

**TERMS AND CONDITIONS RELATING TO CREST SETTLEMENT BANK FACILITIES
MADE AVAILABLE TO A CREST MEMBER OR SPONSORED MEMBER**

These terms and conditions, including the schedules (the "Terms and Conditions") together with the accompanying facility letter addressed by the Bank to the Customer named in it relating to the CREST Payment Facilities (the "Facility Letter") and any other documents or agreements referred to in the Facility Letter, will constitute an Agreement between the Bank, the Customer and (if applicable) the Partnership. References in these terms and conditions to "this Agreement" shall be read accordingly.

1. DEFINITIONS AND INTERPRETATION

Expressions defined and principles of interpretation provided for in the Facility Letter or the Schedule to this Agreement shall, unless the context otherwise requires, have the same meanings and shall apply in this Agreement.

2. CONDITIONS PRECEDENT

The availability of the CREST Payment Facilities is subject to the conditions set out in clause 1 of the Facility Letter.

3. CREST PAYMENT FACILITIES

Duties as a Settlement Bank

3.1 The Customer requests and authorises the Bank to act as Settlement Bank for the Customer in respect of:

- (a) US Dollars under and in accordance with the CREST Assured Payment Agreement; and
- (b) Pounds Sterling and Euros (the "RTGS Currencies") under and in accordance with the DvP Framework Agreement, the applicable CREST RTGS Payment Agreement(s) and the Restatement Agreement,

and, in each case, the CREST Settlement Bank Agreement and the other CREST Requirements for each CREST Account under and in accordance with the CREST Assured Payment Agreement, the CREST Settlement Bank Agreement and the other CREST Requirements for each Participant ID.

3.2 The Customer acknowledges the duty of CRESTCo to advise it of any changes to the CREST Rules and agrees that the Bank shall have no duty to ensure that it is or has been made aware of any changes to the CREST Rules or any of the CREST Requirements.

Application of the CREST Requirements

3.3 The Customer acknowledges and agrees that:

- (a) the duties of the Bank as Settlement Bank are governed:
 - (i) in respect of US Dollar transactions, under the CREST Assured Payment System, by the CREST Assured Payment Agreement;

- (ii) in respect of Pounds Sterling and Euro transactions under the DvP Service, by the DvP Framework Agreement, the RTGS CREST Mandate Agreement, the applicable CREST RTGS Payment Agreements; and
- (iii) in either case, the CREST Settlement Bank Agreement and the other CREST Requirements.

(b) CRESTCo can vary the CREST Rules and the CREST Manual and suspend the CREST Service, in whole or in part, or vary the operational timetable by reason of any circumstances whatever beyond CRESTCO's reasonable control; and

(c) the Bank of England can vary the rules of, and can vary or suspend the services provided by, the real-time gross settlement payment systems in the United Kingdom, including varying the operational timetable, when requested or required to do so by the European Central Bank, by reason of any circumstances whatever beyond the Bank of England's reasonable control and in other circumstances set out in the documents in which those services and systems are evidenced.

3.4 The Bank shall be entitled, by notice to the Customer (to take effect when given or on any later date specified in such notice), from time to time to vary this Agreement as it may determine is necessary or desirable to reflect any alteration to the CREST Service, the DvP Service, the CREST Requirements or any other technical or procedural alteration or development or any law, regulation, regulatory order, requirement or direction.

3.5 The Bank shall not be liable to the Customer under or in connection with this Agreement for any Liabilities arising from any such alteration to, or variation or interruption or suspension of, the CREST Service, or variation of the CREST Requirements or from any act or omission taken or made by the Bank for the purpose of complying with the CREST Requirements or any action authorised or provided for in this Agreement or the CREST Requirements or as a result of the CREST Service or the manner in which the CREST Service operates at any particular time not being adequate or sufficient for any specific purpose of the Customer or any other person, whether or not CRESTCo is aware of any such purpose.

3.6 Where circumstances permit, the Bank shall give advance notice of any such change referred to in clause 3.3 to the Customer but shall be under no obligation to do so.

3.7 The parties agree that Clause 4.2.2 of the CREST Settlement Bank Agreement and CREST Rule 17 (2.2) (in relation to an RTGS Currency) shall not apply in relation to payments to be made by the Bank where the Customer is the payer or payee of the relevant payment and the Bank shall not be obliged to give immediate credit to the Customer in relation to any payment to be made by the Bank where it acts as Settlement Bank to both the Customer and the CREST Participant on whose behalf such payment is to be made.

Compliance

3.8 Notwithstanding any other obligation imposed on it (whether under this Agreement or otherwise), the Bank shall not be obliged to take any action under this Agreement to the extent that any such action or any result of it would be (or, in the Bank's reasonable opinion, would be likely to be) in breach of any relevant law, order of a court or requirement of the Financial Services Authority or any other regulatory or governmental authority or body having jurisdiction over the Bank and/or any part of the CREST

relevant system.

Legal action

3.9 The Bank shall not be required to take, defend or participate in any legal action or proceedings unless it so agrees and unless it is fully indemnified and secured to its reasonable satisfaction.

4. PAYMENTS AND INSTRUCTIONS

Authority

4.1 The Customer hereby irrevocably and unconditionally authorises and requests the Bank to do all such acts and things and execute all such documents as may be required to enable the Bank fully to observe and perform its obligations:

- (a) in respect of the CREST Assured Payment System, under the CREST Assured Payment Agreement;
- (b) in respect of the DvP Service, under the DvP Framework Agreement, the CREST Mandate Agreement, the applicable CREST RTGS Payment Agreement, and the Restatement Agreement; and
- (c) in either case, the CREST Settlement Bank Agreement and the other CREST Requirements.

In particular, but not by way of limitation, the Customer irrevocably:

- (i) authorises the Bank to incur or receive Assured Payment Obligations and/or (as the case may be) to incur or receive RTGS Payment Obligations for the account of the Customer as a result of each CREST Payment Instruction in the relevant Designated Currency;
- (ii) undertakes to reimburse the Bank in clear and available funds on the same day with the amount of each such payment made by the Bank as a result of a CREST Payment Instruction and pursuant to such undertaking;
- (iii) authorises the Bank to debit or credit, as appropriate, the relevant Settlement Account (or, without prejudice to clause 19 (Set-off) and the Settlement Bank Charge where the Bank considers it necessary or desirable, any other account of the Customer but not that of its clients) on the same day with the net amount of such Assured Payment Obligations and/or the net amount of such RTGS Payment Obligations (as the case may be) incurred or received by the Bank in respect of or as a result of CREST Payment Instructions arising that day and to debit the appropriate Settlement Account with interest, costs and expenses payable by the Customer in connection with this Agreement and the documents contemplated hereby.

Instructions

4.2 The Customer agrees that:

- (a) any properly authenticated dematerialised instruction giving rise to an event described in the CREST Rules as resulting in an Assured Payment Obligation or an RTGS Payment Obligation

(as the case may be) on the part of the Bank (including, without limitation, for this and the other purposes of this Agreement, any instruction intended by the CREST Manual to have similar effect in any contingency circumstance affecting the CREST Service as covered by the CREST Manual) shall be irrevocable, except to the extent (if at all) that the instruction may be revoked or amended in accordance with the CREST Manual;

- (b) the Bank may accept without further enquiry, in relation to any properly authenticated dematerialised instruction (whether or not within the scope of the CREST Regulations) giving rise to an Assured Payment Obligation or an RTGS Payment Obligation (as the case may be) on the part of the Bank, that at the time such instruction was generated:
 - (i) the information contained in the instruction was correct;
 - (ii) the system-participant identified in the instruction as having sent the instruction in fact sent the instruction; and
 - (iii) the instruction, where relevant, was sent with the authority of any person on whose behalf it was expressed to have been sent;

notwithstanding that it may afterwards be discovered that any such instruction or information or purported instruction or information was not genuine or was not correct or was not sent with the authority of any person on whose behalf it was expressed to have been sent or was not initiated by the system-participant or other person entitled to give it or was not initiated through the gateway, workstations and associated equipment operated by the relevant system-participant or any such other person;

- (c) US Dollars is the currency of account and payment for all sums at any one time due from the Customer under or in connection with the Assured Payment Obligations; Pounds Sterling or Euros (as the case may be) is the currency of account and payment for all sums at any time due from a Customer under or in connection with the RTGS Payment Obligations; and
- (d) the Bank shall not be liable to the Customer for any Liabilities suffered or incurred by the Customer as a result of the Bank incurring or acting upon any Assured Payment Obligation or an RTGS Payment Obligation (as the case may be) pursuant to any such instruction.

CREST Requirements

4.3 The Customer agrees to operate in accordance with and comply with the CREST Requirements (insofar as they are applicable to it).

Finality of Payments relating to the DvP Service

4.4 The Customer acknowledges and agrees in favour of the Bank that:

- (a) all payments made by means of the CREST system are final at the moment specified in the CREST Rules;
- (b) no payment instruction, payment or transfer may be revoked after the moment specified in the CREST Rules; and

(c) it will notify the Bank promptly upon becoming aware of any failure or malfunction in the CREST system or the DvP Service.

