

# **AGENCY AGREEMENT**

**16 OCTOBER 2024**

**DIB TIER 1 SUKUK (6) LTD.**

**U.S.\$500,000,000 ADDITIONAL TIER 1 CAPITAL CERTIFICATES**

**A&O SHEARMAN**  
**LEGAL CONSULTANTS**

**Allen Overy Shearman Sterling LLP**

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## CONTENTS

Clause	Page
1. Definitions and Interpretation.....	1
2. Appointment of Agents .....	3
3. Authentication and Delivery of Certificates .....	4
4. Accounts and Payment .....	5
5. Notification of Non-Receipt of Payment.....	6
6. Duties of the Paying Agents .....	6
7. Reimbursement of the Paying Agents .....	7
8. Calculations and Determinations .....	7
9. Notice of Withholding or Deduction.....	8
10. Other Duties of the Registrar.....	8
11. Duties of the Transfer Agents.....	10
12. Regulations for Transfer of Certificates .....	11
13. Duties of the Principal Paying Agent in connection with Early Redemption at the Option of the Trustee .....	11
14. Publication of Notices .....	11
15. Cancellation of Certificates .....	12
16. Issue of Replacement Certificates .....	12
17. Records and Certificates.....	13
18. Copies of Documents Available for Inspection.....	13
19. Remuneration and Indemnification of the Agents.....	13
20. Repayment by Principal Paying Agent.....	15
21. Conditions of Appointment .....	15
22. Termination of Appointment .....	17
23. Meetings of Certificateholders .....	19
24. Notices.....	19
25. Amendments.....	21
26. Currency Indemnity.....	21
27. Limited Recourse and Non-Petition .....	21
28. Severability.....	22
29. General .....	22
30. Contracts (Rights of Third Parties) Act 1999 .....	23
31. Shari'a Compliance.....	23
32. Governing Law and Dispute Resolution .....	23

### Schedule

The Specified Offices of the Agents.....	26
Signatories to the Agency Agreement .....	27

**THIS AGENCY AGREEMENT** (this **Agreement**) is made on 16 October 2024

**BETWEEN:**

- (1) **DIB TIER 1 SUKUK (6) LTD.** (in its capacity as issuer of the Certificates (as defined below) and as trustee for and on behalf of the holders of the Certificates, as applicable, the **Trustee**);
- (2) **DUBAI ISLAMIC BANK PJSC (DIB)**;
- (3) **HSBC BANK PLC** (the **Delegate**, which expression shall include such company and its successors and all other persons acting from time to time as (i) donee of certain powers set out in the Declaration of Trust (as defined below) and (ii) as the delegate of the Trustee pursuant to and in accordance with the Declaration of Trust); and
- (4) **HSBC BANK PLC** (in its capacity as principal paying agent, the **Principal Paying Agent** and, together with any further or other paying agents appointed from time to time in respect of the Certificates, the **Paying Agents**, as registrar, the **Registrar**, as transfer agent, together with any further or other transfer agents appointed from time to time in respect of the Certificates, the **Transfer Agents**, and as calculation agent, the **Calculation Agent**).

**WHEREAS:**

- (A) The Trustee has authorised the creation and issue of additional tier 1 capital certificates each of which will represent an undivided ownership interest in the underlying Trust Assets (the **Certificates**, which expression shall, if the context so admits, include the Global Certificate to be initially delivered in respect of the Certificates) in an aggregate face amount of U.S.\$500,000,000.
- (B) The Certificates will be constituted by a declaration of trust dated 16 October 2024 (as amended or supplemented from time to time, the **Declaration of Trust**) between the Trustee, DIB and the Delegate.
- (C) The Trustee wishes to appoint the Principal Paying Agent, the Registrar, the Transfer Agent and the Calculation Agent as its agents in respect of the Certificates, and each party has entered into this Agreement to record the terms and conditions of such appointment.
- (D) This is the Agency Agreement referred to in the Declaration of Trust and the Conditions.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Except as otherwise expressly provided in this Agreement, capitalised terms used in this Agreement shall have the meanings given to such terms in the Declaration of Trust and the Conditions. In addition, the following terms shall have the meanings given below:

**Applicable Law** means any law or regulation;

**Authority** means any competent regulatory, prosecuting, Tax or governmental authority in any jurisdiction;

**Clearstream, Luxembourg** means Clearstream Banking S.A.;

**Code** means the U.S. Internal Revenue Code of 1986, as amended;

**Common Depository** means a depository common to Euroclear and Clearstream, Luxembourg;

**Euroclear** means Euroclear Bank SA/NV;

**FATCA Withholding** means any withholding or deduction required pursuant to an agreement described in section 1471(b) of the Code, or otherwise imposed pursuant to sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof, or any law implementing an intergovernmental approach thereto;

**FCA** means the United Kingdom Financial Conduct Authority;

**Local Business Day** means a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business in the city in which each relevant Agent has its Specified Office;

**PRA** means the United Kingdom Prudential Regulation Authority;

**Specified Office** of any Agent means the office specified against its name in the Schedule or, in the case of any Agent not originally a party to this Agreement, specified in its terms of appointment or another office specified by the relevant Agent by notice to the Trustee, DIB and the other parties to this Agreement in accordance with Clause 22.8; and

**Tax** means any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of any Authority having power to tax.

1.2 In this Agreement, unless the contrary intention appears, a reference to:

- (a) an **amendment** includes a supplement, restatement or novation, and amended is to be construed accordingly;
- (b) a **person** includes: (i) any individual, company, unincorporated association, government, state agency, international organisation or other entity and (ii) its successors and assigns;
- (c) a **successor** shall include any entity to whom the business of a person has been transferred under the applicable law;
- (d) a **Clause** or **Schedule** is a reference to a clause of, or a schedule to, this Agreement;
- (e) any **Transaction Document** or a **document** or any **provision** of any such Transaction Document or other document is a reference to that Transaction Document or other document or provision as amended, novated, supplemented, extended, replaced or restated from time to time; and
- (f) a time of day is a reference to London time.

1.3 The headings in this Agreement are for ease of reference only and do not affect its interpretation.

1.4 In this Agreement:

- (a) words denoting the singular shall include the plural and *vice versa*; and
- (b) words denoting one gender only shall include the other gender.

- 1.5 All references to an amount falling due in respect of the Certificates shall be deemed to include any amounts which are expressed to be payable under the Certificates.
- 1.6 All references in this Agreement to costs, charges or expenses shall include any value added tax or similar tax charged or chargeable in respect thereof.
- 1.7 All references in this Agreement to any statute or any provision of any statute shall be deemed also to refer to any statutory modification or re-enactment thereof or any statutory instrument, order or regulation made thereunder or under any such modification or re-enactment.
- 1.8 All references to Certificates which are to have a **listing** or to be **listed** on (a) Euronext Dublin shall be construed to mean that such Certificates have been admitted to the Official List and admitted to trading on the regulated market of Euronext Dublin. The regulated market of Euronext Dublin is a regulated market for the purposes of Directive 2014/65/EU (as amended); and (b) Nasdaq Dubai shall be construed to mean that such Certificates have been admitted to the DFSA Official List and admitted to trading on Nasdaq Dubai.
- 1.9 All references in this Agreement to Euroclear and/or Clearstream, Luxembourg shall, wherever the context so requires, be deemed to include references to any additional or alternative clearing system in which the Certificates are from time to time accepted for clearance.

## **2. APPOINTMENT OF AGENTS**

- 2.1 The Trustee (and for the limited purposes set out in Clause 2.3, the Delegate) hereby appoints, on the terms and subject to the conditions of this Agreement, HSBC Bank plc as its Principal Paying Agent, Registrar, Transfer Agent and Calculation Agent in respect of the Certificates in accordance with the Conditions at its Specified Office.
- 2.2 Each Agent accepts its appointment and agrees to act as agent of the Trustee (and for the limited purposes set out in Clause 2.3, the Delegate) in relation to the Certificates and agrees to comply with the terms of this Agreement. Each Agent further agrees to perform the duties required of it by the Conditions. The obligations of the Agents are several and not joint. Each Agent shall only be obliged to perform the duties specified in this Agreement and the Conditions and shall have no implied duties.
- 2.3 Each Agent shall, on demand in writing by the Delegate made at any time after a Dissolution Event or a Potential Dissolution Event has occurred, or the Certificates have otherwise become due and payable or the Trustee or the Delegate shall have received any money which it proposes to pay under clause 14 of the Declaration of Trust to the Certificateholders, and until notified in writing by the Delegate to the contrary, so far as permitted by applicable law, act as Agent of the Delegate under the provisions of the Declaration of Trust and the Certificates *mutatis mutandis* on the terms of this Agreement (save that the Delegate's liability under any provision of this Agreement for the indemnification, remuneration and payment of out-of-pocket expenses of each Agent shall be limited to the amounts for the time being held on trust pursuant to the Declaration of Trust relating to the Certificates and available for such purpose) and thereafter:
- (a) to hold all Certificates and all sums, documents and records held by it in respect of those Certificates on behalf of the Delegate; and/or
  - (b) to deliver up all Certificates and all sums, documents and records held by it in respect of those Certificates to the Delegate or as the Delegate shall direct in such notice, provided that such notice shall be deemed not to apply to any documents or records which the relevant Agent is obliged not to release by any law or regulation.

