



International Swaps and Derivatives Association, Inc.

2012 HOUGHTON MIFFLIN HARCOURT PUBLISHING COMPANY CREDIT DERIVATIVES AUCTION SETTLEMENT TERMS

published on May 25, 2012

by the International Swaps and Derivatives Association, Inc.

Any capitalized term used but not defined in these 2012 Houghton Mifflin Harcourt Publishing Company Credit Derivatives Auction Settlement Terms (these "**Credit Derivatives Auction Settlement Terms**") shall have the meaning given to the relevant capitalized term in (a) the 2003 ISDA Credit Derivatives Definitions (the "**2003 Definitions**") as supplemented by either (i) the 2009 ISDA Credit Derivatives Determinations Committees and Auction Settlement Supplement to the 2003 ISDA Credit Derivatives Definitions published on March 12, 2009 (the "**March 2009 Supplement**") or (ii) the 2009 ISDA Credit Derivatives Determinations Committees, Auction Settlement and Restructuring Supplement to the 2003 ISDA Credit Derivatives Definitions published on July 14, 2009 (the "**July 2009 Supplement**"), as applicable (each as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**")) (the 2003 Definitions, together with either the March 2009 Supplement or the July 2009 Supplement, as applicable, the "**Definitions**") or (b) the Credit Derivatives Determinations Committees Rules, as amended from time to time and as most recently published by ISDA on its Website as of the date hereof (the "**Rules**"), as applicable. In the event of any inconsistency between the Definitions and these Credit Derivatives Auction Settlement Terms, these Credit Derivatives Auction Settlement Terms shall govern.

For purposes of Article XII (Terms Relating to Auction Settlement) of the Definitions, ISDA has published these Credit Derivatives Auction Settlement Terms to enable parties to Auction Covered Transactions to settle such Auction Covered Transactions based upon an Auction Final Price determined according to an auction procedure on the terms set out below.

In circumstances where these Credit Derivatives Auction Settlement Terms are published following a Restructuring for the purpose of settling Credit Derivative Transactions for which "Restructuring Maturity Limitation and Fully Transferable Obligation" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation", as applicable, is specified in the related Confirmations, and more than one Designated Range of Scheduled Termination Dates is specified in Schedule 1, these Credit Derivatives Auction Settlement Terms shall be construed as constituting two or more separate sets of Credit Derivatives Auction Settlement Terms, each referencing a different set of Permissible Deliverable Obligations, each specifying a different Designated Range of Scheduled Termination Dates and each relating to a separate set of Auction Covered Transactions, but each otherwise identical in all respects (except as otherwise specified). The procedures set forth in these Credit Derivatives Auction Settlement Terms shall be conducted by the Administrators separately for each set of Auction Covered Transactions (each such auction procedure for purposes of the relevant set of Credit Derivatives Auction Settlement Terms, an "**Auction**"), except that the procedures set forth in Sections 1 and 2 of these Credit Derivatives Auction Settlement Terms shall be conducted once and applied to each Auction.

1 **List of Participating Bidders**

On or before the later of (a) the date of publication of these Credit Derivatives Auction Settlement Terms and (b) the Business Day prior to the Originally Scheduled Auction Currency Fixing Date, the Administrators will publish one or more lists of the institutions that will act as participating bidders (each such institution, a "**Participating Bidder**"), which lists will consist of (i) each Global Dealer Voting Member, Global Dealer Consultative Member, Regional Dealer Voting Member and Regional Dealer Consultative Member that is a Convened DC Member of the relevant Convened DC (unless the Administrators are otherwise notified by any such Convened DC Member that such Convened DC Member does not intend to participate in the Auction, in which case such Convened DC Member will not be included on the list of Participating Bidders published by the Administrators), subject to Sections 1.10(e)(i) and 1.10(f) of the Rules and (ii) any other institution that submits to the DC Secretary a Participating Bidder Letter that (A) is effectively received by the DC Secretary no later than 5:00 p.m. Relevant City Time on the later of (I) the date that is five Business Days prior to the Originally Scheduled Auction Currency Fixing Date and (II) the earlier of (α) the Business Day following publication of these Credit Derivatives Auction Settlement Terms and (β) the second Business Day prior to the Originally Scheduled Auction Currency Fixing Date and (B) is approved by the relevant Convened DC pursuant to Section 3.2(b)(ii) of the Rules. Following the initial publication of the list of Participating Bidders but prior to the Auction Date, the Administrators may publish revisions to such list to add further Participating Bidders or remove previously included Participating Bidders.

2 **Determining the Auction Currency Rate**

On the relevant Auction Currency Fixing Date, the Administrators will determine the rate of conversion (each, an "**Auction Currency Rate**") as between (i) the Relevant Currency and the currency of denomination of each Deliverable Obligation and (ii) in the case where a revolving credit arrangement (a "**Revolver**") is included on the Final List, the base currency of such Revolver and the currency of any drawings under such Revolver (each, a "**Relevant Pairing**") as follows:

- (a) **Currency Rate Source.** Where it is possible for the Administrators to determine the rate of conversion for a Relevant Pairing by reference to the Currency Rate Source on the relevant Auction Currency Fixing Date, the relevant rate of conversion shall be the Auction Currency Rate for such Relevant Pairing.
- (b) **Currency Rate Source Unavailable.** On each Business Day from, and including, the relevant Auction Currency Fixing Date to, and including, the earlier of (i) the Auction Final Price Determination Date and (ii) the Auction Cancellation Date, the Administrators will determine whether an Auction Currency Rate can be determined for any Relevant Pairing in accordance with Section 2(a) of these Credit Derivatives Auction Settlement Terms. If the Administrators are not able to determine an Auction Currency Rate for any Relevant Pairing in accordance with Section 2(a) of these Credit Derivatives Auction Settlement Terms on any such Business Day, the Administrators will determine the Auction Currency Rate for each such Relevant Pairing as follows:
 - (A) Between 1:45 p.m. and 2:00 p.m. Relevant City Time on any such Business Day (in the case where the Relevant Transaction Type is included in the Americas), or between 8:45 a.m. and 9:00 a.m. Relevant City Time on the Business Day following any such Business Day (in the case where the Relevant Transaction Type is included in any Region other than the Americas), the Administrators will seek to obtain from each Participating Bidder, and each Participating Bidder may submit, the mid-market rate of conversion, determined by each such Participating Bidder in a commercially reasonable manner, for each such Relevant Pairing.

- (B) If more than three such rates are obtained by the Administrators, the Auction Currency Rate will be the arithmetic mean of such rates, without regard to the rates having the highest and lowest values. If exactly three rates are obtained, the Auction Currency Rate will be the rate remaining after disregarding the rates having the highest and lowest values. For this purpose, if more than one rate has the same highest or lowest value, then one of such rates shall be disregarded. If fewer than three rates are obtained, it will be deemed that the Auction Currency Rate cannot be determined for such Relevant Pairing.
- (c) **Publication of Auction Currency Rate.** If the Administrators determine an Auction Currency Rate for each Relevant Pairing in accordance with either Section 2(a) or 2(b) of these Credit Derivatives Auction Settlement Terms, the Administrators will publish on their respective websites such Auction Currency Rates as soon as is reasonably practicable following determination thereof, but in no event later than 3:00 p.m. Relevant City Time (in the case where the Relevant Transaction Type is included in the Americas) or 10:00 a.m. Relevant City Time (in the case where the Relevant Transaction Type is included in any Region other than the Americas), in each case, on the Business Day prior to the Auction Date (or as soon as possible thereafter in the case where Section 13 of these Credit Derivatives Auction Settlement Terms apply).
- (d) **Inability to Determine Auction Currency Rate.** If the Administrators are unable to determine an Auction Currency Rate for each Relevant Pairing in accordance with Sections 2(a) and 2(b) of these Credit Derivatives Auction Settlement Terms, Section 13(b) of these Credit Derivatives Auction Settlement Terms shall apply.

3 **Customer Physical Settlement Requests**

Any customer that wishes to submit a Customer Physical Settlement Request to a Participating Bidder must submit a Customer Physical Settlement Request Letter to the relevant Participating Bidder no later than 5:00 p.m. Relevant City Time on the Business Day prior to the Auction Final Price Determination Date (provided that a Participating Bidder may elect, in its sole discretion, to accept a Customer Physical Settlement Request Letter at any later time prior to the commencement of the Initial Bidding Period). Each Customer Physical Settlement Request submitted to a Participating Bidder must be, to the best of the relevant customer's knowledge and belief, on the same side of the market as, and (when aggregated with all other Customer Physical Settlement Requests, if any, submitted by such customer and/or the Affiliates of such customer to one or more other Participating Bidders) not in excess of, such customer's Market Position. Each Participating Bidder must accept Customer Physical Settlement Requests from any customer with whom it or its Affiliates has a trading relationship under a Governing Master Agreement, provided that such Customer Physical Settlement Request (a) would not, in the discretion of the Participating Bidder, cause any credit limits established by the relevant Participating Bidder with respect to such customer that are in effect at the time of the receipt of such Customer Physical Settlement Request to be exceeded, and (b) is no larger than, and is on the same side of the market as, such customer's Dealer-Specific Market Position with respect to the relevant Participating Bidder and/or the Affiliates of such Participating Bidder (in aggregate). A Participating Bidder may elect, in its sole discretion, to accept a Customer Physical Settlement Request that is larger than (or on the opposite side of the market as) the relevant customer's Dealer-Specific Market Position with respect to such Participating Bidder and/or the Affiliates of such Participating Bidder.

4 **Initial Market Submissions and Dealer Physical Settlement Requests**

During the Initial Bidding Period, each Participating Bidder shall submit to the Administrators an Initial Market Submission and may submit to the Administrators a Physical Settlement Request (which Physical Settlement Request will equal the aggregate of the relevant Participating Bidder's Dealer

Physical Settlement Request and all valid Customer Physical Settlement Requests, if any, that the relevant Participating Bidder receives and accepts from its customers pursuant to Section 3 of these Credit Derivatives Auction Settlement Terms). Each Dealer Physical Settlement Request must be, to the best of the relevant Participating Bidder's knowledge and belief, on the same side of the market as, and not in excess of, the Market Position of such Participating Bidder and/or the Affiliates of such Participating Bidder.

5 **Determining the Initial Market Midpoint**

If the Administrators receive no fewer than the Minimum Number of Valid Initial Market Submissions, the Administrators will determine the "**Initial Market Midpoint**" as follows:

- (a) **Matched Markets.** The Administrators will sort the Initial Market Bids and Initial Market Offers that comprise the Valid Initial Market Submissions separately, with the Initial Market Bids sorted in descending order and the Initial Market Offers sorted in ascending order. Each Initial Market Bid will then be matched with the corresponding Initial Market Offer (i.e., the highest Initial Market Bid will be matched with the lowest Initial Market Offer, the second highest Initial Market Bid will be matched with the second lowest Initial Market Offer, etc.) (each such matching of an Initial Market Bid with the corresponding Initial Market Offer, a "**Matched Market**"). For purposes of sorting the Initial Market Bids and Initial Market Offers, where two Initial Market Bids are equal, the one received first in time by the Administrators will be considered to be the lower of the two, and where two Initial Market Offers are equal, the one received first in time by the Administrators will be considered to be the higher of the two.
- (b) **Tradeable and Non-Tradeable Markets.** After sorting the Initial Market Bids and Initial Market Offers pursuant to Section 5(a) of these Credit Derivatives Auction Settlement Terms, the Administrators will determine which Matched Markets are Tradeable Markets by reference to whether the relevant Initial Market Bid is (i) equal to the corresponding Initial Market Offer, in which case such Matched Market constitutes a Tradeable Market that is a Touching Market, or (ii) higher than the corresponding Initial Market Offer, in which case such Matched Market constitutes a Tradeable Market that is a Crossing Market. Any Matched Market that is not a Tradeable Market is a Non-Tradeable Market.
- (c) **Best Half.** The Administrators will then calculate the mean of the Initial Market Bids and Initial Market Offers included in the Best Half of Non-Tradeable Markets. To identify the Best Half, the Administrators will list all Non-Tradeable Markets in an order based on the spread between the Initial Market Bid and the Initial Market Offer within each Non-Tradeable Market, from the smallest spread to the largest spread (i.e., the Non-Tradeable Market with the smallest spread between its Initial Market Bid and its Initial Market Offer will be at the top of the list, the Non-Tradeable Market with the second smallest spread between its Initial Market Bid and its Initial Market Offer will be next on the list, etc.). The Best Half of the Non-Tradeable Markets are those in the top half of the list of Non-Tradeable Markets. In the event that the number of Non-Tradeable Markets is an odd number, the Administrators will round up the number of Non-Tradeable Markets to include in the Best Half to the nearest whole number. The Administrators will then calculate the Initial Market Midpoint by finding the mean of all the Initial Market Bids and Initial Market Offers that form Non-Tradeable Markets included in the Best Half (with the results rounded to the nearest fraction of a percentage point that is the Relevant Pricing Increment, provided that where such results fall equidistant between two Relevant Pricing Increments, such results will be rounded up).
- (d) **Example Calculation of Initial Market Midpoint.** The steps described in (a), (b) and (c) above are illustrated in the following example (which is not intended to reflect indicative prices for the Deliverable Obligations):

Step 1 – Sort Bids from highest to lowest and Offers from lowest to highest.

Contributed		Sorted	
IM Bids	IM Offers	IM Bids	IM Offers
39.500%	41.000%	45.000%	34.000%
40.000%	42.000%	41.000%	39.500%
41.000%	43.000%	41.000%	40.000%
45.000%	47.000%	40.000%	41.000%
32.000%	34.000%	39.500%	42.000%
38.750%	40.000%	38.750%	42.750%
38.000%	39.500%	38.000%	43.000%
41.000%	42.750%	32.000%	47.000%

Matched Markets

Tradeable Markets

Best Half

Non-Tradeable Markets

Step 2 – Ignore all Tradeable Markets.

Step 3 – The Initial Market Midpoint is the mean of the Best Half of the Non-Tradeable Markets. If there is an odd number of Non-Tradeable Markets, round up the number of Non-Tradeable Markets to include in the Best Half to the nearest whole number. In this example, the Relevant Pricing Increment is assumed to be one-eighth of one percentage point.

Best Half	
IM Bids	IM Offers
40.000%	41.000%
39.500%	42.000%
38.750%	42.750%

Initial Market Midpoint = Average (40, 41, 39.5, 42, 38.75, 42.75) = 40.667%, rounded to the nearest one-eighth of one percentage point. = 40.625%

6 Market Position Trades and determining the Open Interest

If an Initial Market Midpoint has been determined pursuant to Section 5 of these Credit Derivatives Auction Settlement Terms, the Administrators will match all Valid Physical Settlement Requests with one another in order to determine the Open Interest. If the sum of all Quotation Amounts stated in each Physical Settlement Sell Request is less than the sum of all Quotation Amounts stated in each Physical Settlement Buy Request, all Physical Settlement Sell Requests will be matched with Physical Settlement Buy Requests, subject to the Rounding Convention, or if the sum of all Quotation Amounts stated in each Physical Settlement Buy Request is less than the sum of all Quotation Amounts stated in each Physical Settlement Sell Request, all Physical Settlement Buy Requests will be matched with Physical Settlement Sell Requests, subject to the Rounding Convention (each such match, a "**Market Position Trade**"), and each such pair will form a trade at the Auction Final Price as described in Section 12 below.

7 Determining Adjustment Amounts

For each Tradeable Market, the Participating Bidder whose Initial Market Bid or Initial Market Offer forms part of such Tradeable Market will make a payment to ISDA (the "**Adjustment Amount**") on the third Business Day after the Auction Final Price Determination Date as follows:

- (a) **Procedure for Calculating Adjustment Amounts.** The Adjustment Amount with respect to a Tradeable Market will be an amount calculated by the Administrators equal to (i) the Initial Market Quotation Amount multiplied by (ii) either (A) if the Open Interest is an offer to sell Deliverable Obligations, the greater of (I) zero and (II) an amount equal to (α) the Initial Market Bid forming part of such Tradeable Market minus (β) the Initial Market Midpoint or (B) if the Open Interest is a bid to purchase Deliverable Obligations, the greater of (I) zero and (II) an amount equal to (α) the Initial Market Midpoint minus (β) the Initial Market Offer forming part of such Tradeable Market. Each Participating Bidder agrees that (1) if the Open Interest is an offer to sell Deliverable Obligations, the Participating Bidder whose Initial Market Bid formed part of such Tradeable Market will pay the Adjustment Amount to ISDA and (2) if the Open Interest is a bid to purchase Deliverable Obligations, the Participating Bidder whose Initial Market Offer formed part of such Tradeable Market will pay the Adjustment Amount to ISDA.

Any payments of Adjustment Amounts shall be used by ISDA to defray any costs related to any auction that ISDA has coordinated (including the Auction), or that ISDA will in the future coordinate, for purposes of settlement of Credit Derivative Transactions. To the extent that ISDA determines at any time that the aggregate of all such payments received by ISDA (and not previously applied by ISDA to defray auction-related costs) up to and including such time exceeds the costs (including future costs as determined by ISDA) of such auctions, ISDA may in its sole discretion distribute any such excess among all entities that have previously acted as participating bidders in any prior auction proportionately, based upon participation as a participating bidder in such prior auctions. Payments of Adjustment Amounts will not be conducted or effected by, or through, any Administrator.

- (b) **Example Calculation of Adjustment Amount.** The steps described in Section 7(a) of these Credit Derivatives Auction Settlement Terms are illustrated in the following example (which is not intended to reflect indicative prices for the Deliverable Obligations):

Step 1 – Consider only Tradeable Markets.