Uninitiated Transactions

4.5 The Customer agrees with the Bank that, if CRESTCo determines at any time (acting in good faith) that an Uninitiated Transaction has for any reason been entered into the CREST system, CRESTCo is irrevocably authorised to do all or any of the acts or things which the CREST Manual and/or the CREST Rules provide may be done by CRESTCo (and the Bank may assist CRESTCo in so doing) in order to correct any error caused by the entry into the CREST system of an Uninitiated Transaction.

4.6 Without limitation to the generality of clause 4.5, the Customer agrees that CRESTCo may cause to be generated a properly authenticated dematerialised instruction, attributable or addressed to the Bank and/or the Customer in relation to an RTGS Currency, which instructs the making of a CMA Debit in the RTGS Currency (or, as the case may be, a corresponding credit) to the applicable Cash Memorandum Account of the Customer of such amount as may be necessary to correct the error or errors which are brought about by the Uninitiated Transaction (and an RTGS Payment Obligation in respect of any such CMA Debit or corresponding credit will arise at the moment specified in the CREST Rules) provided that, it is expressly acknowledged by the Customer that such action taken by CRESTCo may cause the resulting balance on any of the Customer's Cash Memorandum Accounts to exceed a relevant cap.

4.7 The Customer agrees that the Bank may reverse any entry made by it on an account of the Customer maintained with the Bank pursuant to an Uninitiated Transaction which would not have been made but for the Uninitiated Transaction. Without prejudice to Clause 7.1(c), the Customer shall reimburse the Bank on demand for any amount withdrawn from any such account which is attributable (in whole or in part) to the Uninitiated Transaction.

4.8 The Bank agrees that it will take reasonable care to notify the Customer of any action taken by CRESTCo which affects the Bank and/or the Customer which is notified to it by CRESTCo.

Evidence of obligations

4.9 For the purposes of this Agreement, the Bank shall be entitled to treat each CREST Payment Instruction and all information obtained through the operation of the CREST Service as conclusive evidence of its obligations as the Customer's Settlement Bank without further enquiry.

Conclusive authority

4.10 The authority and undertakings given under or pursuant to this clause 4 (Payments and Instructions) shall be conclusive in favour of the Bank in all circumstances, including (without limitation) whether or not the relevant Settlement Account or any other account of the Customer within CREST or with the Bank is in credit or in debit or shall as a result of any payment become overdrawn, and notwithstanding any error in or lack of corporate authorisation for any CREST Payment Instruction or other message, or any corruption or error in or any forgery of or fraud in respect of any CREST Payment Instruction or other message, or any breach of any Debit Cap or limit set by the Bank under clause 5 (Debit Caps) or of any other agreement or arrangement between the parties, or any condition purported to be imposed by the Customer as to the date or time of payment or any event or circumstance referred to in clause 9.1

(Force Majeure) or any change in the nature or constitution of the Partnership at any time (including without limitation any addition to or withdrawal or retirement of the Partnership) or, without limitation, any other matter.

Reliance on instructions and information

4.11 Without prejudice to the foregoing provisions of this clause 4, the Bank shall be entitled without further enquiry to act or rely upon any written instructions or information or purported instructions or information referable to the Customer received from the Customer or any person reasonably believed by the Bank to be a person who is legally able to act on behalf of the Customer or to be a person notified to it by the Customer as having authority to act on the Customer's behalf, notwithstanding that it may afterwards be discovered that any such instruction or information was not genuine or was not correct or was not authorised.

Authorised but misdirected payments

4.12 If the Bank shall make a payment which accords with the CREST Payment Instruction received by it in accordance with the CREST Requirements, then clause 4.1 (Authority) shall apply notwithstanding that (in the absence of wilful default by the Bank) the payment in question is not credited as the Customer intended.

Late payment

4.13 If the Customer in respect of any Business Day fails to reimburse the Bank with the amount of any Assured Payment Obligations or RTGS Payment Obligations incurred and received by the Bank pursuant to any CREST Payment Instruction, or if there is a debit balance on any Settlement Account at the close of business for that day, or if the Customer fails to pay on the due date any other sum payable hereunder, then, subject to clauses 14.5 and 14.6 (Changes to currency units) and to any terms applicable to the Settlement Account or any other account reflecting such unpaid amount, the Customer shall on demand by the Bank pay interest on such outstanding amount or debit balance (as the case may be) at the Prescribed Rate, such interest to accrue until the date of payment on a daily basis (both before and after judgment).

Currencies and short payments

4.14 If the Customer wishes the Bank to debit or, as the case may be, credit any amount referred to in clause 4.1 (Authority) from or to a Settlement Account denominated in a currency which is not the same as the currency in which the relevant amount is itself denominated, the Bank will act accordingly, subject to the Bank receiving from the Customer clear written instructions to such effect in sufficient time to enable the Bank to act on such instructions in accordance with the Bank's normal procedures.

4.15 Where the Bank acts pursuant to clause 4.14 at the Customer's request, the Customer shall reimburse the Bank on demand for any costs or expenses incurred by the Bank in respect of any currency conversion and for any other losses that the Bank may otherwise incur as a result of complying with the Customer's wishes and so that the Bank shall not be placed in any worse position as a result of acting upon the Customer's wishes than if the Customer had not asked the Bank to act pursuant to clause 4.14.

4.16 If the Bank at any time receives from any other Settlement Bank any payment referable to more than one transaction carried out through the CREST Service for the account of more than one system-participant for which the Bank is acting as Settlement Bank and such payment is insufficient to satisfy the rights to

payment of all such system-participants in respect of all such transactions, then, subject to clause 6.3 (Receipt), the Bank shall be entitled to credit the Settlement Account of the Customer and the settlement accounts of the other relevant system-participant(s) with such proportion of the payment received by the Bank as the Bank may in its absolute discretion determine. In so determining, but without prejudice to the foregoing, the Bank shall attempt to allocate such payments on a pro rata basis.

No liability for reliance

4.17 The Bank shall not be liable to the Customer for any Liabilities suffered or incurred by the Customer as a result of the Bank having (directly or indirectly) acted or relied upon any instruction or information or purported instruction or information that it was entitled to act or rely upon pursuant to this clause 4.

5. DEBIT CAPS

The Customer

5.1 The Bank may, at any time and from time to time without notice, set and revise (or disable) Debit Caps applicable to payments which the Bank is prepared to make pursuant to CREST Payment Instructions on any day. Debit Caps and any revision to them shall be notified to the Customer as soon as practicable. The Customer acknowledges that any reduction in or disablement of a Debit Cap made by the Bank shall not affect the Bank's payment obligation under a valid CREST Payment Instruction generated prior to the effective time of the reduction in or disablement of the relevant Debit Cap or the Customer's obligations in respect of such CREST Payment Instruction. The Bank shall not be liable to the Customer for any Liabilities resulting from the Bank revising or disabling any Debit Cap.

5.2 The Bank may, at any time and from time to time without notice, set and revise Margins applicable to collateral held by the Bank at any time in respect of any Debit Cap made available to the Customer hereunder. Such Margins may be set and any revision thereto may be made by the Bank at any time without prior notice to the Customer, provided that any such action shall be notified to the Customer as soon as practicable. The Customer acknowledges that any reduction in a Margin made by the Bank shall not affect the Bank's payment obligation under a valid CREST Payment Instruction generated prior to the effective time of the reduction in the Margin or the Customer's obligation in respect of such CREST Payment Instruction. The Bank shall not be liable to the Customer for any Liabilities resulting from the Bank setting and/or revising any Margin.

Sponsored Members

5.3 The Bank may, at the Customer's request, provide a Debit Cap (on such terms as may be agreed) for CREST Sponsored Members for whom the Customer acts as sponsor ("**Nominated Sponsored Members**") and whose identity and particulars shall have been previously notified to the Bank in writing.

5.4 Except as otherwise expressly agreed, Debit Caps provided for Nominated Sponsored Members shall be subject to the same terms and requirements as Debit Caps provided to the Customer under this Agreement.

5.5 The Customer shall procure the delivery to the Bank of such additional documentation signed on behalf of Nominated Sponsored Members as the Bank may from time to time require.

5.6 The Customer undertakes (i) to procure that each Nominated Sponsored Member acknowledges that it is

subject to and will comply with the provisions of this Agreement insofar as applicable and with all CREST Requirements, (ii) to observe and perform all legal and regulatory obligations in respect of such Nominated Sponsored Member and (iii) to indemnify the Bank and to keep it indemnified against all Liabilities which the Bank may suffer or incur in connection with each Nominated Sponsored Member.

