (*FATCA*) it is not a US Tax Obligor; and
- (k) (*Bank Instrument Facilities*) (in relation to a Bank Instrument Facility, where applicable) it has undertaken all relevant analysis of, and has understood, the rules of the International Chamber of Commerce (including those generally known as "UCP 600", "URDG 758" and "ISP 98" and any other relevant rules).

## 10. Undertakings

Each Borrower undertakes that:

- (a) (*ranking of obligations*) its obligations under the Facility Documents shall at all times rank at least *pari passu* with all its other unsecured and unsubordinated indebtedness, except for obligations mandatorily preferred by law applying to companies generally;
- (b) (*compliance with laws*) it shall comply in all material respects with all applicable laws and it shall obtain and maintain in full force and effect any authorisation, consent, registration or approval required in connection with the performance of





its obligations under the Facility Documents or to ensure the legality, validity and enforceability or admissibility in evidence of the Facility Documents in any applicable jurisdiction;

- (c) (*other information*) it shall provide BNPP with such information relating to its business, finances, operation and management or any other information which BNPP may reasonably request from time to time;
- (d) (*FATCA*) it shall supply to BNPP such forms, documentation and other information relating to its status under FATCA as BNPP may reasonably request;
- (e) (*nature of business*) no substantial change shall be made to the general nature of its business from that carried on at the date of the Facility Letter;
- (f) (*notice of default*) it shall notify BNPP in writing of any event or circumstance which constitutes a default under any agreement binding upon it (including the Facility Documents) and which has or is reasonably likely to have a Material Adverse Effect (and, in each case, the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence;
- (g) (*notice of proceedings*) it shall promptly notify BNPP in writing of any litigation, arbitration or administrative proceedings started or threatened against it which, if adversely determined, have or are reasonably likely to have a Material Adverse Effect;
- (h) (*sanctions*) it will not, directly or indirectly, use the proceeds or other benefit of any Utilisation (or (where applicable) permit any payment that is to be made by BNPP or any Correspondent Bank to any Beneficiary in accordance with the terms of any Bank Instrument to be used), or lend, contribute or otherwise make available such proceeds or other benefit to any Subsidiary, joint venture partner or other person either (i) to fund any activities or business of or with any person, or in any country or territory, that, at the time of such funding, is a Sanctioned Person or a Sanctioned Country, or (ii) in any other manner that would result in a violation of Sanctions by any person (including BNPP and any other person participating in any Utilisation, whether as underwriter, advisor, investor, or otherwise);
- (i) (*reorganisations*) it shall not without BNPP's prior written consent undertake or permit (i) any amendment of its present constitution which, directly or indirectly, would affect its corporate existence and would result in it ceasing to exist as a solvent surviving entity or which would have or would be reasonably likely to have a Material Adverse Effect or (ii) any other scheme or compromise or arrangement with any creditor of any member of the Group which would have or would be reasonably likely to have a Material Adverse Effect;
- (j) (*GAAP*) it shall procure that each set of financial statements delivered to BNPP pursuant to the Facility Documents is prepared in accordance with GAAP, and shall inform BNPP of any change in GAAP and shall deliver all necessary information in order for BNPP to assess the new financial condition of each Obligor and its Subsidiaries;
- (k) (*know-your-customer*) it shall promptly, upon the request of BNPP, supply or procure the supply of such documentation and other evidence as is reasonably requested by BNPP in order for BNPP to carry out all necessary "know-your-customer", "know-your-transaction" or other similar checks on customers or transactions under all applicable laws for the purposes of the transactions contemplated in the Facility Documents;
- (l) (*immunity from suit*) it will not claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to any Facility Document; and
- (m) (*credit support and security documentation*) it shall (and that it shall also procure that each Credit Support Provider that is not also a Borrower shall) do all such acts and execute all such documents as may be requested by BNPP to perfect the security created or expressed to be created under any Security Document (including effecting all required registrations and sending all required notices).

#### 11. **Anti-Money Laundering and other Laws**

- (a) Without prejudice to the generality of BNPP's rights under Clause 6 (*Right of Review*), BNPP may block or refuse to make a payment under or in connection with any Facility, and may refuse to permit a Utilisation under any Facility, if it believes on reasonable grounds that making such payment or Utilisation may breach any applicable law (including, without limitation, any law relating to anti-money laundering, anti-terrorist financing, anti-corruption, anti-bribery or Sanctions) or any internal compliance requirements of BNPP.
- (b) In the event that:
  - (i) BNPP is served with or notified of or otherwise in any way affected by any law, directive, regulation, rule, judicial or administrative order, judgment, injunction, government act, sanction, decree, writ or other form of judicial or administrative process, whether having the force of law or not (collectively, a "**Process**"), which may affect or relate to or is referable to, or appears to affect or relate to or to be referable to, any Obligor or the Obligor Transaction(s) (as defined in Clause 14(a) (*Indemnities*) below), or any of its accounts held with BNPP or its Affiliates or any interbank account of BNPP or its Affiliates; or



- (ii) BNPP in its opinion considers that it is necessary under any applicable Process which BNPP or its Affiliates are subject to or affected by or under any non-statutory practice, procedures or guidelines (whether having the force of law or not) with which it is BNPP's or its Affiliate's practice or policy to comply,

BNPP and its Affiliates may, and each Obligor hereby irrevocably authorises them to, comply therewith in any manner or to take any action in relation thereto as it or its lawyers deem appropriate, including freezing, blocking and/or suspending or withholding payment of all or any amount(s) standing to the credit of any Obligor's accounts held with BNPP or such Affiliates and/or terminating or suspending the Facility or any part thereof.