Tradeable Markets	
IM Bids	IM Offers
45.000%	34.000%
41.000%	39.500%
41.000%	40.000 %

Step 2 – Calculate the Adjustment Amount for each Tradeable Market by (i) if the Open Interest is (A) an offer to sell Deliverable Obligations, determining the greater of (I) zero and (II) an amount equal to (α) the Initial Market Bid forming part of such Tradeable Market minus (β) the Initial Market Midpoint or (B) a bid to purchase Deliverable Obligations, determining the greater of (I) zero and (II) an amount equal to (α) the Initial Market Midpoint minus (β) the Initial Market Offer forming part of such Tradeable Market and (ii) multiplying the resulting amount by the Initial Market Quotation Amount.

Example calculation of Adjustment Amount if the Open Interest is an offer to sell Deliverable Obligations:

IM Bids	IMM	Adjustment Amount (as a percentage of the Initial Market Quotation Amount)
45.000%	40.625%	4.375%
41.000%	40.625%	0.375%
41.000%	40.625%	0.375%

Example calculation of Adjustment Amount if the Open Interest is a bid to purchase Deliverable Obligations:

IMM	IM Offers	Adjustment Amount (as a percentage of the Initial Market Quotation Amount)
40.625%	34.000%	6.625%
40.625%	39.500%	1.125%
40.625%	40.000%	0.625%

8 Publication of Initial Bidding Information

At or prior to the Initial Bidding Information Publication Time, on any day on which the Initial Bidding Period has successfully concluded, each Administrator will publish on its website the following information:

- (a) the size and direction of the Open Interest;

- (b) the Initial Market Midpoint; and
- (c) the details of any Adjustment Amounts,

(such information with respect to such successfully concluded Initial Bidding Period, the "**Initial Bidding Information**"). In addition, if any Other Initial Bidding Period has successfully concluded on such day, each Administrator will, at the same time that it publishes the Initial Bidding Information, also publish on its website equivalent information with respect to such Other Initial Bidding Period(s).

If (i) for any reason, (A) the Initial Bidding Period lasts longer, or occurs later, than the Originally Scheduled Initial Bidding Period or (B) a relevant Other Initial Bidding Period lasts longer, or occurs later, than the related Other Originally Scheduled Initial Bidding Period, or (ii) as of the time on the relevant day at which the Administrators would otherwise publish the Initial Bidding Information, (A) a Materiality Event has been declared pursuant to Section 13(a) of these Credit Derivatives Auction Settlement Terms or (B) an event has occurred or exists that is considered by any two or more Participating Bidders to be a Potential Materiality Event and it remains to be determined whether such Potential Materiality Event will result in the declaration of a Materiality Event, the Administrators may delay the Subsequent Bidding Period until, and publish the Initial Bidding Information on their respective websites at, such time as they determine (in their sole and absolute discretion) in order to preserve the integrity of the Auction (except that in the case of the declaration of a Materiality Event under Section 8(ii)(A) of these Credit Derivatives Auction Settlement Terms, the Administrators shall refrain from publishing the Initial Bidding Information with respect to such Initial Bidding Period).

9 **If the Open Interest is Zero**

In the event that the Open Interest is zero, no Subsequent Bidding Period will be conducted by the Administrators, and the Initial Market Midpoint, published in accordance with Section 8 of these Credit Derivatives Auction Settlement Terms, will be the Auction Final Price.

10 **Customer Limit Order Submissions**

In the event that the Open Interest does not equal zero, a Subsequent Bidding Period will be conducted by the Administrators. Any Customer Limit Order Submission must be submitted to, and received by, the relevant Participating Bidder during the period from and including the time at which the Initial Bidding Information is published to and including the time at which the Subsequent Bidding Period concludes; provided that in the case where the Subsequent Bidding Period is extended by the Administrators (whether such Subsequent Bidding Period is the Originally Scheduled Subsequent Bidding Period or a postponed Subsequent Bidding Period), no Customer Limit Order Submission may be submitted to the relevant Participating Bidder after the time at which such Subsequent Bidding Period was originally scheduled to conclude. Each Customer Limit Order Submission submitted to a Participating Bidder must be on the opposite side of the market from the Open Interest and, to the best of the customer's knowledge and belief, (when aggregated with all other Customer Limit Order Submissions, if any, submitted by such customer to one or more Participating Bidders) not in excess of the size of the Open Interest. The Participating Bidder may, but is not obliged to, take into account in one or more of its Limit Order Submissions any Customer Limit Order Submission submitted to it in accordance with this Section 10 of these Credit Derivatives Auction Settlement Terms, provided that if a Participating Bidder, for any reason, decides not to accept a Customer Limit Order Submission from a customer, such Participating Bidder shall promptly notify such customer of such decision.

11 **Participating Bidder Limit Order Submissions and Unmatched Limit Orders**

During the Subsequent Bidding Period, each Participating Bidder may submit Limit Order Submissions that are on the opposite side of the market from the Open Interest. Any Initial Market Bid (if the Open

Interest is an offer to sell Deliverable Obligations) or Initial Market Offer (if the Open Interest is a bid to purchase Deliverable Obligations), as applicable, submitted during the Initial Bidding Period (regardless of whether such Initial Market Bid or Initial Market Offer, as applicable, forms part of a Tradeable Market) will, together with any Limit Bid (if the Open Interest is an offer to sell Deliverable Obligations) or Limit Offer (if the Open Interest is a bid to purchase Deliverable Obligations), as applicable, be considered an "**Unmatched Limit Order**", however any Initial Market Bid that forms part of a Tradeable Market and is higher than the Initial Market Midpoint and any Initial Market Offer that forms part of a Tradeable Market and is lower than the Initial Market Midpoint will, in each case, be deemed to be equal to the Initial Market Midpoint for purposes of serving as an Unmatched Limit Order. The sum of (a) the excess, if any, of (i) the aggregate Quotation Amount of a Participating Bidder's Valid Limit Order Submissions over (ii) the portion of such aggregate Quotation Amount attributable to any Customer Limit Order Submissions received by such Participating Bidder that are taken into account in such Participating Bidder's Valid Limit Order Submissions and (b) such Participating Bidder's Initial Market Bid or Initial Market Offer, as applicable, that is on the same side of the market as its Valid Limit Order Submissions must be, to the best of such Participating Bidder's knowledge and belief, not in excess of the size of the Open Interest. If the Open Interest is an offer to sell Deliverable Obligations, then any Limit Bid that would otherwise be at a price above the Initial Market Midpoint plus the Cap Amount shall be deemed to be at a price equal to the Initial Market Midpoint plus the Cap Amount. If the Open Interest is a bid to purchase Deliverable Obligations, then any Limit Offer that would otherwise be at a price below the Initial Market Midpoint minus the Cap Amount shall be deemed to be at a price equal to the Initial Market Midpoint minus the Cap Amount.

12 **Matching the Open Interest Against Unmatched Limit Orders and determining the Auction Final Price**

After the conclusion of the Subsequent Bidding Period, the Administrators will match the Open Interest against the corresponding Unmatched Limit Orders.

- (a) **Matching Offers or Bids.** If the Open Interest is a bid to purchase Deliverable Obligations, the Open Interest will be matched against the Unmatched Limit Orders that are Offers. If the Open Interest is an offer to sell Deliverable Obligations, the Open Interest will be matched against the Unmatched Limit Orders that are Bids.
- (b) **Filling or Not Filling the Open Interest.** The Open Interest will be matched against each applicable Unmatched Limit Order, beginning with the Unmatched Limit Order that is the lowest Offer or the highest Bid, as applicable, and moving to the next remaining lowest (in the case of Offers) or next remaining highest (in the case of Bids) until:
 - (i) the full amount of the Open Interest has been matched against Unmatched Limit Orders totaling the same size as the Open Interest; or
 - (ii) all of the Unmatched Limit Orders of the relevant direction (i.e. Offers, if the Open Interest is a bid to purchase Deliverable Obligations or Bids, if the Open Interest is an offer to sell Deliverable Obligations) have been matched to the Open Interest.
- (c) **Matched Limit Orders and Matched Limit Order Trades.** Each Unmatched Limit Order that is matched to the Open Interest under Section 12(b)(i) or 12(b)(ii) of these Credit Derivatives Auction Settlement Terms is a "**Matched Limit Order**", and each such match between a Matched Limit Order and a Valid Physical Settlement Request is a "**Matched Limit Order Trade**". If (i) the final matching of the Open Interest against the applicable Unmatched Limit Orders occurs pursuant to Section 12(b)(i) of these Credit Derivatives Auction Settlement Terms, (ii) there are multiple Unmatched Limit Orders stating the same price and (iii) each such Unmatched Limit Order stating the same price could be the final Unmatched Limit Order to be

matched to the Open Interest, then each such potentially final Unmatched Limit Order stating the same price will be filled Pro Rata against the remaining Open Interest, subject to the Rounding Convention.

- (d) **Auction Final Price when the Open Interest is Filled.** If the final matching of the Open Interest against the applicable Unmatched Limit Orders occurs pursuant to Section 12(b)(i) of these Credit Derivatives Auction Settlement Terms, the Auction Final Price will be the price associated with the Matched Limit Order that is the highest Offer or the lowest Bid, as applicable, provided that (i) if the Open Interest is a bid to purchase Deliverable Obligations and the Initial Market Midpoint exceeds the price associated with the highest Matched Limit Order by more than the Cap Amount, then the Auction Final Price will be the Initial Market Midpoint minus the Cap Amount and (ii) if the Open Interest is an offer to sell Deliverable Obligations and the price associated with the lowest Matched Limit Order exceeds the Initial Market Midpoint by more than the Cap Amount, then the Auction Final Price will be the Initial Market Midpoint plus the Cap Amount. If the Open Interest is zero, the Auction Final Price will be the Initial Market Midpoint.
- (e) **Auction Final Price when the Open Interest is Not Filled.** If the final matching of the Open Interest against the applicable Unmatched Limit Orders occurs pursuant to Section 12(b)(ii) of these Credit Derivatives Auction Settlement Terms, the Auction Final Price will be (i) if the Open Interest is a bid to purchase Deliverable Obligations, the greater of (A) 100 percent and (B) the highest Offer received or (ii) if the Open Interest is an offer to sell Deliverable Obligations, zero. In such case, notwithstanding Sections 6 or 12(b) of these Credit Derivatives Auction Settlement Terms, all Valid Physical Settlement Requests on the same side of the market as the Open Interest (e.g., bids to purchase or offers to sell) will be matched Pro Rata, subject to the Rounding Convention, against the Valid Limit Order Submissions and Valid Physical Settlement Requests on the opposite side of the market to form Market Position Trades or Matched Limit Order Trades, as applicable.
- (f) **100 Percent Cap to Auction Final Price.** In all cases, if the Auction Final Price determined pursuant to these Credit Derivatives Auction Settlement Terms is greater than 100 percent, then, for purposes of settling the Auction Covered Transactions only, the Auction Final Price will be deemed to be 100 percent.
- (g) **Deemed Bilateral Agreement between Participating Bidders.** Each Participating Bidder whose Valid Physical Settlement Request or Matched Limit Order, as applicable, forms part of either a Market Position Trade or a Matched Limit Order Trade will be deemed to have entered into a bilateral agreement on terms equivalent to the Representative Auction-Settled Transaction for which (i) the Floating Rate Payer Calculation Amount is equal to the Quotation Amount with respect to the relevant Market Position Trade or Matched Limit Order Trade, as applicable, and (ii) (A) Seller is the Participating Bidder whose Physical Settlement Buy Request forms part of such Market Position Trade or whose Physical Settlement Buy Request, Limit Bid or Initial Market Bid, as applicable, forms part of such Matched Limit Order Trade and (B) Buyer is the Participating Bidder whose Physical Settlement Sell Request forms part of such Market Position Trade or whose Physical Settlement Sell Request, Limit Offer or Initial Market Offer, as applicable, forms part of such Matched Limit Order Trade; provided that, (I) in the case of the Matched Limit Order Trades containing the highest Offer or the lowest Bid, as applicable, the Quotation Amount will, if necessary, be reduced to reflect the size of the remaining Open Interest, and (II) in the event that there are multiple Matched Limit Orders stating the highest Offer or lowest Bid, as applicable, then such Matched Limit Orders will be filled Pro Rata against the remaining Open Interest, subject to the Rounding Convention. Participating Bidders whose Valid Physical Settlement Request or Matched Limit Order, as applicable, forms part of a Market Position Trade or Matched Limit Order Trade will be matched with one another by the

Administrators in their sole and absolute discretion so as to minimize, to the extent reasonably practicable, first, the number of Representative Auction-Settled Transactions for which the Floating Rate Payer Calculation Amount will be either smaller than the Initial Market Quotation Amount or not an integral multiple of the RAST Notional Amount Increment and second, the number of Representative Auction-Settled Transactions to be entered into; provided that, prior to such matching, the Quotation Amounts with respect to Matched Limit Orders or Valid Physical Settlement Requests, as applicable, submitted by the same Participating Bidder will be matched with each other, to the extent possible. Transactions entered into by and between Participating Bidders pursuant to Market Position Trades or Matched Limit Order Trades will not be conducted or effected by, or through, any Administrator.

13 **Delayed Auction Provisions**

The Auction timing may be adjusted under the relevant following circumstances:

- (a) **Materiality Event Delayed Auction Date.** If at any time on or after the Business Day prior to the Auction Date but before the conclusion of the Subsequent Bidding Period on the Auction Final Price Determination Date, an event occurs or exists that is determined by any two or more Participating Bidders to be a Potential Materiality Event, then such Participating Bidders shall have a right to require the DC Secretary to call a vote of the Participating Bidders to determine whether such Potential Materiality Event is a Materiality Event, which vote will take place, if such Potential Materiality Event is identified prior to the commencement of the Initial Bidding Period, before the conclusion of such Initial Bidding Period, and otherwise before the conclusion of such Subsequent Bidding Period. If a simple majority of all the Participating Bidders votes that such Potential Materiality Event is a Materiality Event, then such Initial Bidding Period and, if applicable, such Subsequent Bidding Period will be deemed to have been cancelled, annulled or postponed, as applicable, and the auction procedure contemplated by these Credit Derivatives Auction Settlement Terms shall recommence as if the Auction had originally been scheduled to take place on the next Business Day, unless, prior to the commencement of the Initial Bidding Period on such next Business Day, the DC Secretary holds a vote of the Participating Bidders, and a simple majority of all the Participating Bidders votes that the news of the Materiality Event has not yet been sufficiently widely disseminated or another Materiality Event has occurred or exists, in which case the auction procedure contemplated by these Credit Derivatives Auction Settlement Terms shall recommence as if the Auction had originally been scheduled to take place on the following Business Day (i.e., the second Business Day after the later of the original vote establishing the occurrence of a Materiality Event and the Auction Date), or, if necessary, on each following Business Day thereafter, but in no event later than the fifth Business Day after the Auction Date (any such delayed date on which a new Initial Bidding Period actually occurs following a particular Materiality Event, a "**Materiality Event Delayed Auction Date**"). The Administrators will publish the results of any vote of the Participating Bidders with respect to the declaration of a Materiality Event (including the vote cast by each Participating Bidder participating in such vote) on their respective websites.

In the event of the occurrence of a Materiality Event Delayed Auction Date, (i) each previously submitted Customer Physical Settlement Request and Dealer Physical Settlement Request shall be deemed to be revoked and must be re-submitted pursuant to Section 3 or 4, as applicable, of these Credit Derivatives Auction Settlement Terms as if the Auction had originally been scheduled to take place on the relevant Materiality Event Delayed Auction Date and (ii) the Auction Currency Fixing Date shall mean with respect to a Relevant Transaction Type included in (A) the Americas, the Business Day prior to the Materiality Event Delayed Auction Date and (B) any Region other than the Americas, two Business Days prior to the Materiality Event Delayed Auction Date, and the steps set forth in Section 2 of these Credit Derivatives Auction

Settlement Terms will be repeated with respect to each Relevant Pairing (regardless of whether an Auction Currency Rate was previously determined with respect to any Relevant Pairing) as of such newly designated Auction Currency Fixing Date.

- (b) **Currency Rate Delayed Auction Date.** If the Administrators are unable to determine an Auction Currency Rate on an Auction Currency Fixing Date (the "**Relevant Auction Currency Fixing Date**") with respect to each Relevant Pairing, the steps set forth in Section 2 of these Credit Derivatives Auction Settlement Terms will be repeated with respect to each Relevant Pairing (regardless of whether an Auction Currency Rate was previously determined with respect to any Relevant Pairing) on the Business Day following such Relevant Auction Currency Fixing Date, and (if necessary) the second Business Day following such Relevant Auction Currency Fixing Date, but in no event later than the second Business Day following the Relevant Auction Currency Fixing Date, and the date on which the Auction is held will be, in the case of a Relevant Transaction Type included in (i) the Americas, the date that is one Business Day following the newly designated Auction Currency Fixing Date and (ii) any Region other than the Americas, the date that is two Business Days following the newly designated Auction Currency Fixing Date (any such delayed date on which an Initial Bidding Period actually occurs following a particular newly designated Auction Currency Fixing Date, a "**Currency Rate Delayed Auction Date**"). In the event of the occurrence of a Currency Rate Delayed Auction Date, each previously submitted Customer Physical Settlement Request and Dealer Physical Settlement Request shall be deemed to be revoked and must be re-submitted pursuant to Section 3 or 4, as applicable, of these Credit Derivatives Auction Settlement Terms as if the Auction had originally been scheduled to take place on the relevant Currency Rate Delayed Auction Date.
- (c) **Administratively Delayed Auction Date.** If the auction procedure described in these Credit Derivatives Auction Settlement Terms does not result in an Auction Final Price for any reason (including, but not limited to, the failure to receive the Minimum Number of Valid Initial Market Submissions) other than the reasons described in Sections 13(a) and 13(b) of these Credit Derivatives Auction Settlement Terms, the relevant steps will be repeated on the Auction Date with the auction procedure described in these Credit Derivatives Auction Settlement Terms recommencing at such time(s) specified by the Administrators. If an Auction Final Price cannot be determined on any such subsequent attempt(s) on the Auction Date itself for any reason other than the reasons described in Sections 13(a) and 13(b) of these Credit Derivatives Auction Settlement Terms, the relevant steps will be repeated according to a schedule to be determined by the Administrators on the Business Day following the Auction Date, and if necessary, the second Business Day following the Auction Date, but in no event later than the second Business Day following the Auction Date (any such delayed date on which a new Initial Bidding Period actually occurs, an "**Administratively Delayed Auction Date**").