- 2.4 Pursuant to the Declaration of Trust, at any time after a Dissolution Event or a Potential Dissolution Event shall have occurred, or the Certificates shall otherwise become due and payable or the Trustee or the Delegate shall have received any money which it proposes to pay under clause 14 of the Declaration of Trust to the Certificateholders, the Delegate may, by notice in writing to each of the Trustee, DIB and the Principal Paying Agent, require the Trustee or DIB, as the case may be, to make all subsequent payments in respect of the Certificates and the relevant Transaction Documents to or to the order of the Delegate and not to the Principal Paying Agent with effect from the issue of any such notice to the Trustee and until such notice is withdrawn.
- 2.5 The Trustee confirms and each Agent acknowledges that the rights of the Trustee under this Agreement are held by the Trustee pursuant to the Declaration of Trust and that certain authority has been delegated by the Trustee to the Delegate pursuant to the Declaration of Trust. In accordance with the terms of this Agreement, each Agent hereby agrees to comply with instructions given to it by the Trustee or, as the case may be, the Delegate.
- 2.6 Each Agent shall, notwithstanding any instructions to the contrary from the Trustee, make the payments and deliveries referred to under Clause 4 to the Certificateholders in accordance with the provisions set out in Clause 4.
- 2.7 The Trustee shall forthwith notify the Agents of any change in the person or persons comprising the Delegate.

### **3. AUTHENTICATION AND DELIVERY OF CERTIFICATES**

- 3.1 Prior to the issue of the Certificates, the Trustee shall deliver to or to the order of the Registrar the Global Certificate duly executed by the Trustee in respect of the Certificates.
- 3.2 The Trustee authorises and instructs the Registrar (or its agent on its behalf) to authenticate (or procure the authentication of) the Global Certificate and, if any, each Definitive Certificate, in accordance with the terms of the Declaration of Trust and, in the case of the Global Certificate, deliver, on the Issue Date, the Global Certificate to the Common Depositary.
- 3.3 The Trustee authorises and instructs the Registrar to cause the Global Certificate to be exchanged for Definitive Certificates (if applicable) in accordance with its terms and to instruct Euroclear and Clearstream, Luxembourg to make appropriate entries in their records to reflect such exchanges. Following the exchange of the last interest in the Global Certificate, the Registrar shall cause the Global Certificate to be cancelled and delivered to the Trustee or as it may otherwise direct.
- 3.4 If the Global Certificate is to be exchanged in accordance with its terms for Definitive Certificates, the Trustee undertakes that it will deliver to, or to the order of, the Registrar as soon as reasonably practicable and in any event not later than five Local Business Days before the relevant exchange is due to take place, Definitive Certificates in an aggregate face amount equal to the face amount of the Global Certificate to be exchanged. Each Definitive Certificate so delivered shall be duly executed on behalf of the Trustee.
- 3.5 Each Agent shall cause all Definitive Certificates delivered to and held by them under this Agreement to be maintained in safe custody and shall ensure that such Definitive Certificates are issued only in accordance with the terms of the Global Certificate, the Declaration of Trust, the Conditions and the provisions of this Agreement.
- 3.6 So long as any of the Certificates are outstanding (as defined in the Declaration of Trust) the Registrar shall, within seven Local Business Days of any request by the Trustee or DIB, as the case may be, certify to the Trustee or DIB, as the case may be, the number of Definitive Certificates held by it under this Agreement.

#### 4. ACCOUNTS AND PAYMENT

- 4.1 The Trustee shall have opened, prior to the Issue Date, and shall for so long as any Certificates are outstanding maintain, in London the non-interest bearing Transaction Account in its name which shall be operated by the Principal Paying Agent on behalf of the Trustee for the benefit of the Certificateholders. If a Substituted Trustee is appointed in accordance with the Conditions, such Substituted Trustee will be required to open and maintain a transaction account in London in its name which shall be operated by the Principal Paying Agent on behalf of the Trustee for the benefit of the Certificateholders, and into which all payments which would have otherwise been made into the previous Transaction Account will be made on and after the date on which substitution of the Trustee takes effect, and references herein to "Transaction Account" will be construed accordingly.
- 4.2 The Trustee shall cause to be deposited into the Transaction Account by no later than 10.00 a.m. (New York time) (in same day freely transferable, cleared funds):
- (a) on the Payment Business Day immediately preceding each Periodic Distribution Date, to the extent paid by the Mudareb pursuant to the Mudaraba Agreement, an amount equal to the Periodic Distribution Amount due on such Periodic Distribution Date;
  - (b) on the Payment Business Day immediately preceding the date on which all the Certificates are to be redeemed in accordance with the Conditions (other than in connection with a DIB Event), to the extent paid by the Mudareb pursuant to the Mudaraba Agreement, an amount equal to the Dissolution Distribution Amount payable on such redemption date; and
  - (c) provided that a DIB Event has occurred and a Dissolution Notice has been delivered in accordance with the Conditions, on the date on which all the Certificates are to be redeemed in accordance with the Conditions, to the extent paid by the Mudareb pursuant to the Mudaraba Agreement, an amount equal to the Dissolution Distribution Amount payable on such redemption date.
- 4.3 The entity making the relevant payment referred to in Clause 4.2 shall procure that:
- (a) in the case of Clause 4.2(a), before 1.00 p.m. (New York time) on the second Payment Business Day immediately preceding the Periodic Distribution Date;
  - (b) in the case of Clause 4.2(b), before 1.00 p.m. (New York time) on the second Payment Business Day immediately preceding such redemption date; and
  - (c) in the case of Clause 4.2(c), before 9.00 a.m. (New York time) on such redemption date,
- the bank effecting payment to the Transaction Account confirms by authenticated SWIFT message to the Principal Paying Agent the payment instructions relating to such payment.
- 4.4 Subject to Clauses 4.6 and 5.1, the Trustee hereby instructs the Principal Paying Agent to, and the Principal Paying Agent agrees that it shall, on each Periodic Distribution Date and on any date fixed for payment of the Dissolution Distribution Amount apply the monies standing to the credit of the Transaction Account in accordance with Condition 5.3.
- 4.5 The Trustee agrees that it will not issue any instructions to the Principal Paying Agent that conflict with the instructions set out above and further agrees that any contrary instructions it may give to the Principal Paying Agent shall constitute a breach of this Agreement.
- 4.6 The Principal Paying Agent shall apply each amount paid to it under this Clause 4 in accordance with the provisions of this Agreement and the Conditions.

## **5. NOTIFICATION OF NON-RECEIPT OF PAYMENT**

- 5.1 The Principal Paying Agent shall forthwith notify each of the Trustee, DIB, the Delegate and the other Agents:
- (a) if by the relevant time specified in Clause 4.2 above the full amount required to be deposited into the Transaction Account on that date has not been so deposited (and such notice shall specify the amount of any shortfall between the amount so falling due and the amount actually deposited into the Transaction Account); and
  - (b) if there is deposited into the Transaction Account the full amount of any sum payable in respect of the Certificates after the time specified for its receipt.
- 5.2 The Trustee shall forthwith upon receipt of notice from the Principal Paying Agent that the Principal Paying Agent has received any amount as described in Clause 5.1 above, cause notice of that receipt to be published under Condition 17.

## **6. DUTIES OF THE PAYING AGENTS**

- 6.1 Unless they receive a notification from the Principal Paying Agent under Clause 5.1, the Paying Agents shall, subject to and in accordance with the Conditions, pay or cause to be paid, on behalf of the Trustee (or the Delegate, as the case may be), on and after each date on which any payment becomes due and payable, the Periodic Distribution Amount and applicable Dissolution Distribution Amount then payable under the Conditions and this Agreement. If any payment provided for pursuant to Clause 4 is made late but otherwise pursuant to the terms of this Agreement, the Paying Agents shall nevertheless act as paying agents following receipt of the relevant payment.
- 6.2 If default is made by the Trustee in respect of any payment required to be made into the Transaction Account pursuant to Clause 4, unless and until the full amount of the relevant payment has been made in accordance with the provisions of this Agreement (except as to the time of making the same) or other arrangements satisfactory to the Principal Paying Agent have been made, no Paying Agent shall be bound to perform its duties as paying agent.
- 6.3 Subject as provided above, the Principal Paying Agent shall pay or cause to be paid on behalf of the Trustee (or the Delegate, as the case may be) on and after each date on which any payment becomes due and payable, the amounts payable in respect of each Certificate under the Conditions and the provisions of this Agreement and, in the case of a payment of the Dissolution Distribution Amount, following receipt of the Certificate at the Specified Office of any Paying Agent.
- 6.4 Whilst any Certificates are represented by the Global Certificate, all payments due in respect of the Certificates shall be made to, or to the order of, the holder of the Global Certificate, subject to and in accordance with the provisions of the Global Certificate. On the occasion of each payment, the Paying Agent to which the Global Certificate was presented for the purpose of making the payment shall notify the Registrar which shall make an appropriate entry in the Register to evidence the amount and date of the relevant payment.
- 6.5 If the amount payable in respect of any Certificate is not paid in full when due (otherwise than as a result of withholding or deduction for or on account of any Taxes as permitted by the Conditions) the Registrar shall make a note of the details of such shortfall in payment in the Register.
- 6.6 Notwithstanding any other provision of this Agreement, each Agent shall be entitled to make a withholding or deduction from any payment which it makes under the Certificates for or on account of any Tax, if and only to the extent so required by Applicable Law, in which event the Agent shall make such payment after such withholding or deduction has been made and shall account to the



relevant Authority within the time allowed for the amount so withheld or deducted or, at its option, shall reasonably promptly after making such payment return to the Trustee the amount so withheld or deducted, in which case, the Trustee shall so account to the relevant Authority for such amount. For the avoidance of doubt, FATCA Withholding is a withholding or deduction which is deemed to be required by Applicable Law for the purposes of this Clause 6.6.