- 5.7 The Customer undertakes to procure that, except as otherwise expressly agreed in writing by the Bank, no balance of any nature shall be permitted to arise on any Cash Memorandum Account relating to a Nominated Sponsored Member, irrespective of whether such Nominated Sponsored Member is or may be a customer of the Bank. The Bank shall not be required to treat any balance arising (despite this undertaking) as a debt between the Bank and the Nominated Sponsored Member and the Bank is hereby irrevocably authorised at its discretion to debit or credit the Customer's Settlement Account (as the case may require) with an amount equal to any such balance. The Bank shall have no obligation to procure payment to or from such Nominated Sponsored Member.
- 5.8 Any one of the persons authorised by the resolutions referred to in clause 1 of the Facility Letter (Conditions precedent) shall be treated as authorised to request the Bank to provide Debit Caps for Nominated Sponsored Members and to give any instructions and agree on behalf of the Customer to any procedures for the giving of such instructions and the agreeing of any amendments.
- 5.9 For the purposes of clause 7 (Indemnity) and clause 16 (Termination and Suspension) of the Terms and Conditions, the expression "Customer" shall include any Nominated Sponsored Member.
- 5.10 The Customer confirms that for the purposes of the Money Laundering Guidance Notes for The Financial Sector (Guidance Notes), issued by the Joint Money Laundering Steering Group (JMLSG), that it is a regulated firm. It will ensure that it establishes and verifies the identity of and will record the documentary evidence of such identification, for persons that it sponsors into CREST to Guidance Notes standards. It will undertake the necessary monitoring of transactions and the reporting of suspicions to the authorities and also undertakes to provide an annual certification to the Bank that it continues to comply with the JMLSG Guidance Notes as a regulated firm.

6. THE BANK'S OBLIGATIONS

Payments

- 6.1 Subject to this Agreement and the CREST Requirements, the Bank will either make payment or receive payment for the account of the Customer in accordance with each CREST Payment Instruction, such payments (or any net balance of them) to be debited or credited (as the case may be) by the Bank to the Settlement Account in the relevant Designated Currency, provided always that, as against the Bank, the only entitlement of the Customer shall be to the net balance of such payments after the end of the relevant Business Day.

Receipt

- 6.2 If the Bank receives payment from another Settlement Bank which appears to be invalid, incorrect or incomplete, the Bank's only obligation will be to endeavour to establish to its satisfaction whether the payment received is intended by the other Settlement Bank for the account of the Customer and, if it does establish this, to notify the Customer.
- 6.3 If the Bank credits a Settlement Account with any amount or the amount debited to a Settlement

Account is reduced by any amount as a result of a CREST Payment Instruction but such amount is not subsequently received by the Bank when due, then the Bank shall be entitled to recover such amount from the Customer notwithstanding such prior credit or, as the case may be, prior reduction in the amount debited (unless the Bank shall otherwise expressly agree in writing with the Customer).

7. INDEMNITY

7.1 Save to any extent caused by negligence, wilful default or fraud by the Bank (or its employees or agents), the Customer agrees to indemnify the Bank (including its employees and agents) on demand by the Bank against all or any Liabilities incurred by the Bank (excluding any usual and expected costs suffered or incurred by the Bank in the normal day-to-day provision of the CREST Payment Facilities) directly or indirectly in connection with or arising out of:

- (a) any payment made or received (or not made or received) by it as Settlement Bank for the Customer (including, without limitation, any payment in respect of stamp duty or stamp duty reserve tax);
- (b) any error in or malfunction, suspension or termination of the CREST Service, the CREST relevant system and/or the DvP Service;
- (c) any reversal of any system transfer pursuant to
 - (i) the application of the bad delivery rules set out in the CREST Rules and the CREST Manual;
 - (ii) the Uninitiated Transaction rules in the CREST RTGS Payment Agreements and the CREST Manual (including any breach of an applicable Debit Cap); or
 - (iii) the Operational Error Lending Scheme referred to in the RTGS Manual.
- (d) the admission or acceptance into the CREST Service of any securities (whether or not by CRESTCo) or as a result of entry into the CREST Service of units of a security, whether by reason of any defect in the constitution of the securities concerned or because of some want of or defect in title to any unit of a particular security or otherwise howsoever;
- (e) any error or malfunction in any Customer Equipment or any computer hardware or software provided to the Customer by any accredited network supplier;
- (f) any breach by the Customer or any of the Customer's employees or agents (whether or not authorised by the Customer) of any of its obligations, undertakings or warranties under this Agreement or its CREST Membership Agreement;
- (g) any CREST Payment Instruction which is inaccurate, forged or unauthorised;
- (h) any negligence, wilful default or fraud on the part of the Customer or any of the Customer's employees or agents;
- (i) the use of the CREST Service by the Customer on behalf of any of its customers in breach of applicable law, court order or requirement of any regulatory or governmental authority or body;

- (j) any failure, error or omission by CRESTCo, the Bank of England or any other Settlement Bank; and
- (k) the preservation or enforcement of any of the Bank's rights under or referable to this Agreement.

7.2 For the purposes of this clause 7 (Indemnity), the expression "Customer" shall include any Nominated Sponsored Member.

8. DISCLOSURE OF INFORMATION

8.1 The Customer acknowledges and agrees that the CREST Service and the DvP Service is and will be from time to time operated by means of systems and equipment owned, maintained, controlled or operated or regulated by CRESTCo, the Bank of England and other third parties and the CREST Requirements and the RTGS Rules include obligations on the Bank to disclose to CRESTCo and/or the Bank of England confidential information regarding the Customer.

8.2 The Customer hereby irrevocably authorises any such disclosure to CRESTCo and/or the Bank of England and such third parties to the extent necessary for any purpose connected with the CREST Service and/or the DvP Service, and the transmission through and storage within such systems and equipment, of all CREST Payment Instructions and all financial and other information which may be derived from it. In particular, but without limiting the foregoing, the Customer accepts that the Bank is obliged:

- (a) (where it maintains records, in electronic form or otherwise, of dematerialised instructions or messages sent to or received by it) to permit CRESTCo to have access to such records at any time or times (on being given reasonable notice) and, on being given reasonable notice, to provide CRESTCo with copies of all or any of such records (in such form as CRESTCo may reasonably require); and
- (b) to provide to CRESTCo and/or the Bank of England such information in its possession as CRESTCo and/or the Bank of England may require from time to time in order for CRESTCo and/or the Bank of England to meet its obligations under any relevant legislation.

8.3 The Bank shall not be liable for any Liabilities incurred or suffered by the Customer by reason or in consequence of any third party thereby gaining access to any such information or of any disclosure of any information relating to the Customer by the Bank permitted under this Agreement. Subject to the provisions of this Agreement, each of the parties shall, however, endeavour to apply their normal security procedures.

8.4 The Customer further authorises the Bank to disclose any information relating to the Customer to any third party if such disclosure is necessary or appropriate for the purpose of compliance by the Bank with any of the CREST Requirements, the RTGS Rules or any law, regulation, regulatory order, requirement or direction in any part of the world (which, if not having the force of law or regulation, is one which applies generally to a class or category of financial institutions of which the Bank forms part and compliance with which is in accordance with the general practice of financial institutions to which it applies).

8.5 Without limiting the generality of the foregoing provisions of this clause 8 (Disclosure of information), the Customer further authorises the Bank to disclose any information relating to the Customer or in connection with this Agreement, to any third party as may be necessary or appropriate for the purpose of

compliance by the Bank with any legal, regulatory, supervisory or governmental requirement of any regulatory bodies, government regulators and/or law enforcement agencies under United States of America Federal or State law, (including, without limitation, any United States of America bilateral or multilateral mutual assistance treaties, or other international agreements) which the Customer acknowledges the Bank shall be obliged to comply with.

- 8.6 The Customer acknowledges that the Bank shall in no way be liable to the Customer for effecting any such disclosures or complying with any such requirements in connection with this clause, and as to which the Customer shall also be subject.
- 8.7 For the purposes of Clauses 8.4 and 8.5 the expression "information relating to the Customer" shall include information relating to any Nominated Sponsored Member.

9. LIABILITY

Force Majeure

- 9.1 The Bank shall not be liable for or in respect of any Liabilities or any failure to comply, or delay in complying, with its obligations under this Agreement or any other obligations in respect of or in connection with the CREST Service and/or the DvP Service or any failure to make, receive or credit, or delay or error in making, receiving or crediting any payment which is caused directly or indirectly by any suspension, unavailability for use, breakdown, failure or damage (however caused) of or to the CREST Service and/or the DvP Service, the integrated data network or any computer, communications or other service system owned or controlled by whomsoever, any interruption, cessation, failure or shortage of power, services or communications, equipment malfunction, complete or partial system closure or suspension, any error or failure in any facility or service provided by CRESTCo or the Bank of England, error in relation to information supplied by other information providers, any intervention, act or omission of any third party, fraud of any person (other than an employee of the Bank), force majeure, act of God, war, hostilities, act of terrorism, political unrest, governmental action, strike, boycott, embargo, industrial dispute or disturbance, suspension of payments, or insolvency, receivership, administration, bankruptcy or liquidation of any person (including, without limitation, the Customer, any Settlement Bank or any other person having access to the CREST Service and/or the DvP Service), fire, flood, explosion, adverse weather or atmospheric conditions, abnormal operating conditions, shortage of personnel at CRESTCo or the Bank of England, accident, or any cause, event, or circumstance whatsoever beyond the Bank's reasonable control.
- 9.2 The Customer acknowledges that, in connection with its services under this Agreement (including the determination of the amount of any Debit Cap, or in connection with any secured Debit Cap of the Customer), the Bank will rely on information supplied by third parties (including, without limitation, information regarding the reference price of securities), and the Bank shall not incur any liability to the Customer in connection with any error in any such information as supplied.