In the event of the occurrence of an Administratively Delayed Auction Date, (i) each previously submitted Customer Physical Settlement Request and Dealer Physical Settlement Request shall be deemed to be revoked and must be re-submitted pursuant to Section 3 or 4, as applicable, of these Credit Derivative Auction Settlement Terms as if the Auction had originally been scheduled to take place on the relevant Administratively Delayed Auction Date and (ii) the Auction Currency Fixing Date shall mean with respect to a Relevant Transaction Type included in (A) the Americas, the Business Day prior to the Administratively Delayed Auction Date and (B) any Region other than the Americas, two Business Days prior to the Administratively Delayed Auction Date, and the steps set forth in Section 2 of these Credit Derivatives Auction Settlement Terms will be repeated with respect to each Relevant Pairing (regardless of whether an Auction Currency Rate was previously determined with respect to any Relevant Pairing) as of such newly designated Auction Currency Fixing Date.

- (d) **Combination of Materiality Event Delayed Auction Date, Currency Rate Delayed Auction Date and/or Administratively Delayed Auction Date.** In the event that the Auction must be held on a later date as a result of any combination of the events described in Sections 13(a), 13(b) and/or 13(c) of these Credit Derivatives Auction Settlement Terms, (i) the Administrators shall (A) adjust the Auction Currency Fixing Date and (B) reschedule the date on which the Auction will be held in their sole and absolute discretion in order to preserve the integrity of the Auction, provided that such rescheduled Auction shall be held no later than five Business Days after the Auction Date and (ii) each previously submitted Customer Physical Settlement Request and Dealer Physical Settlement Request shall be deemed to be revoked and must be re-submitted pursuant to Section 3 or 4, as applicable, of these Credit Derivatives Auction Settlement Terms as if the Auction had originally been scheduled to take place on the relevant date determined by the Administrators to be the date on which the rescheduled Auction is to be held.
- (e) **Auction Cancellation Date.** If an Auction Final Price has not been determined on or prior to (i) the fifth Business Day following the Auction Date, if Section 13(a) or 13(d) of these Credit Derivatives Auction Settlement Terms is applicable or (ii) the second Business Day following the Auction Date, if Section 13(b) or 13(c) of these Credit Derivatives Auction Settlement Terms is applicable, then the Auction will be deemed to have been cancelled (the date of such cancellation, an "**Auction Cancellation Date**"). The Administrators and ISDA will announce the occurrence of an Auction Cancellation Date on their respective websites.

14 **Publication of Subsequent Bidding Information**

At or prior to the Subsequent Bidding Information Publication Time on any day on which the Subsequent Bidding Period has successfully concluded, each Administrator will publish on its website the following information:

- (a) the Auction Final Price;
- (b) the names of the Participating Bidders who submitted Bids, Offers and Valid Physical Settlement Requests, together with the details of all such Bids, Offers and Valid Physical Settlement Requests submitted by each (e.g., the identity of the Participating Bidders and the size of the Quotation Amounts); and
- (c) the details and size of all Market Position Trades or Matched Limit Order Trades,

(such information with respect to such successfully concluded Subsequent Bidding Period, the "**Subsequent Bidding Information**"). In addition, if any Other Subsequent Bidding Period has successfully concluded on such day, each Administrator will, at the same time that it publishes the Subsequent Bidding Information, also publish on its website equivalent information with respect to such Other Subsequent Bidding Period(s).

If, for any reason, (i) the Subsequent Bidding Period lasts longer, or occurs later, than the Originally Scheduled Subsequent Bidding Period or (ii) a relevant Other Subsequent Bidding Period lasts longer, or occurs later than, the related Other Originally Scheduled Subsequent Bidding Period, the Administrators will publish the Subsequent Bidding Information on their respective websites at such time as they determine (in their sole and absolute discretion) in order to preserve the integrity of the Auction. If, as of the conclusion of the Subsequent Bidding Period, it has been determined that the auction procedures contemplated by these Credit Derivatives Auction Settlement Terms must be repeated pursuant to Section 13 of these Credit Derivatives Auction Settlement Terms, the Administrators will not publish on their respective websites the Subsequent Bidding Information with respect to such Subsequent Bidding Period.

15 **Rules Concerning Amendments and Corrections to Valid Initial Market Submissions, Valid Physical Settlement Requests and Valid Limit Order Submissions**

The following rules will apply to Valid Initial Market Submissions, Valid Physical Settlement Requests and Valid Limit Order Submissions submitted by any Participating Bidder:

- (a) **No Post-Bidding Period Amendments to Valid Initial Market Submissions or Valid Limit Order Submissions.** No Valid Initial Market Submission or Valid Limit Order Submission may be amended either by the Participating Bidder or the Administrators after the conclusion of the Initial Bidding Period or Subsequent Bidding Period, as applicable, even if the relevant Valid Initial Market Submission or Valid Limit Order Submission, as applicable, is a mistake, and all Participating Bidders will be required to comply with the terms of the Matched Limit Order Trade, if any, of which the relevant Initial Market Bid, Initial Market Offer, Limit Bid or Limit Offer, as applicable, forms a part.
- (b) **Amendments to Valid Physical Settlement Requests.** If a Participating Bidder's Valid Physical Settlement Request (without regard to the Customer Physical Settlement Requests that formed a part of such Participating Bidder's Valid Physical Settlement Request) is on the same side of the market as, but less than or equal to, such Participating Bidder's Market Position, such Valid Physical Settlement Request may not be amended by either the Participating Bidder or the Administrators after the conclusion of the Initial Bidding Period, even if such Valid Physical Settlement Request is a mistake, and all Participating Bidders will be required to comply with the terms of the Market Position Trade or Matched Limit Order Trade, as applicable, if any, of which such Valid Physical Settlement Request forms a part.

If a Participating Bidder becomes aware that its Valid Physical Settlement Request (without regard to the Customer Physical Settlement Requests that formed a part of such Participating Bidder's Valid Physical Settlement Request) is on the opposite side of the market from, or is greater than, such Participating Bidder's Market Position, such Participating Bidder will immediately notify the Administrators and will submit a corrected Physical Settlement Request.

If the Administrators become aware of a corrected Valid Physical Settlement Request, if any, at least thirty minutes prior to the beginning of the Subsequent Bidding Period, the Administrators will determine the Open Interest based on the corrected Valid Physical Settlement Request and publish the corrected Initial Bidding Information no later than fifteen minutes prior to the beginning of the Subsequent Bidding Period. Otherwise, the Administrators will not recalculate the Open Interest or the Auction Final Price, all Auction Covered Transactions will settle according to the Auction Final Price published by the Administrators, and all Participating Bidders will be required to comply with the terms of the Market Position Trade or Matched Limit Order Trade, as applicable, if any, of which the relevant Valid Physical Settlement Request forms a part.

16 **Limitations on Liability of Administrators**

Each Auction Party that is not a Participating Bidder agrees that neither Administrator will be liable to any party for any form of damages, whether direct, indirect, special or consequential, arising in connection with the performance of the relevant Administrator's duties under the auction procedures contemplated by these Credit Derivatives Auction Settlement Terms, and agrees to waive any claim that may arise against either Administrator in connection with the performance of the relevant Administrator's duties under these auction procedures, except in the case of fraud or wilful misconduct on the part of the relevant Administrator.

17 **Limitations on Liability of DC Parties, ISDA and its Advisors**

Each Auction Party agrees that (a) no DC Party will be liable to any party for any form of damages, whether direct, indirect, special or consequential, arising as a result of the publication of an Auction Final Price (or any other result of the procedures contemplated by these Credit Derivatives Auction Settlement Terms), and agrees to waive any claim that may arise against any DC Party, in each case except in the case of fraud or wilful misconduct on the part of such DC Party and (b) none of ISDA, its advisors, or any DC Party will be liable to any party for any form of damages, whether direct, indirect, special or consequential, arising in connection with the inclusion or exclusion of any obligation in or from the Final List, and, without limiting any otherwise applicable waivers, each Auction Party agrees to waive any claim that may arise against any such party in connection with the development of such Final List, except in the case of fraud or wilful misconduct on the part of such party.

18 **Deemed Bilateral Agreement between Participating Bidders and Customers**

Each Participating Bidder and each customer that submits either (a) a Customer Physical Settlement Request or (b) a Customer Limit Order Submission that is, in each case, accepted by such Participating Bidder agrees that any such Customer Physical Settlement Request and any such Customer Limit Order Submission will be treated by such customer and Participating Bidder as if such customer and such Participating Bidder had, on the Auction Final Price Determination Date, entered into a bilateral agreement on terms equivalent to the Representative Auction-Settled Transaction,

- (i) which, notwithstanding the definition of Representative Auction-Settled Transaction, shall be deemed to be governed by the Governing Master Agreement and any credit support arrangements executed or otherwise in place between the customer and the Participating Bidder or, if no such Governing Master Agreement has been executed or is otherwise in place, by a deemed master agreement (including any credit support arrangements) between the Participating Bidder and the customer on substantially the same terms as the Governing Master Agreement and credit support arrangements in place between the customer and the Affiliate of the Participating Bidder that is such customer's normal trading counterparty,
- (ii) for which the Floating Rate Payer Calculation Amount is equal to the Quotation Amount with respect to the relevant Customer Physical Settlement Request or Customer Limit Order Submission, as applicable,
- (iii) for which (A) the customer will be the Seller if the relevant Customer Physical Settlement Request is a Physical Settlement Buy Request or if the relevant Customer Limit Order Submission is a Limit Bid and (B) the customer will be the Buyer if the relevant Customer Physical Settlement Request is a Physical Settlement Sell Request or if the relevant Customer Limit Order Submission is a Limit Offer; provided that (I) in the case of a Customer Limit Order Submission, one or more related Limit Order Submissions of the Participating Bidder are matched in order to form a Matched Limit Order Trade and (II) in the event that the Valid Physical Settlement Request or one or more Valid Limit Order Submissions, as applicable, of the Participating Bidder are matched in order to form a Matched Limit Order Trade that contains the highest Offer or the lowest Bid, as applicable, the Quotation Amount of the Customer Physical Settlement Request or Customer Limit Order Submission, as applicable, will, if necessary, be reduced to reflect the size of the remaining Open Interest or (III) if the final matching of the Open Interest against the applicable Unmatched Limit Orders occurs pursuant to Section 12(b)(ii) of these Credit Derivatives Auction Settlement Terms, all Valid Physical Settlement Requests on the same side of the market as the Open Interest (e.g., bids to purchase or offers to sell) will be matched Pro Rata, subject to the Rounding Convention, against the Valid Limit Order Submissions and Valid Physical Settlement Requests on the opposite side of the market to form Market Position Trades or Matched Limit Order Trades, as applicable,

- (iv) pursuant to which, in the case of a Customer Limit Order Submission and notwithstanding the definition of Representative Auction-Settled Transaction, such customer shall be deemed to represent and agree, to the best of such customer's knowledge and belief, that such Customer Limit Order Submission (when aggregated with all other Customer Limit Order Submissions, if any, submitted by such customer to one or more Participating Bidders) is not in excess of the size of the Open Interest, and
- (v) pursuant to which, in the case of a Customer Limit Order Submission and notwithstanding the definition of Representative Auction-Settled Transaction, such customer shall be deemed to represent and agree that either (A) such customer is not, as of the date of such Customer Limit Order Submission, subject to any requirement that would make it impossible or illegal for such customer to Deliver or accept Delivery of any of the Deliverable Obligations or (B) if such customer is, as of the date of such Customer Limit Order Submission, subject to any requirement that would make it impossible or illegal to Deliver or accept Delivery of any of the Deliverable Obligations, such customer will procure a designee to whom such Participating Bidder consents, and for whom it is not impossible or illegal to Deliver or accept Delivery of the relevant Deliverable Obligations, provided that such Participating Bidder will not unreasonably withhold its consent to such designation and provided further that such consent will be deemed given in the case where the relevant designee is a Participating Bidder for whom it is not impossible or illegal to Deliver or accept Delivery of the relevant Deliverable Obligations.

Transactions entered into by and between customers and Participating Bidders with respect to Market Position Trades or Matched Limit Order Trades will not be conducted or effected by, or through, any Administrator.

19 **Fixed Rate Accrual Amendments**

The provisions of the relevant documentation that govern the accrual of Fixed Rates and the payment of Fixed Amounts under each Auction Covered Transaction shall be amended in accordance with the terms of Schedule 2 to these Credit Derivatives Auction Settlement Terms.

20 **Governing Law**

These Credit Derivatives Auction Settlement Terms and any non-contractual obligations arising out of them will be governed by and construed in accordance with New York law.

21 **Definitions**

Each of the following terms, when used in these Credit Derivatives Auction Settlement Terms, including in any of the amendments to the Definitions provided for by these Credit Derivatives Auction Settlement Terms, shall have the meaning given to the relevant term below:

"2003 Definitions" has the meaning set forth in the introduction to these Credit Derivatives Auction Settlement Terms.

"Adjustment Amount" has the meaning set forth in Section 7 of these Credit Derivatives Auction Settlement Terms.

"Administratively Delayed Auction Date" has the meaning set forth in Section 13(c) of these Credit Derivatives Auction Settlement Terms.

"**Administrators**" means both Markit Group Limited and the Relevant Creditex Entity, acting together, or such other entities as may be appointed to perform the role of the Administrators by ISDA from time to time.

"**Affected Portion**" means, in respect of an Auction Covered Transaction, the portion of such Auction Covered Transaction (or, in respect of a Single Name Swaption or Portfolio Swaption, the portion of the related Underlying CDS) attributable to the Affected Reference Entity.

"**Affected Reference Entity**" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"**Auction**" has the meaning set forth in the introduction to these Credit Derivatives Auction Settlement Terms.

"**Auction Cancellation Date**" has the meaning set forth in Section 13(e) of these Credit Derivatives Auction Settlement Terms.

"**Auction Covered Transaction**" means a Covered Swaption Transaction or a Covered Non-Swaption Transaction, as applicable.

"**Auction Currency Fixing Date**" means, with respect to a Relevant Transaction Type included in (a) the Americas, the Business Day prior to the Auction Date and (b) any other Region, two Business Days prior to the Auction Date; and in each case as set forth as being the Originally Scheduled Auction Currency Fixing Date, unless (and, in which case, as) adjusted by operation of Section 13 of these Credit Derivatives Auction Settlement Terms.

"**Auction Currency Rate**" has the meaning set forth in Section 2 of these Credit Derivatives Auction Settlement Terms.

"**Auction Date**" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"**Auction Final Price**" means the price, if any, determined to be the Auction Final Price pursuant to Section 12 of these Credit Derivatives Auction Settlement Terms (expressed as a percentage, in increments equal to the Relevant Pricing Increment, of the outstanding principal balance, rather than the face amount, of Deliverable Obligations).

"**Auction Final Price Determination Date**" means the date, if any, on which the Auction Final Price is determined.

"**Auction-Linked Cash Settled Transaction**" means, with respect to a Participating Bidder or a customer, any Credit Derivative Transaction (other than (a) an Auction Covered Transaction, (b) any of the Credit Derivative Transactions specified in (b) through (f) (inclusive) of the definition of Excluded Non-Index Transaction in this Section 21 of these Credit Derivatives Auction Settlement Terms or (c) any of the Credit Derivative Transactions specified in the definition of Excluded Index Transaction in this Section 21 of these Credit Derivatives Auction Settlement Terms), (i) all or any portion of which is linked to the Affected Reference Entity, (ii) to which such Participating Bidder, or any Affiliate of such Participating Bidder, as applicable, or such customer, or any Affiliate of such customer, as applicable, is a party and (iii) for which the parties thereto have agreed that settlement will occur by payment of an amount calculated by reference to the Auction Final Price.

"**Auction Party**" means any party to an Auction Covered Transaction, any party to an Auction-Linked Cash Settled Transaction or any customer whose Customer Physical Settlement Request or Customer

Limit Order Submission is taken into account in a Participating Bidder's Valid Physical Settlement Request or Valid Limit Order Submission.

"**Auction Settlement Date**" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"**Bespoke Portfolio Transaction**" means a Credit Derivative Transaction that references more than one Reference Entity but that is not any type of Auction Covered Transaction (other than a Bespoke Portfolio Transaction).

"**Best Half**" means the group of Matched Markets that are Non-Tradeable Markets determined pursuant to Section 5(c) of these Credit Derivatives Auction Settlement Terms.

"**Bid**" means an Initial Market Bid or a Limit Bid, as applicable.

"**Business Day**" means a day on which commercial banks and foreign exchange markets are generally open to settle payments in the Relevant City.