- (c) Neither BNPP nor any of its Affiliates shall be liable to any Obligor or any other person or entity in any manner whatsoever for any action or omission taken by BNPP or its Affiliates pursuant to this Clause.

## 12. Increased Costs

Each Borrower shall promptly on demand by BNPP (and in any event within 15 days after demand by BNPP) pay to BNPP the amount of any Increased Costs incurred by BNPP or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law, rule, directive or regulation or (ii) compliance with any law, rule, directive or regulation made after the date of the Facility Letter, unless such Increased Costs are attributable to the wilful breach by BNPP or the relevant Affiliate of any law or regulation or are compensated for under Clause 14(a)(ii).

## 13. Costs and Expenses

- (a) Each Borrower shall promptly on demand pay to BNPP the amount of all (in the case of (i) and (ii), reasonable) costs and expenses (legal or otherwise, on a full indemnity basis) incurred by BNPP in connection with (i) the negotiation, preparation, printing, execution, registration and perfection of any Facility Document or any other documents executed pursuant to any Facility; (ii) responding to, evaluating, negotiating or complying with any request from any Obligor for any amendment, waiver or consent in connection with any Facility; and (iii) the enforcement or preservation of any rights of BNPP under any Facility Document.
- (b) Each Borrower shall indemnify and reimburse BNPP for any reasonable cost, loss or expense incurred by BNPP (including, without limitation, any Cost of Funds) as a result of (i) any payment (including payment of interest) or prepayment being made other than as expressly permitted or required in any Facility Document or a payment being received in a currency other than the currency required by the terms of the Facility Documents or (ii) any failure by the Borrower to borrow on the date or in the currency specified in a Utilisation request. The foregoing provision will not apply where the cost, loss or expense arises directly from the gross negligence, wilful misconduct or fraud of BNPP, its Affiliates, agents, employees or officers.

## 14. Indemnities

- (a) Each Borrower shall promptly on demand indemnify and keep indemnified BNPP (including its head office and any and all branches of BNPP), its Affiliates, agents, employees and officers against:
  - (i) all claims, demands, actions, liabilities, charges, proceedings, warrants or injunctions, damages, losses (including loss of profit), reasonable costs and expenses (legal or otherwise);
  - (ii) all stamp duty, registration taxes and any other direct or indirect taxes (including an amount equal to the loss, liability or cost which BNPP determines will be or has been (directly or indirectly) suffered by it for or on account of Tax in respect of a Facility Document (other than on account of any Tax in the United Kingdom or in BNPP's jurisdiction of incorporation that (in each case) is imposed on or calculated by reference to net income actually received or receivable (but not any sum deemed to be received or receivable) by BNPP));
  - (iii) any loss of bargain, Cost of Funds or any other loss incurred in liquidating, obtaining or re-establishing any swap, hedge or related trading positions or in the closing out of any foreign exchange or interest rate contract as a result of any prepayment of any Facility prior to its stated maturity (whether such prepayment is on demand by BNPP or otherwise (including any loss or cost due to internal hedging arrangements being unwound)); and
  - (iv) any shortfall arising from converting any payment to BNPP at the rate of exchange on the date of such payment to the extent that the converted amount falls short of the amount unpaid under the relevant Facility,

in each case, arising from or in connection with any Facility, any Utilisation or the performance, preservation and/or enforcement by BNPP of its rights and/or obligations under any Facility Document (including, but not limited to, those arising from (A) any transaction relating to any Obligor or any of the Obligors' accounts with BNPP or its Affiliates (an "**Obligor Transaction**"), (B) BNPP relying or acting (or (as the case may be) declining to act) on any communication or instructions (or purported communication or instruction) from any person BNPP reasonably believes is duly authorised (or (as the case may be) not duly authorised) to act on behalf of such Obligor, including any reliance by BNPP in good faith on any communication or instruction by telephone, fax, electronic mail or other electronic means).



- (b) The foregoing Clause 14(a) will not apply where the claim, loss or liability arises directly from the gross negligence, wilful misconduct or fraud of BNPP, its Affiliates, agents, employees or officers.