- 6.7 In the event that the Trustee or DIB determines in its sole discretion that any withholding or deduction for or on account of any Tax will be required by Applicable Law in connection with any payment due to any of the Agents on any Certificates, then the Trustee (acting on the instructions of DIB) will be entitled to redirect or reorganise any such payment in any way that it sees fit in order that the payment may be made without such withholding or deduction, provided that any such redirected or reorganised payment is made through a recognised institution of international standing and otherwise made in accordance with this Agreement and the Declaration of Trust. The Trustee will promptly notify the Agents of any such redirection or reorganisation. For the avoidance of doubt, FATCA Withholding is a withholding or deduction which is deemed to be required by Applicable Law for the purposes of this Clause 6.7.

## **7. REIMBURSEMENT OF THE PAYING AGENTS**

- 7.1 If a Paying Agent other than the Principal Paying Agent makes any payment in accordance with this Agreement:

- (a) it shall notify the Principal Paying Agent of the amount so paid by it and the serial number and outstanding amount of each Certificate in relation to which such payment was made; and
- (b) subject to, and to the extent of compliance with Clause 4 (in each case except as to the time of making any such payment), the Principal Paying Agent shall pay to such Paying Agent out of the funds deposited into the Transaction Account under Clause 4.2 by wire transfer in U.S. dollars and in same day, freely transferable, cleared funds to such account with such bank as such Paying Agent has by notice to the Principal Paying Agent specified for the purpose, an amount equal to the amount so paid by such Paying Agent.

- 7.2 If the Principal Paying Agent makes any payment in accordance with this Agreement before receipt by it of the amount due under Clause 4.2, it shall be entitled to appropriate for its own account out of the funds deposited into the Transaction Account under Clause 4 an amount equal to the amount so paid by it.

- 7.3 A Paying Agent shall only be under an obligation to make a payment in respect of any Certificates on or after the due date for such payment under the Conditions at a time at which the full amount of the relevant payment due under Clause 4 has been deposited into the Transaction Account. Notwithstanding the foregoing, if a Paying Agent makes a payment in respect of the Certificates on or after the due date for such payment under the Conditions at a time at which the full amount of the relevant payment due under Clause 4 has not been deposited into the Transaction Account and the Principal Paying Agent is not able out of funds deposited into the Transaction Account under Clause 4 to reimburse such Paying Agent therefor (by appropriation under Clause 7.2), the Trustee shall on demand pay, to the extent of funds available pursuant hereto, to the Principal Paying Agent for the account of such Paying Agent the amount so paid out by such Paying Agent and not so reimbursed to it provided however that any such payment shall satisfy *pro tanto* the obligations of the Trustee under Clause 4.

## **8. CALCULATIONS AND DETERMINATIONS**

- 8.1 The Calculation Agent shall determine the Profit Rate (save for the Relevant Six Year Reset Rate, the determination of which shall be procured by the Trustee in accordance with the Conditions and notified

to the Calculation Agent) in respect of each Reset Period commencing on the relevant Reset Date, subject to and in accordance with the Conditions.

- 8.2 The Calculation Agent shall notify the Trustee, DIB, the Delegate, each Agent, Euronext Dublin, Nasdaq Dubai and/or any other stock exchange on which the Certificates are at the relevant time listed of the Profit Rate for each Reset Period and the corresponding Periodic Distribution Amount, as soon as practicable after their determination and the Trustee shall arrange for such Profit Rate and Periodic Distribution Amount to be published by the Calculation Agent in accordance with Conditions 7.4(a) and 17 as soon as practicable after their determination but in no event later than the second Business Day thereafter.
- 8.3 If the Calculation Agent does not for any reason determine and/or publish the Profit Rate and/or Periodic Distribution Amount in respect of any Reset Period as provided in this Clause 8, it shall forthwith notify the Trustee, DIB, the Delegate and the Principal Paying Agent of such fact.

## 9. NOTICE OF WITHHOLDING OR DEDUCTION

- 9.1 If the Trustee or DIB is, in respect of any payment under this Agreement, compelled to withhold or deduct any amount for or on account of any Taxes as contemplated by Condition 13 or any undertaking given in addition to, or in substitution for, Condition 13 (pursuant to the Declaration of Trust), the Trustee or DIB, as the case may be, shall give notice to the Principal Paying Agent and the Delegate as soon as it becomes aware of the requirement to make the withholding or deduction and shall give to the Principal Paying Agent and the Delegate such information as they shall require to enable them to comply with the requirement. Until such time, each of the Trustee and DIB confirms that all payments made by or on behalf of it shall be made free and clear of and without withholding or deduction of any such amounts.
- 9.2 Without prejudice to Clause 9.1, the Trustee shall notify each Agent in the event that it determines that any payment to be made by an Agent under the Certificates is a payment which could be subject to FATCA Withholding if such payment were made to a recipient that is generally unable to receive payments free from FATCA Withholding, and the extent to which the relevant payment is so treated, provided, however, that the Trustee's obligation under this Clause 9.2 shall apply only to the extent that such payments are so treated by virtue of characteristics of the Trustee, the Certificates, or both.
- 9.3 If any Agent is, in respect of any payment under the Certificates to be made pursuant to this Agreement, compelled to withhold or deduct any amount for or on account of any taxes, duties, assessments or governmental charges as specifically contemplated under the Conditions, other than arising under Clause 9.1 or by virtue of the relevant holder failing to satisfy any certification or other requirement in respect of its Certificates, it shall give notice of that fact to the Trustee, DIB, the Delegate and the Principal Paying Agent as soon as it becomes aware of the compulsion to withhold or deduct. No Agent shall have any obligation to gross up any payment hereunder or to pay any additional amount as a result of any applicable withholding or deduction.

## 10. OTHER DUTIES OF THE REGISTRAR

- 10.1 The Registrar shall so long as any Certificate is outstanding:
- (a) maintain outside the United Kingdom a register (the **Register**) of the Certificateholders which shall show (i) the then outstanding Prevailing Face Amount of Certificates represented by the Global Certificate, (ii) the then outstanding Prevailing Face Amount and the serial numbers of any Definitive Certificates, (iii) the date of issue of the Certificates, (iv) all subsequent transfers and changes of ownership of any Certificates, (v) the names, addresses and account details of Certificateholders, (vi) all payments of Periodic Distribution Amounts and any Dissolution Distribution Amount, (vii) all cancellations of Certificates, whether because of

their replacement or otherwise, and (viii) all replacements of Certificates (subject, where appropriate in the case of (vii), to the Registrar having been notified as provided in this Agreement) (such records will have regard to the fact that, whilst any Certificates held by a Certificateholder are represented by the Global Certificate, any partial Write-down of the Certificates will be effected in accordance with the operating procedures of Euroclear and/or Clearstream, Luxembourg by way of a pool factor adjustment);

- (b) provide the Trustee with written notice of any requests for exchanges of interests in the Global Certificate for Definitive Certificates as soon as reasonably practicable following receipt by the Registrar of any such request and prior to effecting any such exchange, effect exchanges of interests in the Global Certificate for Definitive Certificates in accordance with the Conditions and this Agreement, keep a record of all such exchanges and ensure that each of the Trustee, DIB, the Delegate and the Principal Paying Agent is notified forthwith after any such exchange;
- (c) register all transfers of the Global Certificate and Definitive Certificates, as applicable;
- (d) receive any document in relation to or affecting the title to any Definitive Certificates including all forms of transfer, forms of exchange, probates, letters of administration and powers of attorney;
- (e) procure that all necessary annotations are made on the Global Certificate (i) representing interests in the Certificates, following a transfer or exchange of interests therein, and (ii) the Periodic Distribution Amounts paid thereon;
- (f) maintain proper records of the details of all documents and certifications received by itself or any Transfer Agent;
- (g) prepare all such lists of the registered holders of the Definitive Certificates as may be required by the Trustee, DIB, the Delegate or the Principal Paying Agent or any person authorised by any of them;
- (h) subject to applicable law and regulations at all reasonable times during its normal business hours make the Register available to the Trustee, DIB, the Delegate or the Principal Paying Agent or any person authorised by any of them or any Certificateholder for inspection and for the taking of copies or extracts;
- (i) notify the Principal Paying Agent upon its request on or before the relevant Record Date of the names and addresses of all Certificateholders at the close of business on the relevant Record Date and the amounts of their holdings in order to enable the Principal Paying Agent to make or arrange for due payment to such holders of the amounts due to them;
- (j) comply with the proper and reasonable requests of the Trustee and, as the case may be, the Delegate with respect to the maintenance of the Register and give to the Agents such information as may be reasonably required by them for the proper performance of their respective duties;
- (k) subject to payment by the transferee of (or the giving of such indemnity as the Trustee and the Registrar may reasonably require in respect of) any stamp duty, tax or other governmental charges which may be imposed in relation to the registration of such transfer forthwith, and in any event within five Business Days of the relevant request (or such longer period as may be required to comply with any applicable fiscal or other laws and/or regulations), issue Definitive Certificates for transfer duly dated and completed in the name of the registered holders and deliver such Definitive Certificates at the Specified Office of the relevant Transfer

Agent or mail the relevant Definitive Certificates by uninsured mail at the risk of the holder entitled to the Definitive Certificates to the address specified in the form of transfer. In the case of the transfer of part only of a Definitive Certificate, a new Definitive Certificate in respect of the balance of the Definitive Certificate not transferred will be so delivered or (at the risk of the transferor) sent to the transferor; and

- (l) upon request in writing by any Certificateholder, make (free of charge) available to such Certificateholder a copy of the current regulations for the transfer of certificates, as set out in schedule 3 to the Declaration of Trust.