"**Cap Amount**" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"**Covered Non-Swap Transaction**" means a Credit Derivative Transaction that is not an Excluded Index Transaction or an Excluded Non-Index Transaction, and for which:

- (a) the Affected Reference Entity is a Reference Entity;
- (b) "Auction Settlement" is the applicable Settlement Method;
- (c) an Event Determination Date has occurred with respect to the Affected Reference Entity on or prior to the Business Day immediately preceding the Auction Final Price Determination Date as a result of the Relevant Credit Event;
- (d) the Deliverable Obligation Provisions are identical to one set of the Deliverable Obligation Terms determined by the relevant Convened DC to be applicable to the Auction; and
- (e) in circumstances where the Auction is held to settle Credit Derivative Transactions with respect to which a Restructuring has occurred and for which a Designated Range of Scheduled Termination Dates is applicable, either (i) the Scheduled Termination Date falls within the Designated Range of Scheduled Termination Dates (provided that (A) in circumstances where the Event Determination Date has occurred pursuant to delivery by Seller of a Credit Event Notice where "Restructuring Maturity Limitation and Fully Transferable Obligation" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation" is specified in the related Confirmation as being applicable to the Affected Reference Entity (other than in circumstances where Section 2.32(a) or 2.33(a) of the Definitions is amended so as to be applicable in circumstances where a Credit Event Notice is delivered by Seller, such as in a Recovery Lock Credit Derivative Transaction (each such trade, a "**Seller M(M)R Trade**")) or (B) in circumstances where neither "Restructuring Maturity Limitation and Fully Transferable Obligation" nor "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation" is specified in the related Confirmation as being applicable to the Affected Reference Entity, the Scheduled Termination Date will be deemed to fall within the Final Maturity Bucket) or (ii) one of the parties has elected for the Credit Derivative Transaction to be covered by these Credit Derivatives Auction Settlement Terms by valid exercise of the Movement Option.

"Covered Portfolio Swaption" means a Portfolio Swaption for which:

- (a) the Affected Reference Entity is a Reference Entity under the Underlying CDS;
- (b) "Auction Settlement" is the applicable Settlement Method under the Underlying CDS;
- (c) the Swaption Trade Date is on or prior to the Auction Final Price Determination Date;
- (d) the Expiration Date is after the Auction Final Price Determination Date;
- (e) the Deliverable Obligation Provisions in the Underlying CDS are identical to one set of the Deliverable Obligation Terms determined by the relevant Convened DC to be applicable to the Auction; and
- (f) in circumstances where the Auction is held to settle Credit Derivative Transactions with respect to which a Restructuring has occurred and for which a Designated Range of Scheduled Termination Dates is applicable, either (i) the Scheduled Termination Date in the Underlying CDS falls within the Designated Range of Scheduled Termination Dates (provided that (A) in circumstances where the Event Determination Date has occurred pursuant to delivery by Seller of a Credit Event Notice where "Restructuring Maturity Limitation and Fully Transferable Obligation" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation" is specified in the related Confirmation as being applicable to the Affected Reference Entity (other than Seller M(M)R Trades) or (B) in circumstances where neither "Restructuring Maturity Limitation and Fully Transferable Obligation" nor "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation" is specified in the related Confirmation as being applicable to the Affected Reference Entity, the Scheduled Termination Date will be deemed to fall within the Final Maturity Bucket) or (ii) one of the parties has elected for the Underlying CDS to be covered by these Credit Derivatives Auction Settlement Terms by valid exercise of the Movement Option.

"Covered Single Name Swaption" means a Single Name Swaption for which:

- (a) the Affected Reference Entity is a Reference Entity under the Underlying CDS;
- (b) "Auction Settlement" is the applicable Settlement Method under the Underlying CDS;
- (c) the Swaption Trade Date is on or prior to the Event Determination Date;
- (d) the Expiration Date is on or after the date of the occurrence of the Relevant Credit Event as specified in the relevant DC Resolution;
- (e) the Deliverable Obligation Provisions in the Underlying CDS are identical to one set of the Deliverable Obligation Terms determined by the relevant Convened DC to be applicable to the Auction; and
- (f) in circumstances where the Auction is held to settle Credit Derivative Transactions with respect to which a Restructuring has occurred and for which a Designated Range of Scheduled Termination Dates is applicable, either (i) the Scheduled Termination Date in the Underlying CDS falls within the Designated Range of Scheduled Termination Dates (provided that (A) in circumstances where the Event Determination Date has occurred pursuant to delivery by Seller of a Credit Event Notice where "Restructuring Maturity Limitation and Fully Transferable Obligation" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation" is specified in the related Confirmation as being applicable to the Affected

Reference Entity (other than Seller M(M)R Trades) or (B) in circumstances where neither "Restructuring Maturity Limitation and Fully Transferable Obligation" nor "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation" is specified in the related Confirmation as being applicable to the Affected Reference Entity, the Scheduled Termination Date will be deemed to fall within the Final Maturity Bucket) or (ii) one of the parties has elected for the Underlying CDS to be covered by these Credit Derivatives Auction Settlement Terms by valid exercise of the Movement Option.

"Covered Swaption Transaction" means either a Covered Single Name Swaption or a Covered Portfolio Swaption, as applicable.

"Credit Derivatives Auction Settlement Terms" has the meaning set forth in the introduction to these Credit Derivatives Auction Settlement Terms.

"Credit Event Resolution Request Date" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Crossing Market" means any Matched Market for which the Initial Market Bid is higher than the Initial Market Offer.

"Currency Rate Delayed Auction Date" has the meaning set forth in Section 13(b) of these Credit Derivatives Auction Settlement Terms.

"Customer Limit Order Submission" means a submission from a customer of a Participating Bidder to such Participating Bidder consisting of either a Limit Bid or a Limit Offer (expressed as a percentage, in increments equal to the Relevant Pricing Increment, of the outstanding principal balance, rather than the face amount, of Deliverable Obligations (but not less than 0.00%)) and stating a Quotation Amount.

"Customer Physical Settlement Request" means the Physical Settlement Buy Request or Physical Settlement Sell Request, as applicable, specified by a customer of a Participating Bidder in the Customer Physical Settlement Request Letter submitted by such customer and accepted by such Participating Bidder.

"Customer Physical Settlement Request Letter" means a letter agreement, substantially in the form of Exhibit 2 to these Credit Derivatives Auction Settlement Terms, executed and delivered to the relevant Participating Bidder no later than 5:00 p.m. Relevant City Time on the Business Day prior to the Auction Final Price Determination Date (or such later time prior to the commencement of the Initial Bidding Period as the relevant Participating Bidder may agree in its sole discretion).

"Dealer Physical Settlement Request" means, with respect to a Participating Bidder, a Physical Settlement Buy Request or Physical Settlement Sell Request, which is, to the best of such Participating Bidder's knowledge and belief, on the same side of the market as, and not in excess of, the Market Position of it and its Affiliates.

"Dealer-Specific Market Position" means, with respect to a customer and a Participating Bidder, such customer's Market Position, calculated by such customer in good faith, with respect to all Auction Covered Transactions (excluding those Auction Covered Transactions for which the Trade Date is the Auction Final Price Determination Date) and Auction-Linked Cash Settled Transactions, in each case, (a) to which such customer, or any Affiliate of such customer, as applicable, and such Participating Bidder, or any Affiliate of such Participating Bidder, as applicable, are party (in aggregate), or (b) in respect of which such customer, or any Affiliate of such customer, as applicable, and such Participating Bidder, or any Affiliate of such Participating Bidder, as applicable, have a contractual relationship pursuant to which such customer, or such Affiliate of such customer, as applicable, has cleared such

Auction Covered Transactions and/or Auction-Linked Cash Settled Transactions, as applicable, via such Participating Bidder, or such Affiliate of such Participating Bidder, as applicable, with a central counterparty that acts as a clearinghouse for Credit Derivative Transactions.

"Definitions" has the meaning set forth in the introduction to these Credit Derivatives Auction Settlement Terms.

"Deliverable Obligation(s)" means each of the obligations set out on the Final List published by ISDA on its Website with respect to these Credit Derivatives Auction Settlement Terms.

"Deliverable Obligation Provisions" means, with respect to a Credit Derivative Transaction, the provisions therein that set forth the criteria for establishing what obligations may constitute Deliverable Obligations plus any additional restrictions as set out in Section 2.32 or 2.33 of the Definitions (as applicable) or the provisions therein that set forth the criteria for establishing what obligations may be valued to determine a Final Price, as applicable.

"Deliverable Obligation Terms" means any set of Deliverable Obligation Terms determined by the relevant Convened DC and set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Designated Range of Scheduled Termination Dates" means, in circumstances where the Auction is held to settle Credit Derivative Transactions with respect to which a Restructuring has occurred and for which "Restructuring Maturity Limitation and Fully Transferable Obligation" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation", as applicable, is specified in the related Confirmations, the range of dates as specified in Schedule 1 to these Credit Derivatives Auction Settlement Terms (provided that each such Designated Range of Scheduled Termination Dates so specified shall be construed to appear in a separate Schedule 1 to a separate set of Credit Derivatives Auction Settlement Terms).

"EUR" means the lawful currency of the member states of the European Union that adopt the single currency in accordance with the treaty establishing the European Community (signed in Rome on March 25, 1957), as amended by the Treaty on European Union (signed in Maastricht on February 7, 1992), the Treaty of Amsterdam (signed in Amsterdam on October 2, 1997), the Treaty of Nice (signed in Nice on February 26, 2001) and the Treaty of Lisbon (signed in Lisbon on December 13, 2007).

"Excluded Index Transaction" means any back-to-back Credit Derivative Transaction between any two of Citigroup Global Markets Limited, Credit Suisse First Boston International, Deutsche Bank AG, Goldman Sachs International, JP Morgan Chase Bank, Merrill Lynch International, Morgan Stanley Capital Services Inc. and UBS AG London Branch relating to trust certificates linked to any Dow Jones CDX.NA.HY Index or CDX.NA.HY Index.

"Excluded Non-Index Transaction" means (a) any Credit Derivative Transaction (i) that references one or more Reference Entities that are substantially identical to the Reference Entity or Reference Entities, as applicable, referenced with respect to any series of credit-linked notes, trust certificates or other similar instruments and (ii) the documentation for which expressly states that the final price is linked to such credit linked notes, trust certificates or other similar instruments, as applicable, (b) any Reference Obligation Only Transaction, (c) any Loan Only Transaction, (d) any Preferred CDS Transaction, (e) any Fixed Recovery Transaction and (f) any Credit Derivative Transaction that (i) by its terms expressly states that the provisions relating to settlement therein shall not be amended or modified by any Credit Derivatives Auction Settlement Terms or any documentation with respect to an auction published by ISDA and (ii) would, but for such express terms, be an Auction Covered Transaction.

"Final List" means the final list of Deliverable Obligations published by ISDA on its Website with respect to these Credit Derivatives Auction Settlement Terms.

"Final Maturity Bucket" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Fixed Recovery Transaction" means a Credit Derivative Transaction in respect of which the Final Price or final settlement amount is pre-determined and specified in the relevant documentation.

"Governing Master Agreement" means, with respect to an Auction Covered Transaction or an Auction-Linked Cash Settled Transaction, the ISDA Master Agreement or other form of similar master agreement, if any, governing such Auction Covered Transaction or Auction-Linked Cash Settled Transaction, as applicable, and of which such Auction Covered Transaction or Auction-Linked Cash Settled Transaction, as applicable, forms part, whether executed by the parties thereto or incorporated by reference in the confirmation relating to such Auction Covered Transaction or Auction-Linked Cash Settled Transaction, as applicable; provided, however, that if no ISDA Master Agreement or other form of similar agreement exists with respect to an Auction Covered Transaction or an Auction-Linked Cash Settled Transaction, as applicable, the term "Governing Master Agreement" shall mean the ISDA Master Agreement or other form of similar agreement, if any, governing any Credit Derivative Transaction between the parties, whether executed by the parties thereto or incorporated by reference in the confirmation relating to such Credit Derivative Transaction.

"Initial Bidding Information" has the meaning set forth in Section 8 of these Credit Derivatives Auction Settlement Terms.

"Initial Bidding Information Publication Time" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Initial Bidding Period" means (a) the Originally Scheduled Initial Bidding Period, (b) such period that lasts longer, or occurs later, than such Originally Scheduled Initial Bidding Period, as the Administrators may prescribe if they determine (in their sole and absolute discretion) that such modified period is required to preserve the integrity of the Auction or (c), if the auction procedure described in Sections 4 and 5(a) and 5(c) of these Credit Derivatives Auction Settlement Terms must be repeated pursuant to Section 13 of these Credit Derivatives Auction Settlement Terms, the time period (whether less than, equal to or longer than the Originally Scheduled Initial Bidding Period, as the Administrators may prescribe, in their sole and absolute discretion, to preserve the integrity of the Auction) occurring (i) at such time(s) specified by the Administrators after such Originally Scheduled Initial Bidding Period on the Auction Date or (ii) at such time(s) specified by the Administrators on a subsequent Business Day, as applicable, pursuant to Section 13 of these Credit Derivatives Auction Settlement Terms, until the earlier of the Auction Final Price Determination Date or the occurrence of an Auction Cancellation Date.

"Initial Market Bid" means a firm commitment by a Participating Bidder, submitted as part of a Valid Initial Market Submission, to enter as Seller (i.e., the party that has an obligation to accept delivery of Deliverable Obligations) into an agreement on terms equivalent to the Representative Auction-Settled Transaction for which the Floating Rate Payer Calculation Amount is the Initial Market Quotation Amount and, subject to Section 11 of these Credit Derivatives Auction Settlement Terms, at the Reference Price stated in the Valid Initial Market Submission.

"Initial Market Midpoint" means the price determined to be the Initial Market Midpoint pursuant to Section 5 of these Credit Derivatives Auction Settlement Terms.

"Initial Market Offer" means a firm commitment by a Participating Bidder, submitted as part of a Valid Initial Market Submission, to enter as Buyer (i.e., the party that would deliver Deliverable

Obligations) into an agreement on terms equivalent to the Representative Auction-Settled Transaction for which the Floating Rate Payer Calculation Amount is the Initial Market Quotation Amount and, subject to Section 11 of these Credit Derivatives Auction Settlement Terms, at the Reference Price stated in the Valid Initial Market Submission.

"Initial Market Quotation Amount" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Initial Market Submission" means a submission from a Participating Bidder consisting of both an Initial Market Bid and an Initial Market Offer (each expressed as a percentage, in increments equal to the Relevant Pricing Increment, of the outstanding principal balance, rather than the face amount, of Deliverable Obligations (but not less than 0.00%)) which do not differ from one another by more than the Maximum Initial Market Bid-Offer Spread, and for which the Initial Market Bid is not greater than or equal to the Initial Market Offer.

"ISDA" has the meaning set forth in the introduction to these Credit Derivatives Auction Settlement Terms.

"ISDA Master Agreement" means any of the following: (a) the 2002 ISDA Master Agreement; (b) the 1992 ISDA Master Agreement (Multicurrency – Cross Border); and (c) the 1992 ISDA Master Agreement (Local Currency – Single Jurisdiction).

"JPY" means the lawful currency of Japan.

"July 2009 Supplement" has the meaning set forth in the introduction to these Credit Derivatives Auction Settlement Terms.

"Limit Bid" means a firm commitment by a Participating Bidder or a customer, as applicable, submitted as part of a Limit Order Submission or a Customer Limit Order Submission, as applicable, to enter as Seller (i.e., the party that has an obligation to accept delivery of Deliverable Obligations) into an agreement on terms equivalent to a Representative Auction-Settled Transaction for which the Floating Rate Payer Calculation Amount is the Quotation Amount stated in such Limit Order Submission or Customer Limit Order Submission, as applicable, and at the Reference Price stated in such Limit Order Submission or Customer Limit Order Submission, as applicable.

"Limit Offer" means a firm commitment by a Participating Bidder or a customer, as applicable, submitted as part of a Limit Order Submission or a Customer Limit Order Submission, as applicable, to enter as Buyer (i.e., the party that would deliver Deliverable Obligations) into an agreement on terms equivalent to a Representative Auction-Settled Transaction for which the Floating Rate Payer Calculation Amount is the Quotation Amount stated in such Limit Order Submission or Customer Limit Order Submission, as applicable, and at the Reference Price stated in such Limit Order Submission or Customer Limit Order Submission, as applicable.

"Limit Order Submission" means a submission from a Participating Bidder consisting of either a Limit Bid or a Limit Offer (expressed as a percentage, in increments equal to the Relevant Pricing Increment, of the outstanding principal balance, rather than the face amount, of Deliverable Obligations (but not less than 0.00%)) and stating a Quotation Amount.

"Loan Only Transaction" means a Credit Derivative Transaction in respect of which "Loan" is specified as the only Deliverable Obligation Category or a Credit Derivative Transaction pursuant to which the Reference Obligations (which are required to be Loans) and certain other Loans (or Borrowed Money obligations other than Bonds) are the only Deliverable Obligations.

"March 2009 Supplement" has the meaning set forth in the introduction to these Credit Derivatives Auction Settlement Terms.

"Market Position" means, with respect to a Participating Bidder or customer, as applicable, the aggregate amount of Deliverable Obligations that the relevant Participating Bidder or customer, as applicable, would have to buy or sell in order to obtain an identical risk profile after the Auction Settlement Date compared to its risk profile prior to the Auction Settlement Date with respect to all Auction Covered Transactions (excluding those Auction Covered Transactions for which the Trade Date is the Auction Final Price Determination Date) and all Auction-Linked Cash Settled Transactions, in each case, to which such Participating Bidder, or any Affiliate of such Participating Bidder, as applicable, or such customer, or any Affiliate of such customer, as applicable, is a party, such risk profile to be determined without regard to whether the original transactions were documented as cash settled or physically settled transactions.

"Market Position Trade" has the meaning set forth in Section 6 of these Credit Derivatives Auction Settlement Terms.

"Matched Limit Order" has the meaning set forth in Section 12(c) of these Credit Derivatives Auction Settlement Terms.

"Matched Limit Order Trade" has the meaning set forth in Section 12(c) of these Credit Derivatives Auction Settlement Terms.