Limitation

- 9.3 Notwithstanding any notification by the Customer or any other person to the Bank of any Liabilities which may result from the Bank's failure to make, receive or credit, or delay or error in making,

receiving or crediting any payment, the Bank's liability for any such failure, delay or error (however caused) shall, without prejudice to the other provisions of this clause 9 (Liability) and to any limitations additionally imposed by this Agreement or by law, be limited to the lower of:

- (a) the amount of such loss, injury or damage (excluding any indirect or consequential loss, including any loss of business, goodwill and profit); or
- (b) in the case of a delay in payment, the amount of any interest the Customer may fail to earn or any interest the Customer may be required to pay (not exceeding interest for three days or, if longer, the number of days elapsing before the third Business Day after the day of such error or omission) as a result of any such failure, delay or error, less a sum equal to any interest which the Customer would not have been entitled to receive, or would have been obliged to pay, if no such failure, delay or error had occurred; or
- (c) an amount equal to the Bank's annual charge for the CREST Payment Facilities under this Agreement as calculated by the Bank in accordance with clause 10 of this Agreement.

Other loss

9.4 The Bank shall not be liable under or in connection with this Agreement for any Liabilities (howsoever caused), unless resulting from failure, delay or error referred to in clause 9.3 (Limitation) and then only for such failure, delay or error and up to the limit set by that clause.

Normal procedures

9.5 The Bank shall be deemed to have acted in good faith and with due care in relation to its Settlement Bank activities if the Bank has complied with the normal procedures applicable to Settlement Banks pursuant to the CREST Requirements.

Reliance on information provided by CRESTCo

9.6 The Customer acknowledges and agrees that the Bank shall not be liable to the Customer for any Liabilities suffered or incurred by the Customer as a result of any inaccuracy in any information provided or as a result of any calculation made by CRESTCo (including, without limitation, any information or calculation drawn from external information supplied to it as described in the CREST Manual) which is inaccurate or incomplete, provided that the Bank has not itself made an error in the calculation in question.

No duty of care

9.7 The Customer acknowledges and agrees that the Bank does not owe the Customer any duty to monitor or enforce compliance by any person with any obligations, requirements or procedures applicable to the participation of such person in the CREST relevant system.

Ambiguous CREST Payment Instructions

9.8 The Bank shall incur no liability in respect of, or directly or indirectly arising out of, any error,

discrepancy or ambiguity in any CREST Payment Instruction or other message received by it in accordance with the CREST Requirements. If the Bank becomes aware of any such error, discrepancy or ambiguity, the Bank will notify the Customer of it as soon as practicable. If the Customer becomes aware of any errors, discrepancies or ambiguities, the Customer shall be responsible for clarifying them with CRESTCo and by reference to audit records maintained by CRESTCo of transactions comprising the balance of the Cash Memorandum Account.

Time

9.9 The Customer shall examine and verify as soon as reasonable, all statements, confirmations and information regarding the Customer's CREST Accounts or Settlement Accounts provided by the Bank. No claim may be made against the Bank unless notice in writing of such claim, giving reasonable details of it, shall have been received by the Bank within one month after the event or omission giving rise to such claim or (if later) after the date on which the Customer ought reasonably (having regard to all the circumstances) have become aware of such event or omission.

Right of reimbursement

9.10 If the Bank has paid to the Customer an amount in respect of a claim for breach of this Agreement or otherwise, and subsequent to the date of making such payment the Customer recovers from a third party a sum which is referable to the subject matter of that claim, then the Customer shall apply the amount recovered (less the actual cost of recovery) first in satisfaction of any loss suffered by it which was not recovered from the Bank due to the operation of the limits in clause 9.3 (Limitation) and second shall forthwith repay the Bank so much of the amount paid by the third party as does not exceed the sum paid by the Bank to the Customer. The Customer undertakes to use all reasonable endeavours to enforce any right to recover any such sum.

Fairness and reasonableness of exclusions and limitations

9.11 The exclusions and limitations contained in this Agreement are considered fair and reasonable by the parties, having regard to all circumstances which are, will be, or which ought reasonably to be, known to or in the contemplation of the parties at the date when this Agreement is made, including, without limitation:

- (a) the total number, volume and variety of payments which may be expected to be made, received or recorded by the Bank through the CREST Service and the speed and automatic nature of the systems involved and the consequent impracticability of establishing procedures which, without impeding the operation of such systems, would ensure the Bank's knowledge of the particular circumstances surrounding CREST Payment Instructions or of the possible consequences of any failure, delay or error in sending any such CREST Payment Instructions or any other failure, delay, error or omission on the Bank's part;
- (b) the size and extent of the risks and potential losses to which a Settlement Bank may be expected to be exposed, in relation to the charges to be made by it for Settlement Bank facilities; and
- (c) the availability and cost to the Customer of insurance cover for loss, injury or damage incurred in connection with membership of the CREST Service.

10. CHARGES

The Bank is hereby irrevocably authorised from time to time to debit any account of the Customer, as agreed between the parties, with the charges referred to in the Facility Letter or as otherwise notified from time to time by the Bank.

11. WARRANTIES

11.1 The Customer warrants to and undertakes with the Bank that:

- (a) the Customer is duly incorporated and validly existing under the laws of the jurisdiction of its incorporation and has full power and authority to enter into and perform its obligations under this Agreement;
- (b) all acts, conditions and things required to be done, fulfilled or to have happened prior to the signing of this Agreement (including the obtaining of all necessary consents, whether governmental, regulatory or otherwise) in order to enable the Customer lawfully to enter into and perform all its obligations under this Agreement and the documents contemplated hereby and (where applicable) the Settlement Bank Charge and to constitute all such obligations as valid, binding and enforceable in accordance with their respective terms and make this Agreement and those documents and (where applicable) the Settlement Bank Charge admissible in evidence, have been done, performed and have happened and a copy of every necessary consent has been delivered to the Bank;
- (c) all the obligations of the Customer under this Agreement and the documents contemplated hereby and (where applicable) the Settlement Bank Charge are valid, binding and enforceable in accordance with their respective terms; and all securities, property and other assets which are or are to become subject to the Settlement Bank Charge are beneficially owned by the Customer or the Customer is duly authorised so to charge them;
- (d) the entry by the Customer into this Agreement and the documents contemplated hereby and (where applicable) the Settlement Bank Charge and the performance by the Customer of its obligations hereunder and thereunder do not and will not violate any law or regulation to which the Customer is subject nor any of the documents constituting the Customer nor any agreement to which the Customer is party or which is binding on the Customer or any of the Customer's assets;
- (e) the Customer has entered into the CREST Membership Agreement, the Customer's membership of the CREST Service has become and remains effective, subject only to confirmation by a Settlement Bank of its willingness so to act and the Customer has been admitted as, and remains, a member of CRESTCo in its capacity as a recognised clearing house (as defined in the Financial Services and Markets Act 2000);
- (f) all information given to the Bank by the Customer or on its behalf prior to the signing of this Agreement is, and all information provided hereafter will be, true and complete and accurate in all respects; and
- (g) the Customer has no outstanding obligations to or dispute with any Settlement Bank in its capacity as such.

11.2 The Bank warrants to the Customer that:

- (a) the Bank is duly incorporated and validly existing under the laws of the jurisdiction of its

incorporation and has full power and authority to enter into and perform its obligations under this Agreement and the documents contemplated hereby;

- (b) all acts, conditions and things required to be done, fulfilled or to have happened prior to the signing of this Agreement in order to enable the Bank lawfully to enter into and perform its obligations under this Agreement and the documents contemplated hereby and to constitute such obligations as valid, binding and enforceable and make this Agreement and the documents contemplated hereby admissible in evidence have been done, performed and have happened;
- (c) all obligations of the Bank under this Agreement and the documents contemplated hereby are valid, binding and enforceable; and
- (d) the entry by the Bank into this Agreement and the documents contemplated hereby and the performance by the Bank of its obligations under this Agreement and the documents contemplated hereby do not and will not violate any law or regulation to which the Bank is subject nor any of the documents constituting the Bank.

11.3 Each of the warranties in clause 11.1 and 11.2 will be correct and complied with in all respects at all times for so long as this Agreement remains in force as if repeated by reference to the then existing circumstances.