15. **Set-Off**

In addition to any rights to which BNPP or any of its Affiliates may be entitled at law or under the other Facility Documents or otherwise, both BNPP and each of its Affiliates will have the right (but not the obligation), at any time and without prior notice to the Borrower, to set off any present and/or future obligations and liabilities (whether actual or contingent) of the Borrower to BNPP (including its head office and any and all branches of BNPP) or any of its Affiliates against any obligation owed by BNPP (including its head office and any and all branches of BNPP) or any of its Affiliates to the Borrower, whether such obligation is matured or not matured and whether actual or contingent, and regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, BNPP or any of its Affiliates may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

16. **Certificates and Determinations**

Any certification or determination by BNPP of a rate, amount or any other subject matter under any Facility Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

17. **Application of Moneys**

If any sum paid or recovered pursuant to any Facility Document is less than the amount due, BNPP may apply such sum to principal, interest, fees or any other amount due under any Facility Document in such proportion, order and manner as it determines.

18. **Partial Invalidity**

If, at any time, any provision of any Facility Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions, nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

19. **Remedies and Waivers**

No failure to exercise, nor any delay in exercising, on the part of BNPP, any right or remedy under the Facility Documents shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Facility Documents. No election to affirm any Facility Document on the part of BNPP shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in the Facility Documents are cumulative and not exclusive of any rights or remedies provided by law.

20. **Reinstatement**

Any settlement or discharge between BNPP and the Borrower shall be conditional upon no security or payment to BNPP by the Borrower or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency or liquidation for the time being in force and BNPP shall be entitled to recover from the Borrower the value which BNPP has placed upon such security or the amount of such payment as if such settlement or discharge had not occurred.

21. **Amendment and Waiver**

- (a) Without prejudice always to the generality of BNPP's rights under Clause 6 (*Right of Review*), these Standard Terms are subject to change from time to time at BNPP's sole discretion. The Borrower accepts that these Standard Terms may be amended or updated unilaterally by BNPP from time to time, and any such amendments and updates of the Standard Terms which are notified in writing by BNPP to the Borrower from time to time shall apply to the Facility Letter. Any such amendments and updates shall take effect in accordance with the terms of any such notification in writing, which may be with immediate effect. The Borrower will be deemed to have accepted any such amendments and updates by continuing to make use of the Facility after such amendments and updates have taken effect.
- (b) Without prejudice always to the generality of BNPP's rights under Clause 6 (*Right of Review*), and unless otherwise provided in the relevant Facility Document, no provision of any Facility Document (other than these Standard Terms) may be amended or waived except by written agreement between the parties.

22. **Further Assurance**

Each Obligor undertakes to execute and deliver such further documents and to perform such further acts as BNPP may require to implement the purposes of the Facility Documents or any of the transactions contemplated by the Facility Documents, to perfect or protect any Encumbrance created (or intended to be created) pursuant to any Facility Document, or to facilitate the appropriation or realisation of any right or other asset of any Obligor over which BNPP has an Encumbrance.



23. **Assignment and Transfer**

- (a) Subject to this Clause 23, BNPP may assign any of its rights under the Facility Documents, or transfer by novation any of its rights and obligations under the Facility Documents, to any person, provided that the prior written consent of the Borrower is required for any such assignment or transfer unless the assignment or transfer is:
- (i) to an Affiliate of BNPP; or
  - (ii) made at a time when a default by any Obligor under, or any non-compliance by any Obligor with, any term of any of the Facility Documents is continuing.
- (b) Any consent of the Borrower to an assignment or transfer that is required pursuant to Clause 23(a) above must not be unreasonably withheld or delayed. The Borrower will be deemed to have given its consent five Business Days after BNPP has requested it unless consent is expressly refused by the Borrower within that time.
- (c) Subject to the conditions set out in Clause 23(a) above, a transfer by novation by BNPP of any of its rights and obligations under the Facility Documents is effected when BNPP and the new lender have each executed a duly completed Transfer Certificate. BNPP shall, as soon as reasonably practicable after it and the new lender have executed a Transfer Certificate, send to the Borrower a copy of that Transfer Certificate. On the date specified in such Transfer Certificate to be the transfer date:
- (i) to the extent that in the Transfer Certificate BNPP seeks to transfer by novation its rights and obligations under the Facility Documents, each of the Obligors and BNPP shall be released from further obligations towards one another under the Facility Documents and their respective rights against one another under the Facility Documents shall be cancelled (being the "**Discharged Rights and Obligations**");
  - (ii) each of the Obligors and the new lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as that Obligor and the new lender have assumed and/or acquired the same in place of that Obligor and BNPP; and
  - (iii) the new lender shall become a party to the Facility Documents in place of BNPP.
- (d) The procedure set out in Clause 23(c) for a transfer by novation shall not apply to any right or obligation under any Facility Document if and to the extent that its terms, or any laws or regulations applicable thereto, provide for or require a different means of transfer of such right or obligation or prohibit or restrict any transfer of such right or obligation, unless such prohibition or restriction shall not be applicable to the relevant transfer or each condition to any applicable restriction shall have been satisfied.
- (e) In addition to the other rights provided to BNPP under this Clause 23, BNPP may (without consulting with or obtaining consent from any Obligor):
- (i) enter into, whether directly or indirectly, any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Facility Documents and/or one or more Obligors, and including, without limitation, any transaction with any insurer, reinsurer, securitisation vehicle, trust or fund for the purpose of BNPP refinancing or hedging any of its interests under the Facility Documents; and
  - (ii) at any time charge, assign, declare a trust over or otherwise create an Encumbrance in or over (whether by way of collateral or otherwise) any or all of its rights or obligations under any Facility Document to secure obligations of BNPP including, without limitation:
    - (1) any charge, assignment or other Encumbrance to secure obligations to a federal reserve or central bank; and
    - (2) any charge, assignment or other Encumbrance granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by BNPP as security for those obligations or securities,except that no such charge, assignment or Encumbrance shall:
    - (A) release BNPP from any of its obligations under the Facility Documents or substitute the beneficiary of the relevant charge, assignment or Encumbrance for BNPP as a party to any of the Facility Documents; or
    - (B) require any payments to be made by an Obligor other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to BNPP under the Facility Documents.