"Matched Market" has the meaning set forth in Section 5(a) of these Credit Derivatives Auction Settlement Terms.

"Materiality Event" means a Potential Materiality Event that has been determined to be a Materiality Event pursuant to Section 13(a) of these Credit Derivatives Auction Settlement Terms.

"Materiality Event Delayed Auction Date" has the meaning set forth in Section 13(a) of these Credit Derivatives Auction Settlement Terms.

"Maximum Initial Market Bid-Offer Spread" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Minimum Number of Valid Initial Market Submissions" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Non-Tradeable Market" means any Matched Market that is not a Tradeable Market.

"Notice of Physical Settlement Date" means the Business Day following the Auction Final Price Determination Date.

"Nth to Default Transaction" means a Credit Derivative Transaction that references more than one Reference Entity pursuant to which Cash Settlement Amounts or Physical Settlement Amounts, as applicable, will only be paid to Buyer after the Conditions to Settlement have been satisfied in respect of any of the relevant Reference Entities that is the nth Reference Entity in respect of which an Event Determination Date has occurred, where "n" is a number specified for such purpose in the documentation in respect of the relevant Credit Derivative Transaction.

"Offer" means any Limit Offer or any Initial Market Offer, as applicable.

"Open Interest" means the difference between (a) the sum of all Quotation Amounts stated in each Physical Settlement Buy Request that is a Valid Physical Settlement Request and (b) the sum of all Quotation Amounts stated in each Physical Settlement Sell Request that is a Valid Physical Settlement Request.

"Originally Scheduled Auction Currency Fixing Date" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Originally Scheduled Initial Bidding Period" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Originally Scheduled Subsequent Bidding Period" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Other Initial Bidding Period(s)" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Other Originally Scheduled Initial Bidding Period(s)" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Other Originally Scheduled Subsequent Bidding Period(s)" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Other Subsequent Bidding Period(s)" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Participating Bidder" has the meaning set forth in Section 1 of these Credit Derivatives Auction Settlement Terms.

"Participating Bidder Letter" means a letter substantially in the form of Exhibit 1 to these Credit Derivatives Auction Settlement Terms.

"Permissible Deliverable Obligation(s)" means, if applicable, each of the obligations specified as such by ISDA on its Website with respect to these Credit Derivatives Auction Settlement Terms.

"Physical Settlement Buy Request" means (a) in respect of a customer, a firm commitment by such customer to enter, as Seller (i.e., the party that has an obligation to accept delivery of Deliverable Obligations), into an agreement on terms equivalent to the Representative Auction-Settled Transaction for which the Floating Rate Payer Calculation Amount (expressed as an outstanding principal balance rather than face amount of Deliverable Obligations) is the Quotation Amount stated in the request and (b) in respect of a Participating Bidder, a firm commitment by such Participating Bidder (which may take into account any Customer Physical Settlement Requests) to enter, as Seller (i.e., the party that has an obligation to accept delivery of Deliverable Obligations), into an agreement on terms equivalent to the Representative Auction-Settled Transaction for which the Floating Rate Payer Calculation Amount (expressed as an outstanding principal balance rather than face amount of Deliverable Obligations) is the Quotation Amount stated in the request.

"Physical Settlement Request" means a request from a Participating Bidder consisting of a Physical Settlement Buy Request or a Physical Settlement Sell Request, as applicable, and which will equal the aggregate of the relevant Participating Bidder's Dealer Physical Settlement Request and all Customer Physical Settlement Requests, if any, that the relevant Participating Bidder receives and accepts from its customers pursuant to Section 3 of these Credit Derivatives Auction Settlement Terms.

"Physical Settlement Sell Request" means (a) in respect of a customer, a firm commitment by such customer to enter, as Buyer (i.e., the party that would deliver Deliverable Obligations), into an agreement on terms equivalent to the Representative Auction-Settled Transaction for which the Floating Rate Payer Calculation Amount (expressed as an outstanding principal balance rather than face amount of Deliverable Obligations) is the Quotation Amount stated in the request and (b) in respect of a Participating Bidder, a firm commitment by such Participating Bidder (which may take into account any Customer Physical Settlement Requests) to enter, as Buyer (i.e., the party that would deliver Deliverable Obligations), into an agreement on terms equivalent to the Representative Auction-Settled Transaction for which the Floating Rate Payer Calculation Amount (expressed as an outstanding principal balance rather than face amount of Deliverable Obligations) is the Quotation Amount stated in the request.

"Portfolio Swaption" means any unexercised option to enter into an Auction Covered Transaction (other than another Portfolio Swaption) that references more than one Reference Entity.

"Potential Materiality Event" means an event or news the occurrence of which has or could have a material effect on the Auction Final Price.

"Preferred CDS Transaction" means a Credit Derivative Transaction that references preferred securities or similar hybrid securities as Reference Obligations or Deliverable Obligations and which contains specific provisions pertaining thereto.

"Pro Rata" means that Participating Bidders' orders are matched proportionally with respect to the Quotation Amount of each such order and the total amount of orders that can be matched in the relevant part of the Auction.

"Quotation Amount" means the amount in the Relevant Currency stated as the notional amount with respect to a particular Limit Bid, Limit Offer, Initial Market Bid, Initial Market Offer, Physical Settlement Buy Request or Physical Settlement Sell Request in a Participating Bidder's Initial Market Submission, a Physical Settlement Request or Limit Order Submission, as applicable, which amount in each case will be an integral multiple of an amount equal to the Quotation Amount Increment.

"Quotation Amount Increment" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"RAST Notional Amount Increment" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Recovery Lock Transaction" means a Credit Derivative Transaction in respect of which the Reference Price is specified in the relevant documentation as a price less than 100 per cent. and for which either Buyer or Seller can deliver a Notice of Physical Settlement.

"Reference Auction Obligation" means the obligation of the Affected Reference Entity by reference to which the Not Subordinated Deliverable Obligation Characteristic, if applicable, will be assessed, which obligation shall be the obligation specified as such in Schedule 1 to these Credit Derivatives Auction Settlement Terms or, if no such obligation is so specified, any unsubordinated Borrowed Money obligation of the Affected Reference Entity.

"Reference Obligation Only Transaction" means (a) a Credit Derivative Transaction in respect of which Physical Settlement is the applicable Settlement Method and "Reference Obligations Only" is specified as the Deliverable Obligation Category or (b) a Credit Derivative Transaction in respect of which Cash Settlement is the applicable Settlement Method and the relevant Confirmation specifies only one or more specifically identified Reference Obligations.

"Relevant Auction Currency Fixing Date" has the meaning set forth in Section 13(b) of these Credit Derivatives Auction Settlement Terms.

"Relevant Credit Derivatives Physical Settlement Matrix" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Relevant Credit Event" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Relevant Creditex Entity" means (a) with respect to a Relevant Transaction Type included in the Americas, Creditex Securities Corporation and (b) with respect to a Relevant Transaction Type included in any other Region, Creditex Brokerage LLP.

"Relevant Currency" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Relevant Pairing" has the meaning set forth in Section 2 of these Credit Derivatives Auction Settlement Terms.

"Relevant Pricing Increment" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Relevant Transaction Type" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Representative Auction-Settled Transaction" means a Credit Derivative Transaction incorporating the Definitions and (to the extent not inconsistent with the below) the terms applicable to the Relevant Transaction Type(s) pursuant to the Relevant Credit Derivatives Physical Settlement Matrix, which Credit Derivative Transaction shall supplement, form a part of, and be subject to, the Governing Master Agreement (including any credit support arrangements) executed or otherwise in place between the parties to such Credit Derivative Transaction (or if no such Governing Master Agreement has been executed or is otherwise in place between such parties, a deemed master agreement in the form of the 2002 ISDA Master Agreement as if the parties had executed such agreement in such form (but without any Schedule except for the election of the Relevant Governing Law as the governing law and the Relevant Currency as the Termination Currency) on the Auction Final Price Determination Date and for which:

- (a) the Reference Entity is the Affected Reference Entity;
- (b) Physical Settlement is the applicable Settlement Method, as modified with respect to one or more Deliverable Obligations by any DC Resolution by the relevant Credit Derivatives Determinations Committee, Resolved by Supermajority, implementing any provisions of any market advisory published with respect to such Deliverable Obligation(s) by The Loan Market Association, The Loan Syndications and Trading Association, Inc. or any other loan market trade association (any such advisory, the provisions of which are so implemented by a DC Resolution, a **"Loan Market Advisory"**);
- (c) the Settlement Currency is the Relevant Currency;
- (d) the Calculation Agent City is the Relevant City;
- (e) the Event Determination Date is the Credit Event Resolution Request Date specified in Schedule 1 to these Credit Derivatives Auction Settlement Terms;

- (f) a Credit Event Notice and Notice of Publicly Available Information are deemed to have been effectively delivered on a timely basis;
- (g) all Fixed Amounts are deemed to have been paid when due;
- (h) the only Deliverable Obligations (as defined in the Definitions) applicable are either (i), in circumstances where the Auction is held to settle Credit Derivative Transactions with respect to which a Restructuring has occurred and for which "Restructuring Maturity Limitation and Fully Transferable Obligation" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation" is specified in the related Confirmations, each of the Permissible Deliverable Obligations specified by ISDA on its Website or (ii), in all other circumstances, each of the Deliverable Obligations included in the Final List published by ISDA on its Website; provided that, with respect to each such Permissible Deliverable Obligation, in the case of (i), or each such Deliverable Obligation, in the case of (ii), as applicable, the relevant Credit Derivatives Determinations Committee has not Resolved as of the Delivery Date to remove such Permissible Deliverable Obligation or Deliverable Obligation, as applicable, from the Final List as a result of any material change to the terms of such Permissible Deliverable Obligation or Deliverable Obligation, as applicable, occurring following the publication of the Final List and on or prior to the Delivery Date;
- (i) the Reference Price is the Auction Final Price;
- (j) the Calculation Agent is (i) if both parties to the Representative Auction-Settled Transaction are Participating Bidders, Seller under such Representative Auction-Settled Transaction and (ii) if only one party to the Representative Auction-Settled Transaction is a Participating Bidder, such Participating Bidder;
- (k) with respect to (i) any Deliverable Obligation that is a Loan, the Physical Settlement Period will end on, and the Physical Settlement Date will be, the Delivery Cut-off Date, and (ii) any Deliverable Obligation that is not a Loan, the Physical Settlement Period is as specified in the Relevant Credit Derivatives Physical Settlement Matrix; and
- (l) the following amendments are hereby made to the Definitions for purposes of the Representative Auction-Settled Transaction:
 - (i) Section 2.1 of the Definitions is hereby amended by deleting the second sentence thereof.
 - (ii) Section 2.2 of the Definitions is hereby deleted.
 - (iii) Section 3.2(c) of the Definitions is hereby replaced in its entirety with the following:

"(c) Notice of Physical Settlement. The Notice to Physical Settlement Condition to Settlement is satisfied by the delivery of a Notice of Physical Settlement (whether actual or deemed) that is effective in accordance with Section 3.4."
 - (iv) Section 3.4 of the Definitions is hereby replaced in its entirety with the following:

"Section 3.4. Notice of Physical Settlement. "Notice of Physical Settlement" means a notice from Buyer to Seller (which may be in writing (including by facsimile and/or email) and/or by telephone and which shall be subject to the requirements regarding notices set forth in Section 1.10) that (a) irrevocably confirms that Buyer will settle the Credit Derivative Transaction and require performance in accordance with Physical

Settlement as the Settlement Method and (b) contains a detailed description of each Deliverable Obligation that Buyer will, subject to Section 9.2(c)(ii), Deliver to Seller, including the outstanding principal balance or, in the case of a Deliverable Obligation which is a revolving credit arrangement (a "**Revolver**"), the Loan Outstanding Principal Balance (the "**Outstanding Amount**") of each such Deliverable Obligation and the information described in the Form of Notice of Physical Settlement attached as Exhibit 3 to the relevant Credit Derivatives Auction Settlement Terms. Buyer may, from time to time, notify Seller in the manner specified above (each such notification, a "**NOPS Amendment Notice**") that Buyer is replacing, in whole or in part, one or more Deliverable Obligations specified in the Notice of Physical Settlement or a prior NOPS Amendment Notice, as applicable, (to the extent the relevant Deliverable Obligation has not been Delivered as of the date such NOPS Amendment Notice is effective) or the detailed description(s) thereof. A NOPS Amendment Notice shall contain a revised detailed description of each replacement Deliverable Obligation that Buyer will, subject to Section 9.2(c)(ii), Deliver to Seller (each, a "**Replacement Deliverable Obligation**") and shall also specify the Outstanding Amount of each Deliverable Obligation identified in the Notice of Physical Settlement or prior NOPS Amendment Notice, as applicable, that is being replaced (with respect to each such Deliverable Obligation, the "**Replaced Deliverable Obligation Outstanding Amount**"). The Outstanding Amount of each Replacement Deliverable Obligation identified in a NOPS Amendment Notice shall be determined by applying the Revised Currency Rate to the relevant Replaced Deliverable Obligation Outstanding Amount. Each such NOPS Amendment Notice must be effective at or prior to 11:00 a.m. Relevant City Time (as defined in the Rules) on the Physical Settlement Date (determined without reference to any change resulting from such NOPS Amendment Notice). Notwithstanding the foregoing, Buyer may correct any errors or inconsistencies in the detailed description of each Deliverable Obligation contained in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, by notice to Seller (given in the manner specified above) prior to the relevant Delivery Date; it being understood that such notice of correction shall not constitute a NOPS Amendment Notice.

If Buyer fails to deliver an effective Notice of Physical Settlement on or before the first day following the Auction Final Price Determination Date on which commercial banks and foreign exchange markets are generally open to settle payments in the Relevant City (as defined in the Rules) (the "**Notice of Physical Settlement Date**"), Buyer will have no right thereafter to deliver a Notice of Physical Settlement. If Buyer has not delivered an effective Notice of Physical Settlement on the Notice of Physical Settlement Date, Seller will have the right on the Business Day following the Notice of Physical Settlement Date to deliver a notice to Buyer containing a detailed description of the Deliverable Obligations that Buyer will be required to Deliver to Seller, including the Outstanding Amount of each such Deliverable Obligation (provided that the aggregate of such Outstanding Amounts (or the equivalent Currency Amount, as applicable) shall be equal to or less than the Floating Rate Payer Calculation Amount).

If Buyer delivers an effective Notice of Physical Settlement on or before the Notice of Physical Settlement Date but such Notice of Physical Settlement (as amended or supplemented by any NOPS Amendment Notices delivered on or prior to the Notice of Physical Settlement Date) specifies Deliverable Obligations with an Outstanding Amount (or the equivalent Currency Amount, as applicable) that is less than the Floating Rate Payer Calculation Amount, Seller will have the right on the Business Day following the Notice of Physical Settlement Date to deliver a notice to Buyer containing a detailed description of the additional Deliverable Obligations that Buyer will be

required to Deliver to Seller, including the Outstanding Amount of each such Deliverable Obligation; provided that the aggregate specified Outstanding Amount (or the equivalent Currency Amount, as applicable) shall be equal to or less than the amount by which the Floating Rate Payer Calculation Amount exceeds the aggregate Outstanding Amount (or the equivalent Currency Amount, as applicable) of Deliverable Obligations specified in the Notice of Physical Settlement (as amended or supplemented by any NOPS Amendment Notices) delivered by Buyer.

Any notice delivered by Seller pursuant to this Section 3.4 will include the information described in the Form of Notice of Physical Settlement attached as Exhibit 3 to the relevant Credit Derivatives Auction Settlement Terms. The Outstanding Amount of each Deliverable Obligation identified in any such notice delivered by Seller shall be determined by applying the Revised Currency Rate to the relevant Outstanding Amount. Delivery of any such notice shall be deemed to constitute delivery of an effective Notice of Physical Settlement. Buyer may not change any such notice from Seller, other than to correct any errors or inconsistencies in the detailed description of each Deliverable Obligation in such notice.

If Buyer fails to deliver an effective Notice of Physical Settlement on or prior to the Notice of Physical Settlement Date, and Seller fails to deliver a notice described in this Section 3.4 to Buyer on or prior to the Business Day following the Notice of Physical Settlement Date, then the Business Day following the Notice of Physical Settlement Date will be the Termination Date."

- (v) Section 7.1 of the Definitions is hereby replaced in its entirety with the following:

"Section 7.1. Cash Settlement. If "Cash Settlement" is deemed to apply pursuant to Section 9.3, 9.4, 9.5 or 9.6, (a) if the Cash Settlement Amount is a positive number, Seller shall, subject to Section 3.1, pay the Cash Settlement Amount to Buyer on the Cash Settlement Date; and (b) if the Cash Settlement Amount is a negative number, Buyer shall, subject to Section 3.1, pay the absolute value of the Cash Settlement Amount to Seller on the Cash Settlement Date."

- (vi) Section 7.10 of the Definitions is hereby amended by the addition of the words: "or, in the case of a Reference Obligation which is a Revolver, with a Loan Outstanding Principal Balance" after the words "outstanding principal balance".

- (vii) Section 7.11 of the Definitions is hereby amended by the addition of the words: "or, in the case of a Reference Obligation which is a Revolver, with a Loan Outstanding Principal Balance" after the words "outstanding principal balance".

- (viii) Section 8.1 of the Definitions is hereby amended by the deletion of the second paragraph thereof and the replacement thereof by the following:

"In the case of Deliverable Obligations that are (a) (i) Borrowed Money (other than Revolvers), Buyer shall Deliver Deliverable Obligations with an outstanding principal balance or (ii) Revolvers, Buyer shall Deliver Deliverable Obligations with a Loan Outstanding Principal Balance, in each case excluding accrued but unpaid interest and (b) not Borrowed Money, Buyer shall Deliver Deliverable Obligations with a Due and Payable Amount (or, in the case of either (a) or (b), the equivalent Currency Amount of any such amount), in each case in the aggregate amount as of the relevant Delivery Dates that is equal to the Floating Rate Payer Calculation Amount; provided that Buyer may Deliver Deliverable Obligations with an outstanding principal balance or with a

Loan Outstanding Principal Balance, as applicable, (excluding accrued but unpaid interest) or a Due and Payable Amount, as applicable, (or the equivalent Currency Amount of any such amount), in the aggregate amount as of the relevant Delivery Dates that is greater than the Floating Rate Payer Calculation Amount, in which case Seller shall not be required to pay more than the Physical Settlement Amount to Buyer, subject to Section 9.2(c)(ii)."

(ix) Section 8.5 of the Definitions is hereby amended by:

(A) the addition of the following after the words "Reference Price":

", provided that if all or any part of the Physical Settlement Amount is payable in respect of a Revolver, such amount will be multiplied by the lower of (i) one and (ii) a fraction equal to the Drawn Outstanding Principal Balance over the Deemed Commitment."; and

(B) the addition of the following at the end thereof:

"For the avoidance of doubt, no additional amount shall be due from Seller to Buyer in respect of any accrued interest on the Deliverable Obligation(s) as at the Delivery Date."

(x) Section 8.10 of the Definitions is hereby replaced in its entirety with the following:

"Section 8.10. Currency Rate. "Currency Rate" means with respect to (a) a Deliverable Obligation specified in a Notice of Physical Settlement delivered by (i) Buyer, the Auction Currency Rate or (ii) Seller, the Revised Currency Rate and (b) a Replacement Deliverable Obligation specified in a NOPS Amendment Notice, the Revised Currency Rate."

(xi) Section 8.12 of the Definitions is hereby replaced in its entirety with the following:

"Section 8.12. Revised Currency Rate. "Revised Currency Rate" means, with respect to either (a) a Replacement Deliverable Obligation specified in a NOPS Amendment Notice or (b) a Deliverable Obligation specified in a Notice of Physical Settlement delivered by Seller, the rate of conversion between the currency in which the Replaced Deliverable Obligation Outstanding Amount, in the case of a NOPS Amendment Notice, or the Outstanding Amount of the relevant Deliverable Obligation, in the case of a Notice of Physical Settlement delivered by Seller, as applicable, is denominated and the currency in which the Outstanding Amount of such Replacement Deliverable Obligation is denominated, in the case of a NOPS Amendment Notice, or the Settlement Currency, in the case of a Notice of Physical Settlement delivered by Seller, as applicable, that is determined either (i) by reference to the Currency Rate Source as at the Next Currency Fixing Time or (ii) if such rate is not available at such time, by the Calculation Agent in a commercially reasonable manner after consultation with the parties."

- (xii) Section 9.2(c)(i) of the Definitions is amended by the addition of the following after the words "or other document":

"(including any document specified in an applicable Loan Market Advisory, any confidentiality undertaking and/or any accession letter)".

- (xiii) Section 9.2(c)(iv) of the Definitions is hereby replaced in its entirety with the following:

"if and only to the extent that a Deliverable Obligation is a Loan and (A) in the case of an Auction RAST, to the extent that the Deliverable Obligations specified in the Notice of Physical Settlement (or the NOPS Amendment Notice, as the case may be) for such Auction RAST are identical to the Deliverable Obligations specified in the Notice of Physical Settlement (or the NOPS Amendment Notice, as the case may be) for any Customer Buy RAST, Buyer under the Auction RAST may designate its customer under such Customer Buy RAST and (B) in the case of a Customer Sell RAST, to the extent that the Deliverable Obligations specified in the Notice of Physical Settlement (or the NOPS Amendment Notice, as the case may be) for such Customer Sell RAST are identical to the Deliverable Obligations specified in the Notice of Physical Settlement (or the NOPS Amendment Notice, as the case may be) for the related Auction RAST, Buyer under the Customer Sell RAST may designate the party designated by Buyer under the Auction RAST pursuant to (A) above or, if no such party is designated by Buyer under the Auction RAST, may designate Buyer under the Auction RAST (in each case, the "**Buyer's designee**") to Deliver and otherwise perform the obligations of Buyer to Deliver such Loan with respect to a Credit Derivative Transaction by specifying details of the Buyer's designee in the Notice of Physical Settlement (or the NOPS Amendment Notice, as the case may be). Within one Business Day of receipt of the Notice of Physical Settlement (or the NOPS Amendment Notice, as the case may be) or in the case of a Revised Designation, on the Revised Designation Date, (x) in the case of an Auction RAST, Seller thereunder may designate its customer under any Customer Sell RAST that is a Related RAST (or any designee of such customer under such Customer Sell RAST pursuant to (z) below), (y) in the case of a Customer Buy RAST, Seller thereunder may designate the party designated by Seller under the Auction RAST pursuant to (x) above or, if no such party is designated by Seller under the Auction RAST, may designate Seller under the Auction RAST and (z) in the case of a Customer Sell RAST, Seller thereunder may designate any third party a "**Seller Third Party designee**" (in each case, the "**Seller's designee**" and the Buyer's designee and the Seller's designee, each a "**designee**") to take Delivery and otherwise perform its obligations to take Delivery of such Loan with respect to a Credit Derivative Transaction by delivery of a notice to Buyer under the Auction RAST (which may be by telephone and which shall be subject to the requirements regarding notices set forth in Section 1.10), which is copied to each party under each Related RAST and which confirms that Seller has designated Seller's designee to take Delivery. If the Notice of Physical Settlement (or NOPS Amendment Notice, as the case may be) is delivered by a Seller under an Auction RAST in accordance with Section 3.4, such Seller may designate Seller's designee in such Notice of Physical Settlement (or NOPS Amendment Notice, as the case may be) and, within one Business Day of receipt of the Notice of Physical Settlement (or NOPS Amendment Notice, as the case may be) or in the case of a Revised Designation, on the Revised Designation Date, a Buyer under an Auction RAST may designate Buyer's designee by delivery of a notice to Seller under the Auction RAST (which may be by telephone and which shall be subject to the requirement regarding notices set forth in Section 1.10) which is copied to each party under each Related RAST and which confirms that such Buyer has designated Buyer's designee to Deliver.

When making any such designation in accordance with the above, the party making the designation may identify the designee either by name or by reference to a unique identifier agreed upon between the two parties (a "**designee identifier**"), provided that in the case of Seller's designee (if any) sufficient details (such as details of a nominee or an account number) are provided so as to enable effective Delivery to be made. If a designee is identified by a designee identifier, then if Section 9.8 applies and the designee wishes to participate in the Quotation process, such designee must identify itself to each party under the Auction RAST and any Related RAST prior to the Valuation Date. If a designee which does not so identify itself would otherwise be determined to be the Relevant Buyer, then the relevant Credit Derivative Transaction shall be deemed to be a Loan Settled Transaction for the purposes of determining the Relevant Buyer only. For the avoidance of doubt, if a designee does not participate in the Quotation process, then the applicability of any Final Price determined by such process shall not be affected.

Within one Business Day of any effective designation being made in accordance with this Section 9.2(c)(iv), under a Credit Derivative Transaction, the party that has not made the designation may, by delivery of a notice (a "**Revocation Notice**") to the other party under the Credit Derivative Transaction (which may be by telephone and which shall be subject to the requirements regarding notices set forth in Section 1.10), which is copied to each party under each Related RAST (or in the case where a designee is identified by a designee identifier, by notice to the relevant Participating Bidder under the Auction RAST, which Participating Bidder will deliver such notice as soon as is reasonably practicable to the designee in accordance with Section 1.10), confirm that it wishes such designation to be revoked. If a Revocation Notice is received by the relevant parties, any designation to which that Revocation Notice relates shall cease to have effect (except that for the purposes of the Definitions, "Related RAST" and "Auction RAST" shall retain the meanings given to such terms below) and Buyer and/or Seller, as relevant, shall each resume its obligations under the relevant Credit Derivative Transaction, provided that Buyer and/or Seller, as relevant, may make a further designation in accordance with the preceding paragraphs (a "**Revised Designation**") within one Business Day of receipt of the Revocation Notice or Failed Delivery Notice, as the case may be (such day, a "**Revised Designation Date**").

If Buyer and/or Seller under an Auction RAST make a designation with respect to which no Revocation Notice is received, the Auction RAST and each Related RAST shall be a "**Designated Transaction**" and the designee shall assume the obligation to Deliver or take Delivery, as the case may be (although the obligation to pay the Physical Settlement Amount under the Auction RAST and each Related RAST shall remain unchanged). Such designation shall relieve Buyer of the obligations of Buyer to Deliver and/or Seller of the obligations of Seller to take Delivery, as the case may be, provided that if Delivery does not occur before the day that is five Business Days after the Physical Settlement Date, any designation that has been made shall cease to have effect and Buyer and Seller shall each resume its obligations under the relevant Credit Derivative Transaction.

For the avoidance of doubt, each of Buyer and Seller under the Auction RAST may designate more than one designee with respect to a portion of the Credit Derivative Transaction and the provisions above shall apply to each such designee *mutatis mutandis* with respect to the relevant portion of the Credit Derivative Transaction.

If and to the extent that there is no Auction RAST because the same Participating Bidder has entered into both a Customer Buy RAST and a Customer Sell RAST with

respect to which the same Loan is specified as a Deliverable Obligation in the Notice of Physical Settlement (or NOPS Amendment Notice, as the case may be), the provisions above shall apply *mutatis mutandis* as though such Participating Bidder were both a Buyer and a Seller under the Auction RAST, Seller under the Customer Buy RAST and Buyer under the Customer Sell RAST, which in each case shall be a Related RAST.

If and to the extent that a Credit Derivative Transaction is a Designated Transaction, if Buyer determines in its sole and absolute discretion that, having used reasonable efforts, Buyer is unable to Deliver to Seller's designee (if any), and/or reasonably believes that Buyer will be unable to Deliver to Seller's designee (if any) on or prior to the date that is five Business Days after the Physical Settlement Date, Buyer may instead notify Seller of such determination by delivery of a notice to Seller (a "**Failed Delivery Notice**"), which may be by telephone and which shall be subject to the requirements regarding notices in Section 1.10, which is copied to each party under each Related RAST (or in the case where a designee is identified by a designee identifier, by notice to the relevant Participating Bidder under the Auction RAST, which Participating Bidder will deliver such notice as soon as is reasonably practicable to the designee in accordance with Section 1.10), and unless Seller makes a Revised Designation on or prior to the Revised Designation Date, Buyer and/or Seller, as relevant, shall each resume its obligations under the relevant Credit Derivative Transaction as if no such designation has occurred but without prejudice to any other designation which has occurred under any Related RAST or relevant Auction RAST, as the case may be.

If effective Delivery is made pursuant to a Credit Derivative Transaction in accordance with its terms, such Credit Derivative Transaction (or the relevant portion thereof) shall be deemed to be a "**Loan Settled Transaction**".

Notwithstanding the above, with respect to any Deliverable Obligation, either party (the "**designator**") may designate any of its Affiliates (the "**designee**") to Deliver or take Delivery, as the case may be, and otherwise to perform such party's obligations to Deliver or take Delivery, as the case may be, in respect of a Credit Derivative Transaction and the designee may assume such obligations, provided that in the case where it is impossible or illegal for the designator to Deliver or take Delivery in respect of a Credit Derivative Transaction, the designator may designate any third party to whom the non-designating party consents and for whom it is not impossible or illegal to Deliver or accept Delivery, provided that the non-designating party will not unreasonably withhold such consent and provided further that such consent will be deemed given in the case where the relevant designee is a Participating Bidder for whom it is not impossible or illegal to Deliver or accept Delivery of the relevant Deliverable Obligations. Such designation shall not relieve the designator of any of its obligations under such Credit Derivative Transaction. If the designee has performed the obligations of the designator under such Credit Derivative Transaction, then the designator shall be discharged of its obligations to the other party to the extent of such performance. If, as a result of such designation, (A) it would be illegal due to any applicable law or regulation for the designee to so Deliver or take Delivery, the designator shall not be permitted to designate such designee to Deliver or to take Delivery or (B) such Delivery would give rise to any Tax or any loss or cost to the non-designating party, then the designator shall not be permitted to designate such designee to Deliver or to take Delivery unless the non-designating party has received an indemnity acceptable to it from the designating party with respect to such Tax, loss or cost."

- (xiv) Section 9.3 of the Definitions is hereby amended by:
- (A) being renamed "Partial Cash Settlement of a Deliverable Obligation Due to Impossibility or Illegality; Partial Cash Settlement of a Deliverable Obligation which is a Loan Due to no Delivery";
 - (B) inserting "(i) Subject to (ii) below," at the beginning thereof; and
 - (C) inserting the following at the end thereof:
 - "(ii) If and to the extent that a Deliverable Obligation specified in the Notice of Physical Settlement (or NOPS Amendment Notice, as the case may be) is a Loan and if and to the extent the Credit Derivative Transaction is not a Loan Settled Transaction, the relevant portion of such Credit Derivative Transaction shall, on the day that is two Business Days after the Physical Settlement Date, be a "**Failed Loan CDS Transaction**" and Cash Settlement pursuant to the Partial Cash Settlement Terms shall be deemed to apply to the relevant portion of the Credit Derivative Transaction with respect to such Deliverable Obligation that is a Loan and that has not been Delivered and such Deliverable Obligation shall be deemed to be an 'Undeliverable Obligation'."
- (xv) Section 9.8(a) of the Definitions is hereby replaced in its entirety with the following:
- "(a) "Cash Settlement Amount" is deemed to be, for each Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation, the aggregate of (A) the Outstanding Amount, Due and Payable Amount or in each case, the equivalent Currency Amount, as applicable, of each Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation multiplied by (B) the Reference Price minus the Final Price determined in accordance with the specified Valuation Method with respect to such Undeliverable Obligation, Undeliverable Loan Obligation, Undeliverable Participation or Unassignable Obligation."
- (xvi) Section 9.8(c) of the Definitions is hereby amended by deleting the words "and 'Reference Price' is deemed to be one hundred per cent".
- (xvii) Section 9.8(d) of the Definitions is hereby amended by inserting the following at the beginning thereof:
- "If the Credit Derivative Transaction is a Failed Loan CDS Transaction, "Valuation Date" is deemed to be the day that is two Business Days after the Physical Settlement Date and otherwise,"
- (xviii) Section 9.8(e) of the Definitions is hereby amended by inserting the following at the beginning thereof:
- "If the Credit Derivative Transaction is a Failed Loan CDS Transaction, "Valuation Method" is deemed to be Highest, and otherwise,"
- (xix) Section 9.8(g) of the Definitions is hereby amended by deleting the words "outstanding principal balance" and replacing them with the words "Outstanding Amount".

- (xx) Section 9.8(k) of the Definitions is hereby amended by inserting the following at the beginning thereof:

"If the Credit Derivative Transaction is a Failed Loan CDS Transaction, then "Quotation" means each Full Quotation obtained and expressed as a percentage with respect to a Valuation Date in the manner that follows:

- (i) In respect of (a) an Auction RAST and each Related RAST, (A) Buyer under the Customer Buy RAST (if any), (B) if and to the extent that such Customer Buy RAST is a Loan Settled Transaction or if there is no Customer Buy RAST, Buyer under the Auction RAST or (C) if and to the extent that such Auction RAST is also a Loan Settled Transaction, Buyer under the Customer Sell RAST (if any) or (b) otherwise, Buyer (in each case, such Buyer, the "**Relevant Buyer**") shall attempt to obtain Full Quotations (provided that for the purposes of this Section 9.8(k) only, a Full Quotation shall be a quotation for an amount equal to the higher of the Quotation Amount and the relevant minimum transfer amount, if any, applicable pursuant to the terms of the Loan on the Valuation Date) with respect to each Valuation Date from (I) five or more Dealers which must, at a minimum, include each Seller under a Related RAST or the Auction RAST (if any) which, in each case, is not a Loan Settled Transaction provided that in the case of a Seller under a Customer Sell RAST which is a Related RAST, such Seller may designate another party to participate in the quotation process as a Dealer in its place (and for these purposes only, each such entity shall be deemed to be a Dealer for the purposes of Section 7.15) and (II) any other additional person from whom the Relevant Buyer wishes to obtain Quotations (and for these purposes only, each such entity shall be deemed to be a Dealer for the purposes of Section 7.15). In the case of an Auction RAST and each Related RAST, the Final Price shall not be determined until (i) the Relevant Buyer has attempted to obtain a Full Quotation from (A) Seller under the Customer Sell RAST (if any) or its designee for these purposes, (B) if and to the extent that such Customer Sell RAST is a Loan Settled Transaction or if there is no Customer Sell RAST, Seller under the Auction RAST or (C) if and to the extent that such Auction RAST is also a Loan Settled Transaction, Seller under the Customer Buy RAST (if any) (such Seller, the "**Relevant Seller**") provided that at the time at which the Relevant Buyer attempts to obtain such Full Quotation, it shall inform the Relevant Seller of the highest Full Quotation obtained prior thereto and (ii) the Relevant Seller has declined to provide a higher Full Quotation than the current highest Full Quotation.

If the Relevant Buyer is unable to obtain one or more such Full Quotations on the same Business Day within two Business Days of a Valuation Date, then the Alternative Procedures Relating to Loans not Delivered shall apply as though such second Business Day is the Alternative Procedure Start Date. For the avoidance of doubt, if the Relevant Buyer is able to obtain one or more such Full Quotations on the same Business Day within two Business Days of a Valuation Date, the Final Price determined in accordance with the Valuation Method (and the provisions of the following paragraphs) shall apply to the Auction RAST and each Related RAST, in each case, to the extent that such Credit Derivative Transaction is not a Loan Settled Transaction.