12. THE CUSTOMER'S UNDERTAKINGS

General Undertakings

12.1 The Customer undertakes to the Bank as follows:

- (a) to comply in all respects and at all times with the provisions of the CREST Membership Agreement (or, if applicable, the CREST Sponsored Membership Agreement) and the CREST Requirements;
- (b) to comply fully with all statutory and regulatory obligations of the Customer for the time being applicable to the maintenance and operation of any or all (as the case may be) of the Customer's CREST Accounts (including, without limitation, any obligations under rules made by the Financial Services Authority or any self-regulating organisation);
- (c) to notify the Bank immediately if the Customer expects, or becomes aware of, the occurrence of any of the events referred to in clauses 14 (Court orders etc) and 15 (Insolvency etc of the Member) of the CREST Membership Terms and Conditions (or any successor or replacement clauses thereof) and the Customer shall thereafter promptly notify the Bank of the making of any order or appointment or the occurrence of any other relevant event consequent upon any of such events, and of all relevant information that the Customer has relating to any of such matters;
- (d) to notify the Bank immediately of any changes in the membership information in the CREST Membership Agreement (or, if applicable, the CREST Sponsored Membership Agreement) and to notify the Bank as soon as possible of any such changes which are expected or likely to occur; to notify the Bank forthwith in the event of a termination or suspension (or matters likely to give

rise to a termination or suspension) of the Customer as a CREST Member (whether in whole or in part in relation to any particular function) pursuant to the CREST Membership Agreement (or, if applicable, the CREST Sponsored Membership Agreement) or in the event of any such change in the ownership or control of the Customer or of its parent entity (if any), or if the Customer appoints another Settlement Bank, additional to the Bank, in respect of a relevant Designated Currency in the CREST Service;

- (e) not to take any action which would result in a CREST Payment Instruction being generated if payment by the Bank pursuant to that CREST Payment Instruction (whether alone or taken together with one or more other CREST Payment Instructions) would (in the absence of system control) result in the Debit Cap applicable at the relevant time being breached, and to procure that at all times there are sufficient funds in the relevant Settlement Account or sufficient overdraft or other financial facilities agreed by the Bank with respect to the relevant Settlement Account to ensure that the Customer is able to satisfy its reimbursement obligations to the Bank in full when due;
- (f) not to stop, countermand, restrain or seek to restrain or otherwise interfere with any arrangements, instructions or authority under which the Bank, either generally or in respect of one or more specific transaction or transactions, is entitled to receive or authorised or instructed to make payment for or in respect of securities held within the CREST Service in the circumstances and manner referred to in this Agreement;
- (g) to notify the Bank immediately if it becomes aware of any delay or failure to receive any payment or delay in the generation of any CREST Payment Instruction or any actual or suspected error or fraud in or affecting the sending or receiving of any CREST Payment Instruction or any error or defect in the CREST Service and to use its best endeavours to assist the Bank to remedy the same, and the Customer hereby consents to all communications by the Bank to any other Settlement Bank or to CRESTCo or any officer of, or other person having access to, the CREST Service, in connection with any notification pursuant to this clause 12.1(g) or any other matter relating or referable to this Agreement or the CREST Service;
- (h) not to permit or suffer any unauthorised person or any third party to have access to the CREST Service through or by means of the Customer Equipment, and to ensure that the Customer Equipment is operated at all times only by duly authorised personnel; or, where the Customer is a CREST Sponsored Member, to use all reasonable endeavours to ensure that its CREST Sponsor acts in such manner;
- (i) to provide an adequate degree of maintenance and security in respect of the Customer Equipment and, at any time upon the Bank's written request, to permit review by the Bank or its agents or contractors of the Customer's premises, controls and security procedures and the Customer's use of the Customer Equipment; or, in the case of a Sponsored Member, to use all reasonable endeavours to ensure that its CREST Sponsor acts in such manner; the Customer acknowledging that, as between the Customer and the Bank, the Customer remains solely responsible for any acts and omissions which occur in relation to the Customer Equipment;
- (j) to keep secret and confidential any security procedures used by CRESTCo, the Bank or the Customer;
- (k) to provide the Bank on any Settlement Day with such information as it may request, regarding:

- (i) any amounts then falling due or owing to preferential creditors from the Customer;
- (ii) the amount of any unpaid vendor's liens then outstanding against the Customer;
- (iii) any amounts then falling due in respect of which the Customer has granted any security of a fixed charge nature, or otherwise of a competing nature to any security or Settlement Bank Charge held by the Bank in respect of this Agreement; and
- (iv) entries in the Customer's CREST Accounts on any day as the Bank may reasonably require, including, without prejudice to the generality of the foregoing, a full schedule of all transactions entered into by the Customer that may result or would result in payment being made to or by the Bank on behalf of the Customer;

(l) to allow the Bank at all times to access directly from CRESTCo (or otherwise from the Customer if not so available from CRESTCo) all information held by CRESTCo (or the Customer as the case may be) concerning the Customer and the Customer's CREST Accounts (including, without limitation, all balances (including forward date balances) on the Customer's Cash Memorandum Account and all cash positions and information relevant to any applicable Debit Cap or proposed Debit Cap) which the Bank reasonably considers relevant in the context of acting as Settlement Bank for the Customer;

(m) not to amend or vary the CREST Membership Agreement in any respect nor to make any material alteration to its relationship with any other party in respect of CRESTCo which may directly or indirectly affect the Bank without first obtaining the Bank's written consent and to advise the Bank forthwith in the event of any matter capable of causing the insolvency of the Customer or any person for whom the Customer acts as CREST Sponsor;

(n) not to cause or permit any CREST Account to be security for the purpose of any Debit Cap afforded or to be afforded by the Bank to the Customer or otherwise to charge or purport to charge any securities from time to time evidenced by entries in any such CREST Account, unless:

- (i) the Customer has, and at all material times will have, the full and unencumbered beneficial interest to all securities in that account (save only for the security interest in favour of the Bank for the purpose of securing the Debit Cap) or a charge or appropriate evidence of consent or confirmation acceptable to the Bank has been executed over the relevant securities by the beneficial owner of the securities and any other person having any interest in them in favour of the Bank; and
- (ii) such securities are transferable through a relevant system (as defined in the CREST Regulations);

(o) if the Customer is acting as nominee for any third party for the purpose of the CREST Service, to procure (unless the Bank otherwise expressly agrees in writing) that such third party provides to the Bank security in a form and having priority acceptable to the Bank; and

(p) promptly to provide the Bank with such information (not otherwise required to be provided pursuant to this clause 12 (Customer's Undertakings)) as the Bank may reasonably require for the purpose of complying with its obligations under the CREST Requirements and to notify the Bank forthwith if it becomes aware that any information provided to the Bank pursuant to this

Agreement was or has become untrue, inaccurate or misleading.

12.2 The Customer shall not amend, or take any steps to amend, the records (including, without limitation, either de-linking securities or CREST Accounts from the Debit Cap the subject of any Settlement Bank Charge, or terminating the Bank's wider viewing rights authorised by the Customer to the CREST Service, or transferring securities, the subject of any Settlement Bank Charge, free of value within the CREST Service or for value outside the CREST Service (other than where received by the Bank) which may in the sole opinion of the Bank be prejudicial to the Bank's security under the Settlement Bank Charge) within the CREST Service or of any CREST Accounts charged in favour of the Bank under any Settlement Bank Charge, without the prior written consent of the Bank. The Bank's consent, if given, may be subject to such conditions as the Bank may determine in its sole opinion. The Bank's decision whether or not to give consent may not necessarily be given on the same day as the Customer's request.

13. CHANGE OF CIRCUMSTANCES

If the effect of the introduction of or any change in any applicable law or directive or its interpretation is to make or purport to make this Agreement or the CREST Payment Facilities or the Settlement Bank Charge (if any) unlawful, then the Bank's obligations under this Agreement shall cease and the Customer will on demand pay to the Bank all amounts outstanding under this Agreement.

14. PAYMENTS AND CHANGES TO CURRENCY UNITS

14.1 All payments by the Customer to the Bank hereunder shall be made free and clear of any deduction or withholding for or on account of any tax and without any set-off, counterclaim or restriction whatsoever.

14.2 If the Customer is required by law to make any deduction or withholding, whether for or on account of tax or otherwise, the sum due from the Customer to the Bank in respect of such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Bank receives a net sum equal to the sum which it would have received had no such deduction or withholding been made.

14.3 If more than one currency or currency unit is at the same time recognised by the Bank of England as the lawful currency of the United Kingdom, then:

- (a) any reference in this Agreement to, and any obligations arising under this Agreement in, the currency of the United Kingdom shall be translated into, or be paid in, the currency or currency unit, of the United Kingdom designated by the Bank; and
- (b) any translation from one United Kingdom currency or currency unit to another shall be at the official rate of exchange recognised by the Bank of England for the conversion of that currency or currency unit into the other, rounded up or down by the Bank (acting reasonably).

14.4 If a change in any currency of the United Kingdom occurs, this Agreement will be amended to the extent specified by the Bank to be necessary to reflect the change in currency and to put the Bank in the same position, as far as possible, that the Bank would have been in if no change in currency had occurred.

14.5 Unless the Bank otherwise expressly agrees and except as may be permitted or required by law, payment obligations denominated in Pounds Sterling shall be performed in that national currency unit and payment obligations denominated in the Euro unit or US Dollar unit shall be performed in that unit.

14.6 Interest on an amount outstanding in Pounds Sterling will be calculated on a daily compounded basis, using a 365 day year and interest on an amount outstanding in Euros or US Dollars will be calculated on a daily compounded basis, using a 360 day year or, in each case, such other day count basis as the Bank chooses or is obliged to adopt or otherwise agrees with the Customer.

15. RECORDS

The records maintained from time to time by the Bank of CREST Payment Instructions generated through the CREST Service, the payments made and received by the Bank and any other actions taken by the Bank in connection with this Agreement shall, in the absence of manifest error, be conclusive proof and evidence of the transactions, requests, instructions, acknowledgements, messages and payments which they respectively record and in particular of the contents of CREST Payment Instructions, such payments and actions and the times at which they were sent, received and taken.