- (f) BNPP may also from time to time change its facility office in relation to all or a specified part of the Facility outstanding by giving written notification to the Borrower thereof.
- (g) The Borrower is not permitted to assign or transfer any of its rights or obligations under any Facility Document without the prior written consent of BNPP.

#### 24. Counterparts

Each Facility Document may be executed in any number of counterparts, which has the same effect as if the signatures on the counterparts were on a single copy of that Facility Document.

#### 25. Entire Agreement

The Facility Letter, together with its Schedules and the other Facility Documents (including the latest version of the Standard Terms as notified to the Borrower from time to time and any other terms incorporated by reference into the Facility Letter), set out the entire agreement between the parties and supersede any prior oral and/or written understandings or arrangements relating to the Facility.

#### 26. Prevalence of terms

If there is any conflict or inconsistency between the provisions of the Facility Letter and these Standard Terms (or any other Facility Document), the provisions of the Facility Letter shall prevail.

#### 27. Notices

- (a) Any communication to be made under or in connection with the Facility Documents (including, but not limited to, any Utilisation request) shall be made in writing and, unless otherwise stated and subject to Clause 27(g) below, may be made by hard-copy letter, by fax or by electronic mail, but provided that where a Borrower delivers a Utilisation request by electronic mail, such electronic mail must include, as an attached file, a scanned copy of the Utilisation request as signed on behalf of that Borrower by an authorised signatory.
- (b) The delivery address, fax number and electronic mail address(es) (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with the Facility Letter are those set out in the Facility Letter or (in the case of any communication by BNPP to an Obligor) any notice details last known to BNPP. A party may notify the other(s) of any change in such notice details by not less than 5 Business Days' prior written notice.
- (c) Any communication or document made or delivered by BNPP to the Borrower under or in connection with the Facility Documents will be effective:
  - (i) if by way of fax or electronic mail, only when received in legible form; or
  - (ii) if by way of letter, only when it has been left at the relevant address or 5 Business Days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address;and, if a particular department or officer is specified as part of its address details provided under Clause 27(b) above, if addressed to that department or officer.
- (d) Any communication or document made or delivered by an Obligor to BNPP will be effective only when actually received by BNPP and then only if it is expressly marked for the attention of the department or officer specified as part of its address details provided under Clause 27(b) above.
- (e) Any communication or document made or delivered to the Borrower will be deemed to have been made or delivered to the other Obligor(s), if any.
- (f) Any notice given under or in connection with the Facility Documents must be in English. All other documents provided under or in connection with any Facility Document must be in English or, if not in English and BNPP so requests, accompanied by a certified English translation, in which case the English translation will prevail unless the document is a constitutional, statutory or other official document.
- (g) The provisions of this Clause 27 are, in the case of the delivery by the Borrower of a request for a Utilisation of a Bank Instrument Facility, without prejudice to any right of the Borrower to deliver such a Utilisation request by means of separate electronic banking arrangements (including, but not limited to, Connexis and/or Centric) which allow for electronic requests for such Utilisations, if any such separate electronic banking arrangements have been entered into between the Borrower and BNPP. In such a case, such a Utilisation request may be made in accordance with BNPP's terms and conditions governing those arrangements to the extent that such terms and conditions differ from the requirements of this Clause 27.



## 28. Third Party Rights

- (a) Subject to this Clause 28 and to Clause 15 (*Set-Off*) and unless expressly provided to the contrary in the relevant Facility Document, a person who is not a party to any Facility Document has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of that Facility Document.
- (b) BNPP's Affiliates may enjoy the benefit of the terms of Clause 15 (*Set-Off*) subject to and in accordance with this Clause 28 and the provisions of the Third Parties Act.
- (c) Notwithstanding any provisions of these Standard Terms or of any other Facility Document, the consent of any person who is not a party to the relevant Facility Document is not required to rescind or vary such Facility Document at any time.