For the purposes hereof, in addition to the requirements of Section 7.10, each firm Quotation shall:

- (A) be for a transaction with the Relevant Buyer in which, the Relevant Buyer agrees to Deliver the Deliverable Obligations that are Loans to the Dealer submitting the firm quotation (the "**Quoting Dealer**"), which transaction shall be governed by documentation that is consistent with market practice applicable to the sale and purchase of such Deliverable Obligations on the Valuation Date (which may be determined by the relevant Convened DC), including without limitation a representation that the Quoting Dealer has completed all "know your customer" or similar requirements under all applicable laws, regulations and internal compliance procedures relating to a transaction with the Relevant Buyer and on the Reference Entity;
- (B) be capable of acceptance by the Relevant Buyer and be open for acceptance to the relevant party for at least 30 minutes; and
- (C) be obtained on the basis that if the Relevant Buyer agrees to Deliver the Deliverable Obligations to such Quoting Dealer on the terms set forth herein, such Quoting Dealer agrees to pay the settlement amount (calculated and payable for this purpose in accordance with the relevant market standard documentation and based on the price so quoted) that would be payable for such Deliverable Obligations to the Relevant Buyer.

Furthermore, any firm Quotation which would otherwise constitute a Full Quotation shall be deemed not to have been obtained unless the Relevant Buyer has entered into an arms-length (without taking into account any other transaction or arrangement), binding contract to sell the relevant amount of such Deliverable Obligations, utilising a firm Quotation from a Quoting Dealer (which it may do in its sole and absolute discretion using any firm Quotation from any Quoting Dealer, which for the avoidance of doubt is not required to be the Quotation used in connection with the calculation of the Final Price); and

- (ii) Otherwise,".
- (xxi) Section 9.9 of the Definitions is hereby amended by deleting the second sentence of the penultimate paragraph thereof and replacing it with the following:

"On the third Business Day following such notice, Buyer will be deemed to have Delivered an outstanding principal balance of the Deliverable Obligations specified in the Notice of Physical Settlement (or NOPS Amendment Notice, as applicable) for which a Buy-in Price was determined, and an amount equal to the product of (A) the outstanding principal balance of the Deliverable Obligations specified in the Notice of Physical Settlement (or NOPS Amendment Notice, as applicable) and (B) in the case where the Buy-in Price is equal to or greater than the Auction Final Price, the excess, if any, of the Buy-in Price over the Auction Final Price (expressed as a positive amount) and otherwise the excess of the Auction Final Price over the Buy-in Price (expressed as a negative amount) plus (C) any reasonable brokerage costs incurred by Seller in connection with any purchases by it of the Relevant Bonds as part of the buy-in, if positive, will be payable by Buyer to Seller or, if negative, the absolute value thereof will be payable by Seller to Buyer."

- (xxii) Section 9.10 of the Definitions is hereby amended by:

- (A) deleting the words "If Buyer has not Delivered any Deliverable Obligations specified in the Notice of Physical Settlement that are Loans on or prior to the date that is five Business Days after the Physical Settlement Date" and replacing it with the following:

"In the case of a Failed Loan CDS Transaction, if no Final Price has been determined pursuant to Section 9.8 on or before the fourth Business Day following the Physical Settlement Date";

- (B) inserting the word "or" immediately before "(iv)" on the ninth line thereof; and
- (C) deleting the words from "or (v)" to "(in which case Section 9.3 shall apply)" inclusive.

(xxiii) Section 9.10(a) of the Definitions is hereby amended by adding the following at the beginning thereof: "Section 9.10(a) will not be applicable if Seller delivers a notice (in accordance with Section 3.4) that is deemed to constitute delivery of a Notice of Physical Settlement instead of Buyer delivering a Notice of Physical Settlement."

(xxiv) Section 9.10(b) of the Definitions is hereby amended by:

- (A) deleting "fifteenth" and replacing it with "second";
- (B) deleting the following from the thirteenth line thereof: "at a price (expressed as a percentage) less than the Reference Price"; and
- (C) inserting the words at the end thereof:

"For the avoidance of doubt, Section 9.10(a) shall continue to apply during this period."

(xxv) The 60 Business Day Cap on Settlement shall not be applicable with respect to any Relevant Transaction Type for which it would otherwise be applicable.

For the purposes of the Representative Auction-Settled Transaction only, the Definitions shall be deemed to include the following definitions:

- (i) "**Auction RAST**" means a Representative Auction-Settled Transaction between a Participating Bidder as Buyer and a Participating Bidder as Seller formed pursuant to the relevant Credit Derivatives Auction Settlement Terms.
- (ii) "**Bankruptcy Court**" means the United States Bankruptcy Court for the Southern District of New York.
- (iii) "**Customer Buy RAST**" means a Representative Auction-Settled Transaction deemed to be created pursuant to Section 18 of the relevant Credit Derivatives Auction Settlement Terms between a Participating Bidder as Seller and its customer as Buyer.
- (iv) "**Customer Sell RAST**" means a Representative Auction-Settled Transaction deemed to be created pursuant to Section 18 of the relevant Credit Derivatives Auction Settlement Terms between a Participating Bidder as Buyer and its customer as Seller.

- (v) "**Deemed Commitment**" means, with respect to an outstanding principal balance under a Revolver, the utilisation of commitment represented by such outstanding principal balance, having been converted into the base currency of the Revolver (howsoever described) at the rate used to calculate such utilisation pursuant to the terms of the Revolver at the time of the relevant drawing, as determined by the Calculation Agent.
- (vi) "**Delivery Cut-off Date**" means the earlier of (i) the date that is 10 Business Days following the Notice of Physical Settlement Date and (ii) the date on which the Bankruptcy Court announces that it will confirm the Plan of Reorganization
- (vii) "**Drawn Outstanding Principal Balance**" means, with respect to an outstanding principal balance under a Revolver, the amount of such outstanding principal balance converted into the base currency of the Revolver (howsoever described) at the Currency Rate.
- (viii) "**Loan Outstanding Principal Balance**" means, with respect to an outstanding principal balance under a Revolver, the higher of the Drawn Outstanding Principal Balance and the Deemed Commitment.
- (ix) "**Plan of Reorganization**" means the Chapter 11 plan of reorganization proposed by the Reference Entity in connection with the bankruptcy case titled In re: Houghton Mifflin Harcourt Publishing Company, et al., Case No. 12-12171 (REG) before the Bankruptcy Court.
- (x) "**Related RAST**" means with respect to an Auction RAST, a Customer Buy RAST under which Buyer under the Auction RAST has designated its customer to Deliver the Deliverable Obligations and/or a Customer Sell RAST under which Buyer has designated the party specified by Buyer under the Auction RAST to make Delivery of the Deliverable Obligations under such Customer Sell RAST, in each case for which the relevant Notice of Physical Settlement (or NOPS Amendment Notice, as applicable) refers to all or a portion of the same Deliverable Obligations as the Auction RAST.

"**Revolver**" has the meaning set forth in Section 2 of these Credit Derivatives Auction Settlement Terms.

"**Rounding Amount**" means, if the Relevant Currency is (a) USD or EUR, 1,000 units of the Relevant Currency, unless otherwise specified in Schedule 1 to these Credit Derivatives Auction Settlement Terms, (b) JPY, 100,000 units of the Relevant Currency, unless otherwise specified in Schedule 1 to these Credit Derivatives Auction Settlement Terms, or (c) any other currency, such amount approved by the relevant Convened DC and set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"**Rounding Convention**" means that, if a Participating Bidder's order is matched in an amount that is not an integral multiple of the Rounding Amount, then the amount to be so matched will be rounded down to the nearest Rounding Amount. The difference between the total amounts of all orders having been filled Pro Rata and the total of all rounded down amounts will be allocated in amounts equal to the Rounding Amount one at a time to Participating Bidders in order, beginning with the Participating Bidder with the order stating the largest Quotation Amount at the same price. In the event that there are Participating Bidders with identical orders of such type, Rounding Amounts will be allocated first to the Participating Bidder whose orders were received first by the Administrators. Any residual amounts which are in aggregate less than the Rounding Amount shall be disregarded.

"Rules" has the meaning set forth in the introduction to these Credit Derivatives Auction Settlement Terms.

"Seller M(M)R Trade" has the meaning set forth in the definition of Covered Non-Swaption Transaction.

"Single Name Swaption" means any unexercised option to enter into an Auction Covered Transaction (other than another Single Name Swaption) that references not more than one Reference Entity.

"Subsequent Bidding Information" has the meaning set forth in Section 14 of these Credit Derivatives Auction Settlement Terms.

"Subsequent Bidding Information Publication Time" has the meaning set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"Subsequent Bidding Period" means (a) the Originally Scheduled Subsequent Bidding Period, (b) such period that lasts longer than or occurs later than such Originally Scheduled Subsequent Bidding Period, as the Administrators may prescribe if they determine (in their sole and absolute discretion) that such modified period is required to preserve the integrity of the Auction or (c), if the auction procedure described in Sections 4 and 5(a) and 5(c) of these Credit Derivatives Auction Settlement Terms must be repeated pursuant to Section 13 of these Credit Derivatives Auction Settlement Terms, the time period (whether less than, equal to or longer than the Originally Scheduled Subsequent Bidding Period, as the Administrators may prescribe, in their sole and absolute discretion, to preserve the integrity of the Auction) occurring (i) at such time(s) specified by the Administrators after such Originally Scheduled Subsequent Bidding Period on the Auction Date or (ii) at such time(s) specified by the Administrators on a subsequent Business Day, as applicable, pursuant to Section 13 of these Credit Derivatives Auction Settlement Terms, until the earlier of the Auction Final Price Determination Date or the occurrence of an Auction Cancellation Date.

"Touching Market" means any Matched Market for which the Initial Market Bid and Initial Market Offer are equal.

"Tradeable Market" means any Matched Market that is a Crossing Market or a Touching Market.

"Underlying CDS" means, with respect to a Single Name Swaption or Portfolio Swaption, the underlying Credit Derivative Transaction to which the relevant option relates, provided that such underlying Credit Derivative Transaction is not an Excluded Index Transaction or an Excluded Non-Index Transaction.

"Unmatched Limit Order" has the meaning set forth in Section 11 of these Credit Derivatives Auction Settlement Terms.

"USD" means the lawful currency of the United States of America.

"Valid Initial Market Submission" means, with respect to a Participating Bidder, an Initial Market Submission submitted by such Participating Bidder and received by the Administrators during the Initial Bidding Period.

"Valid Limit Order Submission" means, with respect to a Participating Bidder, a Limit Order Submission submitted by such Participating Bidder and received by the Administrators during the Subsequent Bidding Period.

"Valid Physical Settlement Request" means, with respect to a Participating Bidder, a Physical Settlement Request submitted by such Participating Bidder and received by the Administrators during the Initial Bidding Period.

Schedule 1

2012 Houghton Mifflin Harcourt Publishing Company Credit Event Auction-Specific Terms

This Schedule 1 sets out the following auction-specific terms applicable to these Credit Derivatives Auction Settlement Terms:

"**Affected Reference Entity**" means Houghton Mifflin Harcourt Publishing Company.

"**Auction Date**" means May 30, 2012.

"**Auction Settlement Date**" means the later of (i) the date that is five Business Days following the Auction Final Price Determination Date and (ii) June 6, 2012.

"**Cap Amount**" means 1.00 percent.

"**Credit Event Resolution Request Date**" means May 21, 2012.

"**Deliverable Obligation Terms**" means:

Deliverable Obligation Category	Deliverable Obligation Characteristics
Bond or Loan	Not Subordinated Specified Currency Not Contingent Assignable Loan Consent Required Loan Transferable Maximum Maturity: 30 years Not Bearer

"**Designated Range of Scheduled Termination Dates**" is not applicable.

"**Final Maturity Bucket**" is not applicable.

"**Initial Bidding Information Publication Time**" means 10:30 a.m. Relevant City Time.

"**Initial Market Quotation Amount**" means USD3,000,000.

"**Maximum Initial Market Bid-Offer Spread**" means 2.00 percent.

"**Minimum Number of Valid Initial Market Submissions**" means 8 Valid Initial Market Submissions.

"**Originally Scheduled Auction Currency Fixing Date**" means May 29, 2012.

"**Originally Scheduled Initial Bidding Period**" means the period between 9:45 a.m. and 10:00 a.m. Relevant City Time.

"**Originally Scheduled Subsequent Bidding Period**" means the period between 12:45 p.m. and 1:00 p.m. Relevant City Time.

"**Other Initial Bidding Period**" is not applicable.

"**Other Originally Scheduled Initial Bidding Period**" is not applicable.

"**Other Originally Scheduled Subsequent Bidding Period**" is not applicable.

"**Other Subsequent Bidding Period(s)**" is not applicable.

"**Quotation Amount Increment**" means USD1,000.

"**RAST Notional Amount Increment**" means USD1,000,000.

"**Reference Auction Obligation**" is not specified.

"**Relevant Credit Derivatives Physical Settlement Matrix**" means the Physical Settlement Matrix published by ISDA on April 3, 2012.

"**Relevant Credit Event**" means the Bankruptcy that is the subject of DC Issue 2012052101.

"**Relevant Currency**" means USD.

"**Relevant Pricing Increment**" means one-eighth of one percent.

"**Relevant Transaction Type(s)**" means Standard North American Corporate and North American Corporate.

"**Rounding Amount**" means USD1,000.

"**Subsequent Bidding Information Publication Time**" means 2:00 p.m. Relevant City Time.

Schedule 2

2012 Houghton Mifflin Harcourt Publishing Company Credit Event Fixed Rate Accrual Amendments

The provisions of the relevant documentation that govern the accrual of Fixed Rates and the payment of Fixed Amounts under each specified category of Auction Covered Transaction following an Event Determination Date with respect to the Affected Reference Entity shall be amended as follows:

- (a) **Single name CDS transactions.** The documentation relating to each Auction Covered Transaction that references only the Affected Reference Entity (other than a Single Name Swaption) is amended as follows:

Notwithstanding anything to the contrary in the documentation governing the Auction Covered Transaction:

- (i) if the first Fixed Rate Payer Payment Date after the Credit Event Resolution Request Date occurs (or would have occurred but for the Credit Event) before the Auction Settlement Date or the date that is five Business Days following the Auction Cancellation Date, as applicable (such date, the "**Accrual Reference Date**"): (A) the Fixed Rate on the Auction Covered Transaction shall accrue to but excluding the final Fixed Rate Payer Payment Date (the "**Final Fixed Rate Payer Payment Date**") which occurs (or would have occurred but for the Credit Event) in the period from but excluding the Credit Event Resolution Request Date to but excluding the Accrual Reference Date (or, if such Final Fixed Rate Payer Payment Date is the Scheduled Termination Date, to and including such Scheduled Termination Date) for purposes of determining the payment due on each Fixed Rate Payer Payment Date occurring (or which would have occurred but for the Credit Event) in such period; and (B) a rebate of such Fixed Rate accrual on the Auction Covered Transaction for the period from but excluding the Credit Event Resolution Request Date to but excluding the Final Fixed Rate Payer Payment Date (or, if such Final Fixed Rate Payer Payment Date is the Scheduled Termination Date, to and including such Scheduled Termination Date) will be paid by Seller to Buyer on the Accrual Reference Date; or
- (ii) if the first Fixed Rate Payer Payment Date after the Credit Event Resolution Request Date occurs (or would have occurred but for the Credit Event) on or after the Accrual Reference Date: (A) the Fixed Rate on the Auction Covered Transaction shall accrue to and including the Credit Event Resolution Request Date; and (B) the resulting Fixed Amount in respect of the Affected Reference Entity shall be paid on the Accrual Reference Date, with no rebate.

- (b) **Untranching transactions.** The documentation relating to each Auction Covered Transaction that is an untranching transaction is amended as follows:

Notwithstanding anything to the contrary in the documentation governing the Auction Covered Transaction:

- (i) if the first Fixed Rate Payer Payment Date after the Credit Event Resolution Request Date occurs (or would have occurred but for the Credit Event) before the Auction

Settlement Date or the date that is five Business Days following the Auction Cancellation Date, as applicable (such date, the "**Accrual Reference Date**"):

(A) the Fixed Rate on the Auction Covered Transaction or the Affected Portion thereof, as applicable, shall accrue to but excluding the final Fixed Rate Payer Payment Date (the "**Final Fixed Rate Payer Payment Date**") which occurs (or would have occurred but for the Credit Event) in the period from but excluding the Credit Event Resolution Request Date to but excluding the Accrual Reference Date (or, if such Final Fixed Rate Payer Payment Date is the Scheduled Termination Date, to and including such Scheduled Termination Date) for purposes of determining the payment due on each Fixed Rate Payer Payment Date occurring (or which would have occurred but for the Credit Event) in such period; and

(B) a rebate of such Fixed Rate accrual on the Auction Covered Transaction or the Affected Portion thereof, as applicable, for the period from but excluding the Credit Event Resolution Request Date to but excluding the Final Fixed Rate Payer Payment Date (or, if such Final Fixed Rate Payer Payment Date is the Scheduled Termination Date, to and including such Scheduled Termination Date) will be paid by Seller to Buyer on the Accrual Reference Date; or

(ii) if the first Fixed Rate Payer Payment Date after the Credit Event Resolution Request Date occurs (or would have occurred but for the Credit Event) on or after the Accrual Reference Date: (A) the Fixed Rate on the Auction Covered Transaction or the Affected Portion thereof, as applicable, shall accrue to and including the Credit Event Resolution Request Date; and (B) the resulting Fixed Amount in respect of the Affected Reference Entity shall be paid on the Accrual Reference Date, with no rebate.

