STATE OF TEXAS §

COUNTY OF TRAVIS §

Division Number:	110	**Program Name:**	Permanent School Fund Investments
Org. Code:	701	**Legal/Funding Authority:**	Texas Constitution, Article VII
Speed Chart:			
Payee Name:	The Bank of New York Mellon	**Payee ID:**	135160382
ISAS Contract #:	2481	**PO #:**	27727

TEXAS EDUCATION AGENCY STANDARD CONTRACT

ARTICLE I. PARTIES TO CONTRACT

This agreement is entered into by and between the Texas Education Agency ("TEA" and "Client"), a Texas State Agency, and The Bank of New York Mellon whose principal place of business is One Wall Street, New York, NY 10286 ("Contractor").

ARTICLE II. PERIOD OF CONTRACT

This agreement shall commence December 1, 2009 and shall continue in effect until 08/31/2011 unless extended or terminated as otherwise provided for in this contract. Upon written mutual agreement of both parties, this contract may be extended for two (2) additional three-year terms to commence on the first day after the original contract period. If renewed, the maximum term of the contract will not extend beyond August 15, 2017.

ARTICLE III. PURPOSES OF CONTRACT

Contractor shall perform all of the functions and duties set described herein and in the appendices to this Contract, which are attached hereto and incorporated by reference.

ARTICLE IV. PAYMENT UNDER CONTRACT

Subject to the availability to TEA of funds for the purpose(s) of this contract, TEA shall pay to Contractor by State of Texas warrant(s) an amount not to exceed $400,000.00 for the performance, satisfactory to the TEA, of Contractor's functions and duties under this Contract for the initial term. Payment to Contractor by TEA will be made only in accordance with the relevant appendices to this Contract, which are attached hereto and incorporated herein by reference.

ARTICLE V. GENERAL AND SPECIAL PROVISIONS OF CONTRACT

Attached hereto and incorporated herein by reference are the General Provisions and the Special Provisions indicated below with an "X" beside each:

☒ Special Provisions A - Specific Provisions, Program Specific
☐ Special Provisions B – not applicable
☐ Special Provisions C – not applicable
☒ Special Provisions D - Historically Underutilized Business Subcontracting Plan

Pursuant to Section 2252.901 of the Texas Government Code, Contractor certifies that it is not a former employee of TEA or that Contractor has not been an employee of TEA for twelve (12) months prior to the beginning date of this contract.

Contractor must make full disclosure of intent to employ or subcontract with an individual who Contractor knows is a former employee/retiree of TEA. Within the first twelve months of leaving employment at TEA, a former employee/retiree selected by the Contractor for employment or subcontracting, shall not perform services on a project or fill a position that the former employee/retiree worked on while employed at TEA.

Contractor shall be an independent contractor for matters relating to this Contract. Contractor and its employees are not employees of TEA for any purpose and shall not be entitled to participate in any plan, arrangement, or distribution by TEA pertaining to or in connection with any pension, bonus, or other benefit extended to TEA employees.

ARTICLE VI. ENTIRE CONTRACT

This contract together with the documents, including but not limited to Appendices, Attachments, Exhibits, Proposal Responses, mentioned herein and incorporated by reference, contains the entire agreement between the parties relating to the rights granted and the obligations assumed in it. Any oral representations or modifications concerning this contract shall be of no force or effect unless contained in a subsequent amendment executed by both parties.

AGREED and accepted on behalf of Contractor effective beginning on the date of the Contract as specified above and as indicated by signature below of a person authorized to bind Contractor.

Typed name: Lisa Candy

Typed title: Vice President

Lisa Candy
Authorized Signature

This section reserved for TEA use.

I, an authorized official of the Texas Education Agency, hereby certify that this contract is in compliance with the authorizing program statute and applicable regulations and authorize the services to be performed as written above.

AGREED and accepted on behalf of Agency this 01 day of 12/2009 (month/year) by a person authorized to bind Agency.

Return three (3) copies with original signature to:
Catherine A. Civiletto
Deputy Executive Administrator

Texas Education Agency
1701 North Congress Avenue

Austin, Texas 78701-1494

Adam Jones, Deputy Commissioner Finance and Administration/Chief Operating Officer

APPENDIX 1

A. The definitions of terms in the General Provisions are incorporated herein.

B. The attached proposal response entitled "Global Custody and Securities Lending Services for the Texas Permanent School Fund" dated May 1, 2009, is incorporated herein by reference, and is therefore made a part of this contract. This submission includes all subsequent communications between the Contractor and TEA, itemized herein to include:

The Proposal Response dated May 1, 2009
Request for Updated Document Sets I and J dated July 8, 2010
Updated Document Sets I and J received July 10, 2009

C. The terms, conditions, and requirements contained in the Request for Proposal entitled "Global Custody and Securities Lending Services for the Texas Permanent School", with a closing date of May 1, 2009 and identified as RFP #701-09-004, are incorporated herein by reference, although in the event of conflict, the General Provisions to the Standard Contract shall control.

In the case of a conflict between the Contractor's Proposal and the contract, any changes to the Contract proposed by contractor in its Proposal and accepted by TEA shall prevail; provided, however, that any custody agreement executed by Contractor and TEA shall prevail over any prior agreements between the parties, including the RFP, the General Provisions and the Contract.

APPENDIX 2

A. The definitions of terms in the General Provisions are incorporated herein.

B. No funds shall be used to pay for food costs (i.e., refreshments, banquets, group meals, etc.) or for travel.

C. The following fee terms and conditions will apply for a fully bundled custody and securities lending service delivery provided by Contractor to the Texas Permanent School Fund ("TPSF") as administered by TEA:

1. Annual Fee for Scope of Services: $200,000

   Contractor is willing to provide performance guarantees and to participate in penalty/incentive compensation based on an agreed upon set of performance standards. Contractor will put 100% of the flat fee at risk, should it fail to meet the performance standards agreed upon.

2. Short Term Investment Fund (STIF) Asset Management Fee: 12 basis points applied to month end balance.

3. Global Investment Transaction Charges: The following charges will be passed through to the TPSF at direct cost:

   Global out-of-pocket expenses including, but not limited to, postage, courier expense, registration fees, stamp duties, telex charges, internal/external taxes, internal/external legal or consulting. Does not include pass through proxy costs or internal/external legal or consulting expenses with respect to the negotiation and drafting of the Contract. All out-of-pocket expenses will be documented at a detail level that sufficiently describes the services rendered and requested for reimbursement.

4. Overdraft Fees: Federal Funds Rate applied against the amount of the overdraft.

5. Securities Lending Revenue Split:

On an Annual Basis	Texas Permanent School Fund	Contractor
Until $12 Million in Gross Revenue has been earned	85%	15%
Cumulative Gross Revenue Earned in excess of $12 Million	90%	10%

   In all years subsequent to the first year of the contract, the anniversary date for the revenue split calculation will be September 1st and the split will be based on the $12 million gross revenue target.

   Contractor is TPSF's sole securities lending agent and may lend the entire pool of assets.

   Collateral investments will be maintained in a separate account managed to the TPSF guidelines.

   There are no additional charges for participating in securities lending.

   For purposes hereof, net securities lending revenues shall mean (i) all loan premium fees derived from Contractor's acceptance of non-cash collateral; plus (ii) all income and earnings from the investment and reinvestment of the cash collateral received and held on behalf of the Client minus broker rebate fees paid by the Contractor to the borrower in respect of the loans of the Client's securities. The Contractor is hereby authorized to charge such compensation against and collect and/or retain such compensation from the revenues derived from the securities lending activities conducted on behalf of the Client pursuant to the Securities Lending Authorization Agreement.

6. Class Action Claim Filing: No charge ($0.00) to file claims including using historical data provided to Contractor by TPSF.

7. Proxy Voting Services for TPSF Internally Managed Portfolios: Cost of RiskMetrics (or other TPSF selected provider) proxy voting service is paid for by Contractor directly to the vendor on an annual basis.

8. Technology Tools Provided by Contractor. The following shall be provided by Contractor to the Client at no additional cost to the Client:

- Workbench Client Portal
- MPA and MPU
- SLIM
- Compliance Monitoring - maintained by TPSF or maintained by Contractor, client choice
- *Private I* – basic module maintained by Contractor's private equity team. There shall be an opportunity to add additional modules (Private Informant, Private Front Office and Private Archivist) based on current market pricing.

Eagle Pace and Eagle STAR are offered as fully-hosted companion investment accounting and database management software solutions at $455,000 per year. Loading data will be an additional charge based on current market pricing.

9. Business Process Redesign: Contractor agrees to perform a complete best practices review or business process redesign to include an analysis of both TPSF internal processes and procedures as well as those processes and procedures and interfaces utilized by the Contractor service delivery teams assigned to TPSF and other clients of the Contractor. The product of such a review will be made available to the TPSF no later than March 31, 2010 for discussion and implementation, with the understanding that TPSF and Contractor will work together to prioritize the implementation phase.

10. Out-Sourced Performance Measurement Services for the State Board of Education: Contractor agrees to provide daily, monthly and quarterly performance measurement services to the TPSF staff, including the publication of quarterly performance summary books.

    In addition, Contractor agrees to transfer all necessary accounting data on a monthly basis to a third party performance measurement advisor, if such a service provider is selected by the State Board of Education ("SBOE") from RFP 701-09-026.

    In the event of selection of a third party provider, Contractor is not required to present performance measurement results to the State Board of Education nor are they required to analyze, interpret or consult on such performance measurement results for the benefit of TPSF management.

    For the benefit of TPSF, Contractor has agreed to pay to the third party service provider, the cost of out-sourced performance measurement quarterly reporting and consulting not to exceed $75,000 per year. In any month in which a third party service provider is not on retainer for the SBOE, $6,250.00 will be credited back against the fees incurred on the account.

Additional Comments:

All custody, accounting, compliance, technology, reporting, securities lending and performance measurement services outlined in the request for proposal dated to close May 1, 2009 and attached to Appendix 1 to the TEA Standard Contract, and specifically agreed to in *Document E Affirmation of Scope of Services Required* of the proposal response dated May 1, 2009, submitted by Contractor and attached to Appendix 1 to the TEA Standard Contract, are covered in Contractor's commitment to service delivery.

Service delivery for a daily processing environment will include daily audited security pricing producing daily audited Net Asset Valuations (NAV). A "soft-close" procedure will be utilized to close the books daily, with a monthly hard-close for accounting, reconciliation and reporting purposes.

In addition, daily security level performance, analytics and attribution analysis will be available on all portfolios. Wilshire Analytics and Factor Based Attribution are available for the fixed income assets. Look trough risk exposure by GICS country and sector will also be included.

Contractor guarantees the fee schedule for the initial term of the contract, effective December 1, 2009 through August 31, 2011.

After the initial term, Contractor reserves the right to amend its fees if the service requirements change in a way that materially affects the responsibilities or costs. TEA reserves the right to decline and enter into negotiations if such fee changes are deemed to be unacceptable to the TPSF.

A separate Service Level Agreement has been negotiated between the parties to encompass the specifics of service delivery including product deliverables, mutually agreed timelines/deadlines, the use of a quarterly "contract performance report card" and appropriate means of communication between the parties.

TCAE

D. Unless otherwise indicated by TEA, payments will be made upon satisfactory performance in accordance with the CUSTODY AGREEMENT by and between TEXAS EDUCATION AGENCY and The Bank of New York Mellon, Section 7.6 Fees, (page 25) and in accordance with the SECURITIES LENDING AUTHORIZATION AGREEMENT by and between THE TEXAS EDUCATION AGENCY and The Bank of New York Mellon, Section 11. Compensation to the Lending Agent (page 57).

GENERAL PROVISIONS

A. As used in these General Provisions:
- *Contract* means TEA's Standard Contract, and all of the attachments, appendices, schedules (including but not limited to the General Provisions and the Special Provisions), amendments and extensions of or to the Standard Contract;
- *Agency or TEA* means the Texas Education Agency;
- *Contractor* means the party or parties to this Contract other than TEA, including its or their officers, directors, employees, agents, representatives, consultants and subcontractors, and subcontractors' officers, directors, employees, agents, representatives and consultants;
- *Project Administrator* means the respective person(s) representing TEA or Contractor, as indicated by the Contract, for the purposes of administering the Contract Project;
- *Contract Project* means the purpose intended to be achieved through the Contract;
- *Amendment* means a Contract that is revised in any respect, and includes both the original Contract, and any subsequent amendments or extensions thereto;

B. **Contingency**: The Contract(s), including any amendments, extensions or subsequent contracts, are executed by TEA contingent upon the availability of appropriated funds by legislative act. Notwithstanding any other provision in this Contract or any other document, this Contract is void upon the insufficiency (in TEA's discretion) or unavailability of appropriated funds. In addition, this Contract may be terminated by TEA at any time for any reason upon notice to Contractor. Expenditures and/or activities for which Contractor may claim reimbursement shall not be accrued or claimed subsequent to receipt of such notice from TEA.

C. **Indemnification**: Contractor shall hold TEA harmless from and shall indemnify TEA against any and all claims, demands, and causes of action of whatever kind or nature asserted by any third party and occurring or in any way incident to, arising from, or in connection with, any acts of Contractor in performance of the Contract Project.

D. **State of Texas Laws**: In the conduct of the Contract Project, Contractor shall be subject to Texas State Board of Education rules pertaining to this Contract and the Contract Project, and to the laws of the State of Texas governing this Contract and the Contract Project. This Contract shall be interpreted according to the laws of the State of Texas except as may be otherwise provided for in this Contract.

E. **Subcontracting**: Contractor shall not assign or subcontract any of its rights or responsibilities under this Contract without prior formal written amendment to this Contract properly executed by both TEA and Contractor.

F. **Encumbrances/Obligations**: All encumbrances, accounts payable, and expenditures shall occur on or between the beginning and ending dates of this Contract. All goods must have been received and all services rendered during the Contract period in order for Contractor to recover funds due. In no manner shall encumbrances be considered or reflected as accounts payable or as expenditures.

G. **Sanctions for Failure to Perform or for Noncompliance**: If Contractor, in TEA's sole determination, fails or refuses for any reason to comply with or perform any of its obligations under this Contract, TEA may impose such sanctions as it may deem appropriate. This includes but is not limited to the withholding of payments to Contractor until Contractor complies; the cancellation, termination, or suspension of this Contract in whole or in part; and the seeking of other remedies as may be provided by this Contract or by law. Any cancellation, termination, or suspension of this Contract, if imposed, shall become effective at the close of business on the day of Contractor's receipt of written notice thereof from TEA.

H. **Contract Cancellation, etc.**: If this Contract is cancelled, terminated, or suspended by TEA prior to its expiration date, the reasonable monetary value of services properly performed by Contractor pursuant to this Contract prior to such cancellation, termination or suspension shall be determined by TEA and paid to Contractor as soon as reasonably possible.

I. **Refunds Due to TEA**: If TEA determines that TEA is due a refund of money paid to Contractor pursuant to this Contract, Contractor shall pay the money due to TEA within 30 days of Contractor's receipt of written notice that such money is due to TEA. If Contractor fails to make timely payment, TEA may obtain such money from Contractor by any means permitted by law, including but not limited to offset, counterclaim, cancellation, termination, suspension, total withholding, and/or disapproval of all or any subsequent applications for said funds.

J. **Audit**: Pursuant to Section 2262.003 of the Texas Government Code, Contractor understands and agrees that (1) the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract; (2) acceptance of funds directly under the Contract or

indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and (3) under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

K. **Family Code Applicability**: By signing this Contract, Contractor, if other than a state agency, certifies that under Section 231.006, Family Code, that Contractor is not ineligible to receive payment under this Contract and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate. TEA reserves the right to terminate this Contract if Contractor is found to be ineligible to receive payment. If Contractor is found to be ineligible to receive payment and the Contract is terminated, Contractor is liable to TEA for attorney's fees, the costs necessary to complete the Contract, including the cost of advertising and awarding a second contract, and any other damages or relief provided by law or equity.

L. **Dispute Resolution**: The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by TEA and Contractor to attempt to resolve all disputes arising under this Contract.

M. **Signature Authority; Final Expression; Superseding Document**: Contractor certifies that the person signing this Contract has been properly delegated this authority. The Contract represents the final and complete expression of the terms of agreement between the parties. The Contract supersedes any previous understandings or negotiations between the parties. Any representations, oral statements, promises or warranties that differ from the Contract shall have no force or effect. The Contract may be modified, amended or extended only by formal written amendment properly executed by both TEA and Contractor.

N. **Antitrust:** By signing this Contract, Contractor, represents and warrants that neither Contractor nor any firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such firm, corporation or institution has, (1) violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws; or (2) communicated directly or indirectly the Proposal to any competitor or any other person engaged in such line of business during the procurement process for this Contract.

O. **Interpretation**: In the case of conflicts arising in the interpretation of wording and/or meaning of various sections, parts, Appendices, General Provisions, Exhibits, and Attachments or other documents, the TEA Standard Contract and its General Provisions, Appendices and Special Provisions shall take precedence over all other documents which are a part of the Contract.

P. **Severability:** In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, the invalid provision will be deemed severable and stricken from the contract as if it had never been incorporated herein. The remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

Q. **Proprietary or Confidential Information**: Contractor will not disclose any information to which it is privy under this Contract without the prior consent of the Agency. Contractor will indemnify and hold harmless the State of Texas, its officers and employees, and TEA, its officers and employees for any claims or damages that arise from the disclosure by Contractor or its contractors of information held by the State of Texas.

R. **Public Information**: The TEA is subject to the provisions of the Texas Public Information Act. If a request for disclosure of this Contract or any information related to the goods or services provided under the Contract or information provided to the TEA under this Contract constituting a record under the Act is received by the TEA, the information must qualify for an exception provided by the Texas Public Information Act in order to be withheld from public disclosure. Contractor authorizes the TEA to submit any information contained in the Contract, provided under the Contract, or otherwise requested to be disclosed, including information Contractor has labeled as confidential proprietary information, to the Office of the Attorney General for a determination as to whether any such information may be excepted from public disclosure under the Act. If the TEA does not have a good faith belief that information may be subject to an exception to disclosure, the TEA is not obligating itself by this Contract to submit the information to the Attorney General. It shall be the responsibility of the Contractor to make any legal argument to the Attorney General or appropriate court of law regarding the exception of the information in question from disclosure. The Contractor waives any claim against and releases from liability the TEA, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by the Contractor and determined by the Attorney General or a court of law to be subject to disclosure under the Texas Public Information Act.

S. **Independent Contractor:** Contractor shall serve as an independent contractor in providing services under this Contract. Contractor's employees are not and shall not be construed as employees or agents of the State of Texas.

T. **Force Majeure:** Except as otherwise provided, neither Contractor nor TEA nor any agency of the State of Texas, shall be liable to the other for any delay in, or failure of performance, of a requirement contained in this Contract caused by *force majeure*. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. *Force majeure* is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such *force majeure* or otherwise waive this right as a defense.

U. **Abandonment or Default:** If the contractor defaults on the contract, TEA reserves the right to cancel the contract without notice and either re-solicit or re-award the contract to the next best responsive and responsible respondent. The defaulting contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the agency based on the seriousness of the default.

V. **Excluded Parties List System:** The Texas Education Agency is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal General Services Administration's Excluded Parties List System (EPLS, http://www.epls.gov), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Contractor certifies that they are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at http://www.epls.gov.

W. **Payment** for service(s) described in this Contract is contingent upon satisfactory completion of the service(s). Satisfaction will be determined by TEA's Project Administrator, in his sole discretion but in accordance with reasonable standards and upon advice of his superiors in TEA, if necessary. The Project Administrators of this Contract for TEA and Contractor shall be the following persons or their successors in office:

TEA	**CONTRACTOR**
B. Holland Timmins	Catherine Wargo
Permanent School Fund	Vice President
Texas Education Agency	135 Santilli Highway
William B. Travis Building	Everett, MA 02149
1701 N. Congress Avenue	
Austin, Texas 78701	
(512) 463-9169	(617) 382-1248
(512) 463-9432 fax	(617 598-3494 fax

X. **Notices**: All notices, reports, and correspondence required by this Contract shall be in writing and delivered to the following representatives of TEA and Contractor or their successors in office:

TEA	**CONTRACTOR**
B. Holland Timmins	Catherine Wargo
Permanent School Fund	Vice President
Texas Education Agency	135 Santilli Highway
William B. Travis Building	Everett, MA 02149
1701 N. Congress Avenue	
Austin, Texas 78701	
(512) 463-9169	(617) 382-1248
(512) 463-9432 fax	(617 598-3494 fax

SPECIAL PROVISIONS - A

A. The definitions of terms in the General Provisions are incorporated herein.

B. All amendments to this Contract will be in a manner as prescribed by the Project Administrator of the Agency and will be made on AMENDMENT TO TEXAS EDUCATION AGENCY CONTRACT form supplied by TEA.

C. Any amendment to this Contract will become effective upon execution by both parties.

D. No funds shall be used to pay for food costs (i.e., refreshments, banquets, group meals, etc.) unless requested as a specific line item in the contract fee schedule in Appendix 1 by the Contractor and approved (prior to expenditures occurring) by TEA.

E. Unless otherwise indicated by TEA, payment under this Contract is only by reimbursement upon satisfactory performance of services. Payment will be made upon submission of properly prepared and certified invoices which detail the services provided during the invoice period and associated costs. Include the contract number, purchase order number, and the Texas Comptroller of Public Accounts Payee Identification Number (PIN) on all invoices/expenditure reports. The information provided on the invoice must coincide with the fee schedule detailed in Appendix 2 of this Contract. Payments will be made, after approval by TEA's Project Administrator, in accordance with the fee schedule detailed in Appendix 2 of this Contract. If a fee schedule is not included in this Contract, payments will be determined by TEA's Project Administrator.

F. An encumbrance, accounts payable, and an expenditure as with all other contract accounting terms will be as defined by generally accepted accounting principles. All goods must have been received and all services rendered by the ending date of this Contract in order for the Contractor to include these costs as either expenditures or as accounts payable and, thereby, recover monies due. In no manner shall encumbrances be considered or reflected as accounts payable or as expenditures.

G. *The parties have agreed to changes in some of the General Provisions in this Contract. Each of these changes as* set forth below shall apply to this Contract notwithstanding anything to the contrary in any other provision in this Contract.

   a. In Paragraph A, the definition of "Contract" is hereby changed as follows: *Contract* means TEA's Standard Contract, and all of the attachments, appendices, schedules (including but not limited to the General Provisions and the Special Provisions), amendments and extensions of or to the Standard Contract and all documents and agreements incorporated by reference in any appendix or special provision therein;

   b. Paragraph C **Indemnification** is hereby amended by inserting the following at the end thereof: "caused by Contractor's negligence or willful misconduct."

   c. Paragraph E **Subcontracting** is hereby amended by inserting the following at the end therefore: "for specific services provided by contractor to TEA, but not services provided on an omnibus basis such as global custodian services."

   d. Paragraph G **Sanctions for Failure to Perform or Non-Compliance** is hereby amended by inserting the following at the end of the first sentence: "; provided that, TEA has given Contractor notice of such failure and Contractor has failed to cure such failure within a commercially reasonable amount of time."

   e. Paragraph J **Audit** is hereby amended by inserting the following at the end therefore: "not otherwise determined by Contractor to be protected under privacy or regulatory restrictions."

   f. Paragraph Q **Proprietary or Confidential Information** is hereby amended by inserting the following at the end of the first sentence: "; provided that, Contractor may disclose any such information pursuant to applicable law, judicial order or regulatory authority without the prior consent of the Agency."

   g. Paragraph U **Abandonment or Default** is hereby amended by deleting the first sentence thereof in its entirety and substituting therefore the following: "If the contractor defaults on the contract, TEA reserves the right to cancel the contract and either re-solicit or re-award the contract to the next best responsive and responsible respondent if after notice of such default from TEA, the contractor fails to cure such default in a commercially reasonable amount of time."

G. The attached listed documents are of a program nature and are incorporated herein by reference and are therefore made a part of the Contract:

	Document	Page Reference
1.	CUSTODY AGREEMENT by and between Texas Education Agency and The Bank of New York Mellon	12 Through 28
2.	Exhibit A Cross Trading	29 Through 30
3.	Electronic Access Services Agreement by and between Texas Education Agency and The Bank of New York Mellon	31 Through 42
4.	Performance & Risk Analytics EASA Addendum	43 Through 47
5.	Exhibit C Compliance Monitoring Outsourcing Services	48
6.	Exhibit D – Index Services	49
7.	*private i®* Sublicense Addendum	50
8.	SECURITIES LENDING AUTHORIZATION AGREEMENT by and between Texas Education Agency and The Bank of New York Mellon (including Exhibits)	51 Through 137
9.	Service Level Agreement by and between Texas Education Agency and The Bank of New York Mellon	TBD

These documents taken together with all sections of and attachments, appendices, schedules, amendments and extensions of or to TEA's Standard Contract and all documents and agreements incorporated by reference in any appendix or special provision therein comprise the entire agreement between TEA and Contractor.

TEA reserves the right to unbundle the service delivery and contract for any and all services separately should the need arise. In no instance will the negotiated fees be greater than any unbundled fee quoted in Document J included in the proposal response dated May 1, 2009, submitted by Contractor and attached to Appendix 1 to the TEA Standard Contract.

CUSTODY AGREEMENT

by and between

TEXAS EDUCATION AGENCY

and

THE BANK OF NEW YORK MELLON

TEA 13

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CUSTODY AGREEMENT

AGREEMENT, dated as of December 1, 2009 ("Agreement") between **TEXAS EDUCATION AGENCY** organized under the laws of the United States (the "Client"), and **THE BANK OF NEW YORK MELLON**, a bank organized under the laws of the state of New York (the "Custodian").

SECTION 1 – CUSTODY ACCOUNTS; INSTRUCTIONS

1.1 Definitions. Whenever used in this Agreement, the following words shall have the meanings set forth below:

"Account" or "Accounts" shall have the meaning set forth in Section 1.2.

"Authorized Instructions" shall have the meaning set forth in Section 1.4.

"Authorized Person" shall mean any Person authorized by the Client to give Oral or Written Instructions with respect to one or more Accounts or with respect to foreign exchange, derivative investments or information and transactional web based services provided by the Custodian or a BNY Mellon Affiliate. Authorized Persons shall include Persons authorized by an Authorized Person. Authorized Persons, their signatures and the extent of their authority shall be provided by Written Instructions. The Custodian may conclusively rely on the authority of such Authorized Persons until it receives a Written Instruction to the contrary.

"BNY Mellon Affiliate" shall mean any direct or indirect subsidiary of The Bank of New York Mellon Corporation.

"Book-Entry System" shall mean the Federal Reserve/Treasury book entry system for receiving and delivering securities, its successors and nominees.

"Business Day" shall mean any day on which the Custodian and relevant Depositories and Subcustodians are open for business.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Data Providers" shall mean pricing vendors, brokers, dealers, investment managers, Authorized Persons, Subcustodians, Depositories and any other Person providing Market Data to the Custodian.

"Data Terms Website" shall mean http://bnymellon.com/products/assetservicing/performanceanalytics.html or any successor website the address of which is provided by the Custodian to the Client.

"Depository" shall include the Book-Entry System, the Depository Trust Company, Euroclear, Clearstream Banking S.A., the Canadian Depository System, CLS Bank and any other securities depository, book-entry system or clearing agency (and their respective successors and

nominees) authorized to act as a securities depository, book-entry system or clearing agency pursuant to applicable law.

"Losses" shall mean, collectively, losses, costs, expenses, damages, liabilities and claims.

"Market Data" shall mean pricing or other data related to Securities and other assets. Market data includes but is not limited to security identifiers, valuations, bond ratings, classification data, and other data received from investment managers and others.

"Non-Custody Assets" shall have the meaning set forth in Section 9.1.

"Oral Instructions" shall mean instructions expressed in spoken words received by the Custodian. Where the Custodian provides recorded lines for this purpose, such instructions must be given using such lines.

"Person" or "Persons" shall mean any legal entity or individual.

"Securities" shall include, without limitation, any common stock and other equity securities, depository receipts, limited partnership and limited liability company interests, bonds, debentures and other debt securities, notes or other obligations, and any instruments representing rights to receive, purchase, or subscribe for the same, or representing any other rights or interests therein (whether represented by a certificate or held in a Depository, with a Subcustodian or on the books of the issuer) that are acceptable to the Custodian.

"Subcustodian" shall mean a bank or other financial institution (other than a Depository) that is utilized by the Custodian or by a BNY Mellon Affiliate, in its discretion, in connection with the purchase, sale or custody of Securities or cash hereunder.

"Tax Obligations" shall mean taxes, withholding, certification and reporting requirements, claims for exemptions or refund, interest, penalties, additions to tax and other related expenses.

"Written Instructions" shall mean written communications received by the Custodian by S.W.I.F.T., overnight delivery, postal services, facsimile transmission, email, on-line communication system or other method or system, each as specified by the Custodian as available for use in connection with the services hereunder.

1.2 **Establishment of Account.** The Client hereby appoints the Custodian as custodian of all Securities and cash at any time delivered to the Custodian to be held under this Agreement. The Custodian hereby accepts such appointment and agrees to establish and maintain one or more accounts in which the Custodian will hold Securities and cash as provided herein. Such accounts (each, an "Account," and collectively, the "Accounts") shall be in the name of the Client.

1.3 **Distributions.** The Custodian shall make distributions or transfers out of an Account pursuant to Written Instructions. In making payments to service providers pursuant to Written Instructions, the Client acknowledges that the Custodian is acting as a paying agent, and not as the payor, for tax information reporting and withholding purposes.

1.4 **Authorized Instructions.** The Custodian shall be entitled to rely upon any Oral or Written Instructions actually received by the Custodian and reasonably believed by the Custodian to be from an Authorized Person ("Authorized Instructions"). The Client agrees that an Authorized Person shall forward to the Custodian Written Instructions confirming Oral Instructions by the close of business of the same day that such Oral Instructions are given to the Custodian. The Custodian may act on such Oral Instructions but is not obligated to do so until Written Instructions are received. The Client agrees that the fact Written Instructions confirming Oral Instructions are not received or that contrary Written Instructions are received by the Custodian shall in no way affect the validity or enforceability of transactions authorized by such Oral Instructions and affected by the Custodian.

1.5 **Authentication.** If the Custodian receives Written Instructions that appear on their face to have been transmitted by an Authorized Person via (i) facsimile, email, or other electronic method that is not secure, or (ii) secure electronic transmission containing applicable authorization codes, passwords or authentication keys, the Client understands and agrees that the Custodian cannot determine the identity of the actual sender of such Written Instructions and that the Custodian shall be entitled to conclusively presume that such Written Instructions have been sent by an Authorized Person. The Client shall be responsible for ensuring that only Authorized Persons transmit such Written Instructions to the Custodian and that all Authorized Persons treat applicable user and authorization codes, passwords and authentication keys with extreme care.

1.6 **Security Procedure.** The Client acknowledges and agrees that it is fully informed of the protections and risks associated with the various methods of transmitting Written Instructions to the Custodian and that there may be more secure methods of transmitting Written Instructions than the method selected by the sender. The Client agrees that the security procedures, if any, to be followed in connection with a transmission of Written Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

1.7 **On-Line Systems.** If an Authorized Person elects to transmit Written Instructions through an on-line communication system offered by the Custodian, the use thereof shall be subject to any terms and conditions contained in a separate written agreement. If the Client or an Authorized Person elects, with the Custodian's prior consent, to transmit Written Instructions through an on-line communications service owned or operated by a third party, the Client agrees that the Custodian shall not be responsible or liable for the reliability or availability of any such service.

SECTION 2 – CUSTODY SERVICES

2.1 **Holding Securities.** Subject to the terms hereof, the Client hereby authorizes the Custodian to hold any Securities in registered form in the name of the Custodian or one of its nominees. Securities held for the Client hereunder shall be segregated on the Custodian's books and records from the Custodian's own property. The Custodian shall be entitled to utilize Subcustodians and Depositories in connection with its performance hereunder. Securities and cash held through Subcustodians shall be held subject to the terms and conditions of the Custodian's or a BNY Mellon Affiliate's agreements with such Subcustodians. Securities and cash deposited by the Custodian in a Depository will be held subject to the rules, terms and conditions of such Depository. Subcustodians may hold Securities in Depositories in which such Subcustodians participate. Unless otherwise

required by local law or practice or a particular subcustodian agreement, Securities deposited with Subcustodians will be held in a commingled account in the name of the Custodian or a BNY Mellon Affiliate for its clients. The Custodian shall identify on its books and records the Securities and cash belonging to the Client, whether held directly or indirectly through Depositories or Subcustodians.

2.2 **Subcustodians**. The Custodian shall exercise reasonable care in the selection or retention of Subcustodians in light of prevailing rules, practices and procedures in the relevant market. If any Losses are incurred by the Client as a result of the acts or the failure to act by any Subcustodian, Custodian shall take appropriate action to recover such Losses from such Subcustodian. Except in the case of Losses resulting from the acts or failure to act of a BNY Mellon Affiliate, Custodian's sole responsibility and liability to the Client, notwithstanding any other provisions hereof, shall be limited to amounts so received (exclusive of costs and expenses incurred by Custodian) from such Subcustodian. The Custodian's responsibility for Losses with respect to Securities or cash held by a Subcustodian is limited to the failure on the part of the Custodian to exercise reasonable care in selecting and retaining such Subcustodian in light of prevailing rules, practices and procedures in the relevant market. For the avoidance of doubt, the parties agree that, if the Custodian, in its discretion, selects or continues to retain, for a particular jurisdiction, a Subcustodian that is insolvent despite the availability of a solvent Subcustodian in such jurisdiction and absent any other facts or circumstances that would make the retention of such Subcustodian reasonable in light of prevailing rules, practices and procedures in the relevant market, the Custodian shall be liable for any losses or damages suffered by the Client arising from the insolvency of such Subcustodian selected or retained by the Custodian. In no event shall the Custodian be liable for any Losses arising out of the holding of any Securities or cash in any particular country, including but not limited to, Losses resulting from nationalization, expropriation or other governmental actions; regulation of the banking or securities industry; exchange or currency controls or restrictions, devaluations or fluctuations; availability of Securities or cash or market conditions which prevent the transfer of property or the execution of Securities transactions or affect the value of property.

2.3 **Depositories.** The Custodian shall have no liability whatsoever for the action or inaction of any Depository or for any Losses resulting from the maintenance of Securities with a Depository.

2.4 **Agents.** The Custodian may appoint agents, including BNY Mellon Affiliates, on such terms and conditions as it deems appropriate to perform its services hereunder. Except as otherwise specifically provided herein, no such appointment shall discharge the Custodian from its obligations hereunder.