## 29. Consent to disclosure

Each Obligor (for itself and on behalf of the other Obligors) hereby irrevocably and expressly consents to the disclosure of, and authorises and permits BNPP and its employees and agents at any time to disclose, such information relating to any Obligor and/or any Facility (including, but not limited to, details of each Obligor's account relationship with BNPP, the Facility Documents and, if applicable, each Obligor's foreign exchange, money market, fixed income and/or derivative transactions ("**Transactions**") with BNPP) and any other customer information to BNPP's head office, other branches, regional offices, representative offices and Affiliates and to any fund owned, managed or advised by BNPP or any of its Affiliates (all such offices, branches and persons together, the "**BNPP Group**"), and to the professional advisers and auditors of any member of the BNPP Group and their respective employees and agents, and to any governmental or regulatory agencies or authorities or supranational entity or body, administrative, fiscal or judicial body, courts and tribunals, and to any other authorities of whatsoever nature (in each case whether within or outside England), and to any exchange, market, clearing house, depository or trade repository, and to any potential assignee or transferee or persons who have entered into or who are proposing to enter into any sub-participation, credit derivative, risk transfer or risk participation transaction (including, without limitation, any insurer, reinsurer, securitisation vehicle, trust or fund, for the purpose of BNPP refinancing or hedging any of its interests under the Facility) or any other contractual arrangements with BNPP in relation to the banking facilities between any Obligor and BNPP and/or the Transactions (as applicable), including, without limitation, any person to whom BNPP may be liable in connection with an Obligor's obligations under the Transactions (if applicable) or any other person from time to time. This consent shall survive and continue in full force and effect for the benefit of BNPP notwithstanding the repayment, cancellation or termination of the Facility or any part thereof, the completion, settlement or termination of any Transaction (if applicable) and/or the termination of one or more types of banker-customer relationships between an Obligor and BNPP.

## 30. Data Protection

- (a) Each Obligor acknowledges that, subject to any applicable laws, regulations and rules, BNPP may, as controller (as this term is defined in the GDPR):
  - (i) record, retain, use and otherwise process records and information about that Obligor and any individual whose Personal Data is disclosed to BNPP by or on behalf of that Obligor (each a "**Data Subject**"), including Personal Data in the special categories referred to in Articles 9 and 10 of the GDPR; and
  - (ii) use and otherwise process information about that Obligor's assets, accounts and transactions,

for the purposes of providing any Facility or other purposes reasonably ancillary thereto or otherwise stated in BNPP's CIB Data Protection Notice located on its global CIB corporate website ([https://cib.bnpparibas.com/about/privacy-policy\\_a-38-60.html](https://cib.bnpparibas.com/about/privacy-policy_a-38-60.html)) as amended from time to time (the "**Data Protection Notice**") and/or to comply with applicable laws, regulations and rules.

- (b) The Data Protection Notice sets out the obligations of BNPP and each Data Subject's rights regarding this collection, use and other processing and provides the legally required information in this respect, including information regarding the legal basis for the processing, the sources and categories of the collected Personal Data, the categories of recipients of the Personal Data and the criteria used to determine the period for which the Personal Data will be stored.
- (c) Each Obligor undertakes and warrants that, before disclosing to BNPP any Personal Data in relation to a Data Subject, it has brought to the attention of its Data Subjects the Data Protection Notice and this Clause 30, and each Obligor acknowledges that BNPP and/or any of its Affiliates may process the Data Subjects' Personal Data as set out in the Facility Documents and the Data Protection Notice.
- (d) Unless legally or contractually obliged to do so, each Obligor and its Data Subjects are not subject to any obligation to provide BNPP or any of its Affiliates with its or their Personal Data. However, access to and use of any Facility and any related services provided by BNPP or any of its Affiliates may not be able to commence or continue if the Obligor or its Data Subjects do not provide Personal Data on request.

## 31. Mode of Communications

The Borrower irrevocably and unconditionally:





- (a) requests and authorises BNPP to accept, rely on and act in accordance with any communication or instruction from or on behalf of that Borrower by telephone, fax, electronic mail or any other electronic means to the extent such means are acceptable to BNPP in its discretion, without any obligation on the part of BNPP to enquire as to the genuineness, completeness, authenticity, correctness or validity thereof;
- (b) acknowledges that the giving of any such communication or instruction by telephone, fax, electronic mail or any other electronic means is an insecure means of communication and is exposed to inherent network and intrusion vulnerabilities, that BNPP makes no representations or warranties whatsoever as to the security, completeness or integrity of any information, communication or instruction transmitted via such means, that BNPP shall not be responsible for any loss of security or integrity or breach of confidentiality arising from the use of any such form of communication, and further that any communication or instruction transmitted via such means may not be read or executed by the recipient at all or in a timely manner; and
- (c) confirms that in any legal proceedings brought in respect of any such communication or instruction by telephone, fax, electronic mail or any other electronic means which is reasonably relied upon by BNPP in connection with the Facility or the Facility Documents, the correctness, validity, accuracy, completeness, enforceability, authenticity and genuineness of such communication or instruction shall be fully binding, admissible and conclusive upon the Borrower and shall not be affected or challenged merely on the ground that it is sent or received via such means.





