

DATED: 12 September 2011

**COLFAX UK HOLDINGS LIMITED**

**AND**

**CAPITA TRUST COMPANY (JERSEY) LIMITED**

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**CUSTODIAN AGREEMENT**

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## CUSTODIAN AGREEMENT

THIS CUSTODIAN AGREEMENT is made on 12 September 2011 (the "Agreement")

### BETWEEN:

- (1) **COLFAX UK HOLDINGS LTD**, a company incorporated under the laws of England and Wales whose registered office is at 40 Bank Street, Canary Wharf, London, United Kingdom E14 5DS (the "Company");
- (2) **CAPITA TRUST COMPANY (JERSEY) LIMITED**, a company incorporated under the laws of Jersey whose registered office is at 12 Castle Street, St Helier, Jersey, Channel Islands, JE2 3RT (the "Custodian").

The Company and the Custodian are hereinafter individually referred to as a "Party" and collectively as the "Parties".

### NOW IT IS HEREBY AGREED AS FOLLOWS:

#### 1. Interpretation and Construction

1.1 In this Agreement, unless the context otherwise requires, the following expressions shall have the following meanings:

- "Accounts" means the Cash Accounts and the Securities Accounts (each as defined in Clause 2.1) and "Account" shall mean any one of them;
- "Articles" means the memorandum and articles of association of the Company;
- "Assets" means Cash and Securities;
- "Associate" means in relation to a company, any company which is a subsidiary or holding company of that company or a subsidiary of any such holding company and any individual, partnership or other unincorporated association or firm which has direct or indirect control of that company and any company which is directly or indirectly controlled by any such individual, partnership or other unincorporated association or firm, and in relation to an individual, partnership or other unincorporated association means any

	company which is directly or indirectly controlled by that individual, partnership or other unincorporated association;
<b>"Authorised Person"</b>	means any person authorised by the Company to give Proper Instructions or any particular class thereof. The name, signature and office address of each Authorised Person shall be delivered to the Custodian by the Company. A certified copy of a resolution of the Directors, may be received and accepted by the Custodian as conclusive evidence of the authority of any such person to act and may be considered as in full force and effect until receipt of written notice to the contrary. Different persons may be authorised to give instructions for different purposes and such persons may also include officers of corporations other than the Company, so authorised by the Company;
<b>"Business Day"</b>	means any day on which the Custodian and relevant Depositories and Sub-Custodians are open for business;
<b>"Cash"</b>	shall have the meaning given to such term in Clause 2.1;
<b>"Cash Account"</b>	shall have the meaning given to such term in Clause 2.1.2;
<b>"Depository"</b>	means Euroclear, Clearstream Banking S.A. and any other securities depository, securities settlement system, book-entry system or clearing agency (and their respective successors and nominees) authorised to act as a central securities depository, securities settlement system, book-entry system or clearing agency pursuant to applicable law;
<b>"Directors"</b>	means the directors of the Company from time to time;
<b>"Distributions"</b>	means all interest, dividends and other income distributed or paid in respect of Assets;
<b>"Losses"</b>	means, collectively, losses (including without limitation losses arising out of delay, mis-delivery or error in the transmission of any letter, cable, telex, telephonic communication, telephone, facsimile transmission or other electronic communication in a readable form), costs, expenses (including without limitation legal expenses), damages, actions, proceedings, suits, claims, demands and liabilities;
<b>"Proper"</b>	means written, cabled, facsimiled or telexed instructions or

- Instructions** instructions given by any other means of electronic transmission in a readable form in respect of any of the matters referred to in this Agreement signed or purported to be signed by an Authorised Person that has been authorised to give the particular class of instruction in question;
- Records** means all corporate records, registers, books of account, correspondence, files, tables, documents, discs, print outs, data and information systems;
- Securities** means all negotiable financial instruments including, without limitation, any common stock and other equity securities, depository receipts, 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 distributions or interests therein (whether represented by a certificate or held in a Depository, with a Sub-Custodian or on the books of the issuer) that are acceptable to the Custodian;
- Securities Account** shall have the meaning given to such term in Clause 2.1.1;
- Sub-Custodian** shall mean a bank or other financial institution (other than a Depository) that is utilised by the Custodian, in its discretion, in connection with the purchase, sale or custody of Assets;
- Tax Obligations** shall mean taxes, withholding, certification and reporting requirements, claims for exemptions or refund, interest, penalties, additions to tax and other related expenses.

1.2 In this Agreement, any reference to:-

- 1.2.1 a Recital, a Clause or a Schedule is, unless the context otherwise requires, a reference to a recital or a clause of, or a schedule to, this Agreement and any reference to a sub-clause is, unless otherwise stated, a reference to the sub-clause of the Clause in which the reference appears;
- 1.2.2 this Agreement or to any agreement or document referred to in this Agreement shall be construed as a reference to such agreement or

- document as amended, varied, modified, supplemented, restated, novated or replaced from time to time;
- 1.2.3 any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to such statute or statutory provision as the same may have been or may from time to time be amended, modified, extended, consolidated, re-enacted or replaced and shall include any subordinate legislation made thereunder;
- 1.2.4 a "subsidiary" or "holding company" shall be construed in accordance with Articles 2 and 2A of the Companies (Jersey) Law, 1991.
- 1.3 Unless otherwise defined herein, terms and expressions defined in the Articles shall, where the context permits, bear the same meaning in this Agreement provided that no amendment to the Articles shall affect the rights, duties or obligations of the Custodian hereunder without it being notified in advance of such proposed amendment.
- 1.4 In this Agreement, except where the context otherwise requires, words denoting the singular include the plural and vice versa, words denoting a gender include every gender and references to persons include bodies corporate and unincorporate.
- 1.5 The Recitals and the Schedule form part of this Agreement and shall have the same force and effect as if they were expressly set out in the body of this Agreement and any reference to this Agreement shall include the Recitals and the Schedule.
- 1.6 Clause headings in this Agreement are inserted for convenience only and shall not affect the construction of this Agreement.

## **2. Appointment of Custodian and Establishment of Accounts**

- 2.1 The Company hereby appoints the Custodian to be the custodian of the Securities deposited by the Company for safekeeping with the Custodian and to hold any cash, Distributions and other monies received for deposit for the account of the Company which arise or are paid in respect of the Securities ("**Cash**") subject to and in accordance with the terms and conditions set out in this Agreement.
- 2.2 The Custodian hereby accepts such appointment and is authorised and instructed to open and maintain in its own name on behalf of the Company in such currencies and with such banks or other institutions acceptable to the Custodian as the Company shall by Proper Instructions request:

- 2.2.1 one or more securities accounts for the custody and safekeeping any of the Securities deposited with the Custodian (each, a "**Securities Account**"); and
- 2.2.2 one or more cash accounts for all Cash (each, a "**Cash Account**").
- 2.3 The Custodian and the Company shall not, either during the continuance of this Agreement or after its termination, do, omit to do or commit any act or thing which might prejudice or bring into disrepute in any manner the business or reputation of the other Party or its directors.

**3. Proper Instructions**

- 3.1 The Custodian shall accept and shall be entitled to rely upon and act upon any instruction that the Custodian reasonably believes to be a Proper Instruction.
- 3.2 The Custodian is under no duty to question any Proper Instruction however the Custodian may, in its sole discretion, decline to act upon any Proper Instruction which it considers to be insufficient, incomplete or is not received by the Custodian in sufficient time for the Custodian to act upon or which may breach any applicable law, rule or regulation.
- 3.3 If the Custodian receives written, cabled, facsimiled or telexed instructions or instructions given by any other means of electronic transmission in a readable form in respect of any of the matters referred to in this Agreement that appear on their face to have been transmitted by an Authorised Person, the Company understands and agrees that the Custodian cannot determine the identity of the actual sender of such instructions and that the Custodian shall be entitled to conclusively presume that such instructions have been sent by the Authorised Person and that such instructions are Proper Instructions.
- 3.4 The Company acknowledges and agrees that it is fully aware of the protections and risks associated with the various methods of transmitting Proper Instructions to the Custodian and that there may be more secure methods of transmitting Proper Instructions than the method selected by the sender. The Company agrees that the security procedures, if any, to be followed in connection with a transmission of Proper Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

#### 4. Custody Services

- 4.1 **Ownership** – Securities held for the Company hereunder shall be segregated on the Custodian's books and records from the Custodian's own property. The Custodian will identify the Securities credited to the Securities Accounts of the Company, as being proprietary to the Company or, and only if the Company has advised the Custodian in writing that it is acting on behalf of others, to customers of the Company.
- 4.2 **Client** – Notwithstanding Clause 4.1 or any other provision contained in this Agreement, the Company only, and not the underlying clients of the Company, will be the Custodian's client. The underlying clients of the Company will have no right to make any claim against the Custodian in relation to any Assets beneficially or otherwise owned by such underlying client.
- 4.3 **Regulatory Duties** – The Custodian has a duty to comply with all relevant Jersey anti-money laundering laws, regulations and rules. The Custodian must, inter alia, verify the identity and residence of the Company prior to providing services under this Agreement and must report suspicious transactions to the appropriate law enforcement agencies. The Custodian will not begin providing services to the Company until the Custodian considers that it has performed sufficient due diligence to meet all relevant Jersey anti-money laundering laws.
- 4.4 **Holding Assets** – The Custodian shall hold Assets at the Custodian, Depositories or Sub-Custodians. Assets held with Sub-Custodians shall be held subject to the terms and conditions of the relevant Sub-Custodian Agreement, and in accordance with, and subject to, the laws, regulations and local market practices imposed on such Sub-Custodians. Assets held in Depositories shall be held in accordance with, and subject to, the agreements, rules, laws, regulations, local market practices and conditions imposed by and on such Depositories. Depending on the relevant agreements, rules, laws, regulations, local market practices and conditions Securities held by the Custodian with Sub-Custodians or Depositories may be held on a fungible or non-fungible basis. Where Assets are held outside Jersey, settlement, legal and regulatory requirements and local market practices relating to the separate identification and protection of these Assets may apply that are different from Jersey law.

4.5 **Segregation** – Any Securities held by the Custodian with a Sub-Custodian or Depository will be held in separate client securities accounts of the Custodian with the Sub-Custodian or Depository. The Company's Securities (including Securities belonging to the Company's underlying customers) may be held however in a commingled client securities account with or by a Sub-Custodian or Depository and may not be identifiable by separate certificates, other physical documents of title or an equivalent electronic record. Should there be an irreconcilable shortfall after a liquidator, administrative receiver or administrator is appointed in relation to the Custodian or a Sub-Custodian or Depository (or after the occurrence of an equivalent event), the Custodian's clients may share in that shortfall in proportion to their original share of the assets in the pool. However, the manner in which such a shortfall will be dealt with may vary in accordance with the provisions of applicable law and rules.

4.6 **Sub-Custodians** –

4.6.1 The Custodian shall exercise reasonable care in the selection or retention, monitoring and continued use of Sub-Custodians in light of prevailing rules, practices and procedures in the relevant market. Notwithstanding any other provisions hereof, with respect to any Losses incurred by the Company as a result of the acts or the failure to act by any Sub-Custodian (other than an Associate of the Custodian), the Custodian shall take appropriate action to recover such Losses from such Sub-Custodian, and the Custodian's sole responsibility and liability to the Company shall be limited to amounts so received from such Sub-Custodian (exclusive of costs and expenses incurred by the Custodian).

4.6.2 The Custodian's responsibility for Losses with respect to Assets held by the Custodian with or through a Sub-Custodian is limited to the failure on the part of the Custodian to exercise reasonable care in the selection and retention, monitoring and continued use of such Sub-Custodian in light of prevailing rules, practices and procedures in the relevant market.

4.6.3 The Company acknowledges that the Custodian intends to appoint The Bank of New York Mellon SA/NV, London Branch ("**BNYM**") as Sub-Custodian on the terms and conditions set out in the BNYM Global Custody Agreement (the "**Sub-Custodian Agreement**") in Schedule B hereto. The Company confirms that the appointment of

BNYM and the terms and conditions set out in the Sub-Custodian Agreement are acceptable to the Company.

- 4.7 **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 Assets with a Depository.
- 4.8 **Nominees** - The Custodian hereby notifies the Company and the Company agrees that the Company's Securities may be registered in the register of the issuer or any person so acting for its account in the name of the Custodian, a Sub-Custodian, a Depository, a nominee company that is an Associate of the Custodian, or a nominee company controlled by a Sub-Custodian or a Depository on such terms and conditions as any of the foregoing may require.
- 4.9 **Documents of Title** – The Custodian may hold any documents of title to a Security:
- 4.9.1 in the physical possession of the Custodian;
  - 4.9.2 with a Sub-Custodian in a safe custody account generally designated for clients' Securities;
  - 4.9.3 in any other manner that the Custodian may think proper for the purpose of providing for the safe-keeping thereof (whether within or outside the Island of Jersey); or
  - 4.9.4 as the Company may otherwise direct with the consent of the Custodian which may be withheld in its sole discretion. Where this sub-clause 4.9.4 applies, such documents of title shall be so held at the Company's risk and expense, including the inapplicability of certain provisions of this Agreement.
- 4.10 **No Duty** – The Custodian will not review investments in the Accounts nor recommend the purchase, retention or sale of any Assets. The Custodian will not monitor the Securities in the Accounts to determine whether the Company complies with limitations on ownership or any restrictions on investors provided for by local law or regulations or market practice or provisions in the issuer's articles of incorporation or by-laws.
- 4.11 **Agents** – The Custodian and Sub-Custodians may outsource and/or appoint agents, including Associates, at the expense of the Company on such terms and conditions as it deems appropriate to perform or concur in performing any of the duties required to be performed hereunder. Except as otherwise specifically provided herein, no such outsourcing or appointment shall discharge the Custodian from its obligations hereunder.

**4.12 Custodian Actions without Direction** – With respect to Assets held hereunder, the Custodian is authorised to, and may authorise Sub-Custodians and Depositories to:

- 4.12.1 receive all eligible income and other payments due to the Account;
- 4.12.2 execute ownership and other certificates and affidavits for all purposes from time to time required in connection with the collection of bonds and note coupons and do all other things necessary or proper in connection with the collection of such income and other payments and without limiting the generality of the foregoing shall:-
  - 4.12.2.1 present for payment all coupons and other income payments requiring presentation;
  - 4.12.2.2 present for payment all Securities which may mature or be called, redeemed, retired or otherwise become repayable;
  - 4.12.2.3 endorse for collection in the name of the Company cheques, drafts and other negotiable instruments;
- 4.12.3 carry out any exchanges of Securities or other corporate actions not requiring discretionary decisions;
- 4.12.4 facilitate access by the Company 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). In this regard, a provider of proxy voting services will be appointed to provide global proxy voting services. Other than providing access to such provider of global proxy services, the Custodian shall have no obligation or liability to the Company in respect of such global proxy voting services or the acts or omissions of the provider of such global proxy voting services;
- 4.12.5 forward to the Company or its designee information (or summaries of information) that the Custodian receives from Depositories or Sub-Custodians concerning Securities in the Account (excluding bankruptcy matters);
- 4.12.6 forward to the Company 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; and

- 4.12.7 execute and deliver, solely in its custodial capacity, certificates, documents or instruments incidental to the Custodian's performance under this Agreement.
- 4.13 **Custodian Actions with Direction** – The Custodian shall take the following actions in the administration of the Accounts only pursuant to Proper Instructions:
- 4.13.1 settle purchases and sales of Securities and process other transactions, including free receipts and deliveries;
  - 4.13.2 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;
  - 4.13.3 pay or cause to be paid, in so far as un-invested monies of the Company are available for the purpose, such bills, statements or other obligations of the Company as may be approved generally, or from time to time;
  - 4.13.4 deliver Securities in the Account if an Authorised Person advises the Custodian that the Company has entered into a separate securities lending agreement, provided that the Company executes such agreements as Custodian may require in connection with such arrangements; and
  - 4.13.5 make any transfers of Cash from the Cash Account unless in connection with any of the actions referred to in sub-clauses 4.13.1, 4.13.2 and 4.13.3 of this Clause 4.13.
- 4.14 **Tax Obligations** – The Company shall be liable for all taxes, assessments, duties and other governmental charges, including interest and penalties, with respect to any Assets held on behalf of the Company and any transaction related thereto. To the extent that the Custodian has received relevant and necessary information with respect to the Accounts, the Custodian shall perform the following services with respect to Tax Obligations:
- 4.14.1 The Custodian shall, upon receipt of sufficient information, file claims for exemptions or refunds with respect to withheld taxes in instances in which such claims are appropriate;
  - 4.14.2 The Custodian shall withhold appropriate amounts, as required by applicable tax laws, with respect to amounts received upon receipt of Written Instructions; and

4.14.3 The Custodian shall provide to the Company such information received by the Custodian that could, in the Custodian's reasonable belief, assist the Company or its designee in the submission of any reports or returns with respect to Tax Obligations. An Authorised Person shall inform the Custodian in writing as to which Party or Parties shall receive information from the Custodian.

The Custodian shall not be responsible for determining whether Tax Obligations exist in respect of the Company and the assets held in the Account.

- 4.15 **Foreign Exchange Transactions** – Any foreign exchange transaction effected by the Custodian in connection with this Agreement may be entered into with the Custodian or an Associate of the Custodian acting as a principal or otherwise through customary channels. The Company may issue standing Proper Instructions with respect to foreign exchange transactions, but Custodian may establish rules or limitations concerning any foreign exchange facility made available to the Company.
- 4.16 **Rate of Exchange** – The Custodian is hereby authorised to effect any necessary currency conversions pursuant to this Agreement at the Custodian's and/or any Sub-Custodian's own rate of exchange then prevailing.
- 4.17 **Custodian Responsibility** – The Custodian will not review investments in the Accounts nor recommend the purchase, retention or sale of any Asset. The Custodian will not monitor the Securities in the Accounts to determine whether the Company complies with limitations on ownership or any restrictions on investors provided for by local law or regulations or market practice or provisions in the issuer's articles of incorporation or by-laws.
- 4.18 **Incidental Authority** – Notwithstanding anything expressed in this Agreement, including but not limited to the generality of the provisions of this clause 4, it is understood and agreed between Company and the Custodian that the scope of the services the Custodian is obligated to perform shall be limited to the holding of the rights to title of all issued shares in Charter International Plc registered in the name of the Custodian on behalf of the Company pursuant to this agreement (the "**Jersey Security**") and perfecting the transfer or re-transfer of title of the same to the Company or, as the case may be, to such other entity pursuant to any security arrangement between the Company and such other entity. The Custodian shall have authority at its absolute discretion (but shall not be obliged) to do all acts and perform such

other services as it shall reasonably determine incidental to the holding of the rights in respect of the Jersey Security.

- 4.19 **Other Services** – the Custodian may provide additional services as may be required by the Company other than those contemplated by clause 4.18 of this Agreement subject to the Custodian and the Company agreeing further terms as to the provision of such additional services, including but not limited fees to be charged by the Custodian in respect of such additional services.

## 5. Dealing Arrangements

- 5.1 As soon as reasonably practicable after the purchase or sale of Securities by the Company, the Company shall procure that the Custodian receives Proper Instructions specifying all information necessary for the Custodian to settle such purchase or sale, including:
- 5.1.1 dealing date;
  - 5.1.2 whether a sale or a purchase;
  - 5.1.3 description of Securities;
  - 5.1.4 quantity;
  - 5.1.5 price per unit;
  - 5.1.6 amount of monies to be received or delivered;
  - 5.1.7 name of the stockbroker and/or other party concerned with the execution of such purchase or sale;
  - 5.1.8 settlement date; and
  - 5.1.9 any other relevant details.
- 5.2 For the purpose of settling purchases of Securities, the Company shall also provide the Custodian with sufficient immediately available funds for all such transactions by such time and date as conditions in the relevant market dictate.
- 5.3 If the Custodian is required to deliver any Securities which have been sold, such delivery may be made either:
- 5.3.1 against payment therefor; or
  - 5.3.2 against an undertaking to pay in accordance with the normal procedures for transactions in the Securities concerned,
- in each case, as specified in Proper Instructions.
- 5.4 The Custodian may, as a matter of bookkeeping convenience, credit the Account with the proceeds from the sale, redemption or other disposition of Securities or payable Distributions prior to its actual receipt of final payment therefor. 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.

- 5.5 Transactions will be settled using practices customary in the jurisdiction or market where the transaction occurs. The Company understands that when the Custodian is instructed to deliver Securities against payment, delivery of such Securities and receipt of payment related to such Securities may not be completed simultaneously. The Company assumes full responsibility for all risks involved in connection with the Custodian's delivery of Securities pursuant to Proper Instructions in accordance with local market practice.
- 5.6 If any liability involving the payment of money in respect of the Securities arises or if any of the Securities are acquired on behalf of the Company which are in the reasonable opinion of the Custodian capable of imposing liability on the Custodian, or if any right or option is offered in respect of any of the Securities, the Company shall, if required by the Custodian, pay or provide the Custodian with any monies reasonably required to meet such liability or payment or otherwise secure the Custodian against such liability in any manner requested by the Custodian. The Custodian shall not be required to accept receipt or delivery of such Securities nor be obliged to take any action in respect of such liability or payment unless the Company shall have previously paid or provided such monies or have otherwise secured the Custodian as requested.

**6. Deposits, Overdrafts and Drawings**

- 6.1 **Deposits** – The Custodian may hold Cash in Cash Accounts or, where required under applicable local law, rule or practices, arrange to have Cash directly held by an Associate, Sub-Custodian, or with a Depository. Where Cash is on deposit with the Custodian or an Associate, it will be subject to the terms of this Agreement and such deposit terms and conditions as may be issued by the Custodian or an Associate from time to time, including rates of interest and deposit account access.
- 6.2 **Credits, Advances and Overdrafts** –
- 6.2.1 The Company understands that when the Custodian receives a Proper Instruction to deliver Securities against payment or in

exchange for Cash (for example in connection with the settlement of a Securities transaction or a redemption, exchange, tender offer or similar corporate action) such payment or exchange of Cash may not occur simultaneously with the delivery of Securities and that the Custodian may deliver such Securities before actually receiving final payment for such delivery of Securities. Consequently, as a matter of bookkeeping convenience, the Custodian may credit the Company's Cash Account with Cash equal to the amount the Custodian anticipates will be received by it, a Sub-Custodian or a Depository prior to actual receipt by the Custodian, a Sub-Custodian or Depository of the Cash by way of final payment for such delivery of Securities.

- 6.2.2 The Custodian may also credit the Company's Cash Account with Cash equal to the amount the Custodian anticipates will be received by the Custodian, a Sub-Custodian or a Depository in relation to a Distribution prior to actual receipt by the Custodian, a Sub-Custodian or Depository of the Distribution by way of final payment of the Distribution. The Company assumes full responsibility for all risks involved in connection with the Custodian's delivery of Securities pursuant to Proper Instructions in accordance with local market practice.
- 6.2.3 All credits to a Cash Account in anticipation of receipt of final payment of sales and redemptions of, and similar corporate actions in respect of, Securities and Distributions shall be extensions of credit which are conditional upon receipt by the Custodian of final payment and may be reversed to the extent that final payment is not received.
- 6.2.4 The Custodian, and the Company expressly agrees that the Custodian, may also extend credit or otherwise advance cash to the Company for facilitating settlement of securities transactions (including, for the avoidance of doubt, purchases), or any other transfers. Notwithstanding the foregoing, the Custodian shall have no obligation whatsoever to extend any credit or to make advance of any cash to the Company to facilitate the settlement of any transaction or transfer of any Asset. In the event that the Custodian in its discretion advances funds to the Company to facilitate the settlement of any transaction, or elects to permit the Company to use

funds credited to a Cash Account in anticipation of final payment, or if the Company otherwise becomes indebted to the Custodian (including, without limitation, overdrafts incurred in connection with the settlement of securities transactions, funds, transfers or foreign exchange transactions), the Company shall, upon demand or upon becoming aware of the amount of the advance, overdraft or indebtedness, whichever is the earlier, immediately reimburse the Custodian for such amounts in the same currency if legally available plus accrued interest at a rate then charged by the Custodian to its institutional asset servicing customers.

6.2.5 For the purposes of this Agreement, payment will not be "final" until the Custodian has received immediately available funds which, under applicable local laws, regulations, rules, customs or practices, are not reversible and not subject to any security interest, levy or other encumbrance, and that are specifically applicable to such transaction.

6.3 **Single Cash Account** – There is only one cash account relationship between the Company and the Custodian. Even if several Cash Accounts are attributed to the Company - accounts in various currencies, time accounts and current accounts, creditor and debtor accounts, accounts paying different interest - all these constitute subdivisions for bookkeeping purposes of the same. In addition to any rights which the Custodian may have under applicable law or pursuant to other agreements, the Custodian shall have the right to, and may, without notice to the Company, combine, consolidate or merge all or any of the Company's Cash Accounts with, and liabilities to, the Custodian and may setoff from or transfer any Cash in any currency held for the Company or standing to the credit of any such Accounts in or towards the satisfaction of any liability of the Company to the Custodian whether arising from or as a result of a foreign exchange transaction, a Securities transaction, this Agreement or otherwise, and may do so notwithstanding that Cash held for the Company or the balances of such Accounts may be held or deposited at different branches of the Custodian or held by the Custodian with any Sub-Custodian and may not be expressed in the same currency as the currency of the Company's liability to the Custodian and the Custodian may effect any necessary conversions at the Custodian's own rate of exchange then prevailing.

- 6.4 **Acknowledgement of Security Interests** – The Company acknowledges and agrees that Depositories and Sub-Custodians may have a lien, pledge or other security interest (statutory or otherwise) over, or right of setoff or retention and sale in respect of, Securities credited to the Company's Securities Accounts or Cash credited to the Company's Cash Account in relation to claims for payment of obligations owed to them (including administration and safe custody charges) as provided in the applicable Depository agreement or Sub-Custodian Agreement.
- 6.5 **Drawings** – The Company's Securities may be held in a commingled client securities account with securities of other clients of the Custodian (or the relevant Sub-Custodian or Depository) and shall be treated as fungible. The Company hereby further agrees and consents to the Custodian using the Company's Securities (including Securities belonging to the Company's underlying customers) for the account of another client of the Custodian and vice versa. However, the Custodian may only do so (or permit a Sub-Custodian or Depository to do so) in connection with facilitating timely settlement of Securities trades, and the Custodian may not and shall not use the Company's Securities for its own account or for account of a Sub-Custodian or Depository and no Securities Account on the books of the Custodian or a Sub-Custodian shall hold Securities which are beneficially owned by the Custodian or such Sub-Custodian, as the case may be.

## 7. **Rights of Voting**

- 7.1 Except as otherwise expressly instructed by the Company, the Custodian shall on receipt of Proper Instructions procure that all rights of voting, if any, conferred by any Securities held by the Custodian shall be exercised by the Company and the Custodian shall at the request and expense of the Company by Proper Instructions from time to time execute and deliver or cause to be executed and delivered to the Company or its nominees sufficient powers of attorney or proxies in such name or names as the Company may request authorising such attorneys and proxies to vote consent or otherwise act in respect of all or any of the Securities.
- 7.2 Except as aforesaid, the Company shall be entitled to exercise the said rights in such manner as it may determine and none of the Parties shall be under any liability or responsibility in respect of the management of any corporation in which Securities are held nor in respect of any vote, action or consent given or taken by the Company whether in person or by proxy and no such