2.5 **Custodian Actions without Direction.** With respect to Securities held hereunder, the Custodian shall:

a. Receive all eligible income and other payments due to the Account;

b. Carry out any exchanges of Securities or other corporate actions not requiring discretionary decisions;

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c. Facilitate access by the Client or its designee to ballots or online systems to assist in the voting of proxies received for eligible positions of Securities held in the Account (excluding bankruptcy matters);

d. Forward to the Client or its designee information (or summaries of information) that the Custodian receives from Depositories or Subcustodians concerning Securities in the Account (excluding bankruptcy matters);

e. Forward to the Client or its designee an initial notice of bankruptcy cases relating to Securities held in the Account and a notice of any required action related to such bankruptcy cases as may be received by the Custodian. No further action or notification related to the bankruptcy case shall be required;

f. Endorse for collection checks, drafts or other negotiable instruments; and

g. Execute and deliver, solely in its custodial capacity, certificates, documents or instruments incidental to the Custodian's performance under this Agreement.

2.6 **Custodian Actions with Direction.** The Custodian shall take the following actions in the administration of the Account only pursuant to Authorized Instructions:

a. Settle purchases and sales of Securities and process other transactions, including free receipts and deliveries;

b. Take actions necessary to settle transactions in connection with futures or options contracts, short-selling programs, foreign exchange or foreign exchange contracts, swaps and other derivative investments;

c. Deliver Securities in the Account if an Authorized Person advises the Custodian that the Client has entered into a separate securities lending agreement, provided that the Client executes such agreements as Custodian may require in connection with such arrangements; and

d. Invest available cash in any collective investment fund, including a collective investment fund maintained by the Custodian or an affiliate of the Custodian for collective investment of employee benefit trusts or to deposit available cash in interest bearing accounts in the banking department of the Custodian or an affiliated banking organization. To the extent that any investment is made in any such collective investment fund, the Client hereby represents and confirms that the Account is a governmental plan within the meaning of Section 414(d) of the Code and the declaration of trust of said collective investment fund and the trust thereby created shall be a part of this Agreement and of the governmental plan. The Client agrees to notify the Custodian immediately in the event the Account ceases to be tax exempt. The Client expressly understands and agrees that any such collective investment fund may provide for the lending of its securities by the collective investment fund trustee and that such collective investment fund trustee will receive compensation for the lending of securities that is separate from any compensation of the Custodian hereunder, or any compensation of the collective investment fund trustee for the management of such fund. The Custodian is authorized to invest in a collective fund which invests in The Bank of

New York Mellon Corporation stock in accordance with the terms and conditions of the Department of Labor Prohibited Transaction Exemption 95-56 (the "Exemption") granted to Mellon Bank, N.A. and its affiliates and to use a cross-trading program in accordance with the Exemption. The Client acknowledges receipt of the notice entitled "Cross-Trading Information," a copy of which is attached to this Agreement as Exhibit A.

2.7 **Foreign Exchange Transactions.** Any foreign exchange transaction effected by the Custodian in connection with this Agreement may be entered with the Custodian or a BNY Mellon Affiliate acting as a principal or otherwise through customary channels. The Client may issue standing Written Instructions with respect to foreign exchange transactions, but the Custodian may establish rules or limitations concerning any foreign exchange facility made available to the Client.

SECTION 3 – CORPORATE ACTIONS

3.1 **Custodian Notification.** The Custodian shall notify the Client or its designee of rights or discretionary actions as promptly as practicable under the circumstances, provided that the Custodian has actually received notice of such right or discretionary corporate action from the relevant Subcustodian or Depository. Absent actual receipt of such notice, the Custodian shall have no liability for failing to so notify the Client.

3.2 **Client Notification.** Whenever there are voluntary rights that may be exercised or alternate courses of action that may be taken by reason of the Client's ownership of Securities, the Client or its designee shall be responsible for making any decisions relating thereto and for directing the Custodian to act. In order for the Custodian to act, it must receive Authorized Instructions using the Custodian generated form or clearly marked as instructions for the decision at the Custodian's offices, addressed as the Custodian may from time to time request, by such time as the Custodian shall advise the Client or its designee. Absent the Custodian's receipt of such Authorized Instructions by such deadline, the Custodian shall not be liable for failure to take any action relating to or to exercise any rights conferred by such Securities.

3.3 **Partial Redemptions, Payments, Etc.** The Custodian shall promptly advise the Client or its designee upon its notification of a partial redemption, partial payment or other action with respect to a Security affecting fewer than all such Securities held within the Account. If the Custodian, any Subcustodian or Depository holds any Securities affected by one of the events described, the Custodian, the Subcustodian or Depository may select the Securities to participate in such partial redemption, partial payment or other action in any non-discriminatory manner that it customarily uses to make such selection.

SECTION 4 – SETTLEMENT OF TRADES

4.1 **Payment.** Promptly after each purchase or sale of Securities by the Client, an Authorized Person shall deliver to the Custodian Written Instructions specifying all information necessary for the Custodian to settle such purchase or sale. For the purpose of settling purchases of Securities, the Client shall provide the Custodian with sufficient immediately available funds for all such transactions by such time and date as conditions in the relevant market dictate.

4.2 **Settlement**

a. **Contractual Income.** In accordance with the Custodian's standard operating procedure, the Custodian shall credit the Account with income on contractual payment date, net of any taxes. The Custodian shall credit the Account upon receipt of payment and reconcilement of the event. All such credits shall be conditional until the Custodian's actual receipt of final payment and may be reversed by the Custodian to the extent that final payment is not received. Payment with respect to a transaction will not be "final" until the Custodian shall have received immediately available funds that under applicable local law, rule or practice are irreversible and not subject to any security interest, levy or other encumbrance, and that are specifically applicable to such transaction.

b. **Contractual Settlement**. The Custodian will attend to the settlement of securities transactions involving sales, redemptions, maturities or other distributions payable on the basis of contractual settlement date accounting. Such other distributions may include payment for principal payments when paydown/payup factors are timely and properly received. To the extent the Custodian settles certain securities transactions on the basis of contractual settlement date accounting, the Custodian may reverse to the contractual settlement date any entry relating to such contractual settlement if the Custodian reasonably believes that such amount will not be received.

c. **Actual Settlement.** The Custodian will attend to the settlement of securities transactions involving purchases on the basis of actual settlement date accounting. The Custodian will attend to the settlement of corporate action related transactions on the basis of actual settlement date accounting. The Custodian will attend to the settlement of corporate action cash proceeds for securities on loan on the basis of actual settlement +1 trade day accounting.

4.3 Trade Settlement. Transactions will be settled using practices customary in the jurisdiction or market where the transaction occurs. The Client acknowledges that this may, in certain circumstances, require the delivery of cash or securities (or other property) without the concurrent receipt of securities (or other property) or cash. In such circumstances, the Custodian shall have no responsibility for nonreceipt of payment (or late payment) or nondelivery of securities or other property (or late delivery) by the counterparty.

SECTION 5 – DEPOSITS AND ADVANCES

5.1 **Deposits.** The Custodian may hold cash in Accounts or may arrange to have such cash held by a BNY Mellon Affiliate, Subcustodian, or with a Depository. Where cash is on deposit with the Custodian, a Subcustodian, or a BNY Mellon Affiliate, it will be subject to the terms of this Agreement and such deposit terms and conditions as may be issued by the Custodian or a BNY Mellon Affiliate from time to time, including rates of interest and deposit account access.

5.2 **Sweep and Float.** Cash will be swept, as directed by the Client or its investment managers, to investment vehicles offered by the Custodian or to other investment vehicles as directed by the Client or its investment manager. Subject to Section 4.2 hereof, cash may be uninvested when it is received or reconciled to an Account after the deadline to be swept into a target vehicle, or when held for short periods of time related to transaction settlements. The Client acknowledges that, as part of the Custodian's compensation, the Custodian will earn interest on cash balances held by the Custodian, including disbursement balances and balances arising from purchase and sale transactions, as disclosed in the Custodian's float policy.

5.3 **Overdrafts and Indebtedness.** The Custodian may, in its sole discretion, advance funds in any currency hereunder. If an overdraft occurs in an Account (including, without limitation, overdrafts incurred in connection with the settlement of securities transactions, funds transfers or foreign exchange transactions) or if the Client is for any other reason indebted to the Custodian, the Client agrees to repay the Custodian on demand or upon becoming aware of the amount of the advance, overdraft or indebtedness, plus accrued interest at a rate then charged by the Custodian to its institutional custody clients in the relevant currency.

SECTION 6 - TAXES, REPORTS AND RECORDS

6.1 **Tax Obligations.** The Client shall be liable for all taxes, assessments, duties and other governmental charges, including interest and penalties, with respect to any cash and Securities held on behalf of the Client and any transaction related thereto. To the extent that the Custodian has received relevant and necessary information with respect to the Account, the Custodian shall perform the following services with respect to Tax Obligations:

a. The Custodian shall, upon receipt of sufficient information, file claims for exemptions or refunds with respect to withheld foreign (non-United States) taxes in instances in which such claims are appropriate;

b. The Custodian shall withhold appropriate amounts, as required by United States tax laws, with respect to amounts received on behalf of nonresident aliens upon receipt of Written Instructions; and

c. The Custodian shall provide to the Client such information received by the Custodian that could, in the Custodian's reasonable belief, assist the Client or its designee in the

submission of any reports or returns with respect to Tax Obligations. An Authorized Person shall inform the Custodian in writing as to which party or parties shall receive information from the Custodian.

6.2 **Pricing and Other Data.** In providing Market Data related to the Account in connection with this Agreement, the Custodian is authorized to use Data Providers. The Custodian may follow Authorized Instructions in providing pricing or other Market Data, even if such instructions direct the Custodian to override its usual procedures and Market Data sources. The Custodian shall be entitled to rely without inquiry on all Market Data (and all Authorized Instructions related to Market Data) provided to it, and the Custodian shall not be liable for any Losses incurred as a result of errors or omissions with respect to any Market Data utilized by the Custodian or the Client hereunder. The Client acknowledges that certain pricing or valuation information may be based on calculated amounts rather than actual market transactions and may not reflect actual market values, and that the variance between such calculated amounts and actual market values may be material. Market Data may be the intellectual property of the Data Providers, which may impose additional terms and conditions upon the Client's use of the Market Data. The additional terms and conditions can be found on the Data Terms Website. The Client agrees to those terms as they are posted in the Data Terms Website from time to time. Certain Data Providers may not permit the Client's directed price to be used. Performance measurement and analytic services may use different data sources than those used by the Custodian to provide Market Data for the Account, with the result that different prices and other Market Data may apply.

6.3 **Statements and Reports.** The Custodian shall make available to the Client a monthly report of all transfers to or from the Accounts and a statement of all holdings in the Accounts as of the last Business Day of each month. The Client may elect to receive certain information electronically through the Internet to an email address specified by it for such purpose. By electing to use the Internet for this purpose, the Client acknowledges that such transmissions are not encrypted and therefore are not secure. The Client further acknowledges that there are other risks inherent in communicating through the Internet such as the possibility of virus contamination and disruptions in service, and agrees that the Custodian shall not be responsible for any loss, damage or expense suffered or incurred by the Client or any person claiming by or through the Client as a result of the use of such methods.

6.4 **Review of Reports.** If, within ninety (90) days after the Custodian makes available to the Client a statement with respect to the Accounts, the Client has not given the Custodian written notice of any exception or objection thereto, the statement shall be deemed to have been approved, and in such case, the Custodian shall not be liable for any claims concerning such statements.

6.5 **Inspection of Books and Records.** The Client shall have the right, at its own expense and with reasonable prior written notice to the Custodian, to inspect the Custodian's books and records directly relating to the Account during normal business hours or to designate an accountant to make such inspection.

6.6 **Required Disclosure.** With respect to Securities issued in the United States, the Shareholders Communications Act of 1985 (the "Act") requires the Custodian to disclose to issuers, upon their request, the name, address and securities position of the Custodian's clients who are

"beneficial owners" (as defined in the Act) of the issuer's Securities, unless the beneficial owner objects to such disclosure. The Act defines a "beneficial owner" as any person who has or shares the power to vote a security (pursuant to an agreement or otherwise) or who directs the voting of a security. The Custodian shall contact the Client or (if the Client has appointed an investment manager) the investment manager with respect to relevant Securities to make the decision whether it objects to the disclosure of the beneficial owner's name, address and securities position to any U.S. issuer that requests such information pursuant to the Act.

With respect to Securities issued outside the United States, the Custodian shall disclose information required by law, regulation, rules of a stock exchange or organizational documents of an issuer. The Custodian is also authorized to supply any information regarding the Accounts that is required by any law, regulation or rules now or hereafter in effect. The Client agrees to supply the Custodian with any required information if it is not otherwise reasonably available to the Custodian.

SECTION 7 – PROVISIONS REGARDING CUSTODIAN

7.1 **Standard of Care.** In performing its duties under this Agreement, the Custodian shall exercise the standard of care and diligence that a professional custodian engaged in the banking or trust company industry and having professional expertise in financial and securities processing transactions and custody would observe in these affairs.

7.2 **Limitation of Duties and Liability.** Notwithstanding anything contained elsewhere in this Agreement, the Custodian's liability hereunder is limited as follows:

a. The duties of the Custodian shall only be those specifically undertaken pursuant to this Agreement and shall be subject to such other limits on liability as are set out herein;

b. The Custodian shall not be responsible for the title, validity or genuineness of any Securities or evidence of title thereto received by it or delivered by it pursuant to this Agreement or for Securities held hereunder being freely transferable or deliverable without encumbrance in any relevant market;

c. The Custodian shall not be responsible for the failure to receive payment of, or the late payment of, income or other payments due to the Account;

d. The Custodian shall have no duty to take any action to collect any amount payable on Securities in default or if payment is refused after due demand and presentment;

e. The Custodian shall have no duty or responsibility to inquire into, make recommendations, supervise, or determine the suitability of any transactions affecting any Account and shall have no liability with respect to the Client's or an Authorized Person's decision to invest in Securities or to hold cash in any currency.

The Custodian shall have no responsibility if the rules or procedures imposed by Depositories, exchange controls, asset freezes or other laws, rules, regulations or orders at any time

prohibit or impose burdens or costs on the transfer to, by or for the account of the Client of Securities or cash.

7.3 **Losses.** Under no circumstances shall the Custodian or any of its agents or Subcustodians be liable to, or be required to indemnify, the Client or any third party for indirect, consequential or special damages arising in connection with this Agreement.

7.4 **Gains.** Where an error or omission has occurred under this Agreement, the Custodian may take such remedial action as it considers appropriate under the circumstances and, provided that the Client is put in the same or equivalent position as it would have been in if the error or omission had not occurred, any favorable consequences of the Custodian's remedial action shall be solely for the account of the Custodian, without any duty to report to the Client any loss assumed or benefit received by it as a result of taking such action.

7.5 **Force Majeure.** Neither Custodian nor Client shall be liable to the other for any delay in, or failure of performance, of a requirement contained in this Agreement or for any Losses to the Account caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform in light of the circumstance. *Force majeure* is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either party and that such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within a commercially reasonable amount of time of the existence of such *force majeure* or otherwise waive this right as a defense.

7.6 **Fees.** The Client shall pay to the Custodian the fees and charges as may be specifically agreed upon from time to time as set forth on the fee schedule in Appendix 2 of the TEA Standard Contract and such other fees and charges at the Custodian's standard rates for such services as may be applicable. The Client shall also reimburse the Custodian for out-of-pocket expenses that are a normal incident of the services provided hereunder.

7.7 **Indemnification by Custodian.** The Custodian hereby indemnifies and agrees to defend, and hold and save harmless, the Client and the Account(s) from and against any and all claims, actions, demands, lawsuits, losses, and damages of any kind whatsoever arising or resulting from the negligence or willful misconduct of the (i) Custodian or (ii) any of [its agents or] subcustodians selected in its discretion in the performance of its obligations as Custodian hereunder, except as may otherwise be provided by Section 2.2 hereto.

SECTION 8 – AMENDMENT; TERMINATION; ASSIGNMENT

8.1 **Amendment.** This Agreement may be amended only by written agreement between the Client and the Custodian. The TEA Standard Amendment form shall be used for such purpose.

8.2 **Termination.** Either party may terminate this Agreement by giving to the other party a notice in writing specifying the date of such termination, which shall be not less than ninety (90)

days after the date of such notice. Upon termination hereof, the Client shall pay to the Custodian such compensation as may be due to Custodian, and shall likewise reimburse the Custodian for other amounts payable or reimbursable to the Custodian hereunder. Custodian shall follow such reasonable Written Instructions concerning the transfer of custody of records, Securities and other items as the Client shall give; provided that (a) the Custodian shall have no liability for shipping and insurance costs associated therewith, and (b) full payment shall have been made to the Custodian of its compensation, costs, expenses and other amounts to which it is entitled hereunder. If any Securities or cash remain in any Account after termination, or no Written Authorized Instructions as aforesaid shall have been delivered to the Custodian on or before the date when such termination shall become effective, the Custodian shall deliver to the Treasury of the State of Texas (the "Treasury") all securities, funds, and other property held by the Custodian. Except as otherwise provided herein, all obligations of the parties to each other hereunder shall cease upon termination of this Agreement.

8.3 **Successors and Assigns.** Neither the Client nor the Custodian may assign this Agreement without the prior written consent of the other, except that the Custodian may assign this Agreement to any BNY Mellon Affiliate. Any entity, that shall by merger, consolidation, purchase, or otherwise, succeed to substantially all the institutional custody business of the Custodian shall, upon such succession and without any appointment or other action by the Client, but subject to the Client's termination rights hereunder, be and become successor custodian hereunder. The Custodian agrees to provide not less than ninety (90) days notice of such successor custodian to the Client. This Agreement shall be binding upon, and inure to the benefit of, the Client and the Custodian and their respective successors and permitted assigns.

SECTION 9 – ADDITIONAL PROVISIONS

9.1 **Non-Custody Assets.** As an accommodation to the Client, the Custodian may provide consolidated recordkeeping services pursuant to which the Custodian reflects on statements securities and other assets not held by, or under the control of, the Custodian. Non-Custody Assets shall be designated on Custodian's books as "shares not held" or by other similar characterization. The Client acknowledges and agrees that it shall have no security entitlement against the Custodian with respect to Non-Custody Assets, and that the Custodian shall rely, without independent verification, on the accuracy of information provided by the Client or its designee regarding Non-Custody Assets (including but not limited to positions and market valuations) and that the Custodian shall have no responsibility whatsoever with respect to Non-Custody Assets other than to accurately record the information provided to it on the Custodian's books and on account statements concerning Non-Custody Assets.

9.2 **Appropriate Action.** The Custodian is hereby authorized and empowered to take any ancillary action with respect to an Account that a reasonable Custodian in the fulfillment of its duties hereunder would deem necessary or appropriate in carrying out the purpose of this Agreement.

9.3 **Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the state of Texas without regard to its conflicts of law provisions. The parties consent to the dispute resolution process provided for in Chapter 2260 of the Texas

Government Code in connection with any dispute hereunder. The parties agree that the establishment and maintenance of the Accounts, and all interests, duties and obligations with respect thereto, shall be governed by the laws of the state of Texas.

9.4 **Representations**. Each party represents and warrants to the other that it has full authority to enter into this Agreement upon the terms and conditions hereof and that the individual executing this Agreement on its behalf has the requisite authority to bind such party to this Agreement, and that the Agreement constitutes a binding obligation of such party enforceable in accordance with its terms.

9.5 **USA PATRIOT Act**. The Client hereby acknowledges that the Custodian is subject to federal laws, including the Customer Identification Program ("CIP") requirements under the USA PATRIOT Act and its implementing regulations, pursuant to which the Custodian must obtain, verify and record information that allows the Custodian to identify the Client. Accordingly, prior to opening an Account hereunder, the Custodian will ask the Client to provide certain information including, but not limited to, the Client's name, physical address, tax identification number and other information that will help the Custodian to identify and verify the Client's identity, such as organizational documents, certificate of good standing, license to do business, or other pertinent identifying information. The Client agrees that the Custodian cannot open an Account hereunder unless and until the Custodian verifies the Client's identity in accordance with the Custodian's CIP.

9.6 **Non-Fiduciary Status**. The Client hereby acknowledges and agrees that the Custodian is not a fiduciary by virtue of accepting and carrying out its obligations under this Agreement, is not acting as a collateral agent and has not accepted any fiduciary duties, responsibilities or liabilities with respect to its services hereunder except that the Custodian or its affiliates shall owe fiduciary duties to the Client to the extent that it exercises discretion in the management of any short-term investment fund or any late-day investment vehicle used for the investment of the Client's funds, or other matters where the Custodian has discretion.

9.7 **Notices**. Notices shall be in writing and shall be addressed to the Custodian or the Client at the address set forth on the signature page or such other address as either party may designate in writing to the other. All notices shall be effective upon receipt.

9.8 **Entire Agreement**. This Agreement consists of this Agreement and the following documents: Request for Proposal 701-09-004 with a closing date of May 1, 2009, (the "RFP"), the Custodian's Response to the RFP (the "Response") including updated document sets, the Service Level Agreement (the "SLA"), the Texas Education Agency Standard Contract, any related fee agreements and amendments pursuant to Section 8.1 mutually agreed upon by the parties and entered into in any writing subsequent to this Agreement. These documents, taken together, constitute the entire agreement with respect to the matters dealt with herein, and supersede all previous agreements, whether oral or written, and documents with respect to such matters. The SLA is an operational procedural document to be utilized by both parties under this Agreement, which may be modified from time to time by mutual consent of the parties without the need for a formal amendment to this Agreement.

9.9 **Conflicts**. In the event one portion of the Agreement is found to conflict irreconcilably with another or is ambiguous with another, the portion with the most recent date will be held to supersede an earlier document, provided that in the case of a conflict between this Agreement and the Texas Education Agency Standard Contract, the General Provisions or the Special Provisions, the Custody Agreement shall control and supersede all conflicting provisions.

9.10 **Necessary Parties**. All of the understandings, agreements, representations and warranties contained herein are solely for the benefit of the Client and the Custodian, and there are no other parties who are intended to be benefited by this Agreement.

9.11 **Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and said counterparts when taken together shall constitute but one and the same instrument and may be sufficiently evidenced by one set of counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

Authorized Signer of:

TEXAS EDUCATION AGENCY ~~BOARD OF EDUCATION~~

By: _____

Name: Adam Jones

Title: Deputy Commissioner for Finance & Administration and Chief Operating Officer

Date: 12/01/09

Authorized Officer of:

THE BANK OF NEW YORK MELLON

By: Lisa Candy

Name: Lisa Candy

Title: Vice President

Date: 01 Dec 09

Address for Notice:
Texas Education Agency
Texas Permanent School Fund
1701 North Congress Ave.
Austin, TX 78701
Attention: B. Holland Timmins

Address for Notice:
The Bank of New York Mellon
135 Santilli Highway
Everett, MA 02149
Attention: Lisa Candy

EXHIBIT A

CROSS-TRADING INFORMATION

As part of the Cross-Trading Program covered by the Department of Labor Prohibited Transaction Exemption ("PTE") 95-56 for Mellon Bank, N.A. and its affiliates ("BNY Mellon"), BNY Mellon is to provide to the Client the following information:

I. The Existence of the Cross-Trading Program

BNY Mellon has developed and intends to utilize, wherever practicable, a Cross-Trading Program for Indexed Accounts and Large Accounts as those terms are defined in PTE 95-56.

II. The "Triggering Events" Creating Cross-Trade Opportunities

In accordance with PTE 95-56, three "Triggering Events" may create opportunities for Cross-Trading transactions. They are generally the following (see PTE 95-56 for more information):

1. A change in the composition or weighting of the index by the independent organization creating and maintaining the index;

2. A change in the overall level of investment in an Indexed Account as a result of investments and withdrawals on the Indexed Account's opening date, where the Indexed Account is a bank collective fund, or on any relevant date for non-bank collective funds; provided, however, a change in an Indexed Account resulting from investments or withdrawals of assets of BNY Mellon's own plans (other than BNY Mellon's defined contributions plans under which participants may direct among various investment options, including Indexed Accounts) are excluded as a "Triggering Events"; or

3. A recorded declaration by BNY Mellon that an accumulation of cash in an Indexed Account attributable to interest or dividends on, and/or tender offers for portfolio securities equal to not more than .5% of the Indexed Account's total value has occurred.

III. The Pricing Mechanism Utilized for Securities Purchased or Sold

Securities will be valued at the current market value for the securities on the date of the crossing transaction.

Equity Securities - the current market value for the equity security will be the closing price on the day of trading as determined by an independent pricing

service; unless the security was added to or deleted from an index after the close of trading, in which case the price will be the opening price for that security on the next business day after the announcement of the addition or deletion.

Debt Securities - the current market value of the debt security will be the price determined by BNY Mellon as of the close of the day of trading according to the Securities and Exchange Commission's Rule 17a-7(b)(4) under the Investment Company Act of 1940. Debt securities that are not reported securities or traded on an exchange, will be valued based on an average of the highest current independent bids and the lowest current independent offers on the day of cross trading. BNY Mellon will use reasonable inquiry to obtain such prices from at least three independent sources that are brokers or market makers. If there are fewer than three independent sources to price a certain debt security, the closing price quotations will be obtained from all available sources.

IV. The Allocation Method

Direct cross-trade opportunities will be allocated among potential buyers or sellers of debt or equity securities on a pro-rata basis. With respect to equity securities, please note BNY Mellon imposes a trivial dollar amount constraint to reduce excessive custody ticket charges to participating accounts.

V. Other Procedures Implemented by BNY Mellon for its Cross-Trading Practices

BNY Mellon has developed certain internal operational procedures for cross-trading debt and equity securities. These procedures are available upon request.

Electronic Access Services Agreement

This Electronic Access Services Agreement ("EASA") by and between The Bank of New York Mellon ("BNYM") and Texas Education Agency ("Client") made this 1st day of December 2009, sets forth terms and conditions by which BNYM will provide to Client the Electronic Access, as defined below. This EASA (which shall be deemed to include all exhibits and supplements hereto) shall pertain to Electronic Access only; other services provided by BNYM to Client shall be governed by separate agreements or by terms and conditions applicable to those services. Where there is any conflict between this EASA and any other agreement by and between Client and BNYM (inclusive of any predecessors) relating to Electronic Access, the terms of this EASA shall prevail.

Intending to be legally bound, the parties hereby agree as follows:

1. Definitions

"Affiliate" shall mean any company which, directly or indirectly, controls, is controlled by or is under common control with another company (where a holding of at least thirty percent (30%) of the voting stock will be deemed to grant control), and the words "controls" and "controlled" will be construed accordingly.

"Authorized User" shall mean the following persons who are permitted to utilize Electronic Access: (a) employees of the Client; and (b) other persons designated by Client that are approved by BNYM.

"BNYM Web Sites" shall mean the components of Electronic Access consisting of the Internet Web Sites hosted by BNYM on the world wide web and the Proprietary Software through which Non-Client Information or Client Data is accessed. The BNYM Web Sites are more particularly identified in Exhibit A.

"Commands" shall mean directions given by via computer, including but not limited to keystrokes and mouse clicks.

"Client Data" shall mean data, reports and information provided or accessed through Electronic Access related to Client and Client's accounts or securities portfolios, provided however that Client Data shall not include third party data nor any data or information that is not unique to the Client or its accounts or securities portfolios, such as, without limitation, securities pricing, CUSIP numbers, and securities descriptions.

"Data Terms Web Site" shall mean the set of terms and conditions (as may be amended by BNYM from time to time without notice to Client) available at http://www.bnymellon.com/products/assetservicing/performanceanalytics.html or such other location as BNYM shall notify the Client in writing.

"Electronic Access" shall mean services (including those set forth in Exhibit A) provided by BNYM through a BNYM Web Site to which a Client may subscribe from time to time and to which Client will have direct access through its Authorized Users.

"Information" shall encompass any software, text, graphics, files, scripts or other content or materials, any database and any proprietary data, processes, information and documentation made available to Client.

"Information Provider" shall mean any third party source, excluding a Third Party Service Provider, from which Non-Client Information may have been gathered.

"Non-Client Information" shall mean the Information, reports and data provided or available through Electronic Access excluding Client Data.

"Proprietary Software" shall mean the component of Electronic Access that consists of proprietary software owned by or licensed to BNYM and its Affiliates through which Client and Authorized Users may access Non-Client Information or Client Data. The Proprietary Software is more particularly identified in Exhibit A attached hereto.

"Third Party Service Provider" shall mean any other party (excluding an Information Provider) that provides services to BNYM and its Affiliates in relation to Electronic Access.

2. Services

(a) BNYM will provide Electronic Access to Client through its Authorized Users via the BNYM Web Sites identified in Exhibit A. Client and Authorized Users will gain access to and be able to configure and download Non-Client Information and Client Data, all through Electronic Access by issuing Commands through Proprietary Software or the BNYM Web Sites. The Client Data provided through Electronic Access, however, is subject to change because (a) such Client Data is generally updated as of the prior business day's close of business, and, (b) as is customary in securities trading transactions, is subject to adjustment and correction. Client's ability to view, configure, and download certain Non-Client Information is subject to the terms and restrictions under which that information is provided to BNYM and its Affiliates.

(b) BNYM retains complete discretion and authority to add, delete or substantially revise in whole or in part Electronic Access offered to the Client.

3. Fees

When applicable BNYM shall be entitled to compensation for the provision of Electronic Access in accordance with the fee schedule currently in place with Client, which may be amended from time to time. BNYM will bill Client in accordance with BNYM's standard billing cycle.

4. Term and Termination

(a) The term of this EASA shall commence on the date set forth above and shall continue until terminated as provided herein.

(b) Termination.

(1) Either BNYM or Client may terminate this EASA upon sixty (60) days written notice to the other party.

(2) In the event of any breach of the EASA, the non-breaching party may terminate this EASA immediately upon written notice to the breaching party if any breach of the EASA remains uncured after thirty (30) days written notice of the breach is sent to the breaching party.

(3) Either BNYM or Client may terminate this EASA effective upon the termination of the relationship between BNYM and Client under any other agreement for the provision of services provided by BNYM to the Client.

(4) Notwithstanding the foregoing, BNYM may immediately terminate access by an Authorized User, without right of cure, in the event of an unauthorized use of an Authorized User's user-id or password, and also for situations where BNYM believes there is a security risk created by such access.

(5) In addition, BNYM may terminate, immediately and without notice, and without right of cure, any portion or component of the BNYM Web Sites or Non-Client Information in the event an Information Provider or Third Party Service Provider ceases to provide such portion or component to BNYM.

(c) Client shall be responsible for notifying all Authorized Users of the termination of this EASA, irrespective of whether the termination was initiated by BNYM or Client, within five (5) business days of such termination.

(d) In the event of termination, BNYM will cease providing Electronic Access and, where applicable, Client shall cause to be delivered to BNYM any and all materials or documentation, whether electronically stored or otherwise furnished by BNYM in connection with the Electronic Access (including without limitation any copies of Proprietary Software and Information related to or obtained from the BNYM Web Sites), and all partial or complete copies thereof in the possession, custody or control of any and all Authorized Users. In lieu of the foregoing and at the option of BNYM, Client shall destroy or cause the destruction of all or any of such copies. The foregoing obligations shall not be construed to require Client to return or destroy Client Data.

5. License/Proprietary Rights

(a) Proprietary Rights

(1) Electronic Access, Proprietary Software and Non-Client Information

The BNYM Web Sites, Electronic Access, Proprietary Software and Non-Client Information are proprietary to BNYM, its licensors, Information Provider or Third Party Service Providers. Client agrees to comply with reasonable written requests from BNYM to protect BNYM's, BNYM's licensors', Information Providers' and/or Third Party Service Providers' respective rights in the BNYM Web Sites, Electronic Access, Proprietary Software or Non-Client Information. Nothing in this EASA shall be construed as giving Client and Authorized Users any license or right to use any of BNYM's, BNYM's licensors', Information Providers' and/or Third Party Service Providers' trademarks, logos and/or service marks. BNYM retains the right to modify the BNYM Web Sites, Electronic Access, the Proprietary Software and Non-Client Information from time to time and, to the extent possible, BNYM will provide reasonable notice of such modifications.

(b) Proprietary Software License

(1) To the extent Client and Authorized Users receive Proprietary Software hereunder, BNYM hereby grants Client and such Authorized Users a limited, non-exclusive, non-transferable license for the term of this EASA to use such Proprietary Software on Client and Authorized User's internal computer system only. To the extent such internal computer system is accessible to networks beyond the control of Client, such as without limitation the Internet, Client shall take commercially reasonable measures to protect from unauthorized access the computers on which the Proprietary Software is installed. Such commercially reasonable steps shall include, without limitation, requiring login ids and passwords to access such computers and the utilization of a firewall. If the Client wishes to have Proprietary Software installed on a computer system not under the control of Client, Client shall so advise BNYM prior to such installation. BNYM may require the individual or entity that controls such computer system to sign a separate agreement with BNYM. Client will be responsible for the protection of Proprietary Software installed on a computer system not under its control as it would be for Proprietary Software installed on Client's internal computer system.

(2) Client and Authorized Users shall have no rights in or to Proprietary Software, or any copies thereof, except for the right to use Proprietary Software as specifically set forth in this EASA. Title and ownership rights to Proprietary Software (including, copyright and trade secret property rights inherent in and appurtenant thereto) shall remain with BNYM or any third party owner. Client and Authorized Users may make copies of the Proprietary Software for backup purposes only, provided all copyright and other proprietary information included in the original copy of the Proprietary Software are reproduced in or on such backup copies. The use of the Proprietary Software under the license described in this paragraph shall be limited to use in connection with the Electronic Access. Client and Authorized Users shall not: (i) except as provided above, make additional copies of Proprietary Software; (ii) disclose Proprietary Software to, or allow Proprietary Software to be used by or for the benefit of, any third party; (iii) modify Proprietary Software and/or merge Proprietary Software with another software program; (iv) alter, decompile, disassemble, reverse engineer or otherwise modify Proprietary Software; and (v) remove any copyright or proprietary rights notices or legends placed upon or within Proprietary Software. The Client agrees, on behalf of itself and Authorized Users, not to use the Proprietary Software for any other purpose, including without limitation, use in a time share or service bureau arrangement.

(c) Non-Client Information

BNYM hereby grants Client and Authorized Users a non-exclusive, non-transferable license for the term of this EASA to access and use Non-Client Information only for its internal use. Client agrees not to, and to cause Authorized Users not to (i) modify or alter, reproduce or repackage, retransmit, disseminate, sell, distribute, publish, broadcast, circulate or commercially exploit Non-Client Information, (ii) identify and extract Non-Client Information from the Electronic Access, (iii) use Non-Client Information in any client or third party software application, or (iv) use Non-Client Information in an environment shared by the Client and third parties, in each case

without the express written consent of BNYM and without first obtaining any licenses needed from the relevant Information Provider(s).

(d) Information Provider Terms of Use

The provision of certain Non-Client Information is subject to Information Provider agreements. The Information Providers require Client to agree to certain terms and conditions. The relevant terms and conditions are shown on the Data Terms Web Site. Continued use of Electronic Access constitutes Client's acceptance of and agreement to the terms shown on the Data Terms Web Site. Some services or distribution mechanisms may require Client to enter into additional contracts directly with Information Providers or other Third Party Service Providers. In the event that Client's rights under its agreement with any such provider conflict with the terms of this EASA, the terms of Client's provider agreement shall prevail.