SCHEDULE 1

FORM OF TRANSFER CERTIFICATE

THIS TRANSFER CERTIFICATE is dated [●] and is made between:

- (1) BNP Paribas, London Branch ("BNPP"); and
- (2) [Full Legal Name of New Lender] (the "New Lender")

IT IS HEREBY AGREED as follows:

- 1. This Transfer Certificate relates to the [insert amount] Facility Letter dated [insert date] entered into between BNPP and [Full Legal Name of Borrower] (the "Facility Letter"). This is a Transfer Certificate for the purposes of the Facility Letter and the Standard Terms. Terms defined in the Facility Letter have the same meaning in this Transfer Certificate unless given a different meaning in this Transfer Certificate.
- 2. BNPP and the New Lender hereby agree to BNPP transferring to the New Lender by novation, in accordance with Clause 23(c) (Assignment and Transfer) of the Standard Terms, all of BNPP's rights and obligations under the Facility Letter and the other Facility Documents.
- 3. The transfer date is [insert date].
- 4. The facility office/delivery address, fax number and electronic mail address(es) (and the department or officer, if any, for whose attention the communication is to be made) of the New Lender for the purposes of Clause 27(b) (Notices) of the Standard Terms are as follows:

Address	Fax	Email	Attention of
[xxx]	[xxx]	[xxx]	[xxx]

- 5. The New Lender hereby:
  - (a) acknowledges and agrees that, unless expressly agreed to the contrary, BNPP makes no representation or warranty and assumes no responsibility to the New Lender for:
    - (i) the legality, validity, effectiveness, adequacy or enforceability of the Facility Documents or any other documents;
    - (ii) the financial condition of any Obligor;
    - (iii) the performance and observance by any Obligor of its obligations under the Facility Documents or any other documents; or
    - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Facility Document or any other document,
 and any representations or warranties implied by law are excluded;
  - (b) confirms to BNPP that it:
    - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with the Facility Documents and has not relied exclusively on any information provided to it by BNPP in connection with any Facility Document; and
    - (ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Facility Documents;
  - (c) acknowledges and agrees that nothing in any Facility Document obliges BNPP to:
    - (i) accept a re-transfer or re-assignment from the New Lender of any of the rights and obligations transferred under this Transfer Certificate; or



- (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by any Obligor of its obligations under the Facility Documents or otherwise;

and

- (d) acknowledges and agrees that it is the responsibility of the New Lender to ascertain whether any other documents are required, or any other formalities or other conditions are required to be completed or satisfied, in order to effect or perfect the transfer contemplated by this Transfer Certificate (including, but not limited to, a transfer of BNPP's interest in any relevant Security Documents) or otherwise to enable the New Lender to enjoy the full benefit of each Facility Document.
6. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
7. This Transfer Certificate and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of England.

This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

For and on behalf of  
**BNP PARIBAS, LONDON BRANCH**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:

For and on behalf of  
**[FULL LEGAL NAME OF NEW LENDER]**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:

**Note:** The execution of this Transfer Certificate may not transfer BNPP's interest in any relevant Security Documents in all jurisdictions. It is the responsibility of the New Lender to ascertain whether any other documents are required, or any other formalities or other conditions are required to be completed or satisfied, in order to effect or perfect the transfer contemplated by this Transfer Certificate (including but not limited to, a transfer of any such Security Documents) or otherwise to enable the New Lender to enjoy the full benefit of each Facility Document, and, if so, to arrange for the execution of those documents and the completion and satisfaction of those formalities and conditions.



## SCHEDULE 2

### REFERENCE RATE TERMS

#### PART I DOLLARS

**CURRENCY:**

Dollars.

**Definitions**

**Central Bank Rate:**

- (a) The short-term interest rate target set by the US Federal Open Market Committee as published by the Federal Reserve Bank of New York from time to time; or
- (b) if that target is not a single figure, the arithmetic mean of:
  - (i) the upper bound of the short-term interest rate target range set by the US Federal Open Market Committee and published by the Federal Reserve Bank of New York; and
  - (ii) the lower bound of that target range.

**Central Bank Rate Adjustment:**

In relation to the Central Bank Rate prevailing at close of business on any RFR Banking Day, the 20 per cent trimmed arithmetic mean (calculated by BNPP) of the Central Bank Rate Spreads for the five most immediately preceding RFR Banking Days for which the RFR is available.

**Central Bank Rate Spread**

In relation to any RFR Banking Day, the difference (expressed as a percentage rate per annum) calculated by BNPP between:

- (a) the RFR for that RFR Banking Day; and
- (b) the Central Bank Rate prevailing at close of business on that RFR Banking Day.

**Daily Rate:**

The "**Daily Rate**" for any RFR Banking Day is:

- (a) the RFR for that RFR Banking Day; or
- (b) if the RFR is not available for that RFR Banking Day, the percentage rate per annum which is the aggregate of:
  - (i) the Central Bank Rate for that RFR Banking Day; and
  - (ii) the applicable Central Bank Rate Adjustment; or
- (c) if paragraph (b) above applies but the Central Bank Rate for that RFR Banking Day is not available, the percentage rate per annum which is the aggregate of:
  - (i) the most recent Central Bank Rate for a day which is no more than five RFR Banking Days before that RFR Banking Day; and
  - (ii) the applicable Central Bank Rate Adjustment,

rounded, in any such case, to five decimal places and if, in any such case, that rate is less than zero, the Daily Rate shall be deemed to be zero.

