



Registration of a Charge

Company name: **THE SUTTON TRUST**

Company number: **07951541**



XA2CDP49

Received for Electronic Filing: **13/04/2021**

Details of Charge

Date of creation: **12/04/2021**

Charge code: **0795 1541 0001**

Persons entitled: **J.P. MORGAN BANK LUXEMBOURG S.A.**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **SWEATHA**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7951541

Charge code: 0795 1541 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 12th April 2021 and created by THE SUTTON TRUST was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th April 2021 .

Given at Companies House, Cardiff on 14th April 2021

The above information was communicated by electronic means and authenticated
by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**



SECURITY AGREEMENT – CORPORATIONS

Date of this Security Agreement (the Signing Date): 12-4-2021

Details of the Chargor:

Name: THE SUTTON TRUST

Address: MILLBANK TOWER, LONDON, SW19 4QP

Telephone number: 02078021660

Fax:

Contact Person: JAMES TURNER

U.K. Registered Number (if applicable): 07951541

Account Relationship Number:

Date of execution of Private Client Terms (as defined below):

Details of J.P. Morgan Bank Luxembourg S.A. as Security Agent:

Name: J.P. Morgan Bank Luxembourg S.A.

Registered Address: European Bank & Business Centre, 6 route de Treves, L-2633 Senningerberg, Luxembourg

Address for communications: J.P. Morgan Bank Luxembourg S.A c/o 1 Knightsbridge, London SW1X 7LX

Telephone number: +352 46 26 85 1

Fax: +352 22 45 90

Contact Person: UK Banking Team

Registered Number: RCS Luxembourg: B 10958

Details of Process Agent¹

Name:

Address:

¹ To be completed if the Chargor is not resident or incorporated in England and Wales.

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THIS DEED is dated as of the Signing Date and is made **BETWEEN:**

- (1) the **Chargor**; and
- (2) **J.P. MORGAN BANK LUXEMBOURG S.A.** in its capacity as security agent and trustee for the Finance Parties (the **Security Agent**).

BACKGROUND:

The **Chargor** enters into this Security Agreement in connection with the **Private Client Terms**.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Security Agreement:

Act means the Law of Property Act 1925.

Affiliate means a Subsidiary or a holding company (as defined in Section 1159 of the Companies Act 2006) of a person and any other Subsidiary of that holding company.

Cash Account has the meaning ascribed to it in the **Private Client Terms**.

Collateral Account means each Custody Account, Cash Account and Time Deposit Account.

Collateral Cash means the debt owed to the **Chargor** represented by the credit balance from time to time on the Cash Account and the Time Deposit Account.

Collateral Investments means the Investments from time to time recorded in and represented by the Custody Account.

Custodian has the meaning ascribed to it in the **Private Client Terms**.

Custody Account has the meaning ascribed to it in the **Private Client Terms**.

Finance Documents means:

- (a) the **Private Client Terms**;
- (b) this Security Agreement; and
- (c) any other document designated as a Finance Document in a Third Party Instrument.

Finance Parties means the **Security Agent** and each Specified Finance Party.

Investments has the meaning ascribed to it in the **Private Client Terms**.

ISDA Master Agreement has the meaning ascribed to it in the **Private Client Terms**.