10.2 The Trustee shall from time to time so long as any Certificates are outstanding, upon receipt of a written request, deliver to the Registrar sufficient duly executed Definitive Certificates as may be required for the performance of the Registrar's duties under this Agreement.

10.3 Definitive Certificates shall be dated:

- (a) in the case of a Definitive Certificate issued in exchange for an interest in the Global Certificate, or upon transfer of a Definitive Certificate, with the date of registration in the Register of the relevant exchange or transfer; or
- (b) in the case of a Definitive Certificate issued to the transferor upon transfer in part of a Definitive Certificate, with the same date as the date of the Definitive Certificate transferred; or
- (c) in the case of a Definitive Certificate issued pursuant to Clause 16 with the same date as the date of the lost, stolen, mutilated, defaced or destroyed Definitive Certificate in replacement of which it is issued.

10.4 The Registrar shall not be required to register the transfer of any Definitive Certificate (or part of any Definitive Certificate) on which any amount is due and, accordingly, may validly pay such amount to the holder of such Definitive Certificate at the date such Definitive Certificate is called for redemption as if the purported transfer had not taken place.

## **11. DUTIES OF THE TRANSFER AGENTS**

11.1 The Transfer Agents shall perform such duties as are set out herein and the Conditions and, in performing those duties, shall act in accordance with the Conditions and the provisions of this Agreement.

11.2 Each Transfer Agent shall:

- (a) accept Definitive Certificates delivered to it with the form of transfer thereon duly executed for the transfer of all or part of the Definitive Certificate in accordance with the Conditions and the terms hereof and shall, in each case, (i) provide the Trustee with written notice of any requests for transfer of all or part of a Definitive Certificate as soon as reasonably practicable following receipt by such Transfer Agent of any such request and (ii) give to the Registrar within one Business Day all relevant details to enable it to effect the relevant transfer and issue Definitive Certificates in accordance with each request;
- (b) if appropriate, charge to the holder of a Definitive Certificate presented for transfer (i) the costs or expenses (if any) of delivering Certificates issued on transfer other than by regular uninsured mail and (ii) a sum sufficient to cover any stamp duty, tax or other governmental charge that may be imposed in relation to the registration;

- (c) subject to payment by the transferee of (or the giving of such indemnity as the Trustee or any Transfer Agent may reasonably require in respect of) any stamp duty, tax or other governmental charges which may be imposed in relation to the registration of such transfer, forthwith, and in any event within five Business Days (or such longer period as may be required to comply with any applicable fiscal or other laws or regulations) of the receipt by the relevant Transfer Agent of the duly completed forms of transfer endorsed on the relevant Definitive Certificates (together with such evidence as the Registrar or (as the case may be) such Transfer Agent may reasonably require, including to prove the title of the transferor and the individuals who have executed the form of transfer and/or, in the case of the Trustee only, the identity of the transferee) deliver such Definitive Certificates at its Specified Office to the transferee or (at the risk of the transferee) send by uninsured mail to such address as the transferee may request duly dated and completed Definitive Certificates of a like aggregate face amount to the Definitive Certificates transferred and, in the case of the transfer of part only of a Definitive Certificate, deliver at its Specified Office to the transferor or (at the risk of the transferor) send by uninsured mail to such address as the transferor may request a duly dated and completed Definitive Certificate in respect of the balance of the Definitive Certificates not so transferred; and
- (d) comply with the terms of any properly completed transfer request.

## **12. REGULATIONS FOR TRANSFER OF CERTIFICATES**

Subject as provided below, the Trustee may from time to time agree with the Registrar and the Delegate regulations to govern the transfer and registration of Certificates. The initial regulations, which shall apply until amended in accordance with the Declaration of Trust, are set out in schedule 3 to the Declaration of Trust. Each Transfer Agent and the Registrar agrees to comply with the regulations as amended from time to time.

## **13. DUTIES OF THE PRINCIPAL PAYING AGENT IN CONNECTION WITH EARLY REDEMPTION AT THE OPTION OF THE TRUSTEE**

If the Trustee (other than consequent upon a Dissolution Event and acting only upon the instructions of DIB (acting in its sole discretion)) elects to redeem all the Certificates for the time being outstanding pursuant to Conditions 10.1(b), 10.1(c) or 10.1(d), it shall, at least seven days before the latest date for publication of the notice of redemption required to be given to Certificateholders in accordance with the Conditions, give notice of its decision to the Principal Paying Agent and the Delegate stating the date on which such Certificates are to be redeemed.

## **14. PUBLICATION OF NOTICES**

- 14.1 At the request and expense of the Trustee (failing which, DIB), the Principal Paying Agent (having been provided with the relevant notice by the Trustee and/or DIB) shall arrange for the publication of all notices to Certificateholders (other than notices required to be published by the Calculation Agent). Notices to Certificateholders shall be published in accordance with the Conditions having previously, unless the Delegate otherwise directs, been approved by the Delegate. Where the Conditions permit notices to be delivered to Certificateholders through the relevant clearing systems, any obligation imposed on the Trustee (or the Principal Paying Agent on its behalf) to publish such a notice shall be met upon delivery of that notice to the relevant clearing system.
- 14.2 Each Agent, on receipt of a notice or other communication addressed to the Trustee, shall promptly forward a copy to each of the Trustee, DIB and the Delegate.

14.3 The Trustee shall promptly send to the Delegate one copy of the form of every notice to be given to Certificateholders in accordance with the Conditions, this Agreement and the Global Certificate for approval and of every such notice once published.

## **15. CANCELLATION OF CERTIFICATES**

15.1 All Certificates which are surrendered in connection with redemption, exchanged (in the case of the Global Certificate) or transferred (in the case of Definitive Certificates) shall be cancelled by the Agent to which they are surrendered. Each of the Agents shall give to the Registrar details of all payments made by it and shall deliver all cancelled Certificates to the Registrar (or as the Registrar may specify). The Trustee and DIB shall notify the Registrar of any Certificates which are purchased by the Trustee from DIB or any Subsidiary of DIB and surrendered to an Agent for cancellation and such Certificates shall be cancelled by the Agent to which they are surrendered.

15.2 The Registrar or its authorised agent shall destroy all cancelled Certificates and upon written request furnish the Trustee, DIB and the Principal Paying Agent with a certificate of destruction containing written particulars of the serial numbers of the cancelled Certificates.

## **16. ISSUE OF REPLACEMENT CERTIFICATES**

16.1 The Trustee shall cause a sufficient quantity of additional forms of Definitive Certificates to be available, upon request, to the Registrar at its Specified Office for the purpose of issuing replacement Definitive Certificates as provided below.

16.2 The Registrar shall, subject to and in accordance with Condition 16 and the following provisions of this Clause 16, cause to be delivered any replacement Definitive Certificates which the Trustee may determine to issue in place of Definitive Certificates which have been lost, stolen, mutilated, defaced or destroyed.

16.3 The Registrar shall obtain verification, in the case of an allegedly lost, stolen or destroyed Definitive Certificate in respect of which the serial number is known, that the Definitive Certificate has not previously been redeemed or paid. The Registrar shall not issue a replacement Definitive Certificate unless and until the applicant has:

- (a) paid such expenses and costs as may be incurred in connection with the replacement;
- (b) furnished it with such evidence and indemnity as the Trustee, DIB, the Registrar, the Paying Agent or the Transfer Agent may reasonably require; and
- (c) in the case of a mutilated or defaced Definitive Certificate, surrendered it to the Registrar.

16.4 The Registrar shall cancel any mutilated or defaced Definitive Certificates in respect of which replacement Definitive Certificates have been issued pursuant to this Clause 16. The Registrar shall, upon written request, furnish the Trustee and DIB with a certificate stating the serial numbers of the Definitive Certificates received by it and cancelled pursuant to this Clause 16 and shall, unless otherwise requested by the Trustee or DIB, destroy all those Definitive Certificates and, upon written request, furnish the Trustee and DIB with a destruction certificate containing the information specified in Clause 16.3 above.

16.5 The Registrar shall, on issuing any replacement Definitive Certificate, forthwith inform the Trustee and the other Agents of the serial number of the replacement Definitive Certificate issued and (if known) of the serial number of the Definitive Certificate in place of which the replacement Definitive Certificate has been issued.

- 16.6 Whenever a Certificate for which a replacement Definitive Certificate has been issued is presented to the Principal Paying Agent for payment or a Transfer Agent for transfer, the relevant Agent shall immediately send notice to the Trustee and (if it is not itself the Principal Paying Agent or the Registrar) the Principal Paying Agent and the Registrar.
- 16.7 The Registrar shall keep a full and complete record of all replacement Definitive Certificates issued and shall make the record available at all reasonable times to the Trustee, DIB and the Delegate and any persons authorised by any of them for inspection and for the taking of copies of it or extracts from it.