**Lookback Period:**

Five RFR Banking Days.

**Market Disruption Rate:**

The percentage rate per annum which is the aggregate of:



- (a) the Cumulative Compounded RFR Rate for the Interest Period of the relevant loan or overdue amount; and
- (b) (if any) the applicable CAS.

**Relevant Market:**

The US Dollar wholesale market.

**RFR:**

The secured overnight financing rate (SOFR) administered by the Federal Reserve Bank of New York (or any other person which takes over the administration of that rate) published by the Federal Reserve Bank of New York (or any other person which takes over the publication of that rate).

**RFR Banking Day:**

A day other than:

- (a) a Saturday or Sunday; and
- (b) a day on which the Securities Industry and Financial Markets Association (or any successor organisation) recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in US Government securities.



## PART II STERLING

**CURRENCY:** Sterling.

### *Definitions*

**Central Bank Rate:** The Bank of England's Bank Rate as published by the Bank of England from time to time.

**Central Bank Rate Adjustment:** In relation to the Central Bank Rate prevailing at close of business on any RFR Banking Day, the 20 per cent trimmed arithmetic mean (calculated by BNPP) of the Central Bank Rate Spreads for the five most immediately preceding RFR Banking Days for which the RFR is available.

**Central Bank Rate Spread** In relation to any RFR Banking Day, the difference (expressed as a percentage rate per annum) calculated by BNPP between:

- (a) the RFR for that RFR Banking Day; and
- (b) the Central Bank Rate prevailing at close of business on that RFR Banking Day.

**Daily Rate:** The "**Daily Rate**" for any RFR Banking Day is:

- (a) the RFR for that RFR Banking Day; or
- (b) if the RFR is not available for that RFR Banking Day, the percentage rate per annum which is the aggregate of:
  - (i) the Central Bank Rate for that RFR Banking Day; and
  - (ii) the applicable Central Bank Rate Adjustment; or
- (c) if paragraph (b) above applies but the Central Bank Rate for that RFR Banking Day is not available, the percentage rate per annum which is the aggregate of:
  - (i) the most recent Central Bank Rate for a day which is no more than five RFR Banking Days before that RFR Banking Day; and
  - (ii) the applicable Central Bank Rate Adjustment,

rounded, in any such case, to four decimal places and if, in any such case, that rate is less than zero, the Daily Rate shall be deemed to be zero.

**Lookback Period:** Five RFR Banking Days.

**Market Disruption Rate:** The percentage rate per annum which is the aggregate of:

- (a) the Cumulative Compounded RFR Rate for the Interest Period of the relevant loan or overdue amount; and
- (b) (if any) the applicable CAS.

**Relevant Market:** The sterling wholesale market.

**RFR:** The SONIA (sterling overnight index average) reference rate administered by the Bank of England (or any other person which takes over the administration of that rate) displayed (before any correction, recalculation



or republication by the administrator) on the relevant page of any authorised distributor of that reference rate.

**RFR Banking Day:**

A day (other than a Saturday or Sunday) on which banks are open for general business in London.



### PART III SWISS FRANCS

**CURRENCY:** Swiss francs.

#### **Definitions**

**Central Bank Rate:** The policy rate of the Swiss National Bank as published by the Swiss National Bank from time to time.

**Central Bank Rate Adjustment:** In relation to the Central Bank Rate prevailing at close of business on any RFR Banking Day, the 20 per cent trimmed arithmetic mean (calculated by BNPP) of the Central Bank Rate Spreads for the five most immediately preceding RFR Banking Days for which the RFR is available.

**Central Bank Rate Spread** In relation to any RFR Banking Day, the difference (expressed as a percentage rate per annum) calculated by BNPP between:

- (a) the RFR for that RFR Banking Day; and
- (b) the Central Bank Rate prevailing at close of business on that RFR Banking Day.

**Daily Rate:** The "**Daily Rate**" for any RFR Banking Day is:

- (a) the RFR for that RFR Banking Day; or
- (b) if the RFR is not available for that RFR Banking Day, the percentage rate per annum which is the aggregate of:
  - (i) the Central Bank Rate for that RFR Banking Day; and
  - (ii) the applicable Central Bank Rate Adjustment; or
- (c) if paragraph (b) above applies but the Central Bank Rate for that RFR Banking Day is not available, the percentage rate per annum which is the aggregate of:
  - (i) the most recent Central Bank Rate for a day which is no more than five RFR Banking Days before that RFR Banking Day; and
  - (ii) the applicable Central Bank Rate Adjustment,

rounded, in any such case, to four decimal places and if, in any such case, that rate is less than zero, the Daily Rate shall be deemed to be zero.

**Lookback Period:** Five RFR Banking Days.

**Market Disruption Rate:** The percentage rate per annum which is the aggregate of:

- (a) the Cumulative Compounded RFR Rate for the Interest Period of the relevant loan or overdue amount; and
- (b) (if any) the applicable CAS.

**Relevant Market:** The Swiss francs wholesale market.

**RFR:** The SARON (Swiss Average Rate Overnight) reference rate administered by SIX (or any other person which takes over the administration of that rate) as at the close of trading on the SIX Swiss Exchange on the relevant day





displayed on page SARON.S of the Thomson Reuters screen under the heading CLSFIX.

**RFR Banking Day:**

A day (other than a Saturday or Sunday) on which banks are open for the settlement of payments and foreign exchange transactions in Zurich.



### SCHEDULE 3

#### DAILY NON-CUMULATIVE COMPOUNDED RFR RATE

The "**Daily Non-Cumulative Compounded RFR Rate**" for any RFR Banking Day "i" during an Interest Period for a Compounded Rate Loan is the percentage rate per annum (without rounding, to the extent reasonably practicable for BNPP when performing the calculation, taking into account the capabilities of any software used for that purpose) calculated as set out below:

$$(UCCDR_i - UCCDR_{i-1}) \times \frac{dcc}{n_i}$$

where:

"**UCCDR<sub>i</sub>**" means the Unannualised Cumulative Compounded Daily Rate for that RFR Banking Day "i";

"**UCCDR<sub>i-1</sub>**" means, in relation to that RFR Banking Day "i", the Unannualised Cumulative Compounded Daily Rate for the immediately preceding RFR Banking Day (if any) during that Interest Period;

"**dcc**" means 365 or, in any case where market practice in the Relevant Market is to use a different number for quoting the number of days in a year, that number;

"**n<sub>i</sub>**" means the number of calendar days from, and including, that RFR Banking Day "i" up to, but excluding, the following RFR Banking Day; and

the "**Unannualised Cumulative Compounded Daily Rate**" for any RFR Banking Day (the "**Cumulated RFR Banking Day**") during that Interest Period is the result of the below calculation (without rounding, to the extent reasonably practicable for BNPP when performing the calculation, taking into account the capabilities of any software used for that purpose):

$$ACCDR \times \frac{tn_i}{dcc}$$

where:

"**ACCDR**" means the Annualised Cumulative Compounded Daily Rate for that Cumulated RFR Banking Day;

"**tn<sub>i</sub>**" means the number of calendar days from, and including, the first day of the Cumulation Period to, but excluding, the RFR Banking Day which immediately follows the last day of the Cumulation Period;

"**Cumulation Period**" means the period from, and including, the first RFR Banking Day of that Interest Period to, and including, that Cumulated RFR Banking Day;

"**dcc**" has the meaning given to that term above; and

the "**Annualised Cumulative Compounded Daily Rate**" for that Cumulated RFR Banking Day is the percentage rate per annum (rounded to four decimal places) calculated as set out below:

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{\text{DailyRate}_{i-LP} \times n_i}{dcc} \right) - 1 \right] \times \frac{dcc}{tn_i}$$

where:

"**d<sub>0</sub>**" means the number of RFR Banking Days in the Cumulation Period;

"**Cumulation Period**" has the meaning given to that term above;

"**i**" means a series of whole numbers from one to d<sub>0</sub>, each representing the relevant RFR Banking Day in chronological order in the Cumulation Period;



"**DailyRate<sub>i-LP</sub>**" means, for any RFR Banking Day "i" in the Cumulation Period, the Daily Rate for the RFR Banking Day which is the applicable Lookback Period prior to that RFR Banking Day "i";

"**n<sub>i</sub>**" means, for any RFR Banking Day "i" in the Cumulation Period, the number of calendar days from, and including, that RFR Banking Day "i" up to, but excluding, the following RFR Banking Day;

"**dcc**" has the meaning given to that term above; and

"**tn<sub>i</sub>**" has the meaning given to that term above.



#### SCHEDULE 4

#### CUMULATIVE COMPOUNDED RFR RATE

The "**Cumulative Compounded RFR Rate**" for any Interest Period for a Compounded Rate Loan is the percentage rate per annum (rounded to the same number of decimal places as is specified in the definition of "**Annualised Cumulative Compounded Daily Rate**" in Schedule 3 (*Daily Non-Cumulative Compounded RFR Rate*)) calculated as set out below:

$$\left[ \prod_{i=1}^{d_0} \left( 1 + \frac{\text{DailyRate}_{i-L} \times n_i}{\text{dcc}} \right) - 1 \right] \times \frac{\text{dcc}}{d}$$

where:

"**d<sub>0</sub>**" means the number of RFR Banking Days during the Interest Period;

"**i**" means a series of whole numbers from one to **d<sub>0</sub>**, each representing the relevant RFR Banking Day in chronological order during the Interest Period;

"**DailyRate<sub>i-L</sub>**" means for any RFR Banking Day "**i**" during the Interest Period, the Daily Rate for the RFR Banking Day which is the applicable Lookback Period prior to that RFR Banking Day "**i**";

"**n<sub>i</sub>**" means, for any RFR Banking Day "**i**", the number of calendar days from, and including, that RFR Banking Day "**i**" up to, but excluding, the following RFR Banking Day;

"**dcc**" means 365 or, in any case where market practice in the Relevant Market is to use a different number for quoting the number of days in a year, that number; and

"**d**" means the number of calendar days during that Interest Period.