16. TERMINATION AND SUSPENSION

The Bank's right to terminate

16.1 Without limiting its rights under clause 5 (Debit Caps), the Bank may terminate its responsibilities as Settlement Bank for the Customer under this Agreement either generally or in relation to one or more Designated Currencies at any time at its absolute discretion, without notice, provided that the Bank shall, where it considers it practicable and appropriate, give not less than 30 days' notice to the Customer and CRESTCo but shall not in any event have any liability to the Customer if it fails to do so.

16.2 Without limiting its rights under this Agreement, the Bank may request CRESTCo to consider termination of the Customer's membership of the CREST Service where in the Bank's sole opinion there may be a default or threatened default by the Customer of this Agreement (including, without limitation, any threatened or actual breach of clauses 11 (Warranties) and 12 (Customer's Undertakings) or the Customer is in the Bank's sole opinion attempting to take any action which can be reasonably foreseen as likely to prejudice any Settlement Bank Charge and the securities, property and other assets charged thereby). The Bank shall not be liable to the Customer, where it makes such a request for termination to CRESTCo, for any Liabilities arising from such termination request being made or acted upon.

Automatic termination

16.3 Notwithstanding the provisions of clause 16.1 and 16.2 (Right to terminate), this Agreement shall terminate with immediate effect if CRESTCo's authorisation as Operator of the CREST Service under the CREST Regulations or the Customer's membership of the CREST Service is terminated (whether pursuant to the terms of its CREST Membership Agreement or otherwise) or if the Bank ceases to be authorised by CRESTCo to act as Settlement Bank in relation to the Customer.

16.4 If the Bank ceases to be authorised by CRESTCo to act as a Settlement Bank, the Bank will promptly notify the Customer.

16.5 Without prejudice to the remaining terms of this Agreement, the introduction of the Euro as the national currency unit of the United Kingdom (if this occurs) shall not of itself (for the avoidance of doubt) be a ground for termination or suspension or amount to a force majeure event, under this Agreement.

Customer's right to terminate

16.6 The Customer may terminate the Bank's appointment as settlement bank under this Agreement upon

expiry of 30 days' written notice of termination to the Bank, subject to the provisions of the Customer's CREST Membership Agreement (or, if applicable, CREST Sponsored Membership Agreement) and subject to the Bank's satisfaction that any outstanding obligation of the Customer to the Bank shall have been paid or discharged in full.

Suspension

- 16.7 If, for whatever reason, CRESTCo shall suspend the Customer's membership of the CREST Service, the Customer shall immediately notify the Bank and, with effect from the time of such suspension, the Bank shall be under no further obligations under the CREST Payment Facilities. Only upon receipt of written confirmation from CRESTCo that such suspension has ceased will the Bank consider whether or not to re-commence the provision of the CREST Payment Facilities (without being obliged to do so, and subject to such conditions as the Bank may impose in its entire discretion).
- 16.8 Without limiting its rights under this Agreement, the Bank may request CRESTCo to consider suspension of the Customer's membership of the CREST Service where in the Bank's sole opinion there may be a default or threatened default by the Customer of this Agreement (including, without limitation, any threatened or actual breach of clause 11 (Warranties) and 12 (Customer's Undertakings) or the Customer is in the Bank's sole opinion attempting to take any action which can be reasonably foreseen as likely to prejudice any Settlement Bank Charge and the securities, property and other assets charged thereby). The Bank shall not be liable to the Customer, where it makes such a request for suspension to CRESTCo, for any Liabilities arising from such suspension request being made or acted upon.
- 16.9 If the Customer fails to perform its obligations under this Agreement in accordance with its terms, the Bank shall have the right at its discretion to suspend all or some of its services under this Agreement to the Customer until the Customer has fully performed all such obligations to the satisfaction of the Bank.

Survival

- 16.10 Termination or suspension of this Agreement shall be without prejudice to:
 - (a) all rights and obligations accrued up to the date of such termination or suspension; and
 - (b) clauses 3.2 to 3.5 inclusive (CREST Payment Facilities), 4.2 (Instructions) and 4.9 (Evidence of obligations), 7 (Indemnity), 8 (Disclosure), 9 (Liability) but excluding clause 10 (Charges) , 12.1(h) and (i) (Customer's Undertakings), 15 (Records), 18 (Waiver) and 19 (Set-off) which shall continue in full force and effect after and notwithstanding such termination or suspension.

17. VARIATION

- 17.1 Subject always to clauses 3 (CREST Payment Facilities), 14.4 (Payments and Changes to Currency Units) and 17.2, no variation of this Agreement shall be of any effect unless in writing signed by the Bank, the Customer and the Partnership (if applicable).
- 17.2 The facilities of the CREST Service may be applied to facilitate the holding in uncertificated form and transfer without written instrument of securities or other intangible moveable assets which are not eligible to be treated as participating securities within the meaning of the CREST Regulations (whether because they are constituted under the law of a territory outside the United Kingdom or for some other cause) and to facilitate supplementary and incidental matters. If the facilities of the CREST Service are so applied, this Agreement shall, provided that the Bank shall have given its written consent for this

purpose, have effect in relation to such securities or other intangible assets with such modifications (in particular, but without limitation, as to the terms of this Agreement which are defined by reference to the CREST Regulations) as the Bank considers necessary or appropriate to conform with any modifications made by CRESTCo from time to time to the CREST Manual in relation to such securities.

18. **WAIVER AND FORBEARANCE**

No waiver or variation of any right or remedy under this Agreement in any one instance shall operate as a waiver or variation in any other instance or of any other rights or remedies. Any failure by any party to exercise any right or remedy under this Agreement, or any delay in exercising any such right or remedy, shall not operate as a waiver or variation of that or any other such right or remedy; no defective or partial exercise of any such right or remedy and no act or course of conduct or negotiation on the part of any party shall preclude that party from exercising any such right or remedy or constitute a suspension or variation of any such right or remedy.

19. **SET-OFF**

The Customer irrevocably authorises the Bank, and the Bank shall be entitled without any obligation to do so, at any time to apply (without prior notice) any credit balance (whether or not then due and irrespective of the currency in which it is denominated) to which the Customer is beneficially entitled on any account whatsoever at any office of the Bank wherever situate, in or towards satisfaction of any sum due from the Customer to the Bank under this Agreement and which immediately prior to such application is unpaid. For this purpose the Bank is hereby authorised to effect any necessary currency conversions at its prevailing rate of exchange and at the Customer's cost. The rights of the Bank under this clause shall be without prejudice and in addition to any right of set-off, combination or consolidation of accounts, lien or other right to which it is at any time otherwise entitled (whether by operation of law, contract or otherwise) in any jurisdiction.

20. **RELATIONSHIP**

This Agreement and other documents

20.1 The contractual rights and obligations of the Customer in connection with the CREST Service and the DvP Service, and any duty of care owed to or by the Customer, shall be exclusively regulated by this Agreement, the GMRA and Annex (if any) and the Settlement Bank Charge (if any), together with the requirements and directions contained in the CREST Requirements, the Settlement Bank Charge (where applicable) and any mandate or agreement with the Bank governing any Settlement Account. No other warranty, condition, term or representation on the part of the Bank, express or implied, is given or shall have legal effect, whether contained in any material or documentation or information produced or given by the Bank or its agent or contractor to the Customer or otherwise howsoever.

No partnership or trust

20.2 Nothing contained in this Agreement or arising out of the Customer's appointment or use of the Bank as Settlement Bank shall be deemed to constitute a partnership between the parties, nor to constitute the Bank as the trustee of the Customer. The Bank shall not be obliged to exercise any of its rights under any of the CREST Agreement, the Restatement Agreement, the DvP Framework Agreement, the CREST RTGS Payment Agreement or the CREST Settlement Bank Agreement or the CREST Assured Payment Agreement except at its absolute discretion.

Assignment

20.3 Neither the whole nor any part of the benefit of this Agreement shall be assignable by the Customer.

20.4 The Bank may assign or novate all or any part of its rights, benefits and obligations under this Agreement to any person and the Customer and the Partnership (if applicable) shall execute such documents as may be required by the Bank to give effect to any such assignment or novation.

21. THIRD PARTY RIGHTS

21.1 The successors in title to the Bank and the Customer, and any assignee or transferee of the rights of the Bank, are deemed to be a party to this Agreement.

21.2 The Bank and the Customer may by agreement rescind or vary any term of this Agreement (including this clause 21) without the necessity of obtaining any consent from any other person.

21.3 Save as otherwise expressly provided in clause 21.1, no person other than a party to this Agreement shall have any right by virtue of the Contracts (Rights of Third Parties) Act 1999 to enforce any term (express or implied) of this Agreement, but this is without prejudice to any right or remedy of the third party which may exist or be available apart from that Act.

22. NOTICES

22.1 Any demand or notice to the Customer and/or the Partnership (if applicable) under this Agreement shall be effective if made in writing by an officer of the Bank and served:

- (a) by personal delivery on any officer of the Customer or the Partnership (as appropriate); or
- (b) by delivery to the address of the Customer and the Partnership (as appropriate) referred to in clause 22.2 (or any address in the United Kingdom subsequently notified to and agreed by the Bank for the purpose), or to the registered office of the Customer or its existing or last known place of business; or
- (c) by prepaid first class letter (or airmail if from one country to another) to any such address or office; or
- (d) by facsimile to the Customer's or the Partnership's (as appropriate) facsimile number referred to in clause 22.2.