(e) Electronic Access

Client and Authorized Users are not granted any rights or title in and to Electronic Access, or any material contained in or delivered via Electronic Access except for the limited licenses expressly granted by this EASA.

6. Security

(a) Authorized User/User Identification and Passwords

Client shall furnish BNYM with a written list of the names, and extent of authority or level of access of Authorized Users. BNYM shall be authorized and entitled, until notified in writing by Client of a change of the status of an Authorized User, and BNYM's and its Affiliates' computer systems have acknowledged such change in status, to rely on, and shall be fully protected in acting upon, any Commands that are acknowledged by BNYM's and its Affiliates' computer systems and are associated with a password issued to an Authorized User in his, her or its use of the Electronic Access.

Upon BNYM's approval of Client and/or its Authorized Users, BNYM shall send to Client a Client user-id and password for each Authorized User as appropriate and where appropriate, a secure identification device. Client shall return the secure identification device for an Authorized User following the termination of that user's authorization to access the Electronic Access and shall return the secure identification devices of all of the users immediately upon termination of this EASA.

The Client shall be responsible for the confidentiality and use of the Authorized Users' BNYM-assigned user-ids and passwords and for the security of any secure identification devices. The Client shall be responsible for all Commands processed through the BNYM Web Sites through and under the Authorized Users' user-ids and passwords. The Client agrees to notify BNYM immediately if it becomes aware of:

(1) Any loss or theft of any Authorized Users' user-ids, passwords or secure identification devices; or

(2) Any unauthorized use of any Authorized Users' user-ids, passwords or secure identification devices, or of the Electronic Access, Non-Client Information or Client Data.

(b) Web Access

Browser software compatibility is published on the BNYM Web Sites, and may be updated from time to time by BNYM without notice to Client. Client agrees to, and to cause Authorized Users to, comply with the compatibility requirements published from BNYM from time to time.

BNYM security measures apply only to electronic communications and Commands sent or received over the secure areas of the BNYM Web Sites. E-mails sent to BNYM over the Internet from a source other than a BNYM Web Site, as well as other communications received outside of the secure area of a BNYM Web Site, including without limitation communications received over telephone lines, are not secure and BNYM is not responsible for their security and to the maximum extent permitted by law excludes all liability arising from such communications. Further, BNYM does not guarantee the security of any Information or Commands transmitted over the Internet and is not responsible for any security breach with respect to such Information or Commands.

(c) Use of Software, Programs, Applications or Other Devices to Access Electronic Access

With the exception of Proprietary Software, applications commonly known as web browser software or other applications formally approved by BNYM in writing, Client agrees not to use, and require each Authorized User not to use, any software, program, application or any other device to access or log on to BNYM's computer systems, the BNYM Web Sites or to automate the process of obtaining, downloading, transferring or transmitting any Non-Client Information or Client Data.

(d) Data Protection

If Client or Authorized Users provide BNYM with any personal data through Electronic Access, Client will ensure that the provision of such data to BNYM, and BNYM's use of such data in accordance with Client's instructions in the provision of services to Client, complies with any applicable data protection law or regulation.

7. Client Responsibilities and Obligations

(a) Client is responsible for, and shall procure that an Authorized User is responsible for, acquiring and maintaining the required computer hardware and software (except Proprietary Software), to utilize the Electronic Access. Client shall be responsible for all maintenance and support services of its systems required in order for Client to gain Electronic Access and shall accept and properly install any updates or modification to any software forming part of Electronic Access which BNYM considers necessary, and shall procure that an Authorized User does the same. Client shall also be responsible for ensuring that any software provided by BNYM to Client is compatible with Client's system and Client agrees that the provisions of this EASA shall apply to any downloading or other installation of any such software, and shall procure that an Authorized User does the same.

(b) The Client agrees to the following terms with respect to the Client's use of Commands issued through the BNYM Web Sites:

(1) The Client agrees to use Electronic Access only for receiving information within the scope of the EASA.

(2) The Client will not use any Command or other feature of the BNYM Web Sites for any purpose that is unlawful.

(3) The Client agrees to keep all information contained in the Client's profile up-to-date.

(4) The Client will not upload, post, reproduce or distribute any Non-Client Information, Client Data, software or other material protected by copyright or any other intellectual property right (as well as rights of publicity and privacy) without first obtaining the permission of the owner of such rights.

(5) The Client agrees to procure the agreement of all Authorized Users to be bound by all terms and conditions of this EASA for use of the BNYM Web Sites and the Electronic Access, which are set forth in this EASA.

(6) The Client agrees to accept full and sole responsibility for all Commands and instructions issued by Authorized Users and to release BNYM from any liability for acting on such Commands or instructions. The Client acknowledges that all Commands and instructions associated with a password and user-id issued by an Authorized User are issued at the Client's sole risk.

(7) The Client agrees that any access to third party Web Sites linked to or referenced in the BNYM Web Sites is at the Client's or each Authorized User's sole discretion. BNYM is not responsible for the reliability of content found in third party Web Sites that are linked to the BNYM Web Sites. Additionally, BNYM is not responsible for third party Web Sites that collect information from parties who visit their web sites through links on the BNYM Web Sites. A link in the Electronic Access to a third party site does not constitute BNYM's endorsement, authorization or sponsorship of such site or any products or services available from such site.

8. Confidentiality

(a) Electronic Access (including without limitation the design, programming techniques, algorithms and codes contained within the Electronic Access), Information and Non-Client Information are confidential property of BNYM, its licensors or the Information Providers or Third Party Service Providers, but for purposes hereof shall be deemed the confidential property of BNYM.

(b) Client shall, and Client agrees to procure that Authorised Users must not disclose or make unauthorized use of the Non-Client Information or the BNYM Web Sites. Each party agrees to take reasonable care to protect the confidential property of the other from examination by anyone except for its agents or employees who have a need to know. Client shall be responsible for the consequences of any misuse of, or unauthorized use of or access to,

Proprietary Software and for the disclosure of any confidential property or information of BNYM by the Client's Authorized Users.

(c) The obligations in this section shall not restrict any disclosure by Client pursuant to any applicable law, or by order of any court or government agency.

(d) BNYM shall be entitled, but is not obligated under this EASA, to review or retain records of Client or Authorized User's Commands for any applicable legal or regulatory requirement and, among other reasons, for monitoring the quality of service Client receives, Client's compliance with this EASA and the security of the Information.

9. Limited Warranty/Exclusion of Other Warranties

(a) Limited Warranty. BNYM represents and warrants that it has the full right and authority to enter into this EASA and to provide Electronic Access under its terms.

(b) Due to the nature of computer software information delivery technology, and the necessity of relying on various data sources, some of which are external, the Electronic Access, Non-Client Information and Client Data are provided on an "AS-IS" basis and Client accepts the entire risk as to how and for what purposes Client and Authorized Users use Electronic Access, Non-Client Information and Client Data. Client acknowledges and agrees that all such data in the Electronic Access, Non-Client Information and Client Data is provided solely as a convenience to Client and is compiled without any independent investigation by BNYM and Client agrees that is shall not rely on Non-Client Information in making any investment or other decision. Neither BNYM, the Information Providers nor the Third Party Service Providers shall have any liability, contingent or otherwise, under this EASA for the accuracy, completeness, timeliness or correct sequencing of Non-Client Information or Client Data, or for any decision made or action taken by the Client in reliance upon Non-Client Information or Client Data or, for interruption of Non-Client Information, Client Data or Electronic Access. THERE IS NO WARRANTY OF MERCHANTABILITY, NO WARRANTY OF FITNESS FOR A PARTICULAR USE AND NO WARRANTY OF NONINFRINGEMENT. THERE IS NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, REGARDING THE NON-CLIENT INFORMATION, CLIENT DATA OR ELECTRONIC ACCESS.

10. Indemnification

(a) BNYM shall defend Client, and pay any damages finally awarded by a court of competent jurisdiction, in any action or proceeding commenced by a third party against Client based on a claim that the Non-Client Information or Proprietary Software infringes upon a third party patent, copyright, or trade secret, provided that Client (i) notifies BNYM promptly of any such action or claim; (ii) except for and subject to the participation of the Attorney General of Texas, grants BNYM full and exclusive authority to defend, compromise or settle such claim or action; and (iii) provides BNYM all assistance reasonably necessary to so defend, compromise or settle. The foregoing obligations shall not apply, however, to any claim or action arising from (i) Client or Authorized User's use of the Non-Client Information or Proprietary Software in a manner not authorized by this EASA; or (ii) Client or Authorized User's use of the Non-Client Information or Proprietary Software in combination with other software or services not supplied by BNYM.

(b) In the event that the Non-Client Information or Proprietary Software is found to infringe

upon a third party patent, copyright, trade secret, or other proprietary right, or in BNYM's opinion the Non-Client Information or Proprietary Software is likely to be found to so infringe, BNYM may, at its sole option, (i) procure for Client the right to continue using the Non-Client Information or Proprietary Software; (ii) replace the Non-Client Information or Proprietary Software with software or services that are non-infringing; or (iii) terminate this EASA and refund to Client any pre-paid charges relating to the Non-Client Information or Proprietary Software.

(c) SECTIONS 10(a) and 10(b) STATE BNYM'S SOLE OBLIGATION, AND CLIENT'S SOLE REMEDY, WITH RESPECT TO ANY CLAIM OF INFRINGEMENT REGARDING *THE NON-CLIENT INFORMATION OR PROPRIETARY SOFTWARE.*

11. Limitation of Liability

(a) EXCEPT FOR DAMAGES INCURRED BY CLIENT AS A DIRECT RESULT OF BNYM'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT WILL BNYM, ITS LICENSORS, THE INFORMATION PROVIDERS OR THE THIRD PARTY SERVICE PROVIDERS BE LIABLE TO THE CLIENT, ANY AUTHORIZED USER OR ANYONE ELSE FOR ANY DAMAGES, INCLUDING CONSEQUENTIAL, RELIANCE, EXEMPLARY, INCIDENTAL, SPECIAL, COMPENSATORY, ECONOMIC, PUNITIVE OR INDIRECT DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSSES AND DAMAGES THAT RESULT FROM THIS EASA OR THE USE OF OR INABILITY TO USE THE ELECTRONIC ACCESS OR NON-CLIENT INFORMATION OR CLIENT DATA), EVEN IF BNYM, ITS LICENSORS, THE INFORMATION PROVIDERS OR THE THIRD PARTY SERVICE PROVIDERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES. CLIENT AGREES THAT THE LIABILITY OF BNYM, ITS LICENSORS, THE INFORMATION PROVIDERS AND THE THIRD PARTY SERVICE PROVIDERS ARISING OUT OF ANY KIND OF LEGAL CLAIM (WHETHER IN CONTRACT, TORT OR OTHERWISE) IN ANY WAY CONNECTED WITH ELECTRONIC ACCESS OR NON-CLIENT INFORMATION WILL NOT EXCEED AN AMOUNT EQUAL TO THE AMOUNTS PAID BY CLIENT TO BNYM HEREUNDER FOR THE ELECTRONIC ACCESS IN THE PRIOR TWELVE MONTHS.

(b) BNYM disclaims any representation and makes no guarantee that the Electronic Access and Non-Client Information are virus-free; however, BNYM will make commercially reasonable efforts to ensure that the systems used by BNYM to provide Electronic Access and Non-Client Information are virus-free. BNYM is not liable for any loss or damage resulting from voluntary shutdown of the server or the BNYM Web Sites by BNYM to address computer viruses, denial-of-service messages or other similar problems. BNYM is not responsible for any damage to Client's computer, software, modem, telephone or other property resulting from Client's use of Electronic Access.

12. Force Majeure

Neither Custodian nor Client shall be liable to the other for any delay in, or failure of performance, of a requirement contained in this Agreement or for any Losses to the Account caused by *force majeure*. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to

perform in light of the circumstance. *Force majeure* is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either party and that such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within a commercially reasonable amount of time of the existence of such *force majeure* or otherwise waive this right as a defense.

13. Miscellaneous

(a) Governing Law / Jurisdiction

This EASA shall be governed by and construed in accordance with the substantive laws of the State of Texas without regard to its choice of law provisions. The parties consent to the dispute resolution process provided for in Chapter 2260 of the Texas Government Code. .

(b) Entire Agreement / Severability / Amendment

This EASA contains the entire agreement between the parties relating to the Electronic Access and the provision through such Electronic Access of Non-Client Information and Client Data, and supersedes all prior written or oral communications between the parties on the subject.

In the event any one or more of the provisions of this EASA shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions shall remain valid and enforceable. Furthermore, the unenforceable provision(s) shall be modified to carry out to the full extent possible the intent of the provision deemed unenforceable.

This EASA may be amended by the parties through a written notice by BNYM to the Client, together with written acceptance by the Client of such amendment to this EASA.

(c) Assignment

Neither party may assign this EASA without the prior written consent of the other party, provided however that BNYM may assign this EASA to any Affiliate of BNYM without such prior consent. This EASA shall be binding upon and inures to the benefit of the parties hereto and their respective successors and assigns.

(d) Agents and/or Subcontractors

In providing Electronic Access and performing its obligations under this EASA, BNYM may use agents and subcontractors. Any such agents and subcontractors are third party beneficiaries to this EASA.

(e) Counterparts

This EASA may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this EASA, but all the counterparts shall together constitute the same contract. No counterpart shall be effective until the parties have executed at least one counterpart.

(f) Rights of Third Parties

BNYM and Client acknowledge their intention that none of the terms of this EASA confers or purports to confer on any third party any benefit or any right to enforce any term of this EASA, except that: (i) BNYM's Affiliates may benefit from and enforce any term of this EASA, and (ii) each Information Provider may benefit from and enforce any right or benefit given to an Information Provider under this EASA. BNYM and Client may exercise, without the consent of any third party, any rights they may have to amend or rescind this EASA.

(g) Survival

The following sections all survive the expiration or earlier termination of this EASA: 4, 5, 7, 8, 9, 10, 11, 12 and 13.

Intending to be legally bound, BNYM and Client have caused this EASA to be executed by duly authorized officers.

THE BANK OF NEW YORK MELLON

By Lisa Candy

Printed Name Lisa Candy

Title Vice President

Date: 31 Dec 09

TEXAS EDUCATION AGENCY

By: _____

Printed Name: Adam Jones

Title: Deputy Commissioner for Finance & Administration and Chief Operating Officer

Date: 12/01/09

TEA 41

Exhibit A

The Electronic Access shall consist of the means by which BNYM provides to Client (a) Non-Client Information and Client Data, (b) other services set forth in any supplement to this EASA and (c) the support of those means.

The Client shall have access to the components of the Electronic Access, including the Proprietary Software listed below, as agreed upon between the Client and BNYM and accessed by means of the following web sites, as applicable: (1) Workbench services – http://www.workbench.bnymellon.com and (2) INFORM services – https://inform.bankofny.com or http://ii.bnyinform.com .

Proprietary Software:

- Workbench Express
- INFORM Instruction Capture
- INFORM Outpost
- INFORM Mainframe Services

PERFORMANCE & RISK ANALYTICS

EASA ADDENDUM

CLIENT TEXAS EDUCATION AGENCY	BNY MELLON PERFORMANCE & RISK ANALYTICS, LLC (BNYM)
NAME: Texas Permanent School Fund	
By: _____ Signature	By: _____ Signature
Adam Jones	Guy M. Holappa
Print Name	Print Name
Deputy Commissioner of Finance and Administration and Chief Operating Officer	Managing Director
Title	Title
12/01/2009	December 1, 2009
Date	Date

CLIENT ADDRESS: 1701 North Congress Avenue Austin, TX 78701

The terms of this Addendum to The Bank of New York Mellon Electronic Access Services Agreement including all Exhibits attached hereto ("EASA Addendum") shall apply only to the BNY MELLON PERFORMANCE & RISK ANALYTICS, LLC ("BNYM P&RA") Services provided to Client.

1. Direct Agreement: Client agrees this EASA Addendum constitutes a direct agreement between BNYM P&RA and Client, and the P&RA Services are being provided directly to Client by BNYM P&RA. Where there is a conflict between the terms of this EASA Addendum and the EASA, the terms of this EASA Addendum shall prevail.

2. Incorporated with modification: The following listed Electronic Access Services Agreement (EASA) terms and conditions are incorporated herein by reference with the term "BNYM" replaced with "BNYM P&RA", the term "Electronic Access" replaced with "P&RA Services" and the term "EASA" replaced with "EASA Addendum", and the term "Non-Client Information" replaced with "Proprietary Information.":

a. Definitions: Authorized User, Data Terms Web Site, Information, Information Provider, Third Party Service Provider

b. Fees Section 3

c. Term and Termination Sections 4(a), (b)(1) through (b)(5), (c) and (d)

d. License/Proprietary Rights Sections 5(a), (b)(1), (b)(2)

e. Client Responsibilities and Obligations Section 7

f. Confidentiality Section 8

g. Exclusion of Warranties Section 9 (b)

h. Indemnification Section 10

i. Limitation of Liability Section 11

j. Force Majeure Section 12

k. Miscellaneous Section 13 (a)-(f).

3. Section 4(b)(5) of the Electronic Access Services Agreement (EASA) terms and conditions is modified by replacing "BNYM Web Sites" with "Services" and incorporated by reference into this Addendum.

4. Definitions: For purposes of the Performance & Risk Analytics Services the following terms shall have the following meanings. To the extent these definitions vary from the ones set forth in the EASA, these terms shall prevail with respect to the Services.

a. "Affiliate" shall mean a legal entity controlling, controlled by or under common control with Client.

b. "BNYM Web Sites" means the BNYM Web Sites identified in the Electronic Access Services Agreement plus any Third Party Service Provider web site that hosts a Service or a component thereof.

c. "Client Data" shall mean Client's portfolio information sourced from BNYM's (or its Affiliates') custody and accounting systems (IAS and CMS, or any future replacement of IAS and CMS) and provided or accessed through Electronic Access, provided that Client Data will not be construed to include the following Proprietary Information: security identifiers (e.g. CUSIPS and SEDOLS), ratings (e.g. S&P, Moody's, Fitch), classifications data (e.g. GICS, ICB, Russell, Lehman, Merrill Lynch, Topix), index data; other data identified to a proprietary source or data in an ancillary service covered by an addendum to this Agreement.

d. "Proprietary Software" means a software program which is loaded onto Client's computer as a part of a Service which is not subject to a separate license requirement. Present Proprietary Software is Investment Monitor, MPA, MPU and Composite Manager.

e. "Proprietary Information" shall mean the Information, reports and data provided or available through Workbench in which BNYM, its Affiliates or Information Providers have a proprietary interest.

f. "Services" shall mean the services listed in Exhibit A to this Addendum, including its component Proprietary Information, Client Information, BNYM Web Sites or Third Party Software incorporated therein.

g. "Third Party Software" shall mean software for which a Client is required to have a separate license or sign additional terms.

5. Authorized Use: Services shall be provided to Clients who are end-users and their Authorized Users for Client's internal use. Proprietary Information contained in the Services shall only be used within the Services. Client's use of the Services and Proprietary Information shall be subject to the terms and conditions found on the Data Terms Web Site including but not limited to the limitations of liability provisions, exclusions of warranties provisions and use restrictions which apply to BNYM P&RA's provision of Services to Client. Client and Authorized Users are not granted any rights or title in and to Services, or any material contained in or delivered via Services except to the extent explicitly granted by this EASA Addendum.

6. Data Terms Website: The Data Terms Website contains terms and conditions imposed by Information Provider licenses upon the use of Proprietary Information and the Services. Terms on the Data Terms Web Site are incorporated herein by reference and may be revised periodically by the applicable Information Provider. Notice of such revision will be posted on the Workbench Message Centre. Client's continued use of the Services constitutes Client's acceptance of and agreement to the terms on the Data Terms Web Site as revised.

7. Prohibited Uses: The Client and its Authorized Users shall not: (i) modify the Services in any way or enhance or create derivative works based upon the Services or output from the Services; (ii) use, copy, translate, modify, adapt, reverse compile, disassemble, reverse engineer, or transfer in whole or in part the source code or Proprietary Information for any part of the Services; (iii) permit unauthorized disclosure of the Services or permit any third-party to use the Services; (iv) adversely impact the functioning and performance of the Services; (v) use the Services to create an investment vehicle or other financial instrument whose performance is tied to the Services or any data contained within the Services; (vi) use the

Services in the operation of a service bureau or for any unlawful purpose; (vii) or market, distribute, sell, lease, license, disseminate, cause web postings or otherwise provide the Services, in whole or in part, to any third parties, without the express prior written consent of BNYM P&RA. Client also agrees not to, and to cause Authorized Users not to (i) reproduce or repackage, retransmit, disseminate, sell, distribute, publish, broadcast, or circulate to third parties or otherwise commercially exploit Proprietary Information, (ii) identify and extract Proprietary Information from the Services, (iii) use Proprietary Information in any client or third party software application, or (iv) use Proprietary Information in an environment shared by the Client and third parties, in each case without the express written consent of BNYM P&RA and without first obtaining any licenses needed from the relevant Information Provider(s).

8. Additional Licenses: Some Services or distribution mechanisms may require Client to enter into additional terms or contracts directly with an Information Provider, Third Party Service Provider or Third Party Software provider. Additionally Client's proposed use of Proprietary Information beyond what is authorized in this EASA Addendum may require additional permission or licenses be obtained by Client directly from the Information Provider. BNYM P&RA shall have no obligation to begin Service delivery until Client has obtained all required licenses and the licenses have been confirmed by Information Providers. In the event that Client's rights under its agreement with any such provider conflict with the terms of this EASA, the terms of Client's agreement with the service or software provider shall prevail.

9. Authorizing Additional Affiliates, Authorized Users or Uses:

   a. Affiliates: Client shall only provide access to the Services to affiliates on whose behalf the Client can legally contract and bind ("Client Affiliates"). Should Client desire the terms of this Agreement to be extended to an affiliate on whose behalf the Client cannot legally contract and bind, Client shall request in writing that BNY MELLON extend the terms to such affiliate, along with the name, address and phone number of a representative of the affiliate who can legally contract on behalf of the affiliate. BNY MELLON will send the affiliate a contract that incorporates the terms of this Agreement and provide the requested services to the affiliate. Client further asserts that it has the legal authority to contract on behalf of the Client Affiliates identified in Exhibit A.

   b. Authorized Users or Uses: If Client requests access for a proposed user who is not Client's employee or proposes to use the Services for any other use, Client shall request additional authorization from BNYM P&RA in writing. The ability to grant Client's request may depend in part upon the terms of Information Provider or Third Party Service Provider licenses held by BNYM and/or Client. BNYM will review its licenses to determine whether the proposed user or proposed use can be authorized under existing licenses. BNYM shall seek written permission for Client's proposed use from Information Providers and Third Party Service Providers as required its licenses. Client is advised that requests for additional authorized access or additional uses may require additional Information Provider or Third Party Service Provider licenses or other licenses be obtained by Client or Client's proposed user.

10. Integration with Custody Accounting or Other Affiliate Services: Services provided by Third Party Service Providers (for example but not limited to Investor Analytics) may use pricing data which is obtained from different Information Providers than BNYM P&RA utilizes and may not utilize Client directed pricing utilized in The Bank of New York Mellon's other services.

11. Client Consent to use Client Data: By executing this Addendum Client authorizes BNYM P&RA to use Client Data and to provide Client Data to Third Party Service Providers and Information Providers as is necessary to provide the Services to Client. BNYM P&RA may aggregate Client Data with other data collected and/or calculated by BNYM P&RA. BNYM P&RA owns all aggregated data. BNYM P&RA shall not distribute the aggregated data in a format that identifies Client Data with Client.

12. Client Indemnification Obligations

   a. Client assumes sole responsibility for all of its use of each Service and holds the BNYM P&RA and its Information Providers and applicable Third Party Service Providers ("BNYM P&RA Parties) harmless against any liability or claim of any person that is attributable to use of that Service by Client, excluding claims that the Services as provided to Client and used according to the terms of this Addendum violate the rights of a third party.

b. To the extent authorized by the Constitution and laws of the State of Texas or any other applicable law, Client shall hold BNYM Parties harmless from and against all losses, liabilities, judgments, suits, actions, proceedings, claims, damages and costs, including legal fees, resulting from Client's material breach of any term in this Addendum, or any act or omission by Client or any Affiliate or Authorized User in relation to Client's improper use or any Authorized User's improper use of Services and any person obtaining access to Services through Client, Affiliate or any Authorized User whether or not Client authorized such access.

Intending to be legally bound, Client and BNYM P&RA have caused the first page of this Addendum to be executed by their respective duly authorized officers.

Version Date: 12/2009

Exhibit A

	Service Start Date
The Fee Schedule and the Bank of New York Mellon invoice shall contain the fees to be invoiced to Client for Services.	
Pursuant to the most current and validly executed Fee Schedule between Texas Education Agency and the Bank of New York Mellon, BNY MELLON agrees to provide the following services to Client:	
• Daily and Monthly Performance (to Security Level)	9/1/2009
• Flash Performance	9/1/2009
• Performance Attribution	9/1/2009
• Wilshire Advanced Analytics and Attribution (internally managed portfolios)	9/1/2009
• MPA (including Security Level Import Module – SLIM)	9/1/2009
• Monthly and Daily Analytics (to Security Level)	9/1/2009
• Daily Compliance Monitoring Service** (Exhibit C)	9/1/2010
• Workbench Client Reporting (with Report Writers)	9/1/2009
• Custom Reporting	9/1/2009
• Quarterly Board Reporting	9/1/2009
• Index Services (S&P Index Data Only)***(Exhibit D)	9/1/2009
• Private I software****(Exhibit I)	9/1/2009
• Charts	9/1/2009

*The Service Start Date for the Annual Service will be the date used to calculate service renewal periods.
**Subject to the terms and conditions of Exhibit C as attached
***Subject to the terms and conditions of Exhibits D as attached
****Subject to the terms and conditions of Exhibit I as attached

Invoice Customer Code #C –

	Service Start and End Date
•	

Client Affiliates, as set forth in Section 9 (a) include the following: none noted until further notice in writing by Client

Exhibit C

Terms and Conditions

Compliance Monitoring Outsourcing Service

The purpose of BNY MELLON'S Compliance Monitoring Outsourcing Service is solely to provide the Customer with the reports showing the outcomes when the confirmed guidelines have been run against the required portfolios. Customer's receipt of the Compliance Monitoring Outsourcing Service is subject to and conditioned upon the following terms and conditions.

1.0. SUBMISSION OF MANDATES

1.1 Definitions:

(a) Guideline(s) mean the rule(s) programmed into Compliance Monitor to test for the Customer's mandate(s).

(b) Mandate(s) mean the Customer's investment requirements or prohibitions imposed on its managers.

1.1. Customer will provide BNY MELLON with Customer's investment mandates for its investment managers. BNY MELLON will review the mandates. If BNY MELLON determines at the time of initial review, after attempting to set-up the guidelines, or after Customer tests the guidelines that BNY MELLON cannot program its system to adequately test for any of Customer's mandates BNY MELLON will inform the Customer. If Customer determines that the Compliance Monitor system cannot test a sufficient number of mandates, Customer may terminate this service by notifying BNY MELLON in writing prior to the commencement of monitoring.

2.0. SET-UP AND TESTING

2.1. BNY MELLON will work with Customer to set up Compliance Monitoring guidelines to test Customer's portfolios against Customer's investment mandates. Customer shall review and confirm all the guidelines adequately test for Customer's mandates after the rules have been set up. If Customer determines any guideline is inadequate, Customer shall notify BNY MELLON representative and request that the guideline be corrected to adequately test for Customer's mandates. Once testing is complete, the Customer shall confirm, in writing, that the guidelines created in the Compliance Monitoring service accurately reflect Customer's mandates. Customer shall be deemed to have accepted the guidelines created in the Compliance Monitoring system if Customer begins receiving or using the Compliance Monitoring Services.

3.0. DAILY MONITORING

3.1. BNY MELLON will monitor the confirmed guidelines daily. This will include running the guidelines against all required portfolios. Results will be provided to Customer in a report format. Customer will be provided with a choice of a number of customizable reports to receive in .pdf, Word or Excel formats. These reports will be sent to the Customer via email, and are also available via Workbench upon request.

4.0. MODIFICATIONS TO GUIDELINES

4.1. Maintenance or revision of the guidelines will be undertaken by BNY MELLON upon notification from an authorized representative of the Customer. Modifications, additions or deletions to guidelines may result in additional fees.

5.0. SERVICE LIMITATIONS

5.1. Customer is responsible for the content of the guidelines. BNY MELLON will not analyze, assess, change or manipulate the guidelines nor will BNY MELLON be obligated to advise the Customer if any maintenance or changes to the guidelines should be undertaken.

5.2. BNY MELLON is not obligated to: request information or instructions from Customer; gather information or obtain instructions for the purpose of the provision of a Service; notify the Customer of any matter; or review or monitor any Portfolio.

5.3. BNY MELLON does not by virtue of this agreement or as a result of providing the Services assume any of the Customer's obligations under any law, representation, agreement, deed document or otherwise, including Customer's reporting obligations. Nothing in this Agreement is intended to, or will be taken to, operate so that the Customer is relieved of any such obligations in relation to the Customer or any portfolio.

5.4. While the Services may be used by the Customer for the purpose of monitoring compliance with investment mandates, BNY MELLON has no obligation to review or monitor or take any action in relation to any portfolio except as expressly set out in this agreement and:

a) The Customer is solely responsible for ensuring that the Services are appropriate to achieve the objective of monitoring compliance with the relevant investment mandates;

b) BNY MELLON does not assume any of the Customer's or its investment managers' obligations with respect to any portfolio;

c) The Customer is solely responsible for ensuring compliance with any investment mandates and addressing any compliance issues that might arise. Any investment mandate monitoring reports provided as a part of the Services will be as a post trade service and BNY MELLON has no duty or responsibility to prevent breaches of any investment mandate or to take action to cure an apparent reported breach. It is the sole responsibility of the Customer to assess and determine whether a breach has occurred and to take action to remedy;

d) The investment mandate monitoring reports provided as a part of the Services shall not be used as a basis for trading or as a substitute for the Customer's responsibility to ensure compliance with investment mandates and to make final determinations with respect to whether an actual breach as occurred.

e) The Customer agrees and acknowledges that it will not rely on any information, record, report or communication provided by BNY MELLON in the course of providing the Services or otherwise as legal advice, tax advice or investment advice. The Customer acknowledges that BNY MELLON does not provide legal advice, tax advice or investment advice.

Exhibit D
Terms and Conditions of Use of For Index Services

All permission for use of the Index Services identified in Exhibit A herein is granted subject to the following terms and conditions.

1. Definitions

"Contract" - shall mean the agreement between the parties governing the provision of the Index Services, and shall include the terms of the Performance Measurement and Analytical Services Agreement, this Exhibit D and the Product Manual.

"Information" - shall mean information comprised in the Index Services and described in the Product Manual.

"Premises" - shall mean the location occupied by the Customer at which the Index Services is authorized for use.

"Index Services" - shall mean the provision of Information by electronic data delivery as described in this Exhibit D.

"Product Manual" - shall mean the technical document published and amended by BNY MELLON from time to time and available on request, defining the technical characteristics of the Index Services including the procedures governing restatement of data previously supplied where appropriate, as well as the data format and the communications protocol with which the Customer must comply in order to receive the Index Services.

2. The Service

2.1 BNY MELLON hereby grants a limited, non-exclusive license to the Customer to use the Index Services subject to the terms and conditions in this Contract.

2.2 The Index Services shall comprise the provision of Information, comprising an initial set of data and subsequent updates, together with one set of supporting documentation.

2.4 BNY MELLON will arrange for the provision of the Index Services to the Customer in accordance with the Product Manual by BNY MELLON or its subsidiaries (collectively referred to as "BNY MELLON" throughout the Contract). BNY MELLON will take all reasonable steps to meet any specified delivery date but shall not be liable for any delay caused.

2.5 While BNY MELLON does not warrant that the provision of the Index Services will be uninterrupted or error-free, it will, at no extra charge to the Customer but following notification of any failure or malfunction to the appropriate support group at BNY MELLON, use all reasonable endeavours to correct any errors as soon as reasonably practicable or, if BNY MELLON determines that the supporting documentation is in error, by amending the documentation.

2.6 BNY MELLON reserves the right to revise or amend the content or the format of the Index Services at any time.

3. Intellectual Property Rights And Usage

3.1 BNY MELLON and/or its third party licensors shall retain title and throughout the world copyright (and where applicable the database right) and all other intellectual property rights in the compilation of Information contained in the Index Services. Nothing contained herein shall be construed so as to transfer any such rights to the Customer.

4. Record Keeping And Reports

4.1 **Audit of Records** The Customer shall keep complete and true records of its use of the Index Services and the Information, including, where necessary such records as may be required to establish the accuracy of any reports to be submitted in accordance with the Contract. Upon written request, the Customer shall allow BNY MELLON, its data suppliers and/or their respective authorized representatives access during normal working hours to such of the Customer's premises, systems, records and other information (providing copies thereof, if appropriate) as may be necessary for the purposes of verifying that the Customer's use of the Index Services and the Information is within the scope of usage authorized under the Contract. Such access shall be subject to Customer's reasonable requirements as to security, confidentiality, health and safety.

4.2 **Mandatory Site Reporting** The Customer shall notify BNY MELLON immediately if the Customer wishes to add to the Premises at which the Customer uses the Index Services and the details of the new Premises. In addition, at least 90 days prior to the anniversary of the Start Date for the Index Services, the Customer shall provide BNY MELLON with details of the Premises at which the Customer wishes to use the data during the 12 months following such anniversary. The charges for additional Premises (if any) will be calculated from the date from which the Index Services is used there.

4.3 **Seat Reporting** Where the charges are based on the number of Seats during a period, at least 90 days prior to each anniversary of the Start Date for the Index Services, the Customer shall notify BNY MELLON of the number of Seats that the Customer wish to receive data during the subsequent annual period. The Customer shall notify BNY MELLON immediately if the number of Seats increases during an annual period. The charges for such additional Seats shall be calculated from the date of the increase. Where the Customer does not notify BNY MELLON of additional Seats within 90 days of such increase, the additional charges due shall be increased by the US Consumer Price Index plus two per cent calculated on a daily basis from the date of the increase in the number of Seats until the date of notification or discovery thereof.

4.4 **Description of Permissioning** Where the charges are based on the number of Seats, the Customer shall provide to BNY MELLON upon request a description of the Customer's permissioning systems which allow access to the data within 90 days of such request.

4.5 **Confirmation** Throughout the term of the Contract and for a period of twelve months thereafter, the Customer shall upon written request, provide a written confirmation to BNY MELLON within ninety (90) days of the end of the current calendar year (or within ninety (90) days of request if the Contract has expired or been terminated) confirming that use of the Index Services and the Information since the Start Date or the last confirmation, whichever is the later, has been limited to the use specified in the Contract and that any reports submitted by the Customer under condition 4.2 above are complete and accurate. If the scope of usage has changed from that authorized under the Contract, the Customer shall notify BNY MELLON of the date on which the change occurred and the charges payable shall be adjusted as appropriate with effect from the date on which the change took place.

Exhibit 1
***private i*® Sublicense Addendum**

This addendum is entered into as of December 1, 2009 by and between BNY Mellon Performance & Risk Analytics, LLC (the "Sub-Licensor"), and Texas Education Agency ("Customer").

WHEREAS, The Burgiss Group, LLC ("Burgiss") has granted the Sub-Licensor the right to sublicense its private i software (the "Software") to its customers and the Customer desires to utilize such software; and

WHEREAS, the Sub-Licensor has subcontracted some of its support obligations to Burgiss and Burgiss has agreed with Sub-Licensor to provide such services to Customer ("Support Services");

The parties hereto, for good and adequate consideration, intending to be legally bound, hereby agree as follows:

1. The Sub-Licensor hereby grants Customer the right to use the Software pursuant to the terms set out in the agreement between the Sub-Licensor and Customer relating to the use of the Software

2. Customer agrees not to, itself or through its employees, agents or subcontractors, decompile or reverse engineer the Software.

3. Customer acknowledges that its contractual relationship is with the Sub-Licensor. Customer hereby waives any and all claims, it now has or may have in the future, against Burgiss and its affiliates, employees, agents and equity holders (collectively, the "Burgiss Entities") related to the Software and/or the Support Services. Nothing herein shall be deemed to waive any right or remedy Customer may have against the Sub-Licensor.

Customer agrees that the Burgiss Entities shall be a third party beneficiary of this addendum and that this addendum shall be governed by laws of the State of Texas without giving effect to the provisions thereof relating to conflicts of laws

SUB-LICENSOR: BNY Mellon Performance & Risk Analytics, LLC

By _____

Name Guy M Holupa

Title Managing Director

CUSTOMER Texas Education Agency

By _____

Name Adam Jones

Title Deputy Commissioner of Finance and Administration and Chief Operating Officer

SECURITIES LENDING AUTHORIZATION AGREEMENT

This Securities Lending Authorization Agreement ("Agreement") made as of the 1st day of December, 2009, by and between THE BANK OF NEW YORK MELLON, a bank organized under the laws of the State of New York, (the "Lending Agent"), and the TEXAS EDUCATION AGENCY (the "Client") with respect to the TEXAS PERMANENT SCHOOL FUND (the "Fund") the securities of which are held by the Lending Agent as trustee or custodian.

PRELIMINARY STATEMENT

Having determined that securities loan transactions are suitable for the Fund and that the Fund has the financial resources for such transactions, the Client desires to authorize the Lending Agent, on an exclusive basis, to establish, manage and administer a Securities Lending Program, subject to the terms and conditions of this Agreement, with respect to the lendable securities held by the Fund (the "Program");

Accordingly, in consideration of the mutual promises and covenants contained in this Agreement, and intending to be legally bound, the Lending Agent and the Client agree as follows:

1. Appointment of Lending Agent. The Client hereby authorizes and appoints the Lending Agent, as the exclusive agent for the Fund to lend U.S. Securities and Foreign Securities (each as hereinafter defined) held by the Fund to such borrowers as may be selected by the Lending Agent for the Program and approved by the Client as provided herein (each a "Borrower") subject to the Borrower's obligation to return identical securities to the Client on a date certain or on demand ("Securities Loans"). The Client hereby acknowledges that it is independent of the Lending Agent and that it has authority to execute this Agreement with the Lending Agent on behalf of the Fund.

For purposes hereof and unless otherwise specified by the Lending Agent, (i) "U.S Securities" shall mean securities which are cleared and principally settled in the United States; and (ii) "Foreign Securities" shall mean securities which are cleared and principally settled outside of the United States.

2. Approved Counterparties. Lending Agent may enter into Securities Loans on behalf of Client only with approved counterparties. The initial list of approved Borrowers is set forth in Exhibit A attached hereto and made a part of hereof by this reference, and each Borrower listed in Exhibit A shall be acceptable to Client.

The Lending Agent shall notify Client of each proposed addition to Exhibit A. Each proposed borrower must be approved in writing by the Client. Client may withdraw approval of any Borrower listed on Exhibit A, establish or reduce dollar-amount credit limits of any Borrower, in each case by written notice to the Lending Agent. For purposes of determining compliance with dollar-amount credit limits imposed by the Client, Lending Agent shall aggregate the value of all Securities Loans that Lending Agent, on behalf of Client, has outstanding at any one time with each Borrower. Lending Agent shall seek to comply with each Client notice as soon as reasonably

practicable following receipt of such notice, taking into consideration all Securities Loans outstanding on behalf of Client at the time of such notice and any adverse financial ramification to the Fund reasonably likely to result from such compliance.

If required to prevent self-dealing or any other transaction prohibited by law, rule or regulation applicable to the Client or the Fund, the Client agrees to identify for the Lending Agent those persons who exercise investment discretion or render investment advice with respect to securities of the Fund which are available for the Program who (or whose affiliates) are Borrowers under the Program and the Lending Agent shall refrain from lending the securities of the Fund to any Borrower so identified. The Client also agrees to notify the Lending Agent promptly in writing of all future appointments and terminations regarding such persons.

3. Master Agreements; Term Agreements. Each loan of the Fund's securities shall be made pursuant to a written agreement between the Lending Agent, as agent for its clients, and each Borrower meeting the requirements of this Paragraph 3 (the "Loan Agreement"). Attached hereto as Exhibit B is a current master form of the Loan Agreement used by the Lending Agent primarily in connection with loans to Borrowers resident in the United States (the "Domestic Securities Loan Agreement"). Attached hereto as Exhibit B-1, is a current master form of the Global Master Securities Lending Agreement (the "GMSLA") used by the Lending Agent primarily in connection with loans of Securities of the Fund to Borrowers resident outside of the United States. In the event that the Lending Agent desires to amend or modify its current master form of securities lending agreement as attached hereto in any manner which is inconsistent with the provisions of this Agreement, then Lending Agent shall provide the Client with a copy thereof not less than thirty (30) days prior to the effective date of any such modification. The Client must consent to such modification prior to its going into effect; however, such consent shall not be unreasonably withheld. The amended Loan Agreement may be automatically substituted as Exhibit B or B-1as the case may be, hereto without the Client's consent if the terms thereof do not differ materially from the Lending Agent's then current form of the Loan Agreement. The Client acknowledges and agrees that the non-material provisions of the Lending Agent's agreement with any specific Borrower may differ from the Lending Agent's then current master form of Loan Agreement as a result of the negotiation process between the Lending Agent and Borrower. However, notwithstanding anything to the contrary set forth in this Agreement, (i) the actual Loan Agreement with any specific Borrower shall be subject to and consistent with the terms of this Agreement, and (ii) the Lending Agent shall be responsible for ensuring that the actual Loan Agreement with any specific Borrower and each loan made to such Borrower shall comply with all applicable legal requirements. Each Securities Loan hereunder shall be terminable at the will of the Lending Agent provided, however, that the Lending Agent may make loans having a fixed term of up to one year in length (a "Term Loan").

4. Conduct of Program. The Lending Agent shall have responsibility for negotiating the terms of each loan and, for collecting all required Collateral as hereinafter defined. Eligible collateral received by Lending Agent in connection with Securities Loans shall consist of any of the following or combination thereof: (a) U.S. Dollar cash, (b) securities issued or guaranteed by the United States Government or its agencies or instrumentalities, (c) an unconditional, irrevocable standby letter of credit acceptable to Lending Agent for the benefit of Lending Agent, as agent for the Client subject, however, to the third Paragraph of this Section 4, or (d) other assets specifically

agreed to in writing by Lending Agent and Client ("Collateral"). The Lending Agent shall have authority to do or cause to be done all acts by and on behalf of the Fund as it shall determine to be desirable, necessary or appropriate to implement and administer the Program. The Lending Agent agrees to conduct the Program in accordance with all applicable laws and regulations.

Any Collateral received by Lending Agent in connection with Securities Loans hereunder shall be segregated for Client's benefit. Segregation shall be accomplished by appropriate identification on the books and records of Lending Agent.

If the Client authorizes acceptance of letters of credit from Borrowers as collateral for any Securities Loans, Lending Agent shall provide to Client a list of approved letter of credit issuers. Client must approve in writing each such letter of credit issuer. Client may, by written notice to Lending Agent, withdraw approval of any issuer or establish or modify a limit on the principal amount of the proposed addition to the list of approved letter of credit issuers and the Client must approve in writing each approved addition. If a letter of credit issuer shall fail to be acceptable to the Client during the term of a Securities Loan, Lending Agent shall promptly either terminate any Securities Loan for which such letter of credit serves as collateral or notify the Borrower of the requirement to provide an acceptable substitute letter of credit or additional acceptable Collateral, and Lending Agent shall otherwise seek to comply with Client's notice as soon as reasonably practicable, in light of all Securities Loans outstanding on behalf of Client at the time of notice.

5. Collateral/Marking to Market. Concurrently with the delivery of the Fund's securities to a Borrower, the Lending Agent shall obtain from such Borrower Collateral in an amount equal, as of such date, to the Required Percentage, of the market value of any securities loaned, including any accrued interest. For purposes hereof, "Required Percentage" shall mean (i) 102% with respect to U.S. Securities; (ii) 105% with respect to Foreign Securities except in the case of loans of Foreign Securities which are denominated and payable in US Dollars, in which event the "Required Percentage" shall be 102% and (iii) such other percentage(s) as may be otherwise mutually agreed from time to time by Addendum to this Agreement.

The Lending Agent shall effect daily marks to market pursuant to the Loan Agreements and in accordance with its internal policies and procedures. If at the close of trading on any business day, the market value of the Collateral previously delivered by the Borrower and held in connection with loans of the Fund's securities is less than 100% of the market value of such loaned securities as of such business day plus accrued interest, the Lending Agent shall require that the Borrower deliver an amount of additional Collateral by the close of the next business day sufficient to cause the market value of all Collateral delivered in connection with such loan to equal not less than the Required Percentage of the market value of such loaned securities, including accrued interest. For purposes hereof, "market value" of cash Collateral means the value of any cash Collateral as of the time of receipt thereof by the Lending Agent, unadjusted for any subsequent increases or decreases in value as a result of any investment thereof by the Lending Agent pursuant to Section 6 below.

6. Collateral Investment. The Lending Agent is hereby authorized to invest and reinvest, on behalf of the Fund, any and all cash Collateral as agreed upon by the Lending Agent and the Client and as set forth in Exhibit C hereto and in accordance with Texas Administrative Code ("TAC") Chapter 33, Section 33.35, Guidelines for the Custodian and Securities Lending

Agent. The assets of any segregated cash collateral account used for the investment of the Fund's cash Collateral pursuant hereto shall be invested and reinvested in accordance with the investment guidelines established for such segregated account, a copy of which guidelines are attached hereto as part of Exhibit C (the "Investment Guidelines") which guidelines may be revised or substituted from time to time upon the agreement of the Lending Agent and the Client.

7. Allocation of Lending Opportunities. The Client acknowledges that the Lending Agent has been appointed Lending Agent by other clients on behalf of other funds and that the Lending Agent will allocate securities loan opportunities among its securities lending clients for which it serves as custodian, including the Fund, by such equitable methods as the Lending Agent deems appropriate and otherwise in accordance with applicable law and regulation including, without limitation, Banking Circular 196 of the Office of the Comptroller of the Currency. While the Lending Agent will make reasonable efforts to lend the Fund's securities, nothing in this Agreement shall be deemed to impose upon the Lending Agent any obligation, in the event it makes a loan of another securities lending client's securities, to make a loan of the Fund's securities, whether or not such loan could have been made in accordance with this Agreement, and whether or not the Lending Agent has made fewer or more loans for any other securities lending client than for the Fund. Lending Agent does not represent or warrant that any amount or percentage of the Fund's securities will, in fact, be loaned.

8. Rights of Borrower in Respect of the Securities. (a) Until such time as a loan of securities is terminated and such securities are returned to the Lending Agent, a Borrower shall have all incidents of ownership of the securities loaned, including, but not limited to, the right to transfer the securities to others; provided, however, that Borrower will be obligated to the Lending Agent with respect to all distributions including amounts equivalent to all dividends, interest and other cash distributions pertaining to the securities. The Client hereby waives the right to vote any voting securities loaned to a Borrower or participate in any dividend reinvestment program during the term of any such loan. Client shall be entitled, under the terms of the Loan Agreement, to any non-cash distribution made in respect of any loaned Securities. Client shall have the right to notify Lending Agent to terminate any securities loan, pursuant to the terms of the Loan Agreement, upon receipt from the Custodian of any notice of a meeting of shareholders involving voting of shareholders or any other corporate action or event involving voting by shareholders of record of the loaned securities. Upon timely receipt of notice from the Client, the Lending Agent will use its best efforts to terminate an outstanding loan of securities and recall such securities to the account of the Fund prior to the applicable record date pertaining to voting by shareholders.

(b) The Lending Agent shall collect for, and credit to, the account of the Fund amounts equivalent to all distributions in respect of the loaned securities including amounts equivalent to all interest, dividends or other cash distributions paid with respect to securities loaned to Borrowers on behalf of the Fund ("In Lieu of Distributions"), subject to any applicable withholding taxes, transfer taxes and other necessary costs. Each distribution shall be made to the account of the Fund in accordance with the provisions of the Custody Agreement Section 4.2 between the Lending Agent and the Client dated as of November 1, 2009.

(c) The Client and the Fund acknowledge that the tax treatment of In-Lieu-of Distributions may differ from the tax treatment of the interest or dividend to which such payment

relates and that the Client, on behalf of the Fund, has made its own determination as to the tax treatment of any securities loan transaction undertaken pursuant to this Agreement and of any dividends, distributions, remuneration or other funds received hereunder.

9. Remedies for Failure to Deliver Securities. (a) In the event that any loan made pursuant to this Agreement is terminated and the loaned securities, or any portion thereof, shall not have been returned to the Fund for any reason (including, without limitation, the insolvency or bankruptcy of the Borrower) within the time specified by the applicable securities loan agreement, the Lending Agent, at its expense and subject to (b) below shall (i) promptly replace the loaned securities, or any portion thereof, not so returned with other securities of the same issuer, class, and denomination and with the same dividend rights and other economic benefits as such securities possessed at the close of business on the date as of which the loaned securities should have been returned, or (ii) if it is unable to purchase such securities on the open market, credit the Fund with the market value of such unreturned loaned securities, such market value to be determined as of the close of business on the date immediately preceding the date upon which the securities should have been returned. Until such time as the actions in clauses (i) or (ii) have been consummated, any dividends or interest which have accrued on the loaned securities, whether or not received from the Borrower, shall be credited by the Lending Agent to the Fund.

(b) The Client and the Fund shall have, as to the Collateral, all of the rights and remedies of a secured party under applicable law. In the event that the Lending Agent should be required to make any payment or incur any loss or expense in connection with any securities loaned pursuant to (a) above, the Lending Agent shall, to the extent of any such payment and/or loss or expense, be subrogated and succeed to all such rights and remedies of the Client and/or the Fund against the Borrower under the applicable securities loan agreement and to the collateral securing the Borrower's obligations to the Lending Agent under such securities loan agreement. If for any reason the Lending Agent cannot assert any such rights and remedies against the Borrower and/or its successors and assigns in its own right, the Client and/or the Fund shall, at the expense of the Lending Agent, file and prosecute such complaints and lawsuits and take such action as the Lending Agent may reasonably request in connection with the recovery of any such deficiency and shall otherwise cooperate with the Lending Agent in any such litigation.

The Client acknowledges that, notwithstanding any other provision herein to the contrary, in the event of the default of a Borrower, the provisions of the Securities Investor Protection Act of 1970 may not protect the Fund with respect to certain loan transactions.

10. Risk of Loss; Indemnification.

(a) Risk of Loss (i) In the event that the amount of earnings on invested Collateral is insufficient to pay the entire rebate or other amount payable to a Borrower under any loan of securities in respect of which such Collateral is held and, therefore, results in negative earnings ("Negative Earnings"), the amount of such Negative Earnings shall be shared by the Fund and the Lending Agent, on a monthly basis, in accordance with and in the same proportion as their respective percentage entitlements to earnings as set forth in Appendix 2, beginning on page 4, of the Texas Education Agency Standard Contract except to the extent, if any, that any such Negative Earnings result from the negligence or willful misconduct of the Lending Agent, or the failure of the

Lending Agent to comply with the provisions of this Agreement including the Investment Guidelines.

(ii) The Client acknowledges and agrees that any losses of principal from investing and reinvesting cash Collateral or any market decline in the value of any non-cash Collateral including, without limitation, the default or failure of any issuer of any letter of credit Collateral (collectively, "Principal Losses") shall be at the Fund 's risk and for the Fund's account except to the extent, if any, that any such Principal Losses result from the negligence or willful misconduct of the Lending Agent, or the failure of the Lending Agent to comply with the provisions of this Agreement including the Investment Guidelines.

(iii) If, at any time upon the return of loaned securities by a Borrower, the Collateral held in respect of such loaned securities is insufficient to satisfy the obligation to return the full amount owed to such Borrower ("Collateral Insufficiency"), the Fund shall be solely responsible for such shortfall except to the extent, if any, that any such Collateral Insufficiency results from the negligence or willful misconduct of the Lending Agent, or the failure of the Lending Agent to comply with the provisions of this Agreement including the Investment Guidelines.

(iv) In the event the Lending Agent is unable to obtain the Fund's share of Negative Earnings or shortfalls from Principal Losses or any Collateral Insufficiency for which the Fund is responsible pursuant to (i), (ii) or (iii) above from revenues derived from the Fund's securities lending activities, the Client hereby agrees to pay, or cause the Fund pay, such amounts immediately upon receipt of Lending Agent's statement; provided, however, that if such amounts are not so paid, the Lending Agent is hereby authorized, upon prior notice to the Client, to obtain such amounts directly from the account of the Fund to the extent permitted by applicable law.

(b) Standard of Care/Limitation of Liability. (i) The Lending Agent shall perform its obligations under this Agreement with the care, skill, prudence, and diligence which, under the circumstances then prevailing, a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aim.

(ii) Except to the extent, if any, otherwise specifically provided herein, the Lending Agent shall not be liable with respect to any losses incurred by the Client or the Fund in connection with this Agreement or the Program, except to the extent that such losses result from the Lending Agent's negligence or willful misconduct in its administration of the Program, or the failure of the Lending Agent to comply with the provisions of this Agreement, including the Investment Guidelines. Notwithstanding any other provision of this Agreement, under no circumstances shall the Lending Agent be liable for any indirect, consequential, or special damages of the Client or the Fund with respect to its role as Lending Agent.

(c) Indemnification Subject to the other provisions of this Agreement, the Lending Agent hereby indemnifies and agrees to defend, and hold and save harmless the Client and the Fund from and against any and all, claims, actions, demands, lawsuits, losses and damages of any kind whatsoever arising or resulting from the negligence or willful misconduct of the Lending Agent in its administration of the Program or the failure of the Lending Agent to comply with the provisions of this Agreement including the Investment Guidelines.

11. Compensation to the Lending Agent. In consideration for the securities lending services to be provided by the Lending Agent hereunder, the Lending Agent shall be entitled, as compensation, to such percentage of the net securities lending revenues as is established in the fee schedule set forth in Appendix 2, page 4, of the Texas Education Agency Standard Contract commencing September 1, 2009 and continuing in effect until August 31, 2011, as may be further extended from time to time, a copy of which Texas Education Agency Standard Contract is attached hereto as Exhibit D. For purposes hereof, net securities lending revenues shall mean (i) all loan premium fees derived from Lending Agent's acceptance of non-cash Collateral; plus (ii) all income and earnings from the investment and reinvestment of the cash Collateral received and held on behalf of the Client minus broker rebate fees paid by the Lending Agent to the Borrower in respect of the loans of the Client's securities. The Lending Agent is hereby authorized to charge such compensation against and collect and or retain such compensation from the revenues derived from the securities lending activities conducted on behalf of the Client pursuant to the Agreement.

12. Reports. Lending Agent agrees to provide a comprehensive reporting system via the Internet and in CD ROM format. The Lending Agent will provide daily reports detailing Securities Loan activity and Collateral investment activities. The reporting system will be able to produce reports allowing the Client to analyze data based upon asset class, borrower, country, and portfolio. Reports will be provided for both Securities Lending activity as well as Collateral investment activity. Earnings reports will be provided allowing the Client to attribute earnings by asset class, manager account, borrower, country, month, and by each individual loan.

Lending Agent agrees to provide a monthly report in a format defined by the Client to the Client summarizing the Fund's securities lending activity for the prior month no later than the 20th day of each month.

Lending Agent agrees to provide compliance reports for all Collateral investments based upon the investment guidelines contained in Exhibit C attached hereto. Lending Agent also agrees to provide inquiry access to the Cash Collateral portfolio through the Executive Workbench application and to include the Cash Collateral portfolio in compliance reports for the Fund as requested by the Client.

13. Assignability. The parties hereto will not assign this Agreement without first obtaining the written consent of the other party. Notwithstanding the foregoing, the Lending Agent may utilize the services of BNY Mellon Asset Servicing B.V., or one or more of its other affiliates as sub-agent for the Fund, to perform all or any portion of the services to be provided by the Lending Agent, provided, however, that the use of such sub-agent shall not limit the liability of the Lending Agent for the performance of its obligations hereunder and the Lending Agent shall be responsible for the acts and omissions of such sub-agent to the same extent as though such acts or omissions were (and such acts or omissions shall be deemed to be) the acts or omissions of the Lending Agent. This Agreement will be binding upon, and inure to the benefit of, the respective successors or permitted assigns of the Lending Agent and the Client.

14. Amendment and Termination. (a) The Client may, in its sole and absolute discretion, direct the Lending Agent to terminate any loan of the Fund's securities at any time and for any

reason in which event the Lending Agent shall, promptly, upon receipt of notice thereof from the Client, take all steps necessary to cause the termination of such Loan and the return of the loaned securities to the Fund's account within the standard settlement period for such securities.

(b) This Agreement may not be amended or modified except by written agreement duly executed by or on behalf of the parties hereto. This Agreement may be terminated at any time at the option of either party upon thirty (30) days prior written notice to the other party. In the event that this Agreement is terminated, the Lending Agent shall not make any further Securities Loans on behalf of the Fund after it has given or received, as the case may be, notice of such termination and shall promptly take all reasonable actions to terminate all Securities Loans then outstanding in an orderly manner consistent with preventing losses due to the early sale of Collateral. Lending Agent acknowledges that Client may decide to issue a Request for Proposal prior to the expiration date of this contract and that Client may give notice in excess of 30 days. Lending Agent agrees to continue making Securities Loans and investing cash collateral on behalf of the Fund in an orderly manner consistent with the knowledge that the program will be terminating no later than the expiration date of the contract or at an earlier date mutually agreed upon by both Client and Lending Agent. The Client acknowledges that certain events, including but not limited to the Client's termination of any loan or loans in accordance with (a) above or the termination of participation in the Program, certain changes to the composition of the Fund's lendable securities, extraordinary changes in applicable interest rates or the bankruptcy, insolvency or deteriorating credit condition of any issuer of a security may result in a loss to the Fund. The obligations and the rights of the Client, the Fund and the Lending Agent under this Agreement with respect to any outstanding loans shall survive and continue despite any termination of this Agreement until fully performed or satisfied.

15. Notices. Any notice, request, demand or other communication in connection with this Agreement shall be deemed to have been given or made when received by the party to whom directed. All such notices and other communications shall be in writing unless otherwise provided herein and shall be directed, if to the Lending Agent to:

The Bank of New York Mellon.
Bank of New York Mellon Client Service Center
500 Ross Street, Suite 850
Pittsburgh Pennsylvania, 15259
Attention: Global Securities Lending Contract Administration Unit

Attention: Global Securities Lending Contract Administration Unit

and if to the Client to:

Texas Education Agency
Permanent School Fund
1701 N. Congress Avenue,
Austin, Texas 78701
Attention: Holland Timmins

or otherwise in accordance with the latest unrevoked written direction from any party to the other party hereto.

16. Force Majeure Notwithstanding anything in this Agreement to the contrary, the Lending Agent shall not be responsible or liable for its failure to perform under this Agreement or for any losses to the Fund resulting from any event beyond the reasonable control of the Lending Agent, its agents or subcustodians, including but not limited to nationalization, strikes, expropriation, devaluation, seizure, or similar action by any governmental authority, de facto or de jure; or enactment, promulgation, imposition or enforcement by any such governmental authority of currency restrictions, exchange controls, levies or other charges affecting the Fund's assets; or the breakdown, failure or malfunction of any utilities or telecommunications systems; or any order or regulation of any banking or securities industry including changes in market rules and market conditions affecting the execution or settlement of transactions; or acts of war, terrorism, insurrection or revolution; or acts of God; or any other similar event. This Section shall survive the termination of this Agreement.

17. Representations. The Client and the Lending Agent hereby each represent and warrant to the other that (i) it has full authority to enter into this Agreement upon the terms and conditions hereof; (ii) all such action has been duly authorized by all necessary proceedings on its part; and (iii) that the individual executing this Agreement on its behalf has the requisite authority to bind it (and, in the case of the Client, to bind the Fund) to this Agreement. The Client further represents and warrants that the Fund may legally enter into the Securities Loans contemplated by this Agreement, that it will have the legal right to transfer the lendable securities in connection with such loans, and that such loans will create legal, valid and binding obligations enforceable against the Fund in accordance with their terms. The Lending Agent further represents and warrants that: (a) it is a state-chartered bank duly organized and existing under banking laws of the State of New York and has the power and authority to execute, deliver and perform this agreement and to carry out all of the transactions contemplated hereby; and (b) the execution, delivery, and performance of this Agreement and the carrying out of any of the transactions contemplated hereby (i) will not be in conflict with, result in a breach of or constitute a default under any agreement or other instrument to which Lending Agent is a party or which affects the property of Lending Agent, (ii) does not require the consent or approval of any government agency or instrumentality, except any such consents and approvals which Lending Agent has obtained, and (iii) has been duly authorized by all necessary action and will not violate any law, regulation, charter, bylaws, or other instrument, restriction or provision applicable to Lending Agent and will not contravene any order of any court or other government agency or judgment applicable to Lending Agent.

18. Governing Law. This Agreement shall be construed in accordance with, and the rights of the parties are to be governed by, the laws of the State of Texas and except insofar as the same are or may be preempted or superseded by applicable Federal law.

19. Miscellaneous. This Agreement supersedes any other agreement between the parties covering loans of securities by the Lending Agent on behalf of the Fund. The provisions of this Agreement are severable and the invalidity or unenforceability of any provision hereof shall not affect any other provision of this Agreement. No single or partial waiver of any right hereunder

shall preclude any other or further exercise thereof, or the exercise of any other right hereunder. In case of conflict, the Texas Education Agency Standard Contract will prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

TEXAS EDUCATION AGENCY

By: _____

Name: Adam Jones

Title: Deputy Commissioner of Finance & Administration
And Chief Operating Officer

Date: 12/01/2009

THE BANK OF NEW YORK MELLON

By: _____

Name: KATHY M. MULONEY

Title: Executive Vice President
BNY Mellon Global Securities Lending

Date: _____

EXHIBIT A
to
SECURITIES LENDING AUTHORIZATION AGREEMENT
dated December 1, 2009
by and between
THE BANK OF NEW YORK MELLON, and TEXAS EDUCATION AGENCY, (the "Agreement")

Approved Borrowers

The following is the list of Borrowers in the Program referred to in Section 1 (entitled "Appointment of Lending Agent") of the Securities Lending Authorization Agreement dated December 1, 2009, by and between THE BANK OF NEW YORK MELLON, as Lending Agent, and the TEXAS EDUCATION AGENCY as Client.

Domestic Broker/Dealers

1. Alpine Associates L.P.
2. Alpine Partners L.P.
3. Banc Of America Securities LLC *
4. Banca IMI Securities Corp.
5. Barclays Capital, Inc. *
6. BMO Capital Markets Corp
7. BNP Paribas Prime Brokerage Inc.
8. BNP Paribas Securities Corp *
9. Calyon Securities (USA) Inc.
10. Cantor Fitzgerald & Co. *
11. CIBC World Markets Corporation
12. Citadel Securities LLC
13. Citigroup Global Markets, Inc. *
14. Credit Suisse Securities (USA) LLC *
15. Daiwa Securities America, Inc. *
16. Deutsche Bank Securities, Inc. *
17. Dresdner Kleinwort Securities LLC
18. First Clearing, LLC
19. Fortis Securities LLC
20. FTN Financial Capital Markets
21. Goldman, Sachs & Company *
22. HBK Global Securities L.P.
23. HSBC Securities (USA) Inc. *
24. ING Financial Markets LLC.
25. Janney Montgomery Scott LLC
26. Jefferies and Co., Inc. *
27. J.P. Morgan Clearing Corp.
28. J.P. Morgan Securities, Inc. *
29. KDC Merger Arbitrage Fund L.P.
30. Knight Clearing Services LLC
31. Lazard Capital Markets, LLC
32. Maple Securities USA Inc.
33. Merrill Lynch, Pierce, Fenner & Smith, Inc.
34. MF Global Securities Inc.
35. Mitsubishi UFI Securities (USA)
36. Mizuho Securities (USA) Inc. *
37. Morgan Stanley & Co., Inc. *
38. MS Securities Services, Inc.
39. National Financial Services LLC
40. Natixis Securities North America Inc.
41. NewEdge USA, LLC
42. Nomura Securities International, Inc. *
43. Paloma Securities LLC

Other Domestic

50. SG Americas Securities, LLC
51. South Street Securities LLC
52. State Street Bank and Trust
53. TD Securities (USA) LLC
54.. Timber Hill LLC
55. UBS Securities LLC *
56. Wachovia Bank National Association
57. Wells Fargo Securities, LLC

International Brokers & Banks

58. ABN AMRO Bank, NV **
59. ABN AMRO, N.V., New York Branch **
60. Banc of America Securities Ltd.
61. Bank of Scotland PLC
62. Barclays Bank, PLC
63. Barclays Capital Securities Ltd.
64. BNP Paribas
65. BNP Paribas Arbitrage
66. Cater Allen International Ltd.
67. Citigroup Global Markets Ltd
68. Commerzbank AG
69. Credit Suisse Securities (Europe), Ltd.
70. Deutsche Bank, AG
71. Fortis Bank (Nederlands) N.V.
72. Fortis Global Arbitrage HK
73. Fortis GSFG UK Ltd.
74. Goldman Sachs International
75. HSBC Bank PLC
76. HSBC France
77. ING Bank, N.V.
78. J.P. Morgan Markets Ltd.
79. J.P. Morgan Securities, Ltd.
80. Macquarie Bank Ltd.
81. Merrill Lynch International
82. MF Global (UK) Ltd.
83. Mitsubishi UFJ Securities International PLC
84. Morgan Stanley & Co. International, PLC
85. Morgan Stanley Securities, Ltd
86. Natixis
87. Nomura International PLC
88. Royal Bank of Canada Europe Ltd.
89. Societe Generale **
90. Societe Generale, New York Branch **

44. Pershing LLC
45. Raymond James & Associates
46. RBC Capital Markets Corp.
47. RBC Dominion Securities Inc.
48. RBS Securities Corp. *
49. Scotia Capital (USA) Inc.

91. The Royal Bank of Scotland PLC
92. UBS AG

* Denotes Primary US Government Securities Dealer
** Treated as single entity for credit & processing purposes.

(Rev. 10/21/09)

TEA 63

EXHIBIT B

Domestic Securities Loan Agreement

SEE ATTACHMENT 1

EXHIBIT B-1

Global Master Securities Lending Agreement

SEE ATTACHMENT 2

EXHIBIT C
to
SECURITIES LENDING AUTHORIZATION AGREEMENT
Dated December 1, 2009
by and between
THE BANK OF NEW YORK MELLON, *as Lending Agent, and the* TEXAS EDUCATION AGENCY, *the* Client, on behalf of
the TEXAS PERMANENT SCHOOL FUND (the "Agreement")

In accordance with Sections 6 of the Agreement, cash Collateral received by the Lending Agent on behalf of the Fund shall be maintained by the Lending Agent in a segregated account for the benefit of the Fund and shall be invested and maintained by the Lending Agent in accordance with the Investment Guidelines set forth below.

Lender: TEXAS EDUCATION AGENCY on behalf of the TEXAS PERMANENT SCHOOL FUND

PERMITTED INVESTMENTS

1. **U.S. Government, U.S. Agencies:**
   - Any Security issued by or fully guaranteed as to payment of principal and interest by the U.S. Government, a U.S. Government Agency or sponsored Agency, and eligible for transfer via Federal Reserve Bank book entry and/or Depository Trust Company book entry.
   - Maximum one-year maturity on fixed rate.
   - Maximum one-year maturity on floating rate, with maximum reset period of 90 days.
   - No maximum dollar limit.

2. **Bank Obligations:**
   - Time Deposits with maximum 60-day maturity. Fixed rate or floating rate, with maximum reset period of 60 days.
   - Negotiable Certificates of Deposit with maximum one-year maturity. Fixed rate or floating rate, with maximum reset period of 90 days.
   - Bank Notes with maximum one year maturity on fixed rate or maximum one year maturity on floating rate, with maximum reset period of 90 days.
   - Bankers Acceptances with maximum 45-day maturity.
   - Of banks with at least $25 billion in assets with a short-term ratings "Tier 1" as defined herein.

     In addition placements can be made in branches within the following countries:

Canada	United Kingdom
France	United States

   - Dollar limit maximum per institution of 5% of investment portfolio at time of purchase.

3. **Commercial Paper:**
   - Dollar limit maximum per issuer of 5% of investment portfolio at time of purchase including any other obligations of that issuer (see item #4). If backed 100% by bank Letter of Credit, then dollar limit is applied against the issuing bank.
   - Must be rated "Tier 1" as defined herein.
   - Maximum 270-day maturity.

4. **Corporate Debt (other than commercial paper):**
   - Must be senior debt.
   - Maximum one-year maturity on fixed rate.
   - Maximum one-year maturity on floating rate, with maximum rest period of 90 days.
   - Issuers or guarantor's short-term obligations must be rated "Tier 1" as defined herein.
   - Dollar limit maximum per issuer of 5% of investment portfolio at time of purchase, including any other obligations of that issuer.

5. **Asset Backed Securities: Not Permitted**

6. **Mortgage Backed Securities: Not Permitted**

7. **Reverse Repurchase Agreements:**
   - Counterparty must be "Tier 1" rated as defined herein or be a "Primary Dealer" in Government Securities as per the New York Federal Reserve Bank.
   - Underlying collateral may be any security permitted for direct investment as per this document (items #1-4 and #8).
   - Lending Agent or a third party custodian must hold collateral under tri-party agreement.
   - Collateral must be marked to market daily and maintained at the following margin levels:
     A. U.S. Government, U.S. Government Agency, sponsored Agency, International Organization @ 100%
     B. Certificate of Deposits, Bankers Acceptance, bank notes, commercial paper @ 102% under one year to maturity and rated at least "Tier 1" as defined herein.
     C. Corporate debt (other than commercial paper) @ 110% rated at least AA2/AA.
   - Due to daily margin maintenance, dollar limits and maturity limits of underlying collateral are waived, except with respect to the maturity limit in item B above.
   - Maximum 180-day maturity.
   - Dollar limit for total reverse repurchase agreements is the greater of $300 mm or 15% of value of cash collateral portfolio with one counterparty at time of purchase.

8. **Foreign Sovereign Debt:**
   - Any security issued by or fully guaranteed as to payment of principal and interest by a foreign government whose sovereign debt is rated **AA2/AA** or better. Securities must be delivered to Lending Agent or a third party under a Tri-Party agreement.
   - Dollar limit maximum per issuer or guarantor of 2½% of investment portfolio.
   - Maximum maturity of one year.

9. **STIF and/or Registered Mutual Funds:**
   - Funds must comprise investments similar to those that would otherwise be approved for securities lending investment as per this document, not invest in derivatives, and not re-hypothecate assets.
   - Lender must approve each fund in writing and only upon receipt of offering documents and qualified letter.
   - Fund must have an objective of a constant share price of one dollar.

10. **Investment Parameters**:
    - Maximum weighted average maturity of investment portfolio 180 days.
    - Maximum weighted average interest rate exposure of investment portfolio 60 days.
    - All investments must be U.S. dollar-denominated.
    - "Tier 1" credit quality is defined as follows:
      - Nationally Recognized Securities Ratings Organizations (NRSRO): Standard & Poor's, Moody's Investors Service, Fitch Investors Service, Duff & Phelps, LLC.

- At time of purchase all investments must be rated in the highest short-term numerical category, by at least two NRSROs one of which must be either Standard & Poor's or Moody's Investors Service.
- Issuer's ratings cannot be on negative credit watch at the time of purchase.

EXHIBIT D
to
SECURITIES LENDING AUTHORIZATION AGREEMENT
dated November 1, 2009
by and between
THE BANK OF NEW YORK MELLON, as Lending Agent, and the TEXAS EDUCATION AGENCY, the Client, on behalf of
the TEXAS PERMANENT SCHOOL FUND (the "Agreement")

TEXAS EDUCATION AGENCY STANDARD CONTRACT

SEE ATTACHMENT 3

VERSION: MAY 2000

GLOBAL MASTER SECURITIES LENDING AGREEMENT

CLIFFORD CHANCE

CONTENTS

TEA 7D

THIS AGREEMENT is made on the day of 200

BETWEEN:

*** ("**Party A**") a company incorporated under the laws of ***, whose registered office is at ***; and

The Bank of New York Mellon ("**Party B**") a banking corporation organised pursuant to the laws of the State of New York and acting through a Designated Office at BNY Mellon Financial Centre, 160 Queen Victoria Street, London EC4V 4LA.

1. **APPLICABILITY**

1.1 From time to time the parties may enter into transactions in which one party ("**Lender**") will transfer to the other ("**Borrower**") securities and financial instruments ("**Securities**") against the transfer of Collateral (as defined in paragraph 2) with a simultaneous agreement by Borrower to transfer to Lender Securities equivalent to such Securities on a fixed date or on demand against the transfer to Borrower by Lender of assets equivalent to such Collateral.

1.2 Each such transaction shall be referred to in this Agreement as a "**Loan**" and shall be governed by the terms of this Agreement, including the supplemental terms and conditions contained in the Schedule and any Addenda or Annexures attached hereto, unless otherwise agreed in writing.

1.3 Either party may perform its obligations under this Agreement either directly or through a Nominee.

2. **INTERPRETATION**

2.1 In this Agreement:-

"**Act of Insolvency**" means in relation to either Party

(i) its making a general assignment for the benefit of, or entering into a reorganisation, arrangement, or composition with creditors; or

(ii) its stating in writing that it is unable to pay its debts as they become due; or

(iii) its seeking, consenting to or acquiescing in the appointment of any trustee, administrator, receiver or liquidator or analogous officer of it or any material part of its property; or

(iv) the presentation or filing of a petition in respect of it (other than by the other Party to this Agreement in respect of any obligation under this Agreement) in any court or before any agency alleging or for the bankruptcy, winding-up or insolvency of such Party (or any analogous proceeding) or seeking any reorganisation, arrangement, composition, re-adjustment, administration, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such petition not having been stayed or dismissed within 30 days of its filing (except in the case of a petition for winding-up or any analogous proceeding in respect of which no such 30 day period shall apply); or

(v) the appointment of a receiver, administrator, liquidator or trustee or analogous officer of such Party over all or any material part of such Party's property; or

(vi) the convening of any meeting of its creditors for the purpose of considering a voluntary arrangement as referred to in Section 3 of the Insolvency Act 1986 (or any analogous proceeding);

"**Alternative Collateral**" means Collateral having a Market Value equal to the Collateral delivered pursuant to paragraph 5 and provided by way of substitution in accordance with the provisions of paragraph 5.3;

"**Base Currency**" means the currency indicated in paragraph 2 of the Schedule;

"**Business Day**" means a day other than a Saturday or a Sunday on which banks and securities markets are open for business generally in each place stated in paragraph 3 of the Schedule and, in relation to the delivery or redelivery of any of the following in relation to any Loan, in the place(s) where the relevant Securities, Equivalent Securities, Collateral or Equivalent Collateral are to be delivered;

"**Cash Collateral**" means Collateral that takes the form of a transfer of currency;

"**Close of Business**" means the time at which the relevant banks, securities exchanges or depositaries close in the business centre in which payment is to be made or Securities or Collateral is to be delivered;

"**Collateral**" means such securities or financial instruments or transfers of currency as are referred to in the table set out under paragraph 1 of the Schedule as being acceptable or any combination thereof as agreed between the Parties in relation to any particular Loan and which are delivered by Borrower to Lender in accordance with this Agreement and shall include Alternative Collateral;

"**Defaulting Party**" shall have the meaning given in paragraph 14;

"**Designated Office**" means the branch or office of a Party which is specified as such in paragraph 4 of the Schedule or such other branch or office as may be agreed to in writing by the Parties;

"**Equivalent** " or "**equivalent to**" in relation to any Securities or Collateral provided under this Agreement means securities, together with cash or other property(in the case of Collateral) as the case may be, of an identical type, nominal value, description and amount to particular Securities or Collateral, as the case may be, so provided. If and to the extent that such Securities or Collateral, as the case may be, consists of securities that are partly paid or have been converted, subdivided, consolidated, made the subject of a takeover, rights of pre-emption, rights to receive securities or a certificate which may at a future date be exchanged for securities, the expression shall include such securities or other assets to which Lender or Borrower as the case may be, is entitled following the occurrence of the relevant event, and, if appropriate, the giving of the relevant notice in accordance with paragraph 6.4 and provided that Lender or Borrower, as the case may be, has paid to the other Party all and any sums due in respect thereof. In the event that such Securities or Collateral, as the case may be, have been redeemed, are partly paid,

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are the subject of a capitalisation issue or are subject to an event similar to any of the foregoing events described in this paragraph, the expression shall have the following meanings:-

(a) in the case of redemption, a sum of money equivalent to the proceeds of the redemption;

(b) in the case of a call on partly paid securities, securities equivalent to the relevant Loaned Securities or Collateral, as the case may be, provided that Lender shall have paid Borrower, in respect of Loaned Securities, and Borrower shall have paid to Lender, in respect of Collateral, an amount of money equal to the sum due in respect of the call;

(c) in the case of a capitalisation issue, securities equivalent to the relevant Loaned Securities or Collateral, as the case may be, together with the securities allotted by way of bonus thereon;

(d) in the case of any event similar to any of the foregoing events described in this paragraph, securities equivalent to the Loaned Securities or the relevant Collateral, as the case may be, together with or replaced by a sum of money or securities or other property equivalent to that received in respect of such Loaned Securities or Collateral, as the case may be, resulting from such event;

"**Income**" means any interest, dividends or other distributions of any kind whatsoever with respect to any Securities or Collateral;

"**Income Payment Date**", with respect to any Securities or Collateral means the date on which Income is paid in respect of such Securities or Collateral, or, in the case of registered Securities or Collateral, the date by reference to which particular registered holders are identified as being entitled to payment of Income;

"**Letter of Credit**" means an irrevocable, non-negotiable letter of credit in a form, and from a bank, acceptable to Lender;

"**Loaned Securities**" means Securities which are the subject of an outstanding Loan;

"**Margin**" shall have the meaning specified in paragraph 1 of the Schedule with reference to the table set out therein;

"**Market Value**" means:

(a) in relation to the valuation of Securities, Equivalent Securities, Collateral or Equivalent Collateral (other than Cash Collateral or a Letter of Credit):

(i) such price as is equal to the market quotation for the bid price of such Securities, Equivalent Securities, Collateral and/or Equivalent Collateral as derived from a reputable pricing information service reasonably chosen in good faith by Lender; or

(ii) if unavailable the market value thereof as derived from the prices or rates bid by a reputable dealer for the relevant instrument reasonably chosen in good faith by Lender,

in each case at Close of Business on the previous Business Day or, at the option of either Party where in its reasonable opinion there has been an exceptional movement in the price of the asset in question since such time, the latest available price; plus (in each case)

(iii) the aggregate amount of Income which has accrued but not yet been paid in respect of the Securities, Equivalent Securities, Collateral or Equivalent Collateral concerned to the extent not included in such price,

(provided that the price of Securities, Equivalent Securities, Collateral or Equivalent Collateral that are suspended shall (for the purposes of paragraph 5) be nil unless the Parties otherwise agree and (for all other purposes) shall be the price of such Securities, Equivalent Securities, Collateral or Equivalent Collateral, as the case may be, as of Close of Business on the dealing day in the relevant market last preceding the date of suspension or a commercially reasonable price agreed between the Parties;

(b) in relation to a Letter of Credit the face or stated amount of such Letter of Credit; and

(c) in relation to Cash Collateral the amount of the currency concerned;

"**Nominee**" means an agent or a nominee appointed by either Party to accept delivery of, hold or deliver Securities, Equivalent Securities, Collateral and/or Equivalent Collateral or to receive or make payments on its behalf;

"**Non-Defaulting Party**" shall have the meaning given in paragraph 14;

"**Parties**" means Lender and Borrower and "Party" shall be construed accordingly;

"**Posted Collateral**" has the meaning given in paragraph 5.4;

"**Required Collateral Value**" shall have the meaning given in paragraph 5.4;

"**Settlement Date**" means the date upon which Securities are transferred to Borrower in accordance with this Agreement.

2.2 **Headings**

All headings appear for convenience only and shall not affect the interpretation of this Agreement.

2.3 **Market terminology**

Notwithstanding the use of expressions such as "borrow", "lend", "Collateral", "Margin", "redeliver" etc. which are used to reflect terminology used in the market for transactions of the kind provided for in this Agreement, title to Securities "borrowed" or "lent" and "Collateral" provided in accordance with this Agreement shall pass from one Party to

another as provided for in this Agreement, the Party obtaining such title being obliged to redeliver Equivalent Securities or Equivalent Collateral as the case may be.

2.4 **Currency conversions**

For the purposes of determining any prices, sums or values (including Market Value, Required Collateral Value, Relevant Value, Bid Value and Offer Value for the purposes of paragraphs 5 and 10 of this Agreement) prices, sums or values stated in currencies other than the Base Currency shall be converted into the Base Currency at the latest available spot rate of exchange quoted by a bank selected by Lender (or if an Event of Default has occurred in relation to Lender, by Borrower) in the London interbank market for the purchase of the Base Currency with the currency concerned on the day on which the calculation is to be made or, if that day is not a Business Day the spot rate of exchange quoted at Close of Business on the immediately preceding Business Day.

2.5 The parties confirm that introduction of and/or substitution (in place of an existing currency) of a new currency as the lawful currency of a country shall not have the effect of altering, or discharging, or excusing performance under, any term of the Agreement or any Loan thereunder, nor give a party the right unilaterally to alter or terminate the Agreement or any Loan thereunder. Securities will for the purposes of this Agreement be regarded as equivalent to other securities notwithstanding that as a result of such introduction and/or substitution those securities have been redenominated into the new currency or the nominal value of the securities has changed in connection with such redenomination.

2.6 **Modifications etc to legislation**

Any reference in this Agreement to an act, regulation or other legislation shall include a reference to any statutory modification or re-enactment thereof for the time being in force.

3. **LOANS OF SECURITIES**

Lender will lend Securities to Borrower, and Borrower will borrow Securities from Lender in accordance with the terms and conditions of this Agreement. The terms of each Loan shall be agreed prior to the commencement of the relevant Loan either orally or in writing (including any agreed form of electronic communication) and confirmed in such form and on such basis as shall be agreed between the Parties. Any confirmation produced by a Party shall not supersede or prevail over the prior oral, written or electronic communication (as the case may be).

4. **DELIVERY**

4.1 **Delivery of Securities on commencement of Loan**

Lender shall procure the delivery of Securities to Borrower or deliver such Securities in accordance with this Agreement and the terms of the relevant Loan. Such Securities shall be deemed to have been delivered by Lender to Borrower on delivery to Borrower or as it shall direct of the relevant instruments of transfer, or in the case of Securities held by an agent or within a clearing or settlement system on the effective instructions to such

agent or the operator of such system which result in such Securities being held by the operator of the clearing system for the account of the Borrower or as it shall direct, or by such other means as may be agreed.

4.2 **Requirements to effect delivery**

The Parties shall execute and deliver all necessary documents and give all necessary instructions to procure that all right, title and interest in:

(a) any Securities borrowed pursuant to paragraph 3;

(b) any Equivalent Securities redelivered pursuant to paragraph 8;

(c) any Collateral delivered pursuant to paragraph 5;

(d) any Equivalent Collateral redelivered pursuant to paragraphs 5 or 8;

shall pass from one Party to the other subject to the terms and conditions set out in this Agreement, on delivery or redelivery of the same in accordance with this Agreement with full title guarantee, free from all liens, charges and encumbrances. In the case of Securities, Collateral, Equivalent Securities or Equivalent Collateral title to which is registered in a computer based system which provides for the recording and transfer of title to the same by way of book entries, delivery and transfer of title shall take place in accordance with the rules and procedures of such system as in force from time to time. The Party acquiring such right, title and interest shall have no obligation to return or redeliver any of the assets so acquired but, in so far as any Securities are borrowed or any Collateral is delivered to such Party, such Party shall be obliged, subject to the terms of this Agreement, to redeliver Equivalent Securities or Equivalent Collateral as appropriate.

4.3 **Deliveries to be simultaneous unless otherwise agreed**

Where under the terms of this Agreement a Party is not obliged to make a delivery unless simultaneously a delivery is made to it, subject to and without prejudice to its rights under paragraph 8.6 such Party may from time to time in accordance with market practice and in recognition of the practical difficulties in arranging simultaneous delivery of Securities, Collateral and cash transfers waive its right under this Agreement in respect of simultaneous delivery and/or payment provided that no such waiver (whether by course of conduct or otherwise) in respect of one transaction shall bind it in respect of any other transaction.

4.4 **Deliveries of Income**

In respect of Income being paid in relation to any Loaned Securities or Collateral, Borrower in the case of Income being paid in respect of Loaned Securities and Lender in the case of Income being paid in respect of Collateral shall provide to the other Party, as the case may be, any endorsements or assignments as shall be customary and appropriate to effect the delivery of money or property equivalent to the type and amount of such Income to Lender, irrespective of whether Borrower received the same in respect of any

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Loaned Securities or to Borrower, irrespective of whether Lender received the same in respect of any Collateral.

5. COLLATERAL

5.1 Delivery of Collateral on commencement of Loan

Subject to the other provisions of this paragraph 5, Borrower undertakes to deliver to or deposit with Lender (or in accordance with Lender's instructions) Collateral simultaneously with delivery of the Securities to which the Loan relates and in any event no later than Close of Business on the Settlement Date. In respect of Collateral comprising securities, such Collateral shall be deemed to have been delivered by Borrower to Lender on delivery to Lender or as it shall direct of the relevant instruments of transfer, or in the case of such securities being held by an agent or within a clearing or settlement system, on the effective instructions to such agent or the operator of such system, which result in such securities being held by the operator of the clearing system for the account of the Lender or as it shall direct, or by such other means as may be agreed.

5.2 Deliveries through payment systems generating automatic payments

Unless otherwise agreed between the Parties, where any Securities, Equivalent Securities, Collateral or Equivalent Collateral (in the form of securities) are transferred through a book entry transfer or settlement system which automatically generates a payment or delivery, or obligation to pay or deliver, against the transfer of such securities, then:-

(i) such automatically generated payment, delivery or obligation shall be treated as a payment or delivery by the transferee to the transferor, and except to the extent that it is applied to discharge an obligation of the transferee to effect payment or delivery, such payment or delivery, or obligation to pay or deliver, shall be deemed to be a transfer of Collateral or redelivery of Equivalent Collateral, as the case may be, made by the transferee until such time as the Collateral or Equivalent Collateral is substituted with other Collateral or Equivalent Collateral if an obligation to deliver other Collateral or redeliver Equivalent Collateral existed immediately prior to the transfer of Securities, Equivalent Securities, Collateral or Equivalent Collateral; and

(ii) the party receiving such substituted Collateral or Equivalent Collateral, or if no obligation to deliver other Collateral or redeliver Equivalent Collateral existed immediately prior to the transfer of Securities, Equivalent Securities, Collateral or Equivalent Collateral, the party receiving the deemed transfer of Collateral or redelivery of Equivalent Collateral, as the case may be, shall cause to be made to the other party for value the same day either, where such transfer is a payment, an irrevocable payment in the amount of such transfer or, where such transfer is a delivery, an irrevocable delivery of securities (or other property, as the case may be) equivalent to such property.

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5.3 **Substitutions of Collateral**

Borrower may from time to time call for the repayment of Cash Collateral or the redelivery of Collateral equivalent to any Collateral delivered to Lender prior to the date on which the same would otherwise have been repayable or redeliverable provided that at the time of such repayment or redelivery Borrower shall have delivered or delivers Alternative Collateral acceptable to Lender and Borrower is in compliance with paragraph 5.4 or paragraph 5.5, as applicable.

5.4 **Marking to Market of Collateral during the currency of a Loan on aggregated basis**

Unless paragraph 1.3 of the Schedule indicates that paragraph 5.5 shall apply in lieu of this paragraph 5.4, or unless otherwise agreed between the Parties:-

(i) the aggregate Market Value of the Collateral delivered to or deposited with Lender (excluding any Equivalent Collateral repaid or redelivered under Paragraphs 5.4(ii) or 5.5(ii) (as the case may be)) ("**Posted Collateral**") in respect of all Loans outstanding under this Agreement shall equal the aggregate of the Market Value of the Loaned Securities and the applicable Margin (the "**Required Collateral Value**") in respect of such Loans;

(ii) if at any time on any Business Day the aggregate Market Value of the Posted Collateral in respect of all Loans outstanding under this Agreement exceeds the aggregate of the Required Collateral Values in respect of such Loans, Lender shall (on demand) repay and/or redeliver, as the case may be, to Borrower such Equivalent Collateral as will eliminate the excess;

(iii) if at any time on any Business Day the aggregate Market Value of the Posted Collateral in respect of all Loans outstanding under this Agreement falls below the aggregate of Required Collateral Values in respect of all such Loans, Borrower shall (on demand) provide such further Collateral to Lender as will eliminate the deficiency.

5.5 **Marking to Market of Collateral during the currency of a Loan on a Loan by Loan basis**

If paragraph 1.3 of the Schedule indicates this paragraph 5.5 shall apply in lieu of paragraph 5.4, the Posted Collateral in respect of any Loan shall bear from day to day and at any time the same proportion to the Market Value of the Loaned Securities as the Posted Collateral bore at the commencement of such Loan. Accordingly:

(i) the Market Value of the Posted Collateral to be delivered or deposited while the Loan continues shall be equal to the Required Collateral Value;

(ii) if at any time on any Business Day the Market Value of the Posted Collateral in respect of any Loan exceeds the Required Collateral Value in respect of such Loan, Lender shall (on demand) repay and/or redeliver, as the case may be, to Borrower such Equivalent Collateral as will eliminate the excess; and

(iii) if at any time on any Business Day the Market Value of the Posted Collateral falls below the Required Collateral Value, Borrower shall (on demand) provide such further Collateral to Lender as will eliminate the deficiency.

5.6 **Requirements to redeliver excess Collateral**

Where paragraph 5.4 applies, unless paragraph 1.4 of the Schedule indicates that this paragraph 5.6 does not apply, if a Party (the "**first Party**") would, but for this paragraph 5.6, be required under paragraph 5.4 to provide further Collateral or redeliver Equivalent Collateral in circumstances where the other Party (the "**second Party**") would, but for this paragraph 5.6, also be required to or provide Collateral or redeliver Equivalent Collateral under paragraph 5.4, then the Market Value of the Collateral or Equivalent Collateral deliverable by the first Party ("**X**") shall be set-off against the Market Value of the Collateral or Equivalent Collateral deliverable by the second Party ("**Y**") and the only obligation of the Parties under paragraph 5.4 shall be, where X exceeds Y, an obligation of the first Party, or where Y exceeds X, an obligation of the second Party to repay and/or (as the case may be) redeliver Equivalent Collateral or to deliver further Collateral having a Market Value equal to the difference between X and Y.

5.7 Where Equivalent Collateral is repaid or redelivered (as the case may be) or further Collateral is provided by a Party under paragraph 5.6, the Parties shall agree to which Loan or Loans such repayment, redelivery or further provision is to be attributed and failing agreement it shall be attributed, as determined by the Party making such repayment, redelivery or further provision to the earliest outstanding Loan and, in the case of a repayment or redelivery up to the point at which the Market Value of Collateral in respect of such Loan equals the Required Collateral Value in respect of such Loan, and then to the next earliest outstanding Loan up to the similar point and so on.

5.8 **Timing of repayments of excess Collateral or deliveries of further Collateral**

Where any Equivalent Collateral falls to be repaid or redelivered (as the case may be) or further Collateral is to be provided under this paragraph 5, unless otherwise agreed between the Parties, it shall be delivered on the same Business Day as the relevant demand. Equivalent Collateral comprising securities shall be deemed to have been delivered by Lender to Borrower on delivery to Borrower or as it shall direct of the relevant instruments of transfer, or in the case of such securities being held by an agent or within a clearing or settlement system on the effective instructions to such agent or the operator of such system which result in such securities being held by the operator of the clearing system for the account of the Borrower or as it shall direct or by such other means as may be agreed.

5.9 **Substitutions and extensions of Letters of Credit**

Where Collateral is a Letter of Credit, Lender may by notice to Borrower require that Borrower, on the Business Day following the date of delivery of such notice, substitute Collateral consisting of cash or other Collateral acceptable to Lender for the Letter of Credit. Prior to the expiration of any Letter of Credit supporting Borrower's obligations hereunder, Borrower shall, no later than 10.30a.m. UK time on the second Business Day

prior to the date such Letter of Credit expires, obtain an extension of the expiration of such Letter of Credit or replace such Letter of Credit by providing Lender with a substitute Letter of Credit in an amount at least equal to the amount of the Letter of Credit for which it is substituted.

6. DISTRIBUTIONS AND CORPORATE ACTIONS

6.1 Manufactured Payments

Where Income is paid in relation to any Loaned Securities or Collateral (other than Cash Collateral) on or by reference to an Income Payment Date Borrower, in the case of Loaned Securities, and Lender, in the case of Collateral, shall, on the date of the payment of such Income, or on such other date as the Parties may from time to time agree, (the "**Relevant Payment Date**") pay and deliver a sum of money or property equivalent to the type and amount of such Income that, in the case of Loaned Securities, Lender would have been entitled to receive had such Securities not been loaned to Borrower and had been retained by Lender on the Income Payment Date, and, in the case of Collateral, Borrower would have been entitled to receive had such Collateral not been provided to Lender and had been retained by Borrower on the Income Payment Date unless a different sum is agreed between the Parties.

6.2 Income in the form of Securities

Where Income, in the form of securities, is paid in relation to any Loaned Securities or Collateral, such securities shall be added to such Loaned Securities or Collateral (and shall constitute Loaned Securities or Collateral, as the case may be, and be part of the relevant Loan) and will not be delivered to Lender, in the case of Loaned Securities, or to Borrower, in the case of Collateral, until the end of the relevant Loan, provided that the Lender or Borrower (as the case may be) fulfils their obligations under paragraph 5.4 or 5.5 (as applicable) with respect to the additional Loaned Securities or Collateral, as the case may be.

6.3 Exercise of voting rights

Where any voting rights fall to be exercised in relation to any Loaned Securities or Collateral, neither Borrower, in the case of Equivalent Securities, nor Lender, in the case of Equivalent Collateral, shall have any obligation to arrange for voting rights of that kind to be exercised in accordance with the instructions of the other Party in relation to the Securities borrowed by it or transferred to it by way of Collateral, as the case may be, unless otherwise agreed between the Parties.

6.4 Corporate actions

Where, in respect of any Loaned Securities or any Collateral, any rights relating to conversion, sub-division, consolidation, pre-emption, rights arising under a takeover offer, rights to receive securities or a certificate which may at a future date be exchanged for securities or other rights, including those requiring election by the holder for the time being of such Securities or Collateral, become exercisable prior to the redelivery of Equivalent Securities or Equivalent Collateral, then Lender or Borrower, as the case may be, may, within a reasonable time before the latest time for the exercise of the right or

option give written notice to the other Party that on redelivery of Equivalent Securities or Equivalent Collateral, as the case may be, it wishes to receive Equivalent Securities or Equivalent Collateral in such form as will arise if the right is exercised or, in the case of a right which may be exercised in more than one manner, is exercised as is specified in such written notice.

7. RATES APPLICABLE TO LOANED SECURITIES AND CASH COLLATERAL

7.1 Rates in respect of Loaned Securities

In respect of each Loan, Borrower shall pay to Lender, in the manner prescribed in sub-paragraph 7.3, sums calculated by applying such rate as shall be agreed between the Parties from time to time to the daily Market Value of the Loaned Securities.

7.2 Rates in respect of Cash Collateral

Where Cash Collateral is deposited with Lender in respect of any Loan, Lender shall pay to Borrower, in the manner prescribed in paragraph 7.3, sums calculated by applying such rates as shall be agreed between the Parties from time to time to the amount of such Cash Collateral. Any such payment due to Borrower may be set-off against any payment due to Lender pursuant to paragraph 7.1.

7.3 Payment of rates

In respect of each Loan, the payments referred to in paragraph 7.1 and 7.2 shall accrue daily in respect of the period commencing on and inclusive of the Settlement Date and terminating on and exclusive of the Business Day upon which Equivalent Securities are redelivered or Cash Collateral is repaid. Unless otherwise agreed, the sums so accruing in respect of each calendar month shall be paid in arrear by the relevant Party not later than the Business Day which is one week after the last Business Day of the calendar month to which such payments relate or such other date as the Parties shall from time to time agree.

8. REDELIVERY OF EQUIVALENT SECURITIES

8.1 Delivery of Equivalent Securities on termination of a Loan

Borrower shall procure the redelivery of Equivalent Securities to Lender or redeliver Equivalent Securities in accordance with this Agreement and the terms of the relevant Loan on termination of the Loan. Such Equivalent Securities shall be deemed to have been delivered by Borrower to Lender on delivery to Lender or as it shall direct of the relevant instruments of transfer, or in the case of Equivalent Securities held by an agent or within a clearing or settlement system on the effective instructions to such agent or the operator of such system which result in such Equivalent Securities being held by the operator of the clearing system for the account of the Lender or as it shall direct, or by such other means as may be agreed. For the avoidance of doubt any reference in this Agreement or in any other agreement or communication between the Parties (howsoever expressed) to an obligation to redeliver or account for or act in relation to Loaned Securities shall accordingly be construed as a reference to an obligation to redeliver or account for or act in relation to Equivalent Securities.

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8.2 **Lender's right to terminate a Loan**

Subject to paragraph 10 and the terms of the relevant Loan, Lender shall be entitled to terminate a Loan and to call for the redelivery of all or any Equivalent Securities at any time by giving notice on any Business Day of not less than the standard settlement time for such Equivalent Securities on the exchange or in the clearing organisation through which the Loaned Securities were originally delivered. Borrower shall redeliver such Equivalent Securities not later than the expiry of such notice in accordance with Lender's instructions.

8.3 **Borrower's right to terminate a Loan**

Subject to the terms of the relevant Loan, Borrower shall be entitled at any time to terminate a Loan and to redeliver all and any Equivalent Securities due and outstanding to Lender in accordance with Lender's instructions and Lender shall accept such redelivery.

8.4 **Redelivery of Equivalent Collateral on termination of a Loan**

On the date and time that Equivalent Securities are required to be redelivered by Borrower on the termination of a Loan, Lender shall simultaneously (subject to paragraph 5.4 if applicable) repay to Borrower any Cash Collateral or, as the case may be, redeliver Collateral equivalent to the Collateral provided by Borrower pursuant to paragraph 5 in respect of such Loan. For the avoidance of doubt any reference in this Agreement or in any other agreement or communication between the Parties (however expressed) to an obligation to redeliver or account for or act in relation to Collateral shall accordingly be construed as a reference to an obligation to redeliver or account for or act in relation to Equivalent Collateral.

8.5 **Redelivery of Letters of Credit**

Where a Letter of Credit is provided by way of Collateral, the obligation to redeliver Equivalent Collateral is satisfied by Lender redelivering for cancellation the Letter of Credit so provided, or where the Letter of Credit is provided in respect of more than one Loan, by Lender consenting to a reduction in the value of the Letter of Credit.

8.6 **Redelivery obligations to be reciprocal**

Neither Party shall be obliged to make delivery (or make a payment as the case may be) to the other unless it is satisfied that the other Party will make such delivery (or make an appropriate payment as the case may be) to it. If it is not so satisfied (whether because an Event of Default has occurred in respect of the other Party or otherwise) it shall notify the other party and unless that other Party has made arrangements which are sufficient to assure full delivery (or the appropriate payment as the case may be) to the notifying Party, the notifying Party shall (provided it is itself in a position, and willing, to perform its own obligations) be entitled to withhold delivery (or payment, as the case may be) to the other Party.

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9. **FAILURE TO REDELIVER**

9.1 **Borrower's failure to redeliver Equivalent Securities**

(i) If Borrower does not redeliver Equivalent Securities in accordance with paragraph 8.1 or 8.2, Lender may elect to continue the Loan (which Loan, for the avoidance of doubt, shall continue to be taken into account for the purposes of paragraph 5.4 or 5.5 as applicable) provided that if Lender does not elect to continue the Loan, Lender may either by written notice to Borrower terminate the Loan forthwith and the Parties' delivery and payment obligations in respect thereof (in which case sub-paragraph (ii) below shall apply) or serve a notice of an Event of Default in accordance with paragraph 14.

(ii) Upon service of a notice to terminate the relevant Loan pursuant to paragraph 9.1(i):-

(a) there shall be set-off against the Market Value of the Equivalent Securities concerned such amount of Posted Collateral chosen by Lender (calculated at its Market Value) as is equal thereto;

(b) the Parties delivery and payment obligations in relation to such assets which are set-off shall terminate;

(c) in the event that the Market Value of the Posted Collateral set-off is less than the Market Value of the Equivalent Securities concerned Borrower shall account to Lender for the shortfall; and

(d) Borrower shall account to Lender for the total costs and expenses incurred by Lender as a result thereof as set out in paragraphs 9.3 and 9.4 from the time the notice is effective.

9.2 **Lender's failure to Redeliver Equivalent Collateral**

(i) If Lender does not redeliver Equivalent Collateral in accordance with paragraph 8.4 or 8.5, Borrower may either by written notice to Lender terminate the Loan forthwith and the Parties' delivery and payment obligations in respect thereof (in which case sub-paragraph (ii) below shall apply) or serve a notice of an Event of Default in accordance with paragraph 14.

(ii) Upon service of a notice to terminate the relevant Loan pursuant to paragraph 9.2(i):-

(a) there shall be set-off against the Market Value of the Equivalent Collateral concerned the Market Value of the Loaned Securities;

(b) the Parties delivery and payment obligations in relation to such assets which are set-off shall terminate;

(c) in the event that the Market Value of the Loaned Securities held by Borrower is less than the Market Value of the Equivalent Collateral concerned Lender shall account to Borrower for the shortfall; and

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(d) Lender shall account to Borrower for the total costs and expenses incurred by Borrower as a result thereof as set out in paragraphs 9.3 and 9.4 from the time the notice is effective.

9.3 **Failure by either Party to redeliver**

This provision applies in the event that a Party (the "**Transferor**") fails to meet a redelivery obligation within the standard settlement time for the asset concerned on the exchange or in the clearing organisation through which the asset equivalent to the asset concerned was originally delivered or within such other period as may be agreed between the Parties. In such situation, in addition to the Parties' rights under the general law and this Agreement where the other Party (the "**Transferee**") incurs interest, overdraft or similar costs and expenses the Transferor agrees to pay on demand and hold harmless the Transferee with respect to all such costs and expenses which arise directly from such failure excluding (i) such costs and expenses which arise from the negligence or wilful default of the Transferee and (ii) any indirect or consequential losses. It is agreed by the Parties that any costs reasonably and properly incurred by a Party arising in respect of the failure of a Party to meet its obligations under a transaction to sell or deliver securities resulting from the failure of the Transferor to fulfil its redelivery obligations is to be treated as a direct cost or expense for the purposes of this paragraph.

9.4 **Exercise of buy-in on failure to redeliver**

In the event that as a result of the failure of the Transferor to fulfil its redelivery obligations a "buy-in" is exercised against the Transferee, then the Transferor shall account to the Transferee for the total costs and expenses reasonably incurred by the Transferee as a result of such "buy-in".

10. **SET-OFF ETC**

10.1 **Definitions for paragraph 10**

In this paragraph 10:

"**Bid Price**" in relation to Equivalent Securities or Equivalent Collateral means the best available bid price on the most appropriate market in a standard size;

"**Bid Value**" subject to paragraph 10.5 means:-

(a) in relation to Collateral equivalent to Collateral in the form of a Letter of Credit zero and in relation to Cash Collateral the amount of the currency concerned; and

(b) in relation to Equivalent Securities or Collateral equivalent to all other types of Collateral the amount which would be received on a sale of such Equivalent Securities or Equivalent Collateral at the Bid Price at Close of Business on the relevant Business Day less all costs, fees and expenses that would be incurred in connection therewith, calculated on the assumption that the aggregate thereof is the least that could reasonably be expected to be paid in order to carry out such sale or realisation and adding thereto the amount of any interest, dividends,

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distributions or other amounts, in the case of Equivalent Securities, paid to Borrower and in respect of which equivalent amounts have not been paid to Lender and in the case of Equivalent Collateral, paid to Lender and in respect of which equivalent amounts have not been paid to Borrower, in accordance with paragraph 6.1 prior to such time in respect of such Equivalent Securities, Equivalent Collateral or the original Securities or Collateral held, gross of all and any tax deducted or paid in respect thereof;

"**Offer Price**" in relation to Equivalent Securities or Equivalent Collateral means the best available offer price on the most appropriate market in a standard size;

"**Offer Value**" subject to paragraph 10.5 means:-

(a) in relation to Collateral equivalent to Collateral in the form of a Letter of Credit zero and in relation to Cash Collateral the amount of the currency concerned; and

(b) in relation to Equivalent Securities or Collateral equivalent to all other types of Collateral the amount it would cost to buy such Equivalent Securities or Equivalent Collateral at the Offer Price at Close of Business on the relevant Business Day together with all costs, fees and expenses that would be incurred in connection therewith, calculated on the assumption that the aggregate thereof is the least that could reasonably be expected to be paid in order to carry out the transaction and adding thereto the amount of any interest, dividends, distributions or other amounts, in the case of Equivalent Securities, paid to Borrower and in respect of which equivalent amounts have not been paid to Lender and in the case of Equivalent Collateral, paid to Lender and in respect of which equivalent amounts have not been paid to Borrower, in accordance with paragraph 6.1 prior to such time in respect of such Equivalent Securities, Equivalent Collateral or the original Securities or Collateral held, gross of all and any tax deducted or paid in respect thereof;

10.2 **Termination of delivery obligations upon Event of Default**

Subject to paragraph 9, if an Event of Default occurs in relation to either Party, the Parties' delivery and payment obligations (and any other obligations they have under this Agreement) shall be accelerated so as to require performance thereof at the time such Event of Default occurs (the date of which shall be the "**Termination Date**" for the purposes of this clause) so that performance of such delivery and payment obligations shall be effected only in accordance with the following provisions:

(i) the Relevant Value of the securities which would have been required to be delivered but for such termination (or payment to be made, as the case may be) by each Party shall be established in accordance with paragraph 10.3; and

(ii) on the basis of the Relevant Values so established, an account shall be taken (as at the Termination Date) of what is due from each Party to the other and (on the basis that each Party's claim against the other in respect of delivery of Equivalent Securities or Equivalent Collateral or any cash payment equals the Relevant Value

thereof) the sums due from one Party shall be set-off against the sums due from the other and only the balance of the account shall be payable (by the Party having the claim valued at the lower amount pursuant to the foregoing) and such balance shall be payable on the Termination Date.

If the Bid Value is greater than the Offer Value, and the Non-Defaulting Party had delivered to the Defaulting Party a Letter of Credit, the Defaulting Party shall draw on the Letter of Credit to the extent of the balance due and shall subsequently redeliver for cancellation the Letter of Credit so provided.

If the Offer Value is greater than the Bid Value, and the Defaulting Party had delivered to the Non-Defaulting Party a Letter of Credit, the Non-Defaulting Party shall draw on the Letter of Credit to the extent of the balance due and shall subsequently redeliver for cancellation the Letter of Credit so provided.

In all other circumstances, where a Letter of Credit has been provided to a Party, such Party shall redeliver for cancellation the Letter of Credit so provided.

10.3 **Determination of delivery values upon Event of Default**

For the purposes of paragraph 10.2 the "**Relevant Value**":-

(i) of any securities to be delivered by the Defaulting Party shall, subject to paragraph 10.5 below, equal the Offer Value of such securities; and

(ii) of any securities to be delivered to the Defaulting Party shall, subject to paragraph 10.5 below, equal the Bid Value of such securities.

10.4 For the purposes of paragraph 10.3, but subject to paragraph 10.5, the Bid Value and Offer Value of any securities shall be calculated for securities of the relevant description (as determined by the Non-Defaulting Party) as of the first Business Day following the Termination Date, or if the relevant Event of Default occurs outside the normal business hours of such market, on the second Business Day following the Termination Date (the "**Default Valuation Time**");

10.5 Where the Non-Defaulting Party has following the occurrence of an Event of Default but prior to the close of business on the fifth Business Day following the Termination Date purchased securities forming part of the same issue and being of an identical type and description to those to be delivered by the Defaulting Party or sold securities forming part of the same issue and being of an identical type and description to those to be delivered by him to the Defaulting Party, the cost of such purchase or the proceeds of such sale, as the case may be, (taking into account all reasonable costs, fees and expenses that would be incurred in connection therewith) shall (together with any amounts owing pursuant to paragraph 6.1) be treated as the Offer Value or Bid Value, as the case may be, of the amount of securities to be delivered which is equivalent to the amount of the securities so bought or sold, as the case may be, for the purposes of this paragraph 10, so that where the amount of securities to be delivered is more than the amount so bought or sold as the case may be, the Offer Value or Bid Value as the case may be, of the balance shall be valued in accordance with paragraph 10.4.

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10.6 Any reference in this paragraph 10 to securities shall include any asset other than cash provided by way of Collateral.

10.7 **Other costs, expenses and interest payable in consequence of an Event of Default**

The Defaulting Party shall be liable to the Non-Defaulting Party for the amount of all reasonable legal and other professional expenses incurred by the Non-Defaulting Party in connection with or as a consequence of an Event of Default, together with interest thereon at the one-month London Inter Bank Offered Rate as quoted on a reputable financial information service ("**LIBOR**") as of 11.00 am, London Time, on the date on which it is to be determined or, in the case of an expense attributable to a particular transaction and where the parties have previously agreed a rate of interest for the transaction, that rate of interest if it is greater than LIBOR. The rate of LIBOR applicable to each month or part thereof that any sum payable pursuant to this paragraph 10.7 remains outstanding is the rate of LIBOR determined on the first Business Day of any such period of one month or any part thereof. Interest will accrue daily on a compound basis and will be calculated according to the actual number of days elapsed.

11. **TRANSFER TAXES**

Borrower hereby undertakes promptly to pay and account for any transfer or similar duties or taxes chargeable in connection with any transaction effected pursuant to or contemplated by this Agreement, and shall indemnify and keep indemnified Lender against any liability arising as a result of Borrower's failure to do so.

12. **LENDER'S WARRANTIES**

Each Party hereby warrants and undertakes to the other on a continuing basis to the intent that such warranties shall survive the completion of any transaction contemplated herein that, where acting as a Lender:

(a) it is duly authorised and empowered to perform its duties and obligations under this Agreement;

(b) it is not restricted under the terms of its constitution or in any other manner from lending Securities in accordance with this Agreement or from otherwise performing its obligations hereunder;

(c) it is absolutely entitled to pass full legal and beneficial ownership of all Securities provided by it hereunder to Borrower free from all liens, charges and encumbrances; and

(d) it is acting as principal in respect of this Agreement or, subject to paragraph 16, as agent and the conditions referred to in paragraph 16.2 will be fulfilled in respect of any Loan which it makes as agent.

13. **BORROWER'S WARRANTIES**

Each Party hereby warrants and undertakes to the other on a continuing basis to the intent that such warranties shall survive the completion of any transaction contemplated herein that, where acting as a Borrower:

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(a) it has all necessary licenses and approvals, and is duly authorised and empowered, to perform its duties and obligations under this Agreement and will do nothing prejudicial to the continuation of such authorisation, licences or approvals;

(b) it is not restricted under the terms of its constitution or in any other manner from borrowing Securities in accordance with this Agreement or from otherwise performing its obligations hereunder;

(c) it is absolutely entitled to pass full legal and beneficial ownership of all Collateral provided by it hereunder to Lender free from all liens, charges and encumbrances; and

(d) it is acting as principal in respect of this Agreement.

14. **EVENTS OF DEFAULT**

14.1 Each of the following events occurring in relation to either Party (the "**Defaulting Party**", the other Party being the "**Non-Defaulting Party**") shall be an Event of Default for the purpose of paragraph 10 but only (subject to sub-paragraph (v) below) where the Non-Defaulting Party serves written notice on the Defaulting Party:-

(i) Borrower or Lender failing to pay or repay Cash Collateral or deliver Collateral or redeliver Equivalent Collateral or Lender failing to deliver Securities upon the due date;

(ii) Lender or Borrower failing to comply with its obligations under paragraph 5;

(iii) Lender or Borrower failing to comply with its obligations under paragraph 6.1;

(iv) Borrower failing to comply with its obligations to deliver Equivalent Securities in accordance with paragraph 8;

(v) an Act of Insolvency occurring with respect to Lender or Borrower, an Act of Insolvency which is the presentation of a petition for winding up or any analogous proceeding or the appointment of a liquidator or analogous officer of the Defaulting Party not requiring the Non-Defaulting Party to serve written notice on the Defaulting Party;

(vi) any representation or warranty made by Lender or Borrower being incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated;

(vii) Lender or Borrower admitting to the other that it is unable to, or it intends not to, perform any of its obligations under this Agreement and/or in respect of any Loan;

(viii) Lender (if applicable) or Borrower being declared in default or being suspended or expelled from membership of or participation in, any securities exchange or association or suspended or prohibited from dealing in securities by any regulatory authority;

(ix) any of the assets of Lender or Borrower or the assets of investors held by or to the order of Lender or Borrower being transferred or ordered to be transferred to a

trustee (or a person exercising similar functions) by a regulatory authority pursuant to any securities regulating legislation, or

(x) Lender or Borrower failing to perform any other of its obligations under this Agreement and not remedying such failure within 30 days after the Non-Defaulting Party serves written notice requiring it to remedy such failure.

14.2 Each Party shall notify the other (in writing) if an Event of Default or an event which, with the passage of time and/or upon the serving of a written notice as referred to above, would be an Event of Default, occurs in relation to it.

14.3 The provisions of this Agreement constitute a complete statement of the remedies available to each Party in respect of any Event of Default.

14.4 Subject to paragraph 9.3 and 10.7, neither Party may claim any sum by way of consequential loss or damage in the event of failure by the other party to perform any of its obligations under this Agreement.

15. INTEREST ON OUTSTANDING PAYMENTS

In the event of either Party failing to remit sums in accordance with this Agreement such Party hereby undertakes to pay to the other Party upon demand interest (before as well as after judgement) on the net balance due and outstanding, for the period commencing on and inclusive of the original due date for payment to (but excluding) the date of actual payment, in the same currency as the principal sum and at the rate referred to in paragraph 10.7. Interest will accrue daily on a compound basis and will be calculated according to the actual number of days elapsed.

16. TRANSACTIONS ENTERED INTO AS AGENT

16.1 Power for Lender to enter into Loans as agent

Subject to the following provisions of this paragraph, Lender may (if so indicated in paragraph 6 of the Schedule) enter into Loans as agent (in such capacity, the "**Agent**") for a third person (a "**Principal**"), whether as custodian or investment manager or otherwise (a Loan so entered into being referred to in this paragraph as an "**Agency Transaction**").

16.2 Conditions for agency loan

A Lender may enter into an Agency Transaction if, but only if:-

(i) it specifies that Loan as an Agency Transaction at the time when it enters into it;

(ii) it enters into that Loan on behalf of a single Principal whose identity is disclosed to Borrower (whether by name or by reference to a code or identifier which the Parties have agreed will be used to refer to a specified Principal) at the time when it enters into the Loan or as otherwise agreed between the Parties; and

(iii) it has at the time when the Loan is entered into actual authority to enter into the Loan and to perform on behalf of that Principal all of that Principal's obligations under the agreement referred to in paragraph 16.4(ii).

16.3 **Notification by Lender of certain events affecting the principal**

Lender undertakes that, if it enters as agent into an Agency Transaction, forthwith upon becoming aware:-

(i) of any event which constitutes an Act of Insolvency with respect to the relevant Principal; or

(ii) of any breach of any of the warranties given in paragraph 16.5 or of any event or circumstance which has the result that any such warranty would be untrue if repeated by reference to the then current facts;

it will inform Borrower of that fact and will, if so required by Borrower, furnish it with such additional information as it may reasonably request.

16.4 **Status of agency transaction**

(i) Each Agency Transaction shall be a transaction between the relevant Principal and Borrower and no person other than the relevant Principal and Borrower shall be a party to or have any rights or obligations under an Agency Transaction. Without limiting the foregoing, Lender shall not be liable as principal for the performance of an Agency Transaction, but this is without prejudice to any liability of Lender under any other provision of this clause; and

(ii) all the provisions of the Agreement shall apply separately as between Borrower and each Principal for whom the Agent has entered into an Agency transaction or Agency Transactions as if each such Principal were a party to a separate agreement with Borrower in all respects identical with this Agreement other than this paragraph and as if the Principal were Lender in respect of that agreement;

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if there occurs in relation to the Agent an Event of Default or an event which would constitute an Event of Default if Borrower served written notice under any sub-clause of paragraph 14, Borrower shall be entitled by giving written notice to the Principal (which notice shall be validly given if given to Lender in accordance with paragraph 21) to declare that by reason of that event an Event of Default is to be treated as occurring in relation to the Principal. If Borrower gives such a notice then an Event of Default shall be treated as occurring in relation to the Principal at the time when the notice is deemed to be given; and

if the Principal is neither incorporated in nor has established a place of business in Great Britain, the Principal shall for the purposes of the agreement referred to in paragraph 16.4(ii) be deemed to have appointed as its agent to receive on its behalf service of process in the courts of England the Agent, or if the Agent is neither incorporated nor has established a place of business in Great Britain, the person appointed by the Agent for the purposes of this Agreement, or such other person as the Principal may from time to time specify in a written notice given to the other Party.

The foregoing provisions of this paragraph do not affect the operation of the Agreement as between Borrower and Lender in respect of any transactions into which Lender may enter on its own account as principal.

16.5 **Warranty of authority by Lender acting as agent**

Lender warrants to Borrower that it will, on every occasion on which it enters or purports to enter into a transaction as an Agency Transaction, have been duly authorised to enter into that Loan and perform the obligations arising under such transaction on behalf of the person whom it specifies as the Principal in respect of that transaction and to perform on behalf of that person all the obligations of that person under the agreement referred to in paragraph 16.4(ii).

17. **TERMINATION OF THIS AGREEMENT**

Each Party shall have the right to terminate this Agreement by giving not less than 15 Business Days' notice in writing to the other Party (which notice shall specify the date of termination) subject to an obligation to ensure that all Loans which have been entered into but not discharged at the time such notice is given are duly discharged in accordance with this Agreement.

18. **SINGLE AGREEMENT**

Each Party acknowledges that, and has entered into this Agreement and will enter into each Loan in consideration of and in reliance upon the fact that, all Loans constitute a single business and contractual relationship and are made in consideration of each other. Accordingly, each Party agrees:

(i) to perform all of its obligations in respect of each Loan, and that a default in the performance of any such obligations shall constitute a default by it in respect of all Loans; and

(ii) that payments, deliveries and other transfers made by either of them in respect of any Loan shall be deemed to have been made in consideration of payments, deliveries and other transfers in respect of any other Loan.

19. **SEVERANCE**

If any provision of this Agreement is declared by any judicial or other competent authority to be void or otherwise unenforceable, that provision shall be severed from the Agreement and the remaining provisions of this Agreement shall remain in full force and effect. The Agreement shall, however, thereafter be amended by the Parties in such reasonable manner so as to achieve as far as possible, without illegality, the intention of the Parties with respect to that severed provision.

20. **SPECIFIC PERFORMANCE**

Each Party agrees that in relation to legal proceedings it will not seek specific performance of the other Party's obligation to deliver or redeliver Securities, Equivalent Securities, Collateral or Equivalent Collateral but without prejudice to any other rights it may have.

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21. **NOTICES**

21.1 Any notice or other communication in respect of this Agreement may be given in any manner set forth below to the address or number or in accordance with the electronic messaging system details set out in paragraph 4 of the Schedule and will be deemed effective as indicated:

(i) if in writing and delivered in person or by courier, on the date it is delivered;

(ii) if sent by telex, on the date the recipient's answerback is received;

(iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);

(iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or

(v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or the receipt, as applicable, is not a Business Day or that communication is delivered (or attempted) or received, as applicable, after the Close of Business on a Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Business Day.

21.2 Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

22. **ASSIGNMENT**

Neither Party may charge assign or transfer all or any of its rights or obligations hereunder without the prior consent of the other Party.

23. **NON-WAIVER**

No failure or delay by either Party (whether by course of conduct or otherwise) to exercise any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege as herein provided.

24. **GOVERNING LAW AND JURISDICTION**

24.1 This Agreement is governed by, and shall be construed in accordance with, English law.

24.2 The courts of England have exclusive jurisdiction to hear and decide any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this

Agreement (respectively, "**Proceedings**" and "**Disputes**") and, for these purposes, each party irrevocably submits to the jurisdiction of the courts of England.

24.3 Each party irrevocably waives any objection which it might at any time have to the courts of England being nominated as the forum to hear and decide any Proceedings and to settle any Disputes and agrees not to claim that the courts of England are not a convenient or appropriate forum.

24.4 Each of Party A and Party B hereby respectively appoints the person identified in paragraph 5 of the Schedule pertaining to the relevant Party as its agent to receive on its behalf service of process in the courts of England. If such an agent ceases to be an agent of Party A or party B, as the case may be, the relevant Party shall promptly appoint, and notify the other Party of the identity of its new agent in England.

25. **TIME**

Time shall be of the essence of the Agreement.

26. **RECORDING**

The Parties agree that each may record all telephone conversations between them.

27. **WAIVER OF IMMUNITY**

Each Party hereby waives all immunity (whether on the basis of sovereignty or otherwise) from jurisdiction, attachment (both before and after judgement) and execution to which it might otherwise be entitled in any action or proceeding in the courts of England or of any other country or jurisdiction relating in any way to this Agreement and agrees that it will not raise, claim or cause to be pleaded any such immunity at or in respect of any such action or proceeding.

28. **MISCELLANEOUS**

28.1 This Agreement constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.

28.2 The Party (the "**Relevant Party**") who has prepared the text of this Agreement for execution (as indicated in paragraph 7 of the Schedule) warrants and undertakes to the other Party that such text conforms exactly to the text of the standard form Global Master Securities Lending Agreement posted by the International Securities Lenders Association on its website on 7 May 2000 except as notified by the Relevant Party to the other Party in writing prior to the execution of this Agreement.

28.3 No amendment in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the Parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.

28.4 The obligations of the Parties under this Agreement will survive the termination of any Loan.

28.5 The warranties contained in paragraphs 12, 13, 16 and 28.2 will survive termination of this Agreement for so long as any obligations of either of the Parties pursuant to this Agreement remain outstanding.

28.6 Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.

28.7 This Agreement (and each amendment in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.

28.8 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

EXECUTED by the **PARTIES**

SIGNED BY:

.....

[name]

DULY AUTHORISED FOR AND
ON BEHALF OF

SIGNED BY:

.....

DULY AUTHORISED FOR AND
ON BEHALF OF
THE BANK OF NEW YORK MELLON

SCHEDULE FOR AGENCY LENDING

1. Collateral

1.1 The securities, financial instruments and deposits of currency set out in the table below with a cross marked next to them are acceptable forms of Collateral under this Agreement.

1.2 Unless otherwise agreed between the Parties, the Market Value of the Collateral delivered pursuant to paragraph 5 by Borrower to Lender under the terms and conditions of this Agreement shall on each Business Day represent not less than the Market Value of the Loaned Securities together with the percentage contained in the row of the table below corresponding to the particular form of Collateral, referred to in this Agreement as the "**Margin**".

Security/Financial Instrument/ Deposit of Currency of Collateral	**Mark "X" if acceptable form of Collateral**	**Margin (%)**
USD CASH	X	2% Same Currency 5% Cross Currency
EUR CASH	X	2% Same Currency 5% Cross Currency
GBP CASH	X	2% Same Currency 5% Cross Currency
JPY CASH	X	2% Same Currency 5% Cross Currency
Sovereign Debt	X	2% Same Currency 5% Cross Currency
Supranational Issues	X	2% Same Currency 5% Cross Currency
Corporate Debt	X	5% Same Currency 5% Cross Currency
Delivery By Value UK Gilt	X	2.5% Same Currency
Equities	X	2% to 5%
Delivery By Value FTSE 100	X	5% Same Currency 5% Cross Currency
Delivery By Value FTSE 250	X	10% Same Currency 10% Cross Currency

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Delivery By Value FTSE 350	X	10% Same Currency 10% Cross Currency
Certificates of Deposits	X	2% to 5%
Letters of Credit	X	2% to 5%
Commercial Paper	X	2% to 5%

1.3 **Basis of Margin Maintenance**

Paragraph 5.4 (aggregation) shall apply to all Non-Cash Collateralised Loans.

Paragraph 5.5 (loan by loan) shall apply to all Cash Collateralised loans (including but not limited to Euro and US Dollar cash).

1.4 Paragraph 5.6 (netting of obligations to deliver Collateral and redeliver Equivalent Collateral) shall not apply.

2. Base Currency

The Base Currency applicable to this Agreement is the Euro.

3. Places of Business

London, New York, Hong Kong

4. *Designated Office and Address for Notices*

(A) **Designated office of Party A:**

Address for notices or communications to Party A:

Address:

Attention:

Facsimile No:

Telephone No:

Electronic Messaging System Details:

(B) **Designated office of Party B:**

Address for notices or communications to Party B:

(i) Address: BNY Mellon Financial Centre, 160 Queen Victoria Street,

London, United Kingdom, EC4V 4LA

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Attention: Head of International Securities Lending

Facsimile No: 020 7 163 5422

Telephone No: 020 7 163 5867

(ii) Address: One Mellon Center, 5000 Grant Street,
Suite 2122, Pittsburgh, PA 15258-0001
USA

Attention: Kathy Rulong

Facsimile No: 001 412 236 3499

Telephone No: 001 412 236 4959

(iii) Address: One Wall Street
New York, NY 10286
USA

Attention: Kathy Rulong

Facsimile No: 001 412 236 3499

Telephone No: 001 412 236 4959

(iv) Address: Level 24, Three Pacific Place
One Queen's Road East
Hong Kong

Attention: Serge Micallef

Facsimile No: +852 2810 5279

Telephone No: +852 2840 9876

5. (A) **Agent of Party A for Service of Process**

Name:

Address:

(B) **Agent of Party B for Service of Process: Not Applicable**

6. Agency

(A) - Paragraph 16 may apply to Party A* ☐

Subject to (C) below, paragraph 16 will always apply to Party B*☑

(B) Party B may appoint an affiliated company or entity (that being a company or entity controlled by The Bank of New York Mellon Corporation or that is under

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the common control of an entity that controls Party B) (an "**Agent**") to assist Party B with various administration tasks associated with the transactions undertaken pursuant to this Agreement including, but without limitation to, communicating and receiving instructions and notifications relating to Securities and Collateral and facilitating the delivery and redelivery of Securities and Collateral. Party A is hereby authorised by Party B to treat the Agent as Party B's representative for the purpose of this Agreement and deal with the Agent accordingly.

(C) Paragraph 16 will be deleted and replaced with the following:

16.1 **Power for Lender to enter into Loans as Agent**

Subject to the following provisions of this paragraph, the Lender shall enter into loans as agent (in such capacity, the **"Agent"**) for a third person or persons (each referred to herein as a **"Principal"**), whether as custodian or investment manager or otherwise (a loan so entered into being referred to in this clause as an **"Agency Transaction"**). It is expressly agreed that notwithstanding any other provisions of this Agreement that the Lender shall not be required at any time to specify a loan as an Agency Transaction.

16.2 **Conditions for agency loan**

(i) The Agent shall, on entering into this Agreement, inform the Borrower of the identity of every Principal on whose behalf the Agent may enter into Agency Transactions under this Agreement. The Agent shall inform the Borrower of any changes that occur from time to time in the identities of the Principals on whose behalf the Agent may enter into Agency Transactions under this Agreement.

(ii) The Lender may enter into an Agency Transaction if, but only if, it has at the time when the loan is entered into actual authority to enter into the loan and to perform on behalf of that Principal all of that Principal's obligations under the agreement referred to in 16.4(ii) or 16.5(iii) below.

16.3 **Notification by Lender of certain events affecting the Principal**

The Lender undertakes that, if it enters as agent into an Agency Transaction, forthwith upon becoming aware:-

(i) of any event which constitutes an Act of Insolvency with respect to the relevant Principal; or

(ii) of any breach of any of the warranties given in paragraph 16.7 below or of any event or circumstance which has the result that any such warranty would be untrue if repeated by reference to the current facts;

it will inform the Borrower of that fact and will, if so required by the Borrower, furnish it with such additional information as it may reasonably request.

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16.4 **Status of Agency Transaction**

(i) Each Agency Transaction shall be a transaction between the relevant Principal(s) and the Borrower and no person other than the relevant Principal(s) and the Borrower shall be a party to or have any rights or obligations under an Agency Transaction. Without limiting the foregoing, and notwithstanding that the Agent may not have identified a Principal to the Borrower at any particular time or may not have disclosed the identity of the Principal to the Borrower at all, the Agent shall not be liable as principal for the performance of an Agency Transaction or for breach of any warranty contained in paragraph 12 or 13 of this Agreement, but this is without prejudice to any liability of the Agent under any other provision of paragraph 16.

(ii) All the provisions of the Agreement shall apply separately as between the Borrower and each Principal for whom the Agent has entered into an Agency transaction or Agency Transactions as if each such Principal were party to a separate agreement with the Borrower in all respects identical with this Agreement other than this paragraph and as if the Principal were Lender in respect of that agreement.

16.5 **Multiple Principal Transactions**

(i) Sub-paragraph 16.5 shall not apply in respect of any Agency Transaction to the extent that, at the time the Agency Transaction is agreed, the Agent is acting for a Principal or Principals (whether or not identified) to whom the Agency Transaction has already been allocated.

(ii) The Agent undertakes that it will allocate each Agency Transaction before the Settlement Date either to a single Principal or to several Principals each of whom will be responsible only for that part of the Agency Transaction allocated to it.

(iii) Upon allocation of an Agency Transaction (or part of an Agency Transaction), a contract on the terms of this Agreement (amended as necessary where part only is allocated) shall be deemed to have been made with the Borrower with effect from the Trade Date by the Agent on behalf of the Principal(s) concerned and no person other than the relevant Principal(s) and the Borrower shall be a party to or have any rights or obligations under an Agency Transaction (or part of an Agency Transaction). Without limiting the foregoing, and notwithstanding that the Agent may not have identified a Principal to the Borrower at any particular time, or may not have disclosed the identity of the Principal to the Borrower at all, the Agent shall not be liable as principal for the performance of an Agency Transaction (or part of an Agency Transaction) or for breach of any warranty contained in paragraph 12 or

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13 of this Agreement, but this is without prejudice to any liability of the Agent under any other provision of paragraph 16.

(iv) If the Agent shall fail to perform its obligations under sub-paragraph (ii) above then for the purpose of assessing any damage suffered by the Borrower (but for no other purpose) it shall be assumed that, if the Agency Transaction concerned (to the extent not allocated) had been allocated in accordance with such sub-paragraph, all the terms of the Agency Transaction would have been duly performed.

16.6 Notwithstanding any other provision of paragraph 16:

(i) if there occurs in relation to the Agent an Event of Default or an event which would constitute an Event of Default if the Borrower served written notice under any sub-clause of Clause 14, the Borrower shall be entitled by giving written notice to the Principal (which notice shall be validly given if given to the Lender in accordance with Clause 21) to declare that by reason of that event an Event of Default is to be treated as occurring in relation to the Principal. If the Borrower gives such a notice then an Event of Default shall be treated as occurring in relation to the Principal at the time when the notice is deemed to be given; and

(ii) if the Principal is neither incorporated nor has established a place of business in Great Britain, the Principal shall for the purposes of the agreement referred to in 16.4(ii) or 16.5(iii), as the case may be, be deemed to have appointed as its agent to receive on its behalf service of process in the courts of England the Agent, or if the Agent is neither incorporated nor has established a place of business in the United Kingdom, the person appointed by the Agent for the purposes of this Agreement, or such other person as the Principal may from time to time specify in a written notice given to the other party.

16.7 **Warranty of authority by Lender acting as agent**

The Lender warrants to the Borrower that it will, on every occasion on which it enters or purports to enter into a transaction as an Agency Transaction, have been duly authorised to enter into that loan and perform the obligations arising thereunder on behalf of the Principal in respect of that transaction or to whom it allocates that transaction (or part of that transaction) (in the case of an Agency Transaction to which paragraph 16.7 applies) and to perform on behalf of that Principal all the obligations of that person under the agreement referred to in 16.4(ii) or 16.5(iii) as the case may be.

In this paragraph 16 "**Trade Date**" means in relation to each Agency Transaction the time at which the terms of the Agency Transaction are agreed.

16.8 The Lender acknowledges that it is subject to and agrees that it is and will act in compliance with, the United Kingdom Money Laundering Regulations 1993 (as amended from time to time) and such other substantially equivalent money

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laundering requirements in force from time to time in its place of incorporation or organisation.

7. Party Preparing this Agreement

Party A* ☐

Party B* The Bank of New York Mellon (as Agent) ☑

8. Corporate Actions

8.1 In relation to corporate actions arising on UK Loaned Securities, the parties hereby agree that the words "reasonable time" in the seventh line of paragraph 6.4 shall be replaced with the words "two Business Days".

8.2 For the avoidance of doubt, the parties hereby agree that no UK Equivalent Securities shall be delivered to the Lender within 2 Business Days of the date upon which any of the rights described in paragraph 6.4 may be exercised.

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GLOBAL MASTER SECURITIES LENDING AGREEMENT

(VERSION: MAY 2000)

2000 UK TAX ADDENDUM

We hereby agree that the attached Global Master Securities Lending Agreement dated (the "**Agreement**") shall as from the date of this Addendum take effect subject to the following and supplemental terms:-

1. **INTERPRETATION**

1.1 In this Addendum the following definitions shall apply:-

"**Appropriate Tax Vouchers**" means:

(i) either such tax vouchers and/or certificates as shall enable the recipient to claim and receive from any relevant tax authority, in respect of interest, dividends, distributions and/or other amounts (including for the avoidance of doubt any manufactured payment) relating to particular Securities, all and any repayment of tax or benefit of tax credit to which the Lender would have been entitled but for the loan of Securities in accordance with this Agreement and/or to which the Lender is entitled in respect of tax withheld and accounted for in respect of any manufactured payment; or such tax vouchers and/or certificates as are provided by the Borrower which evidence an amount of overseas tax deducted which shall enable the recipient to claim and receive from any relevant tax authority all and any repayment of tax from the UK Inland Revenue or benefits of tax credit in the jurisdiction of the recipient's residence; and

(ii) such vouchers and/or certificates in respect of interest, dividends, distributions and/or other amounts relating to particular Collateral;

"**Approved UK Collecting Agent**" means a person who is approved as such for the purposes of the Rules of the UK Inland Revenue relating to manufactured overseas dividends;

"**Approved UK Intermediary**" means a person who is approved as such for the purposes of the Rules of the UK Inland Revenue relating to manufactured overseas dividends;

"**Overseas Securities**" has the meaning given to that term in paragraph 1(1) of Schedule 23A to the Income and Corporation Taxes Act 1988.

1.2 Terms to which a defined meaning is given in the Agreement have the same meanings in this Addendum.

2. **APPLICATION OF THIS ADDENDUM**

(i) Paragraphs 3, 5 and 6 of this Addendum shall apply in relation to any Loan of Overseas Securities made pursuant to the Agreement.

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(ii) Paragraph 4 of this Addendum shall apply in relation to any Collateral provided pursuant to the Agreement in the form of Overseas Securities.

3. **MANUFACTURED DIVIDENDS**

Paragraph 6.1 of the Agreement shall take effect as if that paragraph 6.1 had been deleted and replaced with the following paragraphs:-

(i) Where Income is paid in relation to any Securities on or by reference to an Income Payment Date on which such Securities are the subject of a Loan, the Borrower shall, on the date of the payment of such Income, or on such other date as the Parties may from time to time agree (the "Relevant Payment Date") pay and deliver a sum of money or property equivalent to the type and amount of such Income, irrespective of whether the Borrower received the same. The provisions of sub-paragraphs (ii) to (iv) below shall apply in relation thereto.

(ii) Subject to sub-paragraph (iii) below, in the case of any Income comprising a payment, the amount (the "Manufactured Dividend") payable by the Borrower shall be equal to the amount of the relevant Income TOGETHER WITH an amount equivalent to any deduction, withholding or payment for or on account of tax made by the relevant issuer (or on its behalf) in respect of such Income TOGETHER WITH an amount equal to any other tax credit associated with such Income, unless a lesser amount is agreed between the Parties or an Appropriate Tax Voucher (TOGETHER WITH any further amount which may be agreed between the Parties to be paid) is provided in lieu of such deduction, withholding, tax credit or payment.

(iii) Where either the Borrower, or any person to whom the Borrower has on-lent the Securities, is unable to make payment of the Manufactured Dividend to the Lender without there being a requirement to account to the UK Inland Revenue for any amount of relevant tax (as required by Schedule 23A to the Income and Corporation Taxes Act 1988) the Borrower shall pay to the Lender, in cash, the Manufactured Dividend less amounts equal to such tax. The Borrower shall at the same time, if requested, supply Appropriate Tax Vouchers to the Lender.

(iv) Unless otherwise agreed between the Parties, if at any time any Manufactured Dividend (as defined in sub-paragraph (ii) above) fails to be paid pursuant to this sub-paragraph neither of the Parties is an Approved UK Intermediary or an Approved UK Collecting Agent, the Borrower will procure that the relevant payment is paid through an Approved UK Intermediary or an Approved UK Collecting Agent agreed by the Parties for this purpose, unless the rate of relevant withholding tax in respect of any Income that would be payable to the Lender but for the loan of the Securities would have been zero and no income tax liability under Chapter VIIA of Part IV of the Income and Corporation Taxes Act 1988 would have arisen in respect thereof.

4. **MANUFACTURED DIVIDENDS ON COLLATERAL**

The Agreement shall take effect as if paragraph 5.3 thereof had been replaced by the following sub-paragraphs:-

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(i) Where Collateral is delivered in respect of which any Income may become payable, the Borrower shall call for the redelivery of Collateral equivalent to such Collateral in good time to ensure that such Equivalent Collateral may be delivered prior to any such Income becoming payable to the Lender, unless in relation to such Collateral the Parties are satisfied before the relevant Collateral is transferred that no tax will be payable to the UK Inland Revenue under Schedule 23A to the Income and Corporation Taxes Act 1988. At the time of such redelivery the Borrower shall deliver Alternative Collateral acceptable to the Lender.

(ii) Where the Lender receives any Income in circumstances where the Parties are satisfied as set out in sub-paragraph (i) above, then the Lender shall, on the date on which the Lender receives such Income, or on such other date as the Parties may from time to time agree, pay and deliver a sum of money or property equivalent to the amount of such Income (with any such endorsements or assignments as shall be customary and appropriate to effect the delivery) to the Borrower and shall supply Appropriate Tax Vouchers (if any) to the Borrower.

5. **INLAND REVENUE STATUS OF PARTIES**

5.1 A Party undertakes to notify the other Party if it becomes or ceases to be an Approved UK Intermediary or an Approved UK Collecting Agent.

5.2 Where the Lender is not resident in the United Kingdom for tax purposes and either is not carrying on a trade in the United Kingdom through a branch or agency or, if it is carrying on such a trade, the loan is not entered into in the course of the business of such branch or agency, the Lender warrants and undertakes to the Borrower on a continuing basis that it has:

(i) provided such documentary evidence as the Borrower may reasonably require from time to time, in order to establish that:

(a) the Lender is not resident in the UK for tax purposes; and

(b) the Lender is the beneficial owner of any Income arising under the loan;

(ii) taken all necessary steps to enable a specific authorisation to make gross payment of Manufactured Dividends of Overseas Securities to be issued by the UK Inland Revenue.

6. **PAYMENTS OF MANUFACTURED DIVIDENDS**

The Parties agree that Manufactured Dividends will/will not* be paid through an Approved UK Intermediary or an Approved UK Collecting Agent agreed by the Parties for this purpose.

** Delete as appropriate.*

Signed by)
)
Duly authorised for and on)
behalf of)

Signed by)

)
Duly authorised for and on) **The Bank of New York Mellon**
behalf of)

TEA IDS

Master Securities Loan Agreement

2000 Version

Dated as of: _____

Between: **THE BANK OF NEW YORK MELLON**, as "Lending Agent", acting in its capacity as agent for various of its clients disclosed to the Borrower from time to time
and _____

1. Applicability.

From time to time the parties hereto may enter into transactions in which **THE BANK OF NEW YORK MELLON,** as "Lending Agent", acting in its capacity as agent for various of its clients disclosed to the Borrower from time to time ("Lender") will lend to **[INSERT NAME OF BORROWER]** ("Borrower") certain Securities (as defined herein) against a transfer of Collateral (as defined herein). Each such transaction shall be referred to herein as a "Loan" and, unless otherwise agreed in writing, shall be governed by this Agreement, including any supplemental terms or conditions contained in an Annex or Schedule hereto and in any other annexes identified herein or therein as applicable hereunder. Capitalized terms not otherwise defined herein shall have the meanings provided in Section 25.

2. Loans of Securities.

2.1 Subject to the terms and conditions of this Agreement, Borrower or Lender may, from time to time, seek to initiate a transaction in which Lender will lend Securities to Borrower. Borrower and Lender shall agree on the terms of each Loan (which terms may be amended during the Loan), including the issuer of the Securities, the amount of Securities to be lent, the basis of compensation, the amount of Collateral to be transferred by Borrower, and any additional terms. Such agreement shall be confirmed (a) by a schedule and receipt listing the Loaned Securities provided by Borrower to Lender in accordance with Section 3.2, (b) through any system that compares Loans and in which Borrower and Lender are participants, or (c) in such other manner as may be agreed by Borrower and Lender in writing. Such confirmation (the "Confirmation"), together with the Agreement, shall constitute conclusive evidence of the terms agreed between Borrower and Lender with respect to the Loan to which the Confirmation relates, unless with respect to the Confirmation specific objection is made promptly after receipt thereof. In the event of any inconsistency between the terms of such Confirmation and this Agreement, this Agreement shall prevail unless each party has executed such Confirmation.

2.2 Notwithstanding any other provision in this Agreement regarding when a Loan

commences, unless otherwise agreed, a Loan hereunder shall not occur until the Loaned Securities and the Collateral therefor have been transferred in accordance with Section 15.

3. Transfer of Loaned Securities.

3.1 Unless otherwise agreed, Lender shall transfer Loaned Securities to Borrower hereunder on or before the Cutoff Time on the date agreed to by Borrower and Lender for the commencement of the Loan.

3.2 Unless otherwise agreed, Borrower shall provide Lender, for each Loan in which Lender is a Customer, with a schedule and receipt listing the Loaned Securities. Such schedule and receipt may consist of (a) a schedule provided to Borrower by Lender and executed and returned by Borrower when the Loaned Securities are received, (b) in the case of Securities transferred through a Clearing Organization which provides transferors with a notice evidencing such transfer, such notice, or (c) a confirmation or other document provided to Lender by Borrower.

3.3 Notwithstanding any other provision in this Agreement, the parties hereto agree that they intend the Loans hereunder to be loans of Securities. If, however, any Loan is deemed to be a loan of money by Borrower to Lender, then Borrower shall have, and Lender shall be deemed to have granted, a security interest in the Loaned Securities and the proceeds thereof.

4. Collateral.

4.1 Unless otherwise agreed, Borrower shall, prior to or concurrently with the transfer of the Loaned Securities to Borrower, but in no case later than the Close of Business on the day of such transfer, transfer to Lender Collateral with a Market Value at least equal to the Margin Percentage of the Market Value of the Loaned Securities.

4.2 The Collateral transferred by Borrower to Lender, as adjusted pursuant to Section 9, shall be security for Borrower's obligations in respect of such Loan and for any other obligations of Borrower to Lender hereunder. Borrower hereby pledges with, assigns to, and grants Lender a continuing first priority security interest in, and a lien upon, the Collateral, which shall attach upon the transfer of the Loaned Securities by Lender to Borrower and which shall cease upon the transfer of the Loaned Securities by Borrower to Lender. In addition to the rights and remedies given to Lender hereunder, Lender shall have all the rights and remedies of a secured party under the UCC. It is understood that Lender may use or invest the Collateral, if such consists of cash, at its own risk, but that (unless Lender is a Broker-Dealer) Lender shall, during the term of any Loan hereunder, segregate Collateral from all securities or other assets in its possession. Lender may Retransfer Collateral only (a) if Lender is a Broker-Dealer or (b) in the event of a Default by Borrower. Segregation of Collateral may be accomplished by appropriate identification on the books and records of Lender if it is a "securities intermediary" within the meaning of the UCC.

4.3 Except as otherwise provided herein, upon transfer to Lender of the Loaned Securities on the day a Loan is terminated pursuant to Section 6, Lender shall be obligated to transfer the Collateral (as adjusted pursuant to Section 9) to Borrower no later than the Cutoff Time on such day or, if such day is not a day on which a transfer of such Collateral may be effected under Section 15, the next day on which such a transfer may be effected.

4.4 If Borrower transfers Collateral to Lender, as provided in Section 4.1, and Lender does not transfer the Loaned Securities to Borrower, Borrower shall have the absolute right to the return of the Collateral; and if Lender transfers Loaned Securities to Borrower and Borrower does not transfer Collateral to Lender as provided in Section 4.1, Lender shall have the absolute right to the return of the Loaned Securities.

4.5 Borrower may, upon reasonable notice to Lender (taking into account all relevant factors, including industry practice, the type of Collateral to be substituted, and the applicable method of transfer), substitute Collateral for Collateral securing any Loan or Loans; provided, however, that such substituted Collateral shall (a) consist only of cash, securities or other property that Borrower and Lender agreed would be acceptable Collateral prior to the Loan or Loans and (b) have a Market Value such that the aggregate Market Value of such substituted Collateral, together with all other Collateral for Loans in which the party substituting such Collateral is acting as Borrower, shall equal or exceed the agreed upon Margin Percentage of the Market Value of the Loaned Securities.

4.6 Prior to the expiration of any letter of credit supporting Borrower's obligations hereunder, Borrower shall, no later than the Extension Deadline, (a) obtain an extension of the expiration of such letter of credit, (b) replace such letter of credit by providing Lender with a substitute letter of credit in an amount at least equal to the amount of the letter of credit for which it is substituted, or (c) transfer such other Collateral to Lender as may be acceptable to Lender.

5. Fees for Loan.

5.1 Unless otherwise agreed, (a) Borrower agrees to pay Lender a loan fee (a "Loan Fee"), computed daily on each Loan to the extent such Loan is secured by Collateral other than cash, based on the aggregate Market Value of the Loaned Securities on the day for which such Loan Fee is being computed, and (b) Lender agrees to pay Borrower a fee or rebate (a "Cash Collateral Fee") on Collateral consisting of cash, computed daily based on the amount of cash held by Lender as Collateral, in the case of each of the Loan Fee and the Cash Collateral Fee at such rates as Borrower and Lender may agree. Except as Borrower and Lender may otherwise agree (in the event that cash Collateral is transferred by clearing house funds or otherwise), Loan Fees shall accrue from and including the date on which the Loaned Securities are transferred to Borrower to, but excluding, the date on which such Loaned Securities are returned to Lender, and Cash Collateral Fees shall accrue from and including the date on which the cash Collateral is transferred to Lender to, but excluding, the date on which such cash Collateral is returned to Borrower.

5.2 Unless otherwise agreed, any Loan Fee or Cash Collateral Fee payable hereunder shall be payable:

(a) in the case of any Loan of Securities other than Government Securities, upon the earlier of (i) the fifteenth day of the month following the calendar month in which such fee was incurred and (ii) the termination of all Loans hereunder (or, if a transfer of cash in accordance with Section 15 may not be effected on such fifteenth day or the day of such termination, as the case may be, the next day on which such a transfer may be effected); and

(b) in the case of any Loan of Government Securities, upon the termination of such Loan and at such other times, if any, as may be customary in accordance with market practice.

Notwithstanding the foregoing, all Loan Fees shall be payable by Borrower immediately in the event of a Default hereunder by Borrower and all Cash Collateral Fees shall be payable immediately by Lender in the event of a Default by Lender.

6. Termination of the Loan.

6.1 (a) Unless otherwise agreed, either party may terminate a Loan on a termination date established by notice given to the other party prior to the Close of Business on a Business Day. The termination date established by a termination notice shall be a date no earlier than the standard settlement date that would apply to a purchase or sale of the Loaned Securities (in the case of a notice given by Lender) or the non-cash Collateral securing the Loan (in the case of a notice given by Borrower) entered into at the time of such notice, which date shall, unless Borrower and Lender agree to the contrary, be (i) in the case of Government Securities, the next Business Day following such notice and (ii) in the case of all other Securities, the third Business Day following such notice.

(b) Notwithstanding paragraph (a) and unless otherwise agreed, Borrower may terminate a Loan on any Business Day by giving notice to Lender and transferring the Loaned Securities to Lender before the Cutoff Time on such Business Day if (i) the Collateral for such Loan consists of cash or Government Securities or (ii) Lender is not permitted, pursuant to Section 4.2, to Retransfer Collateral.

6.2 Unless otherwise agreed, Borrower shall, on or before the Cutoff Time on the termination date of a Loan, transfer the Loaned Securities to Lender; provided, however, that upon such transfer by Borrower, Lender shall transfer the Collateral (as adjusted pursuant to Section 9) to Borrower in accordance with Section 4.3.

7. Rights in Respect of Loaned Securities and Collateral.

7.1 Except as set forth in Sections 8.1 and 8.2 and as otherwise agreed by Borrower and Lender, until Loaned Securities are required to be redelivered to Lender upon

termination of a Loan hereunder, Borrower shall have all of the incidents of ownership of the Loaned Securities, including the right to transfer the Loaned Securities to others. Lender hereby waives the right to vote, or to provide any consent or to take any similar action with respect to, the Loaned Securities in the event that the record date or deadline for such vote, consent or other action falls during the term of the Loan.

7.2 Except as set forth in Sections 8.3 and 8.4 and as otherwise agreed by Borrower and Lender, if Lender may, pursuant to Section 4.2, Retransfer Collateral, Borrower hereby waives the right to vote, or to provide any consent or take any similar action with respect to, any such Collateral in the event that the record date or deadline for such vote, consent or other action falls during the term of a Loan and such Collateral is not required to be returned to Borrower pursuant to Section 4.5 or Section 9.

8. Distributions.

8.1 Lender shall be entitled to receive all Distributions made on or in respect of the Loaned Securities which are not otherwise received by Lender, to the full extent it would be so entitled if the Loaned Securities had not been lent to Borrower.

8.2 Any cash Distributions made on or in respect of the Loaned Securities, which Lender is entitled to receive pursuant to Section 8.1, shall be paid by the transfer of cash to Lender by Borrower, on the date any such Distribution is paid, in an amount equal to such cash Distribution, so long as Lender is not in Default at the time of such payment. Non-cash Distributions that Lender is entitled to receive pursuant to Section 8.1 shall be added to the Loaned Securities on the date of distribution and shall be considered such for all purposes, except that if the Loan has terminated, Borrower shall forthwith transfer the same to Lender.

8.3 Borrower shall be entitled to receive all Distributions made on or in respect of non-cash Collateral which are not otherwise received by Borrower, to the full extent it would be so entitled if the Collateral had not been transferred to Lender.

8.4 Any cash Distributions made on or in respect of such Collateral, which Borrower is entitled to receive pursuant to Section 8.3, shall be paid by the transfer of cash to Borrower by Lender, on the date any such Distribution is paid, in an amount equal to such cash Distribution, so long as Borrower is not in Default at the time of such payment. Non-cash Distributions that Borrower is entitled to receive pursuant to Section 8.3 shall be added to the Collateral on the date of distribution and shall be considered such for all purposes, except that if each Loan secured by such Collateral has terminated, Lender shall forthwith transfer the same to Borrower.

8.5 Unless otherwise agreed by the parties:

(a) If (i) Borrower is required to make a payment (a "Borrower Payment") with respect to cash Distributions on Loaned Securities under Sections 8.1 and 8.2 ("Securities Distributions"), or (ii) Lender is required to make a payment (a "Lender Payment") with respect to cash Distributions

on Collateral under Sections 8.3 and 8.4 ("Collateral Distributions"), and (iii) Borrower or Lender, as the case may be ("Payor"), shall be required by law to collect any withholding or other tax, duty, fee, levy or charge required to be deducted or withheld from such Borrower Payment or Lender Payment ("Tax"), then Payor shall (subject to subsections (b) and (c) below), pay such additional amounts as may be necessary in order that the net amount of the Borrower Payment or Lender Payment received by the Lender or Borrower, as the case may be ("Payee"), after payment of such Tax equals the net amount of the Securities Distribution or Collateral Distribution that would have been received if such Securities Distribution or Collateral Distribution had been paid directly to the Payee.

(b) No additional amounts shall be payable to a Payee under subsection (a) above to the extent that Tax would have been imposed on a Securities Distribution or Collateral Distribution paid directly to the Payee.

(c) No additional amounts shall be payable to a Payee under subsection (a) above to the extent that such Payee is entitled to an exemption from, or reduction in the rate of, Tax on a Borrower Payment or Lender Payment subject to the provision of a certificate or other documentation, but has failed timely to provide such certificate or other documentation.

(d) Each party hereto shall be deemed to represent that, as of the commencement of any Loan hereunder, no Tax would be imposed on any cash Distribution paid to it with respect to (i) Loaned Securities subject to a Loan in which it is acting as Lender or (ii) Collateral for any Loan in which it is acting as Borrower, unless such party has given notice to the contrary to the other party hereto (which notice shall specify the rate at which such Tax would be imposed). Each party agrees to notify the other of any change that occurs during the term of a Loan in the rate of any Tax that would be imposed on any such cash Distributions payable to it.

8.6 To the extent that, under the provisions of Sections 8.1 through 8.5, (a) a transfer of cash or other property by Borrower would give rise to a Margin Excess or (b) a transfer of cash or other property by Lender would give rise to a Margin Deficit, Borrower or Lender (as the case may be) shall not be obligated to make such transfer of cash or other property in accordance with such Sections, but shall in lieu of such transfer immediately credit the amounts that would have been transferable under such Sections to the account of Lender or Borrower (as the case may be).

9. Mark to Market.

9.1 If Lender is a Customer, Borrower shall daily mark to market any Loan hereunder and in the event that at the Close of Trading on any Business Day the Market Value of the Collateral for any Loan to Borrower shall be less than 100% of the Market Value of all the outstanding Loaned Securities subject to such Loan, Borrower shall transfer additional Collateral no later than the Close of Business on the next Business Day so that the Market Value of such additional

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Collateral, when added to the Market Value of the other Collateral for such Loan, shall equal 100% of the Market Value of the Loaned Securities.

9.2 In addition to any rights of Lender under Section 9.1, if at any time the aggregate Market Value of all Collateral for Loans by Lender shall be less than the Margin Percentage of the Market Value of all the outstanding Loaned Securities subject to such Loans (a "Margin Deficit"), Lender may, by notice to Borrower, demand that Borrower transfer to Lender additional Collateral so that the Market Value of such additional Collateral, when added to the Market Value of all other Collateral for such Loans, shall equal or exceed the Margin Percentage of the Market Value of the Loaned Securities.

9.3 Subject to Borrower's obligations under Section 9.1, if at any time the Market Value of all Collateral for Loans to Borrower shall be greater than the Margin Percentage of the Market Value of all the outstanding Loaned Securities subject to such Loans (a "Margin Excess"), Borrower may, by notice to Lender, demand that Lender transfer to Borrower such amount of the Collateral selected by Borrower so that the Market Value of the Collateral for such Loans, after deduction of such amounts, shall thereupon not exceed the Margin Percentage of the Market Value of the Loaned Securities.

9.4 Borrower and Lender may agree, with respect to one or more Loans hereunder, to mark the values to market pursuant to Sections 9.2 and 9.3 by separately valuing the Loaned Securities lent and the Collateral given in respect thereof on a Loan-by-Loan basis.

9.5 Borrower and Lender may agree, with respect to any or all Loans hereunder, that the respective rights of Lender and Borrower under Sections 9.2 and 9.3 may be exercised only where a Margin Excess or Margin Deficit exceeds a specified dollar amount or a specified percentage of the Market Value of the Loaned Securities under such Loans (which amount or percentage shall be agreed to by Borrower and Lender prior to entering into any such Loans).

9.6 If any notice is given by Borrower or Lender under Sections 9.2 or 9.3 at or before the Margin Notice Deadline on any day on which a transfer of Collateral may be effected in accordance with Section 15, the party receiving such notice shall transfer Collateral as provided in such Section no later than the Close of Business on such day. If any such notice is given after the Margin Notice Deadline, the party receiving such notice shall transfer such Collateral no later than the Close of Business on the next Business Day following the day of such notice.

10. Representations.

The parties to this Agreement hereby make the following representations and warranties, which shall continue during the term of any Loan hereunder:

10.1 Each party hereto represents and warrants that (a) it has the power to execute and deliver this Agreement, to enter into the Loans contemplated hereby and to perform its obligations hereunder, (b) it has taken all necessary action to authorize such execution, delivery and performance, and (c) this Agreement

constitutes a legal, valid and binding obligation enforceable against it in accordance with its terms.

10.2 Each party hereto represents and warrants that it has not relied on the other for any tax or accounting advice concerning this Agreement and that it has made its own determination as to the tax and accounting treatment of any Loan and any dividends, remuneration or other funds received hereunder.

10.3 Each party hereto represents and warrants that it is acting for its own account unless it expressly specifies otherwise in writing and complies with Section 11.1(b).

10.4 Borrower represents and warrants that it has, or will have at the time of transfer of any Collateral, the right to grant a first priority security interest therein subject to the terms and conditions hereof.

10.5 (a) Borrower represents and warrants that it (or the person to whom it relends the Loaned Securities) is borrowing or will borrow Loaned Securities that are Equity Securities for the purpose of making delivery of such Loaned Securities in the case of short sales, failure to receive securities required to be delivered, or as otherwise permitted pursuant to Regulation T as in effect from time to time.

(b) Borrower and Lender may agree, as provided in Section 24.2, that Borrower shall not be deemed to have made the representation or warranty in subsection (a) with respect to any Loan. By entering into any such agreement, Lender shall be deemed to have represented and warranted to Borrower (which representation and warranty shall be deemed to be repeated on each day during the term of the Loan) that Lender is either (i) an "exempted borrower" within the meaning of Regulation T or (ii) a member of a national securities exchange or a broker or dealer registered with the U.S. Securities and Exchange Commission that is entering into such Loan to finance its activities as a market maker or an underwriter.

10.6 Lender represents and warrants that it has, or will have at the time of transfer of any Loaned Securities, the right to transfer the Loaned Securities subject to the terms and conditions hereof.

11. Covenants.

11.1 Each party agrees either (a) to be liable as principal with respect to its obligations hereunder or (b) to execute and comply fully with the provisions of Annex I (the terms and conditions of which Annex are incorporated herein and made a part hereof).

11.2 Promptly upon (and in any event within seven (7) Business Days after) demand by Lender, Borrower shall furnish Lender with Borrower's most recent publicly-available financial statements and any other financial statements mutually agreed upon by Borrower and Lender. Unless otherwise agreed, if Borrower is subject to the requirements of Rule 17a-5(c) under the Exchange Act, it may satisfy the

requirements of this Section by furnishing Lender with its most recent statement required to be furnished to customers pursuant to such Rule.

12. Events of Default.

All Loans hereunder may, at the option of the non-defaulting party (which option shall be deemed to have been exercised immediately upon the occurrence of an Act of Insolvency), be terminated immediately upon the occurrence of any one or more of the following events (individually, a "Default"):

12.1 if any Loaned Securities shall not be transferred to Lender upon termination of the Loan as required by Section 6;

12.2 if any Collateral shall not be transferred to Borrower upon termination of the Loan as required by Sections 4.3 and 6;

12.3 if either party shall fail to transfer Collateral as required by Section 9;

12.4 if either party (a) shall fail to transfer to the other party amounts in respect of Distributions required to be transferred by Section 8, (b) shall have been notified of such failure by the other party prior to the Close of Business on any day, and (c) shall not have cured such failure by the Cutoff Time on the next day after such Close of Business on which a transfer of cash may be effected in accordance with Section 15;

12.5 if an Act of Insolvency occurs with respect to either party;

12.6 if any representation made by either party in respect of this Agreement or any Loan or Loans hereunder shall be incorrect or untrue in any material respect during the term of any Loan hereunder;

12.7 if either party notifies the other of its inability to or its intention not to perform its obligations hereunder or otherwise disaffirms, rejects or repudiates any of its obligations hereunder; or

12.8 if either party (a) shall fail to perform any material obligation under this Agreement not specifically set forth in clauses 12.1 through 12.7, above, including but not limited to the payment of fees as required by Section 5, and the payment of transfer taxes as required by Section 14, (b) shall have been notified of such failure by the other party prior to the Close of Business on any day, and (c) shall not have cured such failure by the Cutoff Time on the next day after such Close of Business on which a transfer of cash may be effected in accordance with Section 15.

The non-defaulting party shall (except upon the occurrence of an Act of Insolvency) give notice as promptly as practicable to the defaulting party of the exercise of its option to terminate all Loans hereunder pursuant to this Section 12.

13. Remedies.

13.1 Upon the occurrence of a Default under Section 12 entitling Lender to terminate all Loans hereunder, Lender shall have the right, in addition to any other remedies provided herein, (a) to purchase a like amount of Loaned Securities ("Replacement Securities") in the principal market for such Loaned Securities in a commercially reasonable manner, (b) to sell any Collateral in the principal market for such Collateral in a commercially reasonable manner and (c) to apply and set off the Collateral and any proceeds thereof (including any amounts drawn under a letter of credit supporting any Loan) against the payment of the purchase price for such Replacement Securities and any amounts due to Lender under Sections 5, 8, 14 and 16. In the event that Lender shall exercise such rights, Borrower's obligation to return a like amount of the Loaned Securities shall terminate. Lender may similarly apply the Collateral and any proceeds thereof to any other obligation of Borrower under this Agreement, including Borrower's obligations with respect to Distributions paid to Borrower (and not forwarded to Lender) in respect of Loaned Securities. In the event that (i) the purchase price of Replacement Securities (plus all other amounts, if any, due to Lender hereunder) exceeds (ii) the amount of the Collateral, Borrower shall be liable to Lender for the amount of such excess together with interest thereon at a rate equal to (A) in the case of purchases of Foreign Securities, LIBOR, (B) in the case of purchases of any other Securities (or other amounts, if any, due to Lender hereunder), the Federal Funds Rate or (C) such other rate as may be specified in Schedule B, in each case as such rate fluctuates from day to day, from the date of such purchase until the date of payment of such excess. As security for Borrower's obligation to pay such excess, Lender shall have, and Borrower hereby grants, a security interest in any property of Borrower then held by or for Lender and a right of setoff with respect to such property and any other amount payable by Lender to Borrower. The purchase price of Replacement Securities purchased under this Section 13.1 shall include, and the proceeds of any sale of Collateral shall be determined after deduction of, broker's fees and commissions and all other reasonable costs, fees and expenses related to such purchase or sale (as the case may be). In the event Lender exercises its rights under this Section 13.1, Lender may elect in its sole discretion, in lieu of purchasing all or a portion of the Replacement Securities or selling all or a portion of the Collateral, to be deemed to have made, respectively, such purchase of Replacement Securities or sale of Collateral for an amount equal to the price therefor on the date of such exercise obtained from a generally recognized source or the last bid quotation from such a source at the most recent Close of Trading. Subject to Section 18, upon the satisfaction of all obligations hereunder, any remaining Collateral shall be returned to Borrower. 13.2 Upon the occurrence of a Default under Section 12 entitling Borrower to terminate all Loans hereunder, Borrower shall have the right, in addition to any other remedies provided herein, (a) to purchase a like amount of Collateral ("Replacement Collateral") in the principal market for such Collateral in a commercially reasonable manner, (b) to sell a like amount of the Loaned Securities in the principal market for such Loaned Securities in a commercially reasonable manner and (c) to apply and set off the Loaned Securities and any proceeds thereof against (i) the payment of the purchase price for such Replacement Collateral, (ii) Lender's obligation to return any cash or other Collateral, and (iii) any amounts due to Borrower under Sections 5, 8 and 16. In such event, Borrower may treat the Loaned Securities as its own and Lender's obligation to return a like amount of the Collateral shall terminate; provided, however, that Lender shall immediately return any letters of credit

supporting any Loan upon the exercise or deemed exercise by Borrower of its termination rights under Section 12. Borrower may similarly apply the Loaned Securities and any proceeds thereof to any other obligation of Lender under this Agreement, including Lender's obligations with respect to Distributions paid to Lender (and not forwarded to Borrower) in respect of Collateral. In the event that (i) the sales price received from such Loaned Securities is less than (ii) the purchase price of Replacement Collateral (plus the amount of any cash or other Collateral not replaced by Borrower and all other amounts, if any, due to Borrower hereunder), Lender shall be liable to Borrower for the amount of any such deficiency, together with interest on such amounts at a rate equal to (A) in the case of Collateral consisting of Foreign Securities, LIBOR, (B) in the case of Collateral consisting of any other Securities (or other amounts due, if any, to Borrower hereunder), the Federal Funds Rate or (C) such other rate as may be specified in Schedule B, in each case as such rate fluctuates from day to day, from the date of such sale until the date of payment of such deficiency. As security for Lender's obligation to pay such deficiency, Borrower shall have, and Lender hereby grants, a security interest in any property of Lender then held by or for Borrower and a right of setoff with respect to such property and any other amount payable by Borrower to Lender. The purchase price of any Replacement Collateral purchased under this Section

13.2 shall include, and the proceeds of any sale of Loaned Securities shall be determined after deduction of, broker's fees and commissions and all other reasonable costs, fees and expenses related to such purchase or sale (as the case may be). In the event Borrower exercises its rights under this Section 13.2, Borrower may elect in its sole discretion, in lieu of purchasing all or a portion of the Replacement Collateral or selling all or a portion of the Loaned Securities, to be deemed to have made, respectively, such purchase of Replacement Collateral or sale of Loaned Securities for an amount equal to the price therefor on the date of such exercise obtained from a generally recognized source or the last bid quotation from such a source at the most recent Close of Trading. Subject to Section 18, upon the satisfaction of all Lender's obligations hereunder, any remaining Loaned Securities (or remaining cash proceeds thereof) shall be returned to Lender.

13.3 Unless otherwise agreed, the parties acknowledge and agree that (a) the Loaned Securities and any Collateral consisting of Securities are of a type traded in a recognized market, (b) in the absence of a generally recognized source for prices or bid or offer quotations for any security, the non-defaulting party may establish the source therefor in its sole discretion, and (c) all prices and bid and offer quotations shall be increased to include accrued interest to the extent not already included therein (except to the extent contrary to market practice with respect to the relevant Securities).

13.4 In addition to its rights hereunder, the non-defaulting party shall have any rights otherwise available to it under any other agreement or applicable law.

14. Transfer Taxes.

All transfer taxes with respect to the transfer of the Loaned Securities by Lender to Borrower and by Borrower to Lender upon termination of the Loan and with respect to

the transfer of Collateral by Borrower to Lender and by Lender to Borrower upon termination of the Loan or pursuant to Section 4.5 or Section 9 shall be paid by Borrower.

15. Transfers.

15.1 All transfers by either Borrower or Lender of Loaned Securities or Collateral consisting of "financial assets" (within the meaning of the UCC) hereunder shall be by (a) in the case of certificated securities, physical delivery of certificates representing such securities together with duly executed stock and bond transfer powers, as the case may be, with signatures guaranteed by a bank or a member firm of the New York Stock Exchange, Inc., (b) registration of an uncertificated security in the transferee's name by the issuer of such uncertificated security, (c) the crediting by a Clearing Organization of such financial assets to the transferee's "securities account" (within the meaning of the UCC) maintained with such Clearing Organization, or (d) such other means as Borrower and Lender may agree.

15.2 All transfers of cash hereunder shall be by (a) wire transfer in immediately available, freely transferable funds or (b) such other means as Borrower and Lender may agree.

15.3 All transfers of letters of credit from Borrower to Lender shall be made by physical delivery to Lender of an irrevocable letter of credit issued by a "bank" as defined in Section 3(a)(6)(A)-(C) of the Exchange Act. Transfers of letters of credit from Lender to Borrower shall be made by causing such letters of credit to be returned or by causing the amount of such letters of credit to be reduced to the amount required after such transfer.

15.4 A transfer of Securities, cash or letters of credit may be effected under this Section 15 on any day except (a) a day on which the transferee is closed for business at its address set forth in Schedule A hereto or (b) a day on which a Clearing Organization or wire transfer system is closed, if the facilities of such Clearing Organization or wire transfer system are required to effect such transfer.

15.5 For the avoidance of doubt, the parties agree and acknowledge that the term "securities," as used herein (except in this Section 15), shall include any "security entitlements" with respect to such securities (within the meaning of the UCC). In every transfer of "financial assets" (within the meaning of the UCC) hereunder, the transferor shall take all steps necessary (a) to effect a delivery to the transferee under Section 8-301 of the UCC, or to cause the creation of a security entitlement in favor of the transferee under Section 8-501 of the UCC, (b) to enable the transferee to obtain "control" (within the meaning of Section 8-106 of the UCC), and (c) to provide the transferee with comparable rights under any applicable foreign law or regulation.

16. Contractual Currency.

16.1 Borrower and Lender agree that (a) any payment in respect of a Distribution under Section 8 shall be made in the currency in which the underlying Distribution of cash was made, (b) any return of cash shall be made in the currency in which the underlying transfer of cash was made, and (c) any other

payment of cash in connection with a Loan under this Agreement shall be in the currency agreed upon by Borrower and Lender in connection with such Loan (the currency established under clause (a), (b) or (c) hereinafter referred to as the "Contractual Currency"). Notwithstanding the foregoing, the payee of any such payment may, at its option, accept tender thereof in any other currency; provided, however, that, to the extent permitted by applicable law, the obligation of the payor to make such payment will be discharged only to the extent of the amount of Contractual Currency that such payee may, consistent with normal banking procedures, purchase with such other currency (after deduction of any premium and costs of exchange) on the banking day next succeeding its receipt of such currency.

16.2 If for any reason the amount in the Contractual Currency received under Section 16.1, including amounts received after conversion of any recovery under any judgment or order expressed in a currency other than the Contractual Currency, falls short of the amount in the Contractual Currency due in respect of this Agreement, the party required to make the payment will (unless a Default has occurred and such party is the non-defaulting party) as a separate and independent obligation and to the extent permitted by applicable law, immediately pay such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall.

16.3 If for any reason the amount in the Contractual Currency received under Section 16.1 exceeds the amount in the Contractual Currency due in respect of this Agreement, then the party receiving the payment will (unless a Default has occurred and such party is the non-defaulting party) refund promptly the amount of such excess.

17. ERISA.

To the extent that Lender has provided Borrower with written statements identifying any of its principals as ERISA Plans, then Borrower and Lender shall conduct each Loan on behalf of such principal or principals in accordance with the terms and conditions of Department of Labor Prohibited Transaction Exemption 2006-16, or any successor thereto (unless Borrower and Lender have agreed prior to entering into a Loan that such Loan will be conducted in reliance on another exemption, or without relying on any exemption, from the prohibited transaction provisions of Section 406 of the Employee Retirement Income Security Act of 1974, as amended, and Section 4975 of the Internal Revenue Code of 1986, as amended). Without limiting the foregoing and notwithstanding any other provision of this Agreement, to the extent that Lender has provided Borrower with written statements identifying any of its principals as ERISA Plans, each acceptance by Borrower of Loaned Securities in connection with a Loan hereunder shall constitute a present representation that::

17.1 Borrower represents and warrants to Lender that it is either (a) a bank subject to federal or state supervision, (b) a broker-dealer registered under the Exchange Act or (c) exempt from registration under Section 15(a)(1) of the Exchange Act as a dealer in Government Securities.

17.2 Borrower represents and warrants that, during the term of any Loan hereunder, neither Borrower nor any affiliate of Borrower has any discretionary authority or

control with respect to the investment of the assets of the Plan involved in the Loan or renders investment advice (within the meaning of 29 C.F.R. Section 2510.3-21(c)) with respect to the assets of the Plan involved in the Loan. Lender agrees that, prior to or at the commencement of any Loan hereunder, it will communicate to Borrower information regarding the Plan sufficient to identify to Borrower any person or persons that have discretionary authority or control with respect to the investment of the assets of the Plan involved in the Loan or that render investment advice (as defined in the preceding sentence) with respect to the assets of the Plan involved in the Loan. In the event Lender fails to communicate and keep current during the term of any Loan such information, Lender rather than Borrower shall be deemed to have made the representation and warranty in the first sentence of this Section 17.2.

17.3 Borrower shall mark to market daily each Loan hereunder pursuant to Section 9.1 as is required if Lender is a Customer.

17.4 Borrower and Lender agree that: (a) the term "Collateral" shall mean cash, securities issued or guaranteed by the United States government or its agencies or instrumentalities, or irrevocable bank letters of credit issued by a person other than Borrower or an affiliate thereof; (b) prior to the making of any Loans hereunder, Borrower shall provide Lender with (i) the most recent available audited statement of Borrower's financial condition and (ii) the most recent available unaudited statement of Borrower's financial condition (if more recent than the most recent audited statement), and each Loan made hereunder shall be deemed a representation by Borrower that there has been no material adverse change in Borrower's financial condition subsequent to the date of the latest financial statements or information furnished in accordance herewith; (c) the Loan may be terminated by Lender at any time, whereupon Borrower shall deliver the Loaned Securities to Lender within the lesser of (i) the customary delivery period for such Loaned Securities, (ii) five Business Days, and (iii) the time negotiated for such delivery between Borrower and Lender; provided, however, that Borrower and Lender may agree to a longer period only if permitted by Prohibited Transaction Exemption 81-6; and (d) the Collateral transferred shall be security only for obligations of Borrower to the Plan with respect to Loans, and shall not be security for any obligation of Borrower to any agent or affiliate of the Plan.

18. Single Agreement.

Borrower and Lender acknowledge that, and have entered into this Agreement in reliance on the fact that, all Loans hereunder constitute a single business and contractual relationship and have been entered into in consideration of each other. Accordingly, Borrower and Lender hereby agree that payments, deliveries and other transfers made by either of them in respect of any Loan shall be deemed to have been made in consideration of payments, deliveries and other transfers in respect of any other Loan hereunder, and the obligations to make any such payments, deliveries and other transfers may be applied against each other and netted. In addition, Borrower and Lender acknowledge that, and have entered into this Agreement in reliance on the fact that, all Loans hereunder have been entered into in consideration of each other. Accordingly, Borrower and Lender hereby agree that (a) each shall perform all of its obligations in respect of each Loan hereunder, and that a default in the performance of any such obligation by Borrower or

by Lender (the "Defaulting Party") in any Loan hereunder shall constitute a default by the Defaulting Party under all such Loans hereunder, and (b) the non-defaulting party shall be entitled to set off claims and apply property held by it in respect of any Loan hereunder against obligations owing to it in respect of any other Loan with the Defaulting Party.

19. APPLICABLE LAW.

THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO THE CONFLICT OF LAW PRINCIPLES THEREOF.

20. Waiver.

The failure of a party to this Agreement to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. All waivers in respect of a Default must be in writing.

21. Survival of Remedies.

All remedies hereunder and all obligations with respect to any Loan shall survive the termination of the relevant Loan, return of Loaned Securities or Collateral and termination of this Agreement.

22. Notices and Other Communications.

Any and all notices, statements, demands or other communications hereunder may be given by a party to the other by telephone, mail, facsimile, e-mail, electronic message, telegraph, messenger or otherwise to the individuals and at the facsimile numbers and addresses specified with respect to it in Schedule A hereto, or sent to such party at any other place specified in a notice of change of number or address hereafter received by the other party. Any notice, statement, demand or other communication hereunder will be deemed effective on the day and at the time on which it is received or, if not received, on the day and at the time on which its delivery was in good faith attempted; provided, however, that any notice by a party to the other party by telephone shall be deemed effective only if (a) such notice is followed by written confirmation thereof and (b) at least one of the other means of providing notice that are specifically listed above has previously been attempted in good faith by the notifying party.

23. SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL.

23.1 EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY (A) SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR NEW YORK STATE COURT SITTING IN NEW YORK CITY, AND ANY APPELLATE COURT FROM ANY SUCH COURT, SOLELY FOR THE PURPOSE OF ANY SUIT, ACTION OR PROCEEDING BROUGHT TO ENFORCE ITS OBLIGATIONS HEREUNDER OR RELATING IN ANY WAY TO THIS AGREEMENT OR ANY LOAN HEREUNDER AND (B) WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, ANY DEFENSE OF AN INCONVENIENT FORUM

TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT AND ANY RIGHT OF JURISDICTION ON ACCOUNT OF ITS PLACE OF RESIDENCE OR DOMICILE. 23.2 EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY RIGHT THAT IT MAY HAVE TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

24. Miscellaneous.

24.1 Except as otherwise agreed by the parties, this Agreement supersedes any other agreement between the parties hereto concerning loans of Securities between Borrower and Lender. This Agreement shall not be assigned by either party without the prior written consent of the other party and any attempted assignment without such consent shall be null and void. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of Borrower and Lender and their respective heirs, representatives, successors and assigns. This Agreement may be terminated by either party upon notice to the other, subject only to fulfillment of any obligations then outstanding. This Agreement shall not be modified, except by an instrument in writing signed by the party against whom enforcement is sought. The parties hereto acknowledge and agree that, in connection with this Agreement and each Loan hereunder, time is of the essence. Each provision and agreement herein shall be treated as separate and independent from any other provision herein and shall be enforceable notwithstanding the unenforceability of any such other provision or agreement.

24.2 Any agreement between Borrower and Lender pursuant to Section 10.5(b) or Section 25.37 shall be made (a) in writing, (b) orally, if confirmed promptly in writing or through any system that compares Loans and in which Borrower and Lender are participants, or (c) in such other manner as may be agreed by Borrower and Lender in writing.

25. Definitions.

For the purposes hereof:

25.1 "Act of Insolvency" shall mean, with respect to any party, (a) the commencement by such party as debtor of any case or proceeding under any bankruptcy, insolvency, reorganization, liquidation, moratorium, dissolution, delinquency or similar law, or such party's seeking the appointment or election of a receiver, conservator, trustee, custodian or similar official for such party or any substantial part of its property, or the convening of any meeting of creditors for purposes of commencing any such case or proceeding or seeking such an appointment or election, (b) the commencement of any such case or proceeding against such party, or another seeking such an appointment or election, or the filing against a party of an application for a protective decree under the provisions of the Securities Investor Protection Act of 1970, which (i) is consented to or not timely contested by such party, (ii) results in the entry of an order for relief, such an appointment or election, the issuance of such a protective decree or the entry of an order having a similar effect, or (iii) is not dismissed within 15 days, (c) the making by such party of a general assignment for the benefit of creditors, or (d)

the admission in writing by such party of such party's inability to pay such party's debts as they become due.

25.2 "Bankruptcy Code" shall have the meaning assigned in Section 26.1

25.3 "Borrower" shall have the meaning assigned in Section 1.

25.4 "Borrower Payment" shall have the meaning assigned in Section 8.5(a).

25.5 "Broker-Dealer" shall mean any person that is a broker (including a municipal securities broker), dealer, municipal securities dealer, government securities broker or government securities dealer as defined in the Exchange Act, regardless of whether the activities of such person are conducted in the United States or otherwise require such person to register with the U.S. Securities and Exchange Commission or other regulatory body.

25.6 "Business Day" shall mean, with respect to any Loan hereunder, a day on which regular trading occurs in the principal market for the Loaned Securities subject to such Loan, provided, however, that for purposes of determining the Market Value of any Securities hereunder, such term shall mean a day on which regular trading occurs in the principal market for the Securities whose value is being determined. Notwithstanding the foregoing, (a) for purposes of Section 9, "Business Day" shall mean any day on which regular trading occurs in the principal market for any Loaned Securities or for any Collateral consisting of Securities under any outstanding Loan hereunder and "next Business Day" shall mean the next day on which a transfer of Collateral may be effected in accordance with Section 15, and (b) in no event shall a Saturday or Sunday be considered a Business Day.

25.7 "Cash Collateral Fee" shall have the meaning assigned in Section 5.1.

25.8 "Clearing Organization" shall mean (a) The Depository Trust Company, or, if agreed to by Borrower and Lender, such other "securities intermediary" (within the meaning of the UCC) at which Borrower (or Borrower's agent) and Lender (or Lender's agent) maintain accounts, or (b) a Federal Reserve Bank, to the extent that it maintains a book-entry system.

25.9 "Close of Business" shall mean the time established by the parties in Schedule B or otherwise orally or in writing or, in the absence of any such agreement, as shall be determined in accordance with market practice.

25.10 "Close of Trading" shall mean, with respect to any Security, the end of the primary trading session established by the principal market for such Security on a Business Day, unless otherwise agreed by the parties.

25.11 "Collateral" shall mean, whether now owned or hereafter acquired and to the extent permitted by applicable law, (a) any property which Borrower and Lender agree prior to the Loan shall be acceptable collateral and which is transferred to Lender pursuant to Sections 4 or 9 (including as collateral, for definitional purposes, any letters of credit mutually acceptable to Lender and Borrower), (b) any property substituted therefore pursuant to Section 4.5, (c) all accounts in

which such property is deposited and all securities and the like in which any cash collateral is invested or reinvested, and (d) any proceeds of any of the foregoing; *provided, however*, that if Lender is a Customer, "Collateral" shall (subject to Section 17.4(a), if applicable) be limited to cash, U.S. Treasury bills and notes, an irrevocable letter of credit issued by a "bank" (as defined in Section 3(a)(6)(A)-(C) of the Exchange Act), and any other property permitted to serve as collateral securing a loan of securities under Rule 15c3-3 under the Exchange Act or any comparable regulation of the Secretary of the Treasury under Section 15C of the Exchange Act (to the extent that Borrower is subject to such Rule or comparable regulation) pursuant to exemptive, interpretive or no-action relief or otherwise. If any new or different Security shall be exchanged for any Collateral by recapitalization, merger, consolidation or other corporate action, such new or different Security shall, effective upon such exchange, be deemed to become Collateral in substitution for the former Collateral for which such exchange is made. For purposes of return of Collateral by Lender or purchase or sale of Securities pursuant to Section 13, such term shall include Securities of the same issuer, class and quantity as the Collateral initially transferred by Borrower to Lender, as adjusted pursuant to the preceding sentence.

25.12 "Collateral Distributions" shall have the meaning assigned in Section 8.5(a).

25.13 "Confirmation" shall have the meaning assigned in Section 2.1.

25.14 "Contractual Currency" shall have the meaning assigned in Section 16.1.

25.15 "Customer" shall mean any person that is a customer of Borrower under Rule 15c3-3 under the Exchange Act or any comparable regulation of the Secretary of the Treasury under Section 15C of the Exchange Act (to the extent that Borrower is subject to such Rule or comparable regulation).

25.16 "Cutoff Time" shall mean a time on a Business Day by which a transfer of cash, securities or other property must be made by Borrower or Lender to the other, as shall be agreed by Borrower and Lender in Schedule B or otherwise orally or in writing or, in the absence of any such agreement, as shall be determined in accordance with market practice.

25.17 "Default" shall have the meaning assigned in Section 12.

25.18 "Defaulting Party" shall have the meaning assigned in Section 18.

25.19 "Distribution" shall mean, with respect to any Security at any time, any distribution made on or in respect of such Security, including, but not limited to: (a) cash and all other property, (b) stock dividends, (c) Securities received as a result of split ups of such Security and distributions in respect thereof, (d) interest payments, (e) all rights to purchase additional Securities, and (f) any cash or other consideration paid or provided by the issuer of such Security in exchange for any vote, consent or the taking of any similar action in respect of such Security (regardless of whether the record date for such vote, consent or other action falls during the term of the Loan). In the event that the holder of a Security is entitled to elect the type of distribution to be received from two or more alternatives, such election shall be made by Lender, in the case of a Distribution

in respect of the Loaned Securities, and by Borrower, in the case of a Distribution in respect of Collateral.

25.20 "Equity Security" shall mean any security (as defined in the Exchange Act) other than a "nonequity security," as defined in Regulation T.

25.21 "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

25.22 "Extension Deadline" shall mean, with respect to a letter of credit, the Cutoff Time on the Business Day preceding the day on which the letter of credit expires.

25.23 "FDIA" shall have the meaning assigned in Section 26.4.

25.24 "FDICIA" shall have the meaning assigned in Section 26.5.

25.25 "Federal Funds Rate" shall mean the rate of interest (expressed as an annual rate), as published in Federal Reserve Statistical Release H.15(519) or any publication substituted therefor, charged for federal funds (dollars in immediately available funds borrowed by banks on an overnight unsecured basis) on that day or, if that day is not a banking day in New York City, on the next preceding banking day.

25.26 "Foreign Securities" shall mean, unless otherwise agreed, Securities that are principally cleared and settled outside the United States.

25.27 "Government Securities" shall mean government securities as defined in Section 3(a)(42)(A)-(C) of the Exchange Act.

25.28 "Lender" shall have the meaning assigned in Section 1.

25.29 "Lender Payment" shall have the meaning assigned in Section 8.5(a).

25.30 "LIBOR" shall mean for any date, the offered rate for deposits in U.S. dollars for a period of three months which appears on the Reuters Screen LIBO page as of 11:00 a.m., London time, on such date (or, if at least two such rates appear, the arithmetic mean of such rates).

25.31 "Loan" shall have the meaning assigned in Section 1.

25.32 "Loan Fee" shall have the meaning assigned in Section 5.1.

25.33 "Loaned Security" shall mean any Security transferred in a Loan hereunder until such Security (or an identical Security) is transferred back to Lender hereunder, except that, if any new or different Security shall be exchanged for any Loaned Security by recapitalization, merger, consolidation or other corporate action, such new or different Security shall, effective upon such exchange, be deemed to become a Loaned Security in substitution for the former Loaned Security for which such exchange is made. For purposes of return of Loaned Securities by Borrower or purchase or sale of Securities pursuant to Section 13, such term shall include Securities of the same issuer, class and quantity as the Loaned Securities, as adjusted pursuant to the preceding sentence.

25.34 "Margin Deficit" shall have the meaning assigned in Section 9.2.

25.35 "Margin Excess" shall have the meaning assigned in Section 9.3.

25.36 "Margin Notice Deadline" shall mean the time agreed to by the parties in the relevant Confirmation, Schedule B hereto or otherwise as the deadline for giving notice requiring same-day satisfaction of mark-to-market obligations as provided in Section 9 hereof (or, in the absence of any such agreement, the deadline for such purposes established in accordance with market practice).

25.37 "Margin Percentage" shall mean, with respect to any Loan as of any date, a percentage agreed by Borrower and Lender, which shall be not less than 100%, unless (a) Borrower and Lender agree otherwise, as provided in Section 24.2, and (b) Lender is not a Customer. Notwithstanding the previous sentence, in the event that the writing or other confirmation evidencing the agreement described in clause (a) does not set out such percentage with respect to any such Loan, the Margin Percentage shall not be a percentage less than the percentage obtained by dividing (i) the Market Value of the Collateral required to be transferred by Borrower to Lender with respect to such Loan at the commencement of the Loan by (ii) the Market Value of the Loaned Securities required to be transferred by Lender to Borrower at the commencement of the Loan.

25.38 "Market Value" shall have the meaning set forth in Annex II or otherwise agreed to by Borrower and Lender in writing. Notwithstanding the previous sentence, in the event that the meaning of Market Value has not been set forth in Annex II or in any other writing, as described in the previous sentence, Market Value shall be determined in accordance with market practice for the Securities, based on the price for such Securities as of the most recent Close of Trading obtained from a generally recognized source agreed to by the parties or the closing bid quotation at the most recent Close of Trading obtained from such source, plus accrued interest to the extent not included therein (other than any interest credited or transferred to, or applied to the obligations of, the other party pursuant to Section 8, unless market practice with respect to the valuation of such Securities in connection with securities loans is to the contrary). If the relevant quotation did not exist at such Close of Trading, then the Market Value shall be the relevant quotation on the next preceding Close of Trading at which there was such a quotation. The determinations of Market Value provided for in Annex II or in any other writing described in the first sentences of this Section 25.38 or, if applicable, in the preceding sentence shall apply for all purposes under this Agreement, except for purposes of Section 13.

25.39 "Payee" shall have the meaning assigned in Section 8.5(a).

25.40 "Payor" shall have the meaning assigned in Section 8.5(a).

25.41 "Plan" shall mean: (a) any "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 which is subject to Part 4 of Subtitle B of Title I of such Act; (b) any "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986; or (c) any entity the assets of which are deemed to be assets of any such "employee benefit plan" or "plan" by

reason of the Department of Labor's plan asset regulation, 29 C.F.R. Section 2510.3-101.

25.42 "Regulation T" shall mean Regulation T of the Board of Governors of the Federal Reserve System, as in effect from time to time.

25.43 "Retransfer" shall mean, with respect to any Collateral, to pledge, repledge, hypothecate, rehypothecate, lend, relend, sell or otherwise transfer such Collateral, or to re-register any such Collateral evidenced by physical certificates in any name other than Borrower's.

25.44 "Securities" shall mean securities or, if agreed by the parties in writing, other assets.

25.45 "Securities Distributions" shall have the meaning assigned in Section 8.5(a).

25.46 "Tax" shall have the meaning assigned in Section 8.5(a).

25.47 "UCC" shall mean the New York Uniform Commercial Code.

26. Intent.

26.1 The parties recognize that each Loan hereunder is a "securities contract," as such term is defined in Section 741 of Title 11 of the United States Code (the "Bankruptcy Code"), as amended (except insofar as the type of assets subject to the Loan would render such definition inapplicable).

26.2 It is understood that each and every transfer of funds, securities and other property under this Agreement and each Loan hereunder is a "settlement payment" or a "margin payment," as such terms are used in Sections 362(b)(6) and 546(e) of the Bankruptcy Code.

26.3 It is understood that the rights given to Borrower and Lender hereunder upon a Default by the other constitute the right to cause the liquidation of a securities contract and the right to set off mutual debts and claims in connection with a securities contract, as such terms are used in Sections 555 and 362(b)(6) of the Bankruptcy Code.

26.4 The parties agree and acknowledge that if a party hereto is an "insured depository institution," as such term is defined in the Federal Deposit Insurance Act, as amended ("FDIA"), then each Loan hereunder is a "securities contract" and "qualified financial contract," as such terms are defined in the FDIA and any rules, orders or policy statements thereunder (except insofar as the type of assets subject to the Loan would render such definitions inapplicable).

26.5 It is understood that this Agreement constitutes a "netting contract" as defined in and subject to Title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA") and each payment obligation under any Loan hereunder shall constitute a "covered contractual payment entitlement" or "covered contractual payment obligation," respectively, as defined in and subject

to FDICIA (except insofar as one or both of the parties is not a "financial institution" as that term is defined in FDICIA).

26.6 Except to the extent required by applicable law or regulation or as otherwise agreed, Borrower and Lender agree that Loans hereunder shall in no event be "exchange contracts" for purposes of the rules of any securities exchange and that Loans hereunder shall not be governed by the buy-in or similar rules of any such exchange, registered national securities association or other self-regulatory organization.

27. DISCLOSURE RELATING TO CERTAIN FEDERAL PROTECTIONS.

27.1 WITHOUT WAIVING ANY RIGHTS GIVEN TO LENDER HEREUNDER, IT IS UNDERSTOOD AND AGREED THAT THE PROVISIONS OF THE SECURITIES INVESTOR PROTECTION ACT OF 1970 MAY NOT PROTECT LENDER WITH RESPECT TO LOANED SECURITIES HEREUNDER AND THAT, THEREFORE, THE COLLATERAL DELIVERED TO LENDER MAY CONSTITUTE THE ONLY SOURCE OF SATISFACTION OF BORROWER'S OBLIGATIONS IN THE EVENT BORROWER FAILS TO RETURN THE LOANED SECURITIES.

27.2 LENDER ACKNOWLEDGES THAT, IN CONNECTION WITH LOANS OF GOVERNMENT SECURITIES AND AS OTHERWISE PERMITTED BY APPLICABLE LAW, SOME SECURITIES PROVIDED BY BORROWER AS COLLATERAL UNDER THIS AGREEMENT MAY NOT BE GUARANTEED BY THE UNITED STATES.

_____, **as Borrower**

By: _____

Title: _____

Date: _____

THE BANK OF NEW YORK MELLON, acting in its capacity as "Lending Agent" for various of its clients disclosed to the Borrower from time to time

By: _____

Title: _____

Date: _____

master securities loan agreement

Annex I -A

Party Acting as Agent

This Annex sets forth the method by which (i) the Lender, as Agent (herein "Agent") shall disclose the identity of each principal ("Principal") on whose behalf it intends to loan securities as agent to Borrower, and (ii) Borrower may accept, reject, or withdraw the acceptance of any such Principal. Unless otherwise defined, capitalized terms used but not defined in this Annex shall have the meanings assigned in the Securities Loan Agreement of which it forms a part (such agreement, together with this Annex and any other annexes, schedules or exhibits, referred to as the "Agreement") and, unless otherwise specified, all section references herein are intended to refer to sections of such Securities Loan Agreement.

1. **Additional Representations and Warranties**. In addition to the representations and warranties set forth in the Agreement, Agent hereby makes the following representations and warranties, which shall continue during the term of any Loan: Each Principal has duly authorized Agent to execute and deliver the Agreement on its behalf, has the power to so authorize Agent and to enter into the Loans contemplated by the Agreement and to perform the obligations of Lender under such Loans, and has taken all necessary action to authorize such execution and delivery by Agent and such performance by it.

2. **Identification of Principals**. (a) Agent agrees to provide to Borrower, prior to effecting any Loan under the Agreement as agent on behalf of any Principal, such information in its possession necessary to complete all required fields in the format generally used in the industry, or as otherwise agreed by Agent and Borrower ("Agreed Format"), and will use its best efforts to provide to Borrower any optional information that may be requested by the Borrower for the purpose of identifying such Principal (all such information, the "Principal Information"). Agent represents and warrants that, with the exception of the pseudo tax identification numbers for Principal(s) who do not have an official tax identification number, the Principal Information, including but not limited to the tax identification numbers, is true and accurate to the best of its knowledge and has been provided to it by Principal. (b) Agent agrees that it shall not effect any Loan with Borrower on behalf of any Principal unless Borrower has notified Agent of Borrower's approval of such Principal, and has not notified Agent that it has withdrawn such approval (such Principal, an "Approved Principal"), with both such notifications in the Agreed Format. Agent further agrees to provide Borrower, before the Close of Business on the next Business Day after the date on which Loaned Securities are transferred to the Borrower, with notice in the Agreed Format, of the specific Approved Principal or Approved Principals for whom it is acting in connection with such Loan, and the portion of each Loan allocable to the account of each Approved Principal for which it is acting. If Agent fails to identify such Approved Principal(s) or fails to accurately allocate any portion of a Loan to such Approved Principal(s) prior to the Close of Business on such next Business Day, Borrower may terminate any Loan with such Principal or Principals, return to Agent any Loaned Securities previously transferred to Borrower, and Agent shall immediately return to Borrower that portion of the Collateral previously transferred to Agent in connection with such Loan from Principal. (c) Borrower acknowledges that Agent shall not have any obligation to provide it with confidential information regarding the financial status of its Principals; Agent agrees, however, that it will assist Borrower in obtaining from Agent's Principals such information regarding the financial status of such Principals as Borrower may reasonably request.

3. **Limitation of Agent's Liability**. The parties expressly acknowledge that if the representations and warranties of Agent under the Agreement, including this Annex, are true and correct in all material respects during the term of any Loan and Agent otherwise complies with the provisions of this Annex, that (a) Agent's obligations under the Agreement shall not include a guarantee of performance by its Principal or Principals, and (b) the other party's remedies for breach of any term of this Annex, or any representation or warranty, shall not include a right of setoff against obligations, if any, of Agent arising in other transactions in which Agent is acting as principal and, unless explicitly agreed otherwise, under no circumstances shall Agent be bound or liable as principal.

4. **Treatment of Loans**. The parties agree that (i) the portion of any individual Loan allocable to each Principal shall be deemed a separate Loan under the Agreement, (ii) the mark to market obligations of

Borrower and Principal under the Agreement shall be determined on a Principal-by-Principal basis, and (iii) Borrower's and Principal's remedies under the Agreement upon the occurrence of a Default shall be determined as if Agent had entered into a separate Agreement with the other party ,on behalf of each of its Principals.

5. Interpretation of Terms. All references to "Lender" or "Borrower," as the case may be, in the Agreement shall, subject to the provisions of this Annex (including, among other provisions, the limitations on Agent's liability in Section 3 of this Annex), be construed to reflect that (i) each Principal shall have, in connection with any Loan or Loans entered into by Agent on its behalf, the rights, responsibilities, privileges and obligations of a "Lender" or "Borrower," as the case may be, directly entering into such Loan or Loans with the other party under the Agreement, and (ii) Agent's Principal or Principals have designated Agent as their sole agent for performance of Lender's obligations to Borrower or Borrower's obligations to Lender, as the case may be, and for receipt of performance by Borrower of its obligations to Lender or Lender of its obligations to Borrower, as the case may be, in connection with any Loan or Loans under the Agreement (including, among other things, as Agent for each Principal in connection with transfers of securities, cash or other property and as agent for giving and receiving all notices under the Agreement). Both Agent and its Principal or Principals shall be deemed "parties" to the Agreement and all references to a "party" or "either party" in the Agreement shall be deemed revised accordingly (and any Default by Agent under the Agreement shall be deemed a Default by Lender).

_____, **as Borrower**

By: _____

Title: _____

Date: _____

THE BANK OF NEW YORK MELLON, acting in its capacity as "Lending Agent" for various of its clients disclosed to the Borrower time to time

By: _____

Title: _____

Date: _____

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Annex II

Market Value

Unless otherwise agreed by Borrower and Lender:

1. If the principal market for the Securities to be valued is a national securities exchange in the United States, their Market Value shall be determined by their last sale price on such exchange at the most recent Close of Trading or, if there was no sale on the Business Day of the most recent Close of Trading, by the last sale price at the Close of Trading on the next preceding Business Day on which there was a sale on such exchange, all as quoted on the Consolidated Tape or, if not quoted on the Consolidated Tape, then as quoted by such exchange.

2. If the principal market for the Securities to be valued is the over-the-counter market, and the Securities are quoted on The Nasdaq Stock Market ("Nasdaq"), their Market Value shall be the last sale price on Nasdaq at the most recent Close of Trading or, if the Securities are issues for which last sale prices are not quoted on Nasdaq, the last bid price at such Close of Trading. If the relevant quotation did not exist at such Close of Trading, then the Market Value shall be the relevant quotation on the next preceding Close of Trading at which there was such a quotation.

3. Except as provided in Section 4 of this Annex, if the principal market for the Securities to be valued is the over-the-counter market, and the Securities are not quoted on Nasdaq, their Market Value shall be determined in accordance with market practice for such Securities, based on the price for such Securities as of the most recent Close of Trading obtained from a generally recognized source agreed to by the parties or the closing bid quotation at the most recent Close of Trading obtained from such a source. If the relevant quotation did not exist at such Close of Trading, then the Market Value shall be the relevant quotation on the next preceding Close of Trading at which there was such a quotation.

4. If the Securities to be valued are Foreign Securities, their Market Value shall be determined as of the most recent Close of Trading in accordance with market practice in the principal market for such Securities.

5. The Market Value of a letter of credit shall be the undrawn amount thereof.

6. All determinations of Market Value under Sections 1 through 4 of this Annex shall include, where applicable, accrued interest to the extent not already included therein (other than any interest credited or transferred to, or applied to the obligations of, the other party pursuant to Section 8 of the Agreement), unless market practice with respect to the valuation of such Securities in connection with securities loans is to the contrary.

7. The determinations of Market Value provided for in this Annex shall apply for all purposes under the Agreement, except for purposes of Section 13 of the Agreement.

_____, **as Borrower**

By: _____

Title: _____

Date: _____

THE BANK OF NEW YORK MELLON, acting in its capacity as "Lending Agent" for various of its clients disclosed to the Borrower time to time

By: _____

Title: _____

Date: _____

Annex III

Term Loans

This Annex sets forth additional terms and conditions governing Loans designated as "Term Loans" in which Lender lends to Borrower a specific amount of Loaned Securities ("Term Loan Amount") against a pledge of cash Collateral by Borrower for an agreed upon Cash Collateral Fee until a scheduled termination date ("Termination Date"). Unless otherwise defined, capitalized terms used but not defined in this Annex shall have the meanings assigned in the Securities Loan Agreement of which it forms a part (such agreement, together with this Annex and any other annexes, schedules or exhibits, referred to as the "Agreement").

1. The terms of this Annex shall apply to Loans of Equity Securities only if they are designated as Term Loans in a Confirmation therefor provided pursuant to the Agreement and executed by each party, in a schedule to the Agreement or in this Annex. All Loans of Securities other than Equity Securities shall be "Term Loans" subject to this Annex, unless otherwise agreed in a Confirmation or other writing.

2. The Confirmation for a Term Loan shall set forth, in addition to any terms required to be set forth therein under the Agreement, the Term Loan Amount, the Cash Collateral Fee and the Termination Date. Lender and Borrower agree that, except as specifically provided in this Annex, each Term Loan shall be subject to all terms and conditions of the Agreement, including, without limitation, any provisions regarding the parties' respective rights to terminate a Loan.

3. In the event that either party exercises its right under the Agreement to terminate a Term Loan on a date (the "Early Termination Date") prior to the Termination Date, Lender and Borrower shall, unless otherwise agreed, use their best efforts to negotiate in good faith a new Term Loan (the "Replacement Loan") of comparable or other Securities, which shall be mutually agreed upon by the parties, with a Market Value equal to the Market Value of the Term Loan Amount under the terminated Term Loan (the "Terminated Loan") as of the Early Termination Date. Such agreement shall, in accordance with Section 2 of this Annex, be confirmed in a new Confirmation at the commencement of the Replacement Loan and be executed by each party. Each Replacement Loan shall be subject to the same terms as the corresponding Terminated Loan, other than with respect to the commencement date and the identity of the Loaned Securities. The Replacement Loan shall commence on the date on which the parties agree which Securities shall be the subject of the Replacement Loan and shall be scheduled to terminate on the scheduled Termination Date of the Terminated Loan.

4. Borrower and Lender agree that, except as provided in Section 5 of this Annex, if the parties enter into a Replacement Loan, the Collateral for the related Terminated Loan need not be returned to Borrower and shall instead serve as Collateral for such Replacement Loan.

5. If the parties are unable to negotiate and enter into a Replacement Loan for some or all of the Term Loan Amount on or before the Early Termination Date, (a) the party requesting termination of the Terminated Loan shall pay to the other party a Breakage Fee computed in accordance with Section 6 of this Annex with respect to that portion of the Term Loan Amount for which a Replacement Loan is not entered into and (b) upon the transfer by Borrower to Lender of the Loaned Securities subject to the Terminated Loan, Lender

shall transfer to Borrower Collateral for the Terminated Loan in accordance with and to the extent required under the Agreement, provided that no Default has occurred with respect to Borrower.

6. For purposes of this Annex, the term "Breakage Fee" shall mean a fee agreed by Borrower and Lender in the Confirmation or otherwise orally or in writing. In the absence of any such agreement, the term "Breakage Fee" shall mean, with respect to Loans of Government Securities, a fee equal to the sum of (a) the cost to the non-terminating party (including all fees, expenses and commissions) of entering into replacement transactions and entering into or terminating hedge transactions in connection with or as a result of the termination of the Terminated Loan, and (b) any other loss, damage, cost or expense directly arising or resulting from the termination of the Terminated Loan that is incurred by the non-terminating party (other than consequential losses or costs for lost profits or lost opportunities), as determined by the non-terminating party in a commercially reasonable manner, and (c) any other amounts due and payable by the terminating party to the non-terminating party under the Agreement on the Early Termination Date.

_____, **as Borrower**

By: _____

Title: _____

Date: _____

THE BANK OF NEW YORK MELLON, acting in its capacity as "Lending Agent" for various of its clients disclosed to the Borrower time to time

By: _____

Title: _____

Date: _____

Schedule A

Names and Addresses for Communications

Schedule B

Defined Terms and Supplemental Conditions

This Schedule sets forth the terms and conditions governing all Loans of Securities between Lender and Borrower. Unless otherwise defined, capitalized terms used but not defined in this Schedule shall have the meanings assigned in the Securities Loan Agreement of which it forms a part, (such agreement, together with this Schedule and any other annexes, schedules or exhibits, referred to as the "Agreement") and, unless otherwise specified, all section references herein are intended to refer to sections of such Securities Loan Agreement.

1. **Mark to Market**. In Section 9.1 of the Agreement, each reference to "100%" shall be replaced by: "102% for In-Currency Loans and 105% for Cross-Currency Loans (or such other percentage as may be agreed by Lender and Borrower from time to time)".

2. **Representations.** The parties hereto agree that Section 10.3 of the Agreement shall not apply to Lender. Lender hereby represents and warrants that it shall be acting as agent for various Principals for all Loans entered into in connection with the Agreement.

3. **Margin Percentage**. In Section 25.37 of the Agreement, the reference to "100%" shall be deleted and replaced by: "102% for In-Currency Loans and 105% for Cross-Currency Loans".

4. **Definitions.** The following shall be added as Sections 25.48 and 25.49 to the Agreement:

   "25.48 "In-Currency Loans" shall mean Loans of Securities the Collateral for which is all denominated in the same currency as the Loaned Securities.

   25.49 "Cross-Currency Loans" shall mean Loans of Securities the Collateral for which is not all denominated in the same currency as the Loaned Securities."

5. **Force Majeure**. Lender and Borrower shall not be responsible or liable for any failure or delay in the performance of their respective obligations under the Agreement arising out of or caused, directly or indirectly, by circumstances beyond their reasonable control, including without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; it being understood that Lender and Borrower shall use their best efforts to resume performance as soon as practicable under the circumstances.

6. **Amendments to Annex I-A.** Annex I-A of the Agreement shall hereby be amended as follows:

   (a) The following shall be added as Section 6 to Annex I-A:

   "**6. Loans Involving Registered Investment Companies**. To the extent Agent is entering into Loans on behalf of Principals that are registered investment companies (each, a "Fund"), the parties hereto

acknowledge and agree that such Loans are entered into by each Fund severally, in proportion to its interest in that Loan, and not jointly. No Fund shall be liable for the obligations of any other Fund with respect any Loan. If the Fund is organized as a business trust (or a series thereof), the parties hereto acknowledge and agree that all liabilities of the Fund arising, directly or indirectly, under the Agreement shall be satisfied solely out of the assets of the Fund and that no Trustee, officer or holder of shares of beneficial interest of the Fund shall be personally liable for any of the foregoing liabilities."

_____, **as Borrower**

By: _____

Title: _____

Date: _____

THE BANK OF NEW YORK MELLON, acting in its capacity as "Lending Agent" for various of its clients disclosed to the Borrower time to time

By: _____

Title: _____

Date: _____

SPECIAL PROVISIONS - D

Texas Education Agency

HUB Subcontracting Plan (HSP)

This properly executed form, labeled as Document K, is found in the proposal response dated May 1, 2009, submitted by Contractor and attached to Appendix 1 to the TEA Standard Contract.

Contracts Content Services Indexing Worksheet

Two Sided Document - Duplex	NO

Document Class:	**Contract**

Contract ID:	2481

You can not index contract documents until they are set up in ISAS.

Vendor Number:	

Vendor Name:	**THE BANK OF NEW YORK MELLON**

Category	Contract	Amendment	Bid	Checklist	General Support	Invoice	Purchase Order	Requisition

Subcategory	*Contract Stand*	*Contract PSC*	*Contract PESC*	*Contract IAC*	*Contract Conf*	*Contract Travel*	*Contract Other*

Title:	Global Custody and Securities Lending Services for PSF

Keyword: 100K	YES

Additional Instructions:	

Staff Name:	TA	Date:	1/26/10

Number of Pages	***139***