(c) **Tranched transactions.** The documentation relating to each Auction Covered Transaction that is a tranched transaction is amended as follows:

Notwithstanding anything to the contrary in the documentation governing the Auction Covered Transaction:

(i) if the first Fixed Rate Payer Payment Date after the Credit Event Resolution Request Date occurs (or would have occurred but for the Credit Event) before the Auction Settlement Date or the date that is five Business Days following the Auction Cancellation Date, as applicable (such date, the "**Accrual Reference Date**"):

(A) the Fixed Rate shall accrue as if no Credit Event had occurred with respect to the Affected Reference Entity to but excluding the final Fixed Rate Payer Payment Date (the "**Final Fixed Rate Payer Payment Date**") which occurs (or would have occurred but for the Credit Event) in the period from but excluding the Credit Event Resolution Request Date to but excluding the Accrual Reference Date (or, if such Final Fixed Rate Payer Payment Date is the Scheduled Termination Date, to and including such Scheduled Termination Date) for purposes of determining the payment due on each Fixed Rate Payer Payment Date occurring (or which would have occurred but for the Credit Event) in such period; and

(B) without duplication of any rebate payable under the documentation governing such Auction Covered Transaction, a rebate of such Fixed Rate accrual on the Affected Portion equal to the reduction in the Outstanding Swap Notional

Amount for the Incurred Loss Amount, if any, and/or Incurred Recovery Amount, if any, with respect to the Affected Reference Entity for the period (if any) from and including the calendar day immediately following the Credit Event Resolution Request Date to but excluding such Final Fixed Rate Payer Payment Date (or, if such Final Fixed Rate Payer Payment Date is the Scheduled Termination Date, to and including such Scheduled Termination Date) will be paid by Seller to Buyer on the Accrual Reference Date; or

- (ii) if no Fixed Rate Payer Payment Date occurs (or would have occurred but for the Credit Event) in the period from but excluding the Credit Event Resolution Request Date to but excluding the Accrual Reference Date:
 - (A) the Fixed Rate shall accrue as if an Event Determination Date with respect to the Affected Reference Entity had occurred on the Credit Event Resolution Request Date;
 - (B) a Fixed Amount accrual in respect of the reduction in the Outstanding Swap Notional Amount for the Incurred Loss Amount, if any, and/or Incurred Recovery Amount, if any, with respect to the Affected Portion for the relevant Fixed Rate Payer Calculation Period through and including the Credit Event Resolution Request Date shall be paid on the Accrual Reference Date; and
 - (C) the Fixed Amount accrual payable on such Fixed Rate Payer Payment Date shall be calculated as if the Outstanding Swap Notional Amount were reduced by the Incurred Loss Amount, if any, and/or the Incurred Recovery Amount, if any, with respect to the Affected Reference Entity on the first day of the relevant Fixed Rate Payer Calculation Period, with no rebate.

Notwithstanding anything to the contrary in the relevant documentation, the Cash Settlement Amount (if any) in respect of the Affected Portion shall be payable on the Auction Settlement Date determined pursuant to these Credit Derivatives Auction Settlement Terms.

For the purposes of this Schedule 2, "Outstanding Swap Notional Amount", "Incurred Loss Amount" and "Incurred Recovery Amount" have the meanings specified in the relevant forms published by CDS IndexCo LLC, Markit North America, Inc., or any predecessor or successor thereto (or, if the relevant tranching transaction is documented under another form of documentation, meanings analogous thereto, to the extent applicable).

- (d) **Recovery Lock Transactions.** The documentation relating to each Auction Covered Transaction that is a Recovery Lock Transaction is amended as follows:

Notwithstanding anything to the contrary in the documentation, the final Fixed Rate Payer Calculation Period in respect of the Fixed Amount payable in respect of the Affected Reference Entity shall end on, and include, the Credit Event Resolution Request Date and the resulting Fixed Amount shall be paid on the Auction Settlement Date or the date that is five Business Days following the Auction Cancellation Date, as applicable.

- (e) **Nth to Default Transactions.** The documentation relating to each Auction Covered Transaction that is an Nth to Default Transaction is amended as follows:

Notwithstanding anything to the contrary in the documentation, the final Fixed Rate Payer Calculation Period in respect of the Fixed Amount payable in respect of the Affected Reference Entity shall end on, and include, the Credit Event Resolution Request Date and the resulting

Fixed Amount shall be paid on the Auction Settlement Date or the date that is five Business Days following the Auction Cancellation Date, as applicable.

- (f) **Portfolio Swaptions.** The documentation relating to each Auction Covered Transaction that is a Portfolio Swaption is amended to provide that: (x) no Accrued Amount in respect of the Affected Portion will be deducted from the Strike Adjustment Amount ("Accrued Amount" and "Strike Adjustment Amount" having the meanings specified in the relevant Swaption template (Master Confirmation as Underlying) published by CDS IndexCo LLC, Markit North America, Inc., or any predecessor or successor thereto, or, if the relevant Portfolio Swaption is documented under another form of documentation, meanings analogous thereto, to the extent applicable); and (y) the related Underlying CDS is deemed to be amended as follows:

Notwithstanding anything to the contrary in the documentation for the relevant Portfolio Swaption or the documentation for the underlying credit default swap:

- (i) if the Portfolio Swaption is effectively exercised on or prior to the third Business Day prior to the Auction Settlement Date or the date that is five Business Days following the Auction Cancellation Date, as applicable (such date, the "**Accrual Reference Date**"): (A) the seller of protection in the underlying transaction will pay to the buyer of protection in the underlying transaction, on the third business day after the day on which such Portfolio Swaption is effectively exercised, the Fixed Amount in respect of the Affected Reference Entity (as defined in the documentation for the underlying credit default swap transaction) for the Fixed Rate Payer Calculation Period beginning on the Fixed Rate Payer Payment Date for the underlying transaction immediately prior to the date on which the Portfolio Swaption is effectively exercised and ending on, and including, the Credit Event Resolution Request Date; and (B) the buyer of protection in the underlying transaction will not pay to the seller in such underlying transaction any Fixed Amount in respect of the Affected Reference Entity; and
- (ii) if the Portfolio Swaption is effectively exercised after the third Business Day prior to the Accrual Reference Date, neither party will pay to the other any Fixed Amount in respect of the Affected Reference Entity.

Form of Participating Bidder Letter

[Letterhead of Participating Bidder]

[Date]

Markit Group Limited

Send to: cea@markit.com

Creditex Brokerage LLP or Creditex Securities Corporation, as applicable, in its capacity as the Relevant Creditex Entity

Send to: CEA@creditex.com

International Swaps and Derivatives Association, Inc.

Send to: ceba@isda.org

Dear Sirs,

We write to inform you that we wish to be a "Participating Bidder" with respect to each auction to be held for the purpose of settling credit derivatives transactions referencing Houghton Mifflin Harcourt Publishing Company (each, an "**Auction**"). Capitalized terms used in this Participating Bidder Letter but not defined herein shall have the meanings specified in the Credit Derivatives Auction Settlement Terms governing such Auction as published by the International Swaps and Derivatives Association, Inc. on May 25, 2012 (the "**Credit Derivatives Auction Settlement Terms**").

We hereby notify you that it is our intention that, pursuant to the Credit Derivatives Auction Settlement Terms, any Dealer Physical Settlement Request we submit with respect to an Auction will, at the time of submission, be, to the best of our knowledge and belief, on the same side of the market as, and will not exceed, our Market Position.

By signing and returning this Participating Bidder Letter to you, we represent, as of the date of this Participating Bidder Letter, that:

- (a) from time to time we regularly trade, or one of our Affiliates regularly trades, in one or more obligations of the types of obligations listed as Deliverable Obligations in the secondary market and/or we regularly trade, or one of our Affiliates regularly trades, credit default swaps with Houghton Mifflin Harcourt Publishing Company as the Reference Entity;
- (b) either:
 - (i) we have, or one of our Affiliates has, and subject to Section 1.10(f) of the Rules, participated as a Participating Bidder in no fewer than either five or, if fewer, all Non-LCDS Auctions that have been held during the twelve calendar months immediately preceding the date of this letter and for which one or more of the Relevant Transaction Types specified in the Credit Derivatives

Auction Settlement Terms was also a Relevant Transaction Type for purposes of each such Non-LCDS Auction; or

- (ii) we intend, subject to Section 1.7(e) of the Rules, to participate, or to procure that one of our Affiliates will participate, as a Participating Bidder in each Non-LCDS Auction that will be held in the future for which one or more of the Relevant Transaction Types specified in the Credit Derivatives Auction Settlement Terms will also be a Relevant Transaction Type for purposes of each such Non-LCDS Auction;
- (c) none of our Affiliates has previously submitted a Participating Bidder Letter to you or is otherwise a Participating Bidder; and
- (d) either:
 - (i) we are not subject to any requirement that would make it impossible or illegal for us to deliver or accept delivery of any of the Deliverable Obligations; or
 - (ii) if we are, as of the Delivery Date, subject to any requirement that would make it impossible or illegal for us to Deliver or accept Delivery of any of the Deliverable Obligations, we will procure a designee to whom the Participating Bidder with whom we enter into a Representative Auction-Settled Transaction (the "**non-designating party**") consents and for whom it is not impossible or illegal to Deliver or accept Delivery of the relevant Deliverable Obligations to Deliver or accept such Delivery, provided that we understand that the non-designating party will not unreasonably withhold its consent to such designation and provided further that we understand that such consent will be deemed given in the case where the relevant designee is a Participating Bidder for whom it is not impossible or illegal to Deliver or accept Delivery of the relevant Deliverable Obligations.

In addition, we agree that neither Administrator shall be liable to us for any indirect, special or consequential damages resulting from our participation in an Auction (including any Adjustment Amounts involving our Bid or Offer), and that each Administrator's maximum cumulative liability for direct and any other damages arising out of our participation in an Auction (including any Adjustment Amounts) is limited to USD10,000 in the aggregate per Administrator, other than damages resulting from gross negligence or wilful misconduct on the part of the relevant Administrator or breach of the representations made to the Participating Bidders in the letter from the Relevant Creditex Entity to the Participating Bidders in respect of the Credit Derivatives Auction Settlement Terms.

We agree to abide by the Credit Derivatives Auction Settlement Terms, including, for the avoidance of doubt, Section 15 thereof.

We also agree to pay to ISDA (i) to the extent not already paid in advance to ISDA, our share of any fees payable by ISDA to the Administrators or to ISDA's legal advisors in connection with the administration of each Auction or the development of the relevant lists of Deliverable Obligations and (ii) any Adjustment Amounts payable by us pursuant to the Credit Derivatives Auction Settlement Terms (any such fees together with any such Adjustment Amounts, "**Auction Costs**"). We agree to pay any Auction Costs to ISDA within twenty-one (21) days of receipt of a written invoice submitted by ISDA for such Auction Costs.

Our contact details for purposes of this Participating Bidder Letter are:

Name: [●]

Address: [●]

Telephone: [●]

Fax: [●]

E-mail: [●]

Our contact details for purposes of receiving any invoices relating to Auction Costs are:

Name: [●]

Address: [●]

Telephone: [●]

Fax: [●]

E-mail: [●]

We acknowledge that, if certain conditions are satisfied, our participating in any Auction as a Participating Bidder is subject to a Resolution by a Majority of the Global Dealer Voting Members and Regional Dealer Voting Members of the relevant Convened DC approving such participation in accordance with Section 3.2(b)(ii) of the Rules.

This letter and any non-contractual obligations arising out of it will be governed by and construed in accordance with New York law.

We agree that any dispute arising out of, concerning or relating in any way to, this letter's interpretation, administration or performance, including our rights and liabilities under it, will be resolved before the Civil Branch of the Supreme Court of the State of New York, New York County, or if diversity of citizenship and the then-required amount in dispute be satisfied, the United States District Court for the Southern District of New York. We waive any objections to *in personam* jurisdiction by the aforesaid courts and consent to their respective jurisdiction. Such relevant court shall apply New York law to resolution of such dispute, without regard to New York's conflict-of-laws principles.

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

Yours faithfully,

[PARTICIPATING BIDDER]¹

By:

Name:
Title:
Signature:

¹ Specify legal name of Participating Bidder.

Form of Customer Physical Settlement Request Letter

[Letterhead of Customer]

[Date]

Send to: [Participating Bidder]

Dear Sirs,

We write to inform you that we wish to submit a Customer Physical Settlement Request as defined in the 2012 Houghton Mifflin Harcourt Publishing Company Credit Derivatives Auction Settlement Terms, as published by the International Swaps and Derivatives Association, Inc. on May 25, 2012 (the "**Credit Derivatives Auction Settlement Terms**"). Capitalized terms used in this letter but not defined herein have the meanings specified in the Credit Derivatives Auction Settlement Terms.

By signing and returning this Customer Physical Settlement Request Letter to you, we represent and agree that:

- (a) a Governing Master Agreement has been entered into or otherwise put in place between you, or one of your Affiliates, and us;
- (b) the Customer Physical Settlement Request set out below is, to the best of our knowledge and belief,
 - [(i) on the same side of the market as and not in excess of our Dealer-Specific Market Position, and
 - [(ii)]² on the same side of the market as and (when aggregated with all Customer Physical Settlement Requests submitted by us or our Affiliates to one or more Participating Bidders) not in excess of our Market Position; and
- (c) either:
 - (i) we are not, as of the date of this Customer Physical Settlement Request Letter, subject to any requirement that would make it impossible or illegal for us to Deliver or accept Delivery of any of the Deliverable Obligations; or
 - (ii) if we are, as of the date of this Customer Physical Settlement Request Letter, subject to any requirement that would make it impossible or illegal for us to Deliver or accept Delivery of any of the Deliverable Obligations, we will procure a designee to whom you consent and for whom it is not impossible or illegal to Deliver or accept Delivery of the relevant Deliverable Obligations, provided that by your acceptance of our Customer Physical Settlement Request, you will be deemed to agree that you will not unreasonably withhold your consent to such designation and provided further that such consent will be deemed given in the case where the relevant designee is a Participating Bidder for whom it is not impossible or illegal to Deliver or accept Delivery of the relevant Deliverable Obligations.

The Customer Physical Settlement Request is a Physical Settlement [Buy][Sell] Request of [*Relevant Currency and amount*].

² Delete as applicable.

We agree that you may verify our Dealer-Specific Market Position by requesting information from any of your Affiliates in respect of any Auction Covered Transactions and/or any Auction-Linked Cash Settled Transactions we have entered into with such Affiliate or in respect of which such Affiliate has acted as a clearing member.

We acknowledge and agree that the acceptance of this Customer Physical Settlement Request is contingent on satisfaction of your internal credit approvals.

Our contact details for purposes of this Customer Physical Settlement Request Letter are:

Name:

Address:

Telephone:

Fax:

E-mail:

Yours faithfully,

[CUSTOMER]³

By:

Name:

Title:

Signature:

³ Specify legal name of customer.

Form of Notice of Physical Settlement

Attention: [client contact]

By Fax: [facsimile]

By Phone: [telephone]

[Recipient of Notice of Physical Settlement]

Dear Sirs

NOTICE OF PHYSICAL SETTLEMENT

Credit Derivative Transaction Details:⁴ Representative Auction-Settled Transaction, formed pursuant to the 2012 Houghton Mifflin Harcourt Publishing Company Credit Derivatives Auction Settlement Terms, published by the International Swaps and Derivatives Association, Inc. on May 25, 2012 (the "**Credit Derivatives Auction Settlement Terms**") entered into between [SELLER], as Seller (i.e., the party identified by the Auction Administrators as having an obligation to accept Delivery of Deliverable Obligations), and [BUYER] as Buyer (i.e., the party identified by the Auction Administrators as having the obligation to Deliver Deliverable Obligations), and for which the Floating Rate Payer Calculation Amount is [*Relevant Currency and amount*]⁵.

Reference is made to the Credit Derivative Transaction described above (the "**Transaction**").

- (1) Pursuant to the Credit Derivatives Auction Settlement Terms, the Credit Event Resolution Request Date for the Transaction is the date specified as such in Schedule 1 to the Credit Derivatives Auction Settlement Terms.
- (2) Any capitalized term not otherwise defined in this Notice of Physical Settlement will have the meaning, if any, assigned to such term in the Credit Derivatives Auction Settlement Terms or, if no meaning is specified therein, in the Definitions.
- (3) We hereby confirm that we will settle the Transaction and require performance by you in accordance with the terms relating to Physical Settlement in the Definitions. Subject to the terms of the Transaction, we will deliver to you on or before the Physical Settlement Date the following Deliverable Obligation(s)

⁴ These Transactions Details will need to be adjusted appropriately where this form is used with respect to a transaction between a customer and a Participating Bidder.

⁵ The Quotation Amount of the Transaction identified by Auction Administrators or, in the case of a Representative Auction-Settled Transaction between a Participating Bidder and a customer, the amount specified by such Participating Bidder.

against payment of the Floating Rate Payer Calculation Amount multiplied by the Auction Final Price of [●] percent⁶:

- **Outstanding Principal Balance:** [●]
- **Original Face Amount:** [●]
- **Primary Obligor:** [●]
- **Maturity:** [●]
- **Coupon:** [●]
- **ISIN/CUSIP:** [●]
- **Type:** [Bond/Loan]

(4) This letter and any non-contractual obligations arising out of, or in connection with, it shall be governed by and interpreted in accordance with the law that governs, or is deemed to govern, the master agreement that the Transaction supplements, forms a part of, and is subject to.

Very truly yours,

[]

By: _____

Name:

Title:

⁶ Adjustment of this provision will be required where Buyer is delivering Deliverable Obligations with a Principal Balance equal to less than the relevant Floating Rate Payer Calculation Amount.