22.2 The Customer's and the Partnership's address for service of any demand or notice shall be that to which the Facility Letter is addressed.

22.3 Service by personal delivery on the Customer or the Partnership or any officer shall be deemed to be

effective upon delivery; service by post shall be deemed to be effective on the second Business Day (or, if by airmail, on the fourth Business Day) after the day of posting, and service by facsimile on the Customer or the Partnership shall be deemed to be effective as at the time of dispatch or transmission.

23. SEVERABILITY

If any provision or any part of any provision of this Agreement is or becomes illegal, invalid or unenforceable, the other provisions or parts of such provision (as the case may be) will remain legal, valid and enforceable.

24. GOVERNING LAW AND JURISDICTION

- 24.1 This Agreement is governed by, and shall be construed in accordance with, English law.
- 24.2 The parties irrevocably agree, for the exclusive benefit of the Bank, that the English courts shall have jurisdiction to settle any legal action or proceedings to enforce this Agreement and to settle any dispute arising out of or in connection with this Agreement ("**proceedings**"). Each party (if incorporated outside England and Wales) waives any objection to proceedings in such courts on the grounds of venue or on the grounds that the proceedings have been brought in an inconvenient forum.
- 24.3 The agreement in clause 24.2 (Jurisdiction) shall not affect the right of the Bank to take proceedings in any other jurisdiction nor shall the taking of proceedings in any jurisdiction preclude the Bank from taking proceedings in any other jurisdiction.
- 24.4 For the purpose of any proceedings and the enforcement of any award or judgment obtained through any proceedings, the Customer and the Partnership hereby waives absolutely any immunity to which it or its assets may be entitled in any jurisdiction.
- 24.5 The Customer and the Partnership (if incorporated outside England and Wales or in the case of the Partnership its business is carried on outside England and Wales) hereby irrevocably appoints the person named or referred to in the Acceptance, or such other person in England as the Customer and the Partnership may nominate in writing to the Bank from time to time, as its agent for the service of any process in England.

SCHEDULE

DEFINITIONS AND INTERPRETATION

1.1 1 In this Agreement:

"Assured Payment Obligation"	means an obligation of the Bank to pay an amount of US Dollars under the CREST Assured Payment Agreement, the CREST Settlement Bank Agreement or, as the context may require, a corresponding obligation by another Settlement Bank to pay US Dollars in favour of the Bank under the CREST Assured Payment Agreement and an agreement between that Settlement Bank and CRESTCo in terms similar to the CREST Settlement Bank Agreement and "Assured Payment" shall be construed accordingly;
"Bank"	means HSBC Bank plc and includes any transferee or successor (whether immediate or derivative) of the Bank or any company with which it may amalgamate and, unless the context otherwise requires, also includes (without imposing on them any of the Bank's obligations under this Agreement or imposing on the Bank any responsibility for them) any agent or correspondent bank that the Bank may engage for the purposes of or in connection with settlement of Assured Payment Obligations within or outside the CREST Service for these purposes;
"Business Day"	means a day on which the Bank is ordinarily open to provide services of the kind contemplated in this Agreement and also on which the CREST Service is fully open and operational;
"Cash Memorandum Account"	means an account maintained by CRESTCo in the name of itself or a CREST Participant permitted by CRESTCo to make and/or receive payments by means of the CREST Service which records the cumulative (net) balance at any time in the course of a Settlement Day of Assured Payment Obligations due to or from or RTGS Payment Obligations paid by or received from a Settlement Bank (in its capacity as Settlement Bank for the relevant system-member) in the relevant Designated Currency;
"CMA Debit"	means the amount by which the Cash Memorandum Account of a CREST Participant is debited in connection with any payment to be made by that CREST Participant by means of the CREST System;
"CREST"	means the computer-based system and procedures established by CRESTCo to enable title to units of stock to be evidenced and transferred without a written instrument and to facilitate supplementary and incidental matters;

"CRESTCo"	means CRESTCo Limited incorporated in England and Wales under number 2878738 acting as Operator of CREST as a relevant system under the CREST Regulations, whose registered office is at 33 Cannon Street, London EC4M 5SB;
"CREST Account"	means the securities account(s) of the Customer maintained within the CREST Service in relation to each class of security held by the Customer under any Participant ID to which this Agreement relates;
"CREST Assured Payment Agreement"	means any agreement for the time being in force between CRESTCo and each Settlement Bank which contains the terms and conditions governing the obligations of the Settlement Banks to make Assured Payments for the purpose of the CREST Service;
"CREST Manual"	means the document entitled "CREST Reference Manual" relating to the operation of CREST issued by CRESTCo;
"CREST Member"	means a person who has been admitted by CRESTCo as a system-member of CREST;
"CREST Membership Agreement"	means an agreement for the time being in force between a CREST Member and CRESTCo relating to membership of the CREST Service;
"CREST Membership Terms and Conditions"	means the terms and conditions concerning CREST membership issued by CRESTCo and for the time being in force;
"CREST Participant"	means CRESTCo or any CREST Member or other person permitted by CRESTCo to make or receive payments by means of the CREST system;
"CREST Payment Facilities"	means the settlement bank facilities made available by the Bank to the Customer (pursuant to this Agreement);
"CREST Payment Instruction"	means the event described in the CREST Rules as resulting in an unconditional obligation of the Bank to make a payment in respect of a transaction effected through the CREST Service, or (as the context may require) resulting in an unconditional right on the part of the Bank to receive a payment in respect of such a transaction;
"CREST Registrar"	means a person who has been admitted by CRESTCo as a system-participant to carry out the functions of a registrar and/or receiving agent;

"CREST Regulations"

means the Uncertificated Securities Regulations 2001 and such other regulations made under Section 207 of the Companies Act 1989 as are applicable to CRESTCo and/or the CREST Service and are from time to time in force;

"CREST Requirements"

means all the obligations, conditions and operating procedures for the time being applicable to the Customer as a CREST Member or CREST Sponsored Member (if applicable) or, as the context may require, to the Bank as a Settlement Bank under or by virtue of:

- (a) the CREST Membership Agreement, or CREST Sponsored Membership Agreement or, as the context may require, the CREST Settlement Bank Agreement, the CREST Assured Payment Agreement and (as appropriate) the applicable CREST RTGS Payment Agreement(s);
- (b) the CREST Rules;
- (c) the DvP Framework Agreement between, *inter alia*, CRESTCo, the Settlement Bank and the Bank of England;
- (d) the CREST Manual;
- (e) any directions for the time being in force given by or for CRESTCo in accordance with the CREST Manual;
- (f) the RTGS CREST Mandate Agreement between the Settlement Bank and the Bank of England;
- (g) the RTGS CREST Master Self-collateralising Repo Agreement between the Bank of England and the Settlement Bank; and
- (h) the RTGS Rules;

"CREST RTGS Payment Agreement"

means an agreement between CRESTCo and the Settlement Banks which governs the relationships of each Settlement Bank with other Settlement Banks and CRESTCo as a result of its admission as a Settlement Bank in the CREST relevant systems in respect of the RTGS Currency specified in that agreement;

"CREST Rules"

means rules, within the meaning of the CREST Regulations and/or the Financial Services Act 1986 and/or the Financial Services and Markets Act 2000, made by CRESTCo in relation to CREST;

"CREST Service"

means the service(s) described from time to time within the CREST Manual as being made available by CRESTCo;

"CREST Settlement Bank"

means the agreement for the time being in force

"Agreement"	between the Bank and CRESTCo which contains the terms and conditions governing the relationship between CRESTCo and the Bank as amended and restated by the Restatement Agreement;
"CREST Sponsor"	means a system-participant permitted by CRESTCo to send properly authenticated dematerialised instructions attributable to a CREST Member and to receive properly authenticated dematerialised instructions on behalf of a CREST Member;
"CREST Sponsored Member"	means a system-member who has appointed a CREST Sponsor to send and receive properly authenticated dematerialised instructions on his behalf (if appropriate, including the Customer);
"CREST Sponsored Membership Agreement"	means an agreement for the time being in force between CRESTCo and a CREST Sponsored Member relating to sponsored membership of the CREST Service;
"Customer Equipment"	means the network and associated software and equipment and services which enable properly authenticated dematerialised instructions to be sent or received for the purposes of the CREST Service and/or Customer Services (other than terminals, software and equipment located at the premises of CRESTCo);
"Customer Services"	means the supply of a network and associated equipment and services to enable properly authenticated dematerialised instructions to be sent and received for the purpose of the CREST Service;
"Debit Cap"	<p>means, in relation to the Customer or Nominated Sponsored Members (as the case may be), the intra-Settlement Day debit balance limit for the relevant Designated Currency (which may be zero) on the applicable Cash Memorandum Account (or the aggregate limit on the applicable Cash Memorandum Accounts, if more than one), which is the sum of:</p> <ul style="list-style-type: none"> (a) the unsecured limit last notified to CRESTCo by the Bank in such manner as may be required by the CREST Manual; and (b) the secured limit (if any) in respect of the Debit Cap; <p>less</p> <ul style="list-style-type: none"> (c) if appropriate, the aggregate margined repo value of securities which have been transferred by that time and on