## **17. RECORDS AND CERTIFICATES**

Upon written request, the Registrar shall give to the Trustee (with a copy to DIB and the Delegate) and the Principal Paying Agent, as soon as possible, a certificate stating:

- (a) the aggregate face amount of Certificates which have been redeemed;
- (b) in the case of Definitive Certificates, the serial numbers of Certificates which have been redeemed;
- (c) the aggregate amount of Periodic Distribution Amounts paid in respect of the Certificates; and
- (d) the aggregate face amount of the Certificates which have been exchanged or, in the case of Definitive Certificates, replaced and the serial numbers of those Certificates.

## **18. COPIES OF DOCUMENTS AVAILABLE FOR INSPECTION**

For so long as any Certificates remain outstanding, the Principal Paying Agent shall hold available for inspection and/or collection by Certificateholders at its Specified Office during normal business hours on any weekday (excluding Saturdays, Sundays and public holidays) copies of the documents required by the Prospectus to be made available.

For this purpose, the Trustee and DIB shall furnish the Principal Paying Agent with sufficient copies of each of the relevant documents.

## **19. REMUNERATION AND INDEMNIFICATION OF THE AGENTS**

- 19.1 The Trustee, DIB and the Principal Paying Agent have separately agreed the fees payable to the Agents in respect of their services under this Agreement and the arrangements for the payment of any out-of-pocket expenses (including legal, printing, postage, fax, cable and advertising expenses) incurred by the Agents in connection with their services. None of the Trustee or DIB shall be concerned with the apportionment of such fees among the Agents.
- 19.2 The fees, costs and expenses payable to each Agent for services rendered and the performance by it of its obligations under this Agreement shall not be abated by any remuneration or other amounts or profits receivable by the Agent (or to its knowledge by any of its associates) in connection with any transaction effected by each Agent with or for the Trustee.
- 19.3 If any Agent finds it expedient or necessary to undertake duties which it determines to be outside the ordinary course of the performance by such Agent of its obligations hereunder, such Agent shall be entitled to receive additional remuneration in respect of such duties at its standard rates for the time being in force and DIB undertakes to reimburse all properly documented costs, charges, expenses and liabilities incurred in connection therewith. If such amounts are insufficient for such reimbursement,

such Agent shall not be obliged to undertake such duties unless indemnified and/or secured and/or prefunded to its satisfaction.

- 19.4 DIB hereby undertakes that it shall, on behalf of the Trustee, indemnify each Agent against any actual losses, liabilities, actual costs, claims, actions, demands, actual damages or expenses (in each case, excluding opportunity loss and costs of funding (whether in the form of interest or otherwise)) (together, **Losses**) (including, but not limited to, all properly incurred costs, legal fees, charges and expenses (together, **Expenses**) paid or incurred in disputing or defending any Losses) which it may incur or which may be made against it as a result of or in connection with its appointment or the exercise of its powers and duties under this Agreement except for any Losses or Expenses resulting from its own wilful default, gross negligence or fraud or that of its officers, directors or employees. Notwithstanding the foregoing, under no circumstances will the Trustee or DIB, as the case may be, be liable to the Agents for any consequential or indirect loss (such as loss of business, goodwill, opportunity or profit), even if advised of the possibility of such loss or damage.
- 19.5 Each Agent will only be liable to the Trustee and/or DIB for actual losses, liabilities, actual costs (in each case, excluding opportunity loss and costs of funding (whether in the form of interest or otherwise))), expenses and demands (in each case, excluding costs of funding) arising directly from the performance of its obligations under this Agreement suffered by or occasioned to the Trustee and/or DIB (together, **Liabilities**) to the extent that the Agent has been in wilful default, grossly negligent or fraudulent in respect of its obligations under this Agreement. For the avoidance of doubt the failure of any Agent to make a claim for amounts due under the Certificates, or to inform any clearing system of a failure on the part of the Trustee to make any such claim, or to make a payment by the stipulated date, shall not be deemed to constitute wilful default, gross negligence or fraud on the part of the Agent.
- 19.6 Each Agent shall severally indemnify DIB against any Losses (including, but not limited to, all reasonably incurred Expenses paid or incurred in disputing or defending any Losses) which the Trustee or DIB may incur or which may be made against the Trustee or DIB as a result of the wilful default, gross negligence or fraud of such Agent or that of its officers, directors or employees.
- 19.7 Each Agent shall not otherwise be liable or responsible for any Liabilities or inconvenience which may result from anything done or omitted to be done by it in connection with this Agreement. Liabilities arising under Clause 19.6 shall be limited to the amount of the Trustee's and/or DIB's actual loss (such actual loss shall be determined as at the date of default of the Agent or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Agent at the time of entering into the Agreement, or at the time of accepting any relevant instructions, which increase the amount of the loss. In no event shall an Agent be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive or consequential damages, whether or not that Agent has been advised of the possibility of such loss or damages.
- 19.8 The liability of an Agent under Clauses 19.5 or 19.6 will not extend to any Liabilities arising through any acts, events or circumstances not reasonably within its control, or resulting from the general risks of investment in or the holding of assets in any jurisdiction, including, but not limited to, Liabilities arising from: (i) nationalisation, expropriation or other governmental actions and any law, order or regulation of a governmental, supranational or regulatory body; (ii) regulation of the banking or securities industry including changes in market rules or practice, currency restrictions, devaluations or fluctuations and market conditions affecting the execution or settlement of transactions or the value of assets; (iii) breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; (iv) natural disasters or acts of God, war, terrorism, insurrection or revolution; and (v) strikes or industrial action.



19.9 The indemnities set out in this Clause 19 shall survive any termination (whether by resignation or removal) of this Agreement.

## **20. REPAYMENT BY PRINCIPAL PAYING AGENT**

Sums paid by or by arrangement with or on behalf of the Trustee or DIB to the Principal Paying Agent pursuant to the terms of this Agreement shall not be required to be repaid to the Trustee or DIB unless and until any Certificate becomes void under the provisions of Condition 12 but in that event the Principal Paying Agent shall forthwith repay to the Trustee or DIB, by paying the same by wire transfer in U.S. dollars to the Transaction Account, sums equivalent to the amounts paid by the Trustee or DIB to the Principal Paying Agent and not disbursed by virtue of the Certificates becoming void.

## **21. CONDITIONS OF APPOINTMENT**

21.1 Save as provided in Clause 2.3 and in this Clause 21, each Agent shall be entitled to deal with money paid to it by the Trustee for the purposes of this Agreement in the same manner as other money paid to a banker by its customers and shall not be liable to account to the Trustee or DIB for any profit or other amounts in respect of such money. No money held by any Agent need be segregated except as required by law and in the event of its insolvency, the client money distribution and transfer rules of the United Kingdom Financial Conduct Authority will not apply to such money and so the person for whom it holds such money will not be entitled to share in any distribution under such client money distribution and transfer rules.

21.2 In acting under this Agreement and in connection with the Certificates, the Agents shall act solely as agents of the Trustee (or, for the limited purposes set out in Clause 2.3, the Delegate) and will not assume any obligations towards or relationship of agency or trust for or with any of the Certificateholders.

21.3 Except as expressly provided for herein, no Agent shall exercise, claim or plead any right of set-off, counterclaim, abatement, lien or other similar remedy against the Trustee, DIB, the Delegate or any Certificateholder in respect of any moneys payable to or by it under the terms of this Agreement and each Agent hereby waives all such rights of set-off, counterclaim, abatement or other similar remedy to the fullest extent permitted by Applicable Law.

21.4 Except as otherwise ordered by a court of competent jurisdiction or required by law, each of the Agents shall be entitled to treat the registered holder of any Certificate as the absolute owner for all purposes (whether or not any payment in respect of the relevant Certificate shall be overdue and regardless of any notice of ownership, trust or any interest or other writing on, or any notice of the theft or loss of, the relevant Certificate).

21.5 Each of the Agents shall be obliged to perform such duties and only such duties as are set out in this Agreement and the Certificates and no implied duties or obligations (including, without limitation, duties or obligations of a fiduciary or equitable nature) shall be read into this Agreement or the Certificates against the Agents other than the duty to act honestly and in good faith and to exercise the diligence of a reasonably prudent agent in comparable circumstances.

21.6 Each of the Agents may, at the expense of the Trustee and DIB, consult with any expert or legal, financial and other professional advisers and the opinion of such advisers shall be full and complete protection in respect of any action taken, omitted or suffered under this Agreement in good faith and in accordance with the opinion of such advisers.

21.7 Each of the Agents shall be protected and shall incur no liability for or in respect of any action taken, omitted or suffered in reliance upon any instruction, notice, certificate, request or order from DIB, the Trustee or the Delegate, or any document which it reasonably believes to be genuine and to have been

delivered, signed or sent by the proper party or parties or upon written instructions from DIB, the Trustee or the Delegate.

- 21.8 Any of the Agents, their officers, directors, employees, agents, delegates or controlling persons may become the owner of, or acquire any interest in, the Certificates with the same rights that it or he would have if the Agent concerned were not appointed under this Agreement, and may engage or be interested in any financial or other transaction with DIB, the Trustee or the Delegate and may act on, or as depositary, trustee or agent for, any committee or body of holders of the Certificates or other obligations of the Trustee or DIB as freely as if such Agent were not appointed under this Agreement.
- 21.9 None of the Agents shall be under any obligation to take any action under this Agreement which it expects will result in any expense or liability accruing to it, the payment of which within a reasonable time is not, in its opinion, assured to it.
- 21.10 No Agent shall be obliged to make payment to Certificateholders until such time as it has received funds and been able to identify or confirm receipt of funds.
- 21.11 Nothing in this Agreement shall require any Agent to assume any obligation of the Trustee arising under any provision of the listing, prospectus, disclosure or transparency rules (or equivalent rules of any other competent authority besides the FCA or the PRA).
- 21.12 Each Agent shall be entitled to take any action or to refuse to take any action which the Agent regards as necessary for the Agent to comply with any Applicable Law, regulation or fiscal requirement, or the rules, operating procedures or market practice of any relevant stock exchange or other market or clearing system.
- 21.13 Each Agent is authorised by the PRA and regulated by the FCA and the PRA. Nothing in this Agreement shall require the Agent to carry on an activity of the kind specified by any provision of Part II (other than article 5 (accepting deposits)) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, or to lend money to the Trustee.
- 21.14 No Agent shall be responsible to anyone with respect to the legality of this Agreement or the validity of the Certificates.
- 21.15 In the case of any default by the Trustee, no Agent shall have any duty or responsibility in respect of the performance of the Trustee's obligations under the Conditions.
- 21.16 Nothing in this Agreement, the Conditions or any other Transaction Document shall oblige any Agent or the Delegate to carry out (i) any "know your customer" or other checks in relation to any person (including any Certificateholder or any transferee or purported transferee of any Certificateholder) or (ii) any check on the extent to which any transfer or purported transfer by a Certificateholder might be unlawful for the Trustee, for or on behalf of the Trustee, and the Trustee confirms to each Agent and the Delegate that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by any Agent or the Delegate.
- 21.17 Each party to this Agreement shall, within ten business days of a written request by another party, supply to that other party such forms, documentation and other information relating to it, its operations, or the Certificates as that other party reasonably requests for the purposes of that other party's compliance with Applicable Law and shall notify the relevant other party reasonably promptly in the event that it becomes aware that any of the forms, documentation or other information provided by such party is (or becomes) inaccurate in any material respect; provided, however, that no party shall be required to provide any forms, documentation or other information pursuant to this Clause 21.17 to the extent that: (i) any such form, documentation or other information (or the information required to be provided on such form or documentation) is not reasonably available to such party and cannot be

obtained by such party using reasonable efforts; or (ii) doing so would or might in the reasonable opinion of such party constitute a breach of any: (a) Applicable Law; (b) fiduciary duty; or (c) duty of confidentiality. For purposes of this Clause 21.17, **Applicable Law** shall be deemed to include (i) any rule or practice of any Authority by which any party to this Agreement is bound or with which it is accustomed to comply; (ii) any agreement between any Authorities; and (iii) any agreement between any Authority and any party to this Agreement that is customarily entered into by institutions of a similar nature.

## 22. TERMINATION OF APPOINTMENT

- 22.1 The Trustee may, with the prior written approval of the Delegate, terminate the appointment of any Agent at any time and/or appoint additional or other Agents by giving to the Agent whose appointment is concerned and, where appropriate, the Principal Paying Agent at least 90 days' prior written notice to that effect (with a copy to the Delegate and the other Agents), provided that, so long as any Certificates are outstanding:
- (a) in the case of a Paying Agent, the notice shall not expire less than 45 days before any Periodic Distribution Date; and
  - (b) notice shall be given to Certificateholders in accordance with Condition 17 at least 30 days before the removal or appointment of an Agent.
- 22.2 Notwithstanding the provisions of Clause 22.1, if at any time (a) an Agent becomes incapable of acting, or is adjudged bankrupt or insolvent, or files a voluntary petition in bankruptcy or makes an assignment for the benefit of its creditors or consents to the appointment of an administrator, liquidator or administrative or other receiver of all or any substantial part of its property, or if an administrator, liquidator or administrative or other receiver of it or of all or a substantial part of its property is appointed, or it admits in writing its inability to pay or meet its debts as they may mature or suspends payment of its debts, or if an order of any court is entered approving any petition filed by or against it under the provisions of any applicable bankruptcy or insolvency law or if a public officer takes charge or control of the Agent or of its property or affairs for the purpose of rehabilitation, administration or liquidation, the Trustee may, with the prior written approval of the Delegate, forthwith without notice terminate the appointment of the Agent, or (b) in the case of the Calculation Agent, it is unable or unwilling to continue to act as the Calculation Agent or (without prejudice to Condition 7.4(c)), fails duly to determine the Profit Rate in respect of any Reset Period as provided in the Conditions and this Agreement, the Trustee shall forthwith appoint another leading investment, merchant or commercial bank or financial institution in London approved in writing by the Delegate to act as such in its place. Notice of any such termination or replacement shall be given to the Certificateholders by the Trustee in accordance with Condition 17.
- 22.3 The termination of the appointment of an Agent under this Agreement shall not entitle the Agent to any amount by way of compensation but shall be without prejudice to any amount then accrued due.
- 22.4 All or any of the Agents may resign their respective appointments under this Agreement at any time by giving to the Trustee and, where appropriate, the Principal Paying Agent at least 90 days' prior written notice to that effect provided that, in the case of a Paying Agent, so long as any of the Certificates are outstanding, the notice shall not expire less than 45 days before any Periodic Distribution Date. Following receipt of a notice of resignation from an Agent, the Trustee shall promptly, and in any event not less than 30 days before the resignation takes effect, give notice of such resignation to the Certificateholders in accordance with Condition 17. If the Principal Paying Agent or the Registrar shall resign or be removed pursuant to Clauses 22.1 or 22.2 above or in accordance with this Clause 22.4, the Trustee shall promptly and in any event within 30 days appoint a successor (being a reputable financial institution of good standing). If the Trustee fails to appoint a successor within such period, the Principal Paying Agent or Registrar, as the case may be, may select a reputable

financial institution of good standing to act as Principal Paying Agent or Registrar, as the case may be, hereunder and the Trustee shall appoint that bank as the successor Principal Paying Agent or Registrar, as the case may be. No such removal or resignation of the Principal Paying Agent or the Registrar shall be effective until a successor has been appointed.

- 22.5 Notwithstanding the provisions of Clauses 22.1, 22.2 and 22.4, so long as any Certificates are outstanding, the Trustee reserves the right at any time to vary or terminate the appointment of any Agent and to appoint additional or other Agents, provided that it will at all times maintain any Agent required by the Conditions to be maintained.
- 22.6 Any successor Agent shall execute and deliver to its predecessor, the Trustee, DIB, the Delegate and, where appropriate, the Principal Paying Agent an instrument accepting its appointment under this Agreement, and the successor Agent, without any further act, deed or conveyance, shall become vested with all the authority, rights, powers, trusts, immunities, duties and obligations of the predecessor with like effect as if originally named as an Agent.
- 22.7 If the appointment of an Agent (other than the Calculation Agent) under this Agreement is terminated (whether by the Trustee or by the resignation of the relevant Agent), such Agent shall on the date on which the termination takes effect deliver to its successor Agent (or, if none, the Principal Paying Agent) all Certificates surrendered to it but not yet destroyed and all records concerning the Certificates maintained by it (except such documents and records as it is obliged by law or regulation to retain or not to release) and pay to its successor Agent (or, if none, to the Principal Paying Agent) the amounts (if any) held by it in respect of any Certificates which have become due and payable but which have not been presented for payment, but shall have no other duties or responsibilities under this Agreement.
- 22.8 If the Principal Paying Agent or any of the other Agents (other than the Calculation Agent) shall change its Specified Office, it shall give to the Trustee, DIB, the Delegate and the other Agents not less than 45 days prior written notice (in accordance with Clause 24) to that effect giving the address of the new Specified Office. As soon as practicable thereafter and in any event at least 20 days before the change, the Principal Paying Agent shall give to the Certificateholders, under the direction of and at the expense of the Trustee, notice of the change and the address of the new Specified Office in accordance with Condition 17. The initial Agents and their initial Specified Offices are set out in the Schedule to this Agreement.
- 22.9 A corporation into which any Agent for the time being may be merged or converted or a corporation with which the Agent may be consolidated or a corporation resulting from a merger, conversion or consolidation to which the Agent shall be a party shall, to the extent permitted by Applicable Law, be the successor Agent under this Agreement without the execution or filing of any paper or any further act on the part of any of the parties to this Agreement. Notice of any merger, conversion or consolidation shall forthwith be given to the Trustee, DIB, the Delegate and, where appropriate, the Principal Paying Agent.
- 22.10 Upon any resignation, revocation or termination taking effect under this Clause 22, the relevant Agent, shall:
- (a) be released and discharged from its obligations under this Agreement (save that it shall remain entitled to the benefit of and subject to Clauses 19, 21 and 22);
  - (b) in the case of any relevant Paying Agent, deliver to the Trustee and to its successor a copy, certified as true and up to date by an officer or authorised signatory of such Paying Agent, of the records maintained by it in accordance with Clause 17;

- (c) in the case of the Registrar, deliver to the Trustee and its successor a copy, certified as true and up to date by an officer or authorised signatory of the Registrar, of the records maintained by it in accordance with Clause 10;
- (d) in the case of the Principal Paying Agent, deliver to the Trustee and its successor a copy, certified as true and up to date by an officer or authorised signatory of such Principal Paying Agent, of the records maintained by it in accordance with this Agreement; and
- (e) forthwith (upon payment to it of any amount due to it in accordance with Clause 19) transfer all moneys and papers (including any unissued Certificates and/or Certificates surrendered but not yet destroyed held by it hereunder and any documents held by it pursuant to Clause 18) to its successor and, upon appropriate notice, provide reasonable assistance to its successor for the discharge of its duties and responsibilities hereunder.

## **23. MEETINGS OF CERTIFICATEHOLDERS**

The provisions of schedule 4 to the Declaration of Trust shall apply to meetings of the Certificateholders and shall have effect in the same manner as if set out in this Agreement. Each Agent agrees to perform the duties (if any) imposed on it in that schedule.

## **24. NOTICES**

24.1 All notices or other communications under or in connection with this Agreement shall be given in writing, by email or by facsimile in the English language. Any such notice will be deemed to be given as follows:

- (a) if in writing, when delivered at the relevant address;
- (b) if by email, when sent; and
- (c) if by facsimile, when received in legible form.

24.2 However, a notice given in accordance with the above but received on a day which is not a business day or after business hours in the place of receipt will only be deemed to be given on the next business day. Any such notice shall take effect, if delivered in person, at the time of delivery, if sent by registered post, five business days after despatch, in the case of an email, when sent, subject to no delivery failure notification being received by the sender within 24 hours of the time of sending and, in the case of a facsimile, when a transmission report showing the successful transmission of the facsimile is received by the sender.

The address, email address and facsimile number (as the case may be) of each of the Trustee, DIB, the Principal Paying Agent, the Registrar and the Delegate for all notices under or in connection with this Agreement are:

- (a) in the case of the Trustee, to:

DIB Tier 1 Sukuk (6) Ltd.  
c/o MaplesFS Limited  
P.O. Box 1093  
Boundary Hall  
Cricket Square  
Grand Cayman, KY1-1102  
Cayman Islands

Email: dubai@maples.com / cayman@maples.com  
Facsimile No.: +1 345 945 7100 / +971 4 511 4100  
Attention: The Directors

(with a copy to be sent to the Delegate)

(b) in the case of DIB, to:

Dubai Islamic Bank PJSC  
P.O. Box 1080  
Dubai  
United Arab Emirates

Email: John.Macedo@dib.ae / Saeed.Wajdi@dib.ae / Shamim.Ahmed@dib.ae /  
Kmoosa@dib.ae  
Facsimile No.: +971 4 211 2329 / +971 4 294 2423  
Attention: John Macedo / Saeed Ahmad Wajdi / Mohammad Shamim Ahmed / Kashif  
Moosa

(c) in the case of the Principal Paying Agent, to:

HSBC Bank plc  
8 Canada Square  
London E14 5HQ  
United Kingdom

Email: ctla.payingagency@hsbc.com / ctlondon.conventional@hsbc.com  
Facsimile No.: +44 (0)20 7260 8932  
Attention: Client Service Manager

(d) in the case of the Registrar, to:

HSBC Bank plc  
8 Canada Square  
London E14 5HQ  
United Kingdom

Email: ctla.payingagency@hsbc.com / ctlondon.conventional@hsbc.com  
Facsimile No.: +44 (0)20 7260 8932  
Attention: Client Service Manager

(e) in the case of the Delegate, to:

HSBC Bank plc  
8 Canada Square, Level 27  
London E14 5HQ  
United Kingdom

Email: ctla.trustee.admin@hsbc.com  
Facsimile No.: +44 20 7991 4350  
Attention: Issuer Services Trustee Administration

or, in each case, to such other address, email address or facsimile number or marked for the attention of such other person or department as may from time to time be notified by any party to the others by

not less than five business days' written notice in accordance with the provisions of this Clause 24. In this Clause 24, **business day** in relation to any place means a day on which commercial banks are open for general business in that place.

24.3 All communications relating to this Agreement between (a) the Trustee and DIB and (b) any of the Agents or between the Agents themselves shall be made (except where otherwise expressly provided) through the Principal Paying Agent.

24.4 A copy of all communications relating to the subject matter of this Agreement between the Trustee and any of the Agents (other than the Principal Paying Agent) shall be sent to the Principal Paying Agent, DIB, the Trustee and the Delegate in accordance with this Clause 24.

## 25. AMENDMENTS

No amendment, modification or termination of any provision of this Agreement shall be effective unless it is in writing and signed by the Trustee, DIB, the Delegate and each Agent.

## 26. CURRENCY INDEMNITY

If, under any applicable law and whether pursuant to a judgment being made or registered against the Trustee or DIB or in the liquidation, insolvency or analogous process of the Trustee or DIB or for any other reason, any payment under or in connection with this Agreement is made or falls to be satisfied in a currency (the **other currency**) other than that in which the relevant payment is expressed to be due (the **required currency**) under this Agreement, then, to the extent that the payment (when converted into the required currency at the spot rate of exchange on the date of payment or, if it is not practicable for the relevant indemnified person to purchase the required currency with the other currency on the date of payment, at the spot rate of exchange as soon thereafter as it is practicable for it to do so or, in the case of a liquidation, insolvency or analogous process, at the spot rate of exchange on the latest date permitted by applicable law for the determination of liabilities in such liquidation, insolvency or analogous process) actually received by the relevant indemnified person falls short of the amount due under the terms of this Agreement, each of the Trustee and DIB jointly and severally undertakes that it shall, as a separate and independent obligation, indemnify and hold harmless the relevant indemnified person against the amount of such shortfall. For the purpose of this Clause 26, **spot rate of exchange** means the rate at which the relevant indemnified person is able on the London foreign exchange market on the relevant date to purchase the required currency with the other currency and shall take into account any reasonable costs of exchange.

## 27. LIMITED RECOURSE AND NON-PETITION

Each of DIB, the Agents and the Delegate agrees that, notwithstanding anything to the contrary contained herein or any other Transaction Document:

- (a) no payment of any amount whatsoever shall be made by the Trustee (in any capacity) or any of its shareholders, directors, officers, employees or agents on its behalf except to the extent funds are available therefor from the Trust Assets;
- (b) the Trustee (in any capacity) may not deal with the Mudaraba Assets or realise or deal with its interest, rights, title, benefit and entitlements, present and future, in, to and under the Transaction Documents and the Trust Assets except in the manner expressly permitted by the Transaction Documents;
- (c) the proceeds of the Trust Assets are the sole source of payments on the Certificates. Payment by the Trustee (in any capacity) of any Periodic Distribution Amount or any amount required to redeem the Certificates is subject to receipt by the Trustee of the amounts expected to be

received by it from the Mudareb in accordance with the provisions of the Mudaraba Agreement. The Mudaraba Agreement provides that there is no guarantee of any return from the Mudaraba Assets and DIB's obligation to pay amounts thereunder are subject to the more detailed provisions set out therein, and references in the Conditions to "Periodic Distribution Amount", "profit" and "Profit Rate" should be construed accordingly;

- (d) if the net proceeds of the realisation of, or enforcement with respect to, the Trust Assets are not sufficient to make all payments due hereunder, no recourse shall be had to any assets of the Trustee (other than the Trust Assets in the manner contemplated in the Transaction Documents) or of the Delegate or the Agents, subject to and in accordance with such Transaction Documents, or any of their respective affiliates in respect of any such shortfall, and no recourse shall be had for the payment of any amount due and owing hereunder or under any Transaction Document, whether for the payment of any fee, indemnity or other amount hereunder or any other obligation or claim arising out of or based upon the Transaction Documents, against the Trustee (in any capacity) to the extent the Trust Assets have been exhausted (following which all obligations of the Trustee shall be extinguished) or the Delegate or the Agents;
- (e) it will not petition for, institute, or join with any other person in instituting proceedings for, the reorganisation, arrangement, liquidation, bankruptcy, winding-up or receivership or other proceedings under any bankruptcy or similar law against the Trustee (in any capacity) or any of its directors, officers, employees, agents, shareholders or affiliates as a consequence of such shortfall or otherwise;
- (f) no recourse (whether by institution or enforcement of any legal proceedings or assessment or otherwise) in respect of any breaches of any duty, obligation or undertaking of the Trustee (in any capacity) arising under or in connection with the Conditions or the Transaction Documents by virtue of any customary law, statute or otherwise shall be had against any shareholder, member, officer, agent, director or corporate services provider of the Trustee in their capacity as such. The obligations of the Trustee under the Conditions and the Transaction Documents are corporate or limited liability obligations of the Trustee (in any capacity) and no personal liability shall attach to or be incurred by the shareholders, members, officers, agents, directors or corporate services provider of the Trustee (in each of their respective capacities as such), save in the case of their wilful default or actual fraud. References in this Agreement to wilful default or actual fraud means a finding to such effect by a court of competent jurisdiction in relation to the conduct of the relevant party; and
- (g) it shall not be entitled to claim or exercise any right of set-off, counterclaim, abatement or other similar remedy which it might otherwise have, under the laws of any jurisdiction, in respect of any liability owed by it to the Trustee or claim any lien or other rights over any property held by it on behalf of the Trustee.

## **28. SEVERABILITY**

If any provision in or obligation under this Agreement is or becomes invalid, illegal or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair (i) the validity, legality or enforceability under the law of that jurisdiction of any other provision in or obligation under this Agreement or (ii) the validity, legality or enforceability under the law of any other jurisdiction of that or any other provision in or obligation under this Agreement.

## **29. GENERAL**

- 29.1 This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.



- 29.2 The parties to this Agreement acknowledge and agree that this Agreement may be executed by electronic means by any party.
- 29.3 The Trustee will pay on written demand by any Agent or the Delegate, any stamp duty, sales, excise, registration and other taxes, duties and fees payable in connection with the execution, delivery, filing, recording or enforcement of this Agreement.
- 29.4 DIB agrees that if the Trustee fails to make any payment required to be made by it under this Agreement or fails to take or procure the taking of any other action required to be taken or procured by it under this Agreement, DIB shall make such payment or take or procure the taking of the relevant action.

### **30. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

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 term of this Agreement, except and to the extent that this Agreement expressly provides for such Act to apply to any of its terms, but this does not affect any right or remedy of a third party which exists or is available apart from that Act. Any termination, rescission, variation, waiver or settlement under this Agreement is not subject to the consent of any person that is not a party to this Agreement.

### **31. SHARI'A COMPLIANCE**

Each of DIB Tier 1 Sukuk (6) Ltd. and Dubai Islamic Bank PJSC hereby agrees that it has accepted the Shari'a compliant nature of the Transaction Documents and, to the extent permitted by law, further agrees that:

- (a) it shall not claim that any of its obligations under the Transaction Documents (or any provision thereof) is *ultra vires* or not compliant with the principles of Shari'a;
- (b) it shall not take any steps or bring any proceedings in any forum to challenge the Shari'a compliance of the Transaction Documents; and
- (c) none of its obligations under the Transaction Documents shall in any way be diminished, abrogated, impaired, invalidated or otherwise adversely affected by any finding, declaration, pronouncement, order or judgment of any court, tribunal or other body that the Transaction Documents are not compliant with the principles of Shari'a.

### **32. GOVERNING LAW AND DISPUTE RESOLUTION**

- 32.1 This Agreement (including the remaining provisions of this Clause 32) and any non-contractual obligations arising out of or in connection with this Agreement are governed by, and shall be construed in accordance with, English law.
- 32.2 Subject to Clause 32.3 any dispute, claim, difference or controversy arising out of, relating to or having any connection with this Agreement (including any dispute as to its existence, validity, interpretation, performance, breach or termination or the consequences of its nullity and any dispute relating to any non-contractual obligations arising out of or in connection therewith) (a **Dispute**) shall be referred to and finally resolved by arbitration in accordance with the Arbitration Rules of the London Court of International Arbitration (the **LCIA**) (the **Rules**), which Rules (as amended from time to time) are incorporated by reference into this Clause 32.2. For these purposes:
- (a) the seat of arbitration shall be London;

- (b) there shall be three arbitrators, each of whom shall be disinterested in the arbitration and shall be an attorney experienced in international securities transactions. The parties to the Dispute shall each nominate one arbitrator and both arbitrators in turn shall nominate a further arbitrator who shall be the presiding arbitrator of the tribunal. In cases where there are multiple claimants and/or multiple respondents, the class of claimants jointly, and the class of respondents jointly, shall each nominate one arbitrator. If the party nominated arbitrators fail to nominate the third arbitrator within 15 days of the nomination of the second arbitrator, such arbitrator shall be appointed by the LCIA; and
- (c) the language of the arbitration shall be English.

32.3 Notwithstanding Clause 32.2 above, the Delegate and any Agent may, in the alternative, and at its sole discretion, by notice in writing to the Trustee and DIB:

- (a) within 28 days of service of a Request for Arbitration (as defined in the Rules); or
- (b) if no arbitration has commenced,

require that a Dispute be heard by a court of law. If such notice is given, the Dispute to which such notice refers shall be determined in accordance with Clause 32.5 and any arbitration commenced under Clause 32.2 in respect of that Dispute will be terminated. With the exception of the Delegate and the Agents, (whose costs will be borne by the Trustee, failing which, DIB), each of the parties to the terminated arbitration will bear its own costs in relation thereto.

32.4 If any notice to terminate is given after service of any Request for Arbitration in respect of any Dispute, the Delegate or the relevant Agent, as the case may be, must promptly give notice to the LCIA Court and to any Tribunal (each as defined in the Rules) already appointed in relation to the Dispute that such Dispute will be settled by the courts. Upon receipt of such notice by the LCIA Court, the arbitration and any appointment of any arbitrator in relation to such Dispute will immediately terminate. Any such arbitrator will be deemed to be *functus officio*. The termination is without prejudice to:

- (i) the validity of any act done or order made by that arbitrator or by the court in support of that arbitration before his appointment is terminated;
- (ii) his entitlement to be paid his proper fees and disbursements; and
- (iii) the date when any claim or defence was raised for the purpose of applying any limitation bar or any similar rule or provision.

32.5 If a notice is pursuant to Clause 32.3, the following provisions shall apply:

- (a) subject to Clause 32.5(c), the courts of England or the courts of the DIFC, at the option of the Delegate or any Agent, shall have exclusive jurisdiction to settle any Dispute and each of the Trustee and DIB submits to the exclusive jurisdiction of such courts;
- (b) each of the Trustee and DIB agrees that the courts of either England or the courts of the DIFC, as applicable, are the most appropriate and convenient courts to settle any Dispute and, accordingly, that it will not argue to the contrary; and
- (c) this Clause 32.5 is for the benefit of the Delegate and the Agents only. As a result, and notwithstanding Clauses 32.5(a) and 32.5(b) above, the Delegate and any Agent may take proceedings relating to a Dispute (the **Proceedings**) in any other courts with jurisdiction. To

the extent allowed by law, the Delegate and any Agent may take concurrent Proceedings in any number of jurisdictions.

- 32.6 Each of the Trustee and DIB appoints Maples and Calder at its registered office at 11th Floor, 200 Aldersgate Street, London EC1A 4HD as its agent for service of process in England and has undertaken that, in the event of Maples and Calder ceasing so to act or ceasing to be registered in England, it will appoint another person as its agent for service of process in England in respect of any Proceedings or Disputes and notify the Delegate of such appointment. Nothing in this Agreement shall affect the right to serve process in any manner permitted by law.
- 32.7 DIB agrees that, to the extent that it may claim for itself or its assets or revenues immunity from jurisdiction, enforcement, prejudgement proceedings, injunctions and all other legal proceedings and relief and to the extent that such immunity (whether or not claimed) may be attributed to it or its assets or revenues, it will not claim and has irrevocably and unconditionally waived such immunity in relation to any Proceedings or Disputes. Further, DIB irrevocably and unconditionally consents to the giving of any relief or the issue of any legal proceedings, including without limitation, jurisdiction, enforcement, prejudgement proceedings and injunctions in connection with any Proceedings or Disputes.
- 32.8 Each party irrevocably agrees that no interest will be payable or receivable under or in connection with this Agreement and in the event that it is determined that any interest is payable or receivable in connection with this Agreement by a party, whether as a result of any judicial award or by operation of any applicable law or otherwise, such party agrees to waive any rights it may have to claim or receive such interest and agrees that if any such interest is actually received by it, it shall promptly donate the same to a registered or otherwise officially recognised charitable organisation.
- 32.9 For the avoidance of doubt, nothing in Clause 32.8 above shall be construed as a waiver of rights in respect of Mudaraba Profit, Final Mudaraba Profit, Rab-al-Maal Mudaraba Profit, Rab-al-Maal Final Mudaraba Profit, Indemnity Payment, Periodic Distribution Amounts, Outstanding Payments or profit of any kind payable by DIB (in any capacity) or the Trustee (in any capacity) pursuant to the Transaction Documents and/or the Conditions or any other document or agreement, howsoever such amounts may be described or re-characterised by any court or arbitral tribunal.

**THIS AGREEMENT** has been entered into on the date stated at the beginning of this Agreement.

## **SCHEDULE**

### **THE SPECIFIED OFFICES OF THE AGENTS**

**The Principal Paying Agent, the Registrar, the Transfer Agent and the Calculation Agent**

**HSBC BANK PLC**

8 Canada Square

London E14 5HQ

Facsimile No: +44 (0)20 7260 8932

Attention: Senior Manager CTLA Client Services

**SIGNATORIES TO THE AGENCY AGREEMENT**

**The Trustee**

**DIB TIER 1 SUKUK (6) LTD.**

By:

A handwritten signature in blue ink, appearing to read 'Phillip Hinds', written in a cursive style.

Phillip Hinds, Director

**DIB**

**DUBAI ISLAMIC BANK PJSC**

By:



**Saeed Wajdi  
Chief of Treasury  
Dubai Islamic Bank**

By:

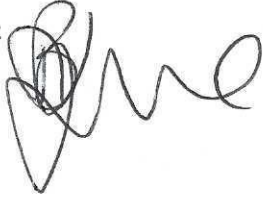


 **John Macedo  
Chief Financial Officer  
Dubai Islamic Bank**

**The Delegate**

**HSBC BANK PLC**

By:

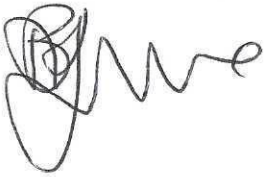


BALJIT PUREWAL  
AUTHORISED SIGNATORY

**The Principal Paying Agent, the Registrar, the Transfer Agent and the Calculation Agent**

**HSBC BANK PLC**

By:



BALJIT PUREWAL  
AUTHORISED SIGNATORY