	that Settlement Day by the Customer in whose name that or those Cash Memorandum Account(s) is/are held under self-collateralising repurchase transactions (under which the Bank has not by that time on that Settlement Day transferred to the Customer securities equivalent to the securities so transferred to the Bank by the Customer), as determined by and in accordance with the provisions of the CREST Manual;
"Designated Currency"	means a currency for the time being designated as such in the Facility Letter;
"document"	means any agreement, deed, instrument or other document of any kind;
"DvP Framework Agreement"	means a trilateral agreement between the Bank of England, CRESTCo and the Settlement Banks which sets out the contractual framework governing the provision of the DvP Service by the Bank of England and CRESTCo;
"DvP Service"	means the several services, functions and facilities which in combination facilitate or otherwise relate to the making of a real-time payment in an RTGS Currency by means of the CREST system;
"Euro"	means the single currency of Participating Member States of the European Union;
"Facility Letter"	has the meaning given to that term on the first page of this Agreement;
"GMRA and Annex"	means the PSA/ISMA Global Master Repurchasing Agreement entered into between the Customer and the Bank to govern self-collateralising repurchase transactions in CREST and the associated Annex thereto duly executed by the Customer;
"Liabilities"	includes any liability, damage, loss, cost, claim or expense of any kind or nature, whether direct, indirect, special, consequential or otherwise (including, without limitation, any loss of business, loss of goodwill, loss of profit, and business interruption or other loss);
"Margin"	means the margined value of securities held in any CREST Account or other account with CREST relating to the Customer linked to the Debit Cap;
"Nominated Sponsored Member"	has the meaning given that term in clause 5.3 (Sponsored Members) of this Agreement;

"Participating Member State"	means each state of the European Union described as such in any regulation adopted by the Council of the European Union under Articles 109I(4) or (5) of the Treaty on European Union (renumbered as Articles 123(4) and (5) of the Treaty on European Union as amended by the Treaty of Amsterdam);
"Participant ID"	means one or more Participant IDs relating to the Customer's membership or, as applicable, sponsored membership for the time being designated as such in the Facility Letter;
"Partnership"	means the person (if any) identified as such (in relation to a Customer which is a Sponsored Member or CREST Member with a Settlement Account in the name of the Partnership) in the Facility Letter;
"Pounds Sterling"	means the lawful currency of the United Kingdom;
"Prescribed Rate"	means, in relation to amounts outstanding in any Designated Currency, such rate as the Bank (but for the purpose of this definition the term the "Bank" shall exclude its agent or correspondent bank) shall in its absolute discretion determine to be the sum of (i) the direct and indirect cost to the Bank of funding any amount unpaid by the Customer from the date due to the date of payment expressed as a percentage rate per annum and (ii) one per cent;
"Restatement Agreement"	means the agreement updating the original CREST Settlement Bank Agreement to incorporate provisions to accommodate the DvP Service and RTGS Payments;
"RTGS CREST Mandate Agreement"	means the mandate agreement between the Bank of England and each Settlement Bank which governs, inter alia, the operations of one or more or a group of accounts of that Settlement Bank denominated in Designated Currencies;
"RTGS Currency"	means either or both of Pounds Sterling or Euros;
"RTGS Manual"	means the RTGS Reference Manual published by the Bank of England as amended from time to time by the Bank of England;
"RTGS Payment Obligation"	means an obligation of the Bank to pay an amount of Pounds Sterling or Euros under the applicable CREST RTGS Payment Agreement or the CREST Settlement Bank Agreement or, as the context may require, a corresponding obligation by another Settlement Bank to pay Pounds Sterling or Euros in favour of the Bank under the applicable CREST RTGS Payment Agreement and an agreement between that Settlement Bank and CRESTCo in

terms similar to the CREST Settlement Bank Agreement, and "RTGS Payment" shall be construed accordingly;

"RTGS Rules"

means all requirements of the RTGS arrangements from time to time including, without limitation, the RTGS CREST Mandate Agreement and the DvP Framework Agreement;

"secured limit"

means, in respect of a Debit Cap at any time during a Settlement Date, the lower of:

- (a) the secured limit last notified as such to CRESTCo by the Bank in such manner as may be required by the CREST Manual; and
- (b) the sum of:
 - (i) the margined value of securities held in any CREST Account linked to the Debit Cap; and
 - (ii) the aggregate margined repo value of securities which have been transferred by that time on that Settlement Day by the Customer in whose name the relevant Cash Memorandum Account(s) is/are held under self-collateralising repurchase transactions (under which the Bank has not by that time on that Settlement Day transferred to the Customer securities equivalent to the securities so transferred to the Bank by the Customer),

in each case as specified by the Bank and notified in accordance with the CREST Manual (or if not so specified), as determined by, and in accordance with, the CREST Manual;

"Settlement Account"

means one or more, as the case may be, of the accounts maintained by the Customer with the Bank for the time being designated for use in connection with this Agreement and includes (unless the context otherwise requires) any additional or substitute account maintained by the Customer with the Bank from time to time specified as being a "Settlement Account" for the purposes of this Agreement or any other account which is not so designated but is referable to Assured Payments or RTGS Payments made or received by the Bank for the account of the Customer (in each case as re-numbered or redesignated from time to time);

"Settlement Bank"

means, in relation to any CREST Member or CREST Registrar, a bank which makes or receives payments in a designated currency on behalf of that CREST Member or CREST Registrar in respect of securities held in the CREST Service, being a bank which has

entered into an agreement with CRESTCo to act as Settlement Bank in respect of that CREST Member or CREST Registrar and continues so to act;

"Settlement Bank Charge"

means the security deed in the form agreed with the Bank and granted, or to be granted, by the Customer and the Partnership (if applicable), in favour of the Bank to secure the liabilities of the Customer and the Partnership (if applicable) to the Bank under this Agreement and (unless the context otherwise requires) includes all security deeds (and, if applicable, supplemental security deeds) created by the Customer and the Partnership (if applicable) in favour of the Bank prior to the date of this Agreement;

"Settlement Day"

means a Business Day on which CREST Payment Instructions arising on that day fall to be settled in accordance with the provisions of the CREST Requirements;

"Uninitiated Transaction"

means a transaction which is entered into the CREST system and which either:

(a) is so entered without CRESTCo having received (or without CRESTCo being treated as having received in accordance with the provisions of the CREST Manual which govern the attribution and addressing of system instructions) a properly authenticated dematerialised instruction attributable or addressed to the CREST Participant whose Cash Memorandum Account is debited or credited under the transaction; or

(b) causes an amount to be debited or credited to a Cash Memorandum Account of the CREST Participant which was not instructed to be so debited or credited by a related properly authenticated dematerialised instruction attributable or addressed to that CREST Participant (but without prejudice to the procedures described in the CREST Manual relating to tolerance matching); and

"US Dollars"

means the lawful currency of the United States of America.

- 1.2 Terms which are used in this Agreement but are not defined in this Schedule shall have the meanings given to them in the CREST Regulations.
- 1.3 Terms relating to CREST or the CREST relevant system which are used in this Agreement, but not defined in this Schedule, have the meanings given to them in the Glossary of the CREST Manual.
- 1.4 Reference to a "**person**" includes a reference to any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing.

- 1.5 References to the Customer, the Partnership and to the Bank include references to the persons deriving title under them respectively.
- 1.6 References to the singular include the plural and vice versa and references to any gender include any other gender.
- 1.7 Any reference to an enactment is a reference to it as it has been or may be amended, or as it may be re-enacted with or without modifications.
- 1.8 References in this Agreement to numbered clauses or schedules are to clauses of or schedules to this Agreement.
- 1.9 Any reference to "**this Agreement**" or to any agreement or document (including, without limitation, the CREST Manual and the CREST Rules) shall be construed as a reference to this Agreement (including this Schedule) or such agreement or document as the same may from time to time be amended, varied, supplemented, novated or replaced and shall include any document which is supplemental to, or is expressed to be collateral to, or is entered into pursuant to or in accordance with the terms of, this Agreement or, as the case may be, such agreement or document.
- 1.10 In construing this Agreement, general words whether or not introduced by the word "**other**" shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things and general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words.
- 1.11 In the event that the functions and facilities comprised in the CREST Service are used for any purposes which are outside the scope of the CREST Regulations, terms defined in the CREST Regulations which are used in this Agreement in relation to any functions or facilities comprised in CREST shall be taken to have a corresponding meaning when used for purposes that are not within (or to the extent that the same are not within) the scope of the CREST Regulations.
- 1.12 In this Agreement any provision to the effect that the Bank shall not be liable in respect of a particular matter shall be construed to mean that the Bank shall not have any liability which it might, in the absence of such provision, incur, whether the Bank incurs such a liability (i) under the terms of this Agreement (whether such terms are express or implied by statute, law or otherwise); (ii) in tort; (iii) for misrepresentation; (iv) for breach of any other duty imposed by law; or (v) in any other way. Provided that nothing in this Agreement shall be construed as excluding or limiting liability on the part of the Bank for death or personal injury resulting from its own negligence or as excluding liability for fraud.
- 1.13 The clause headings in this Agreement shall not affect its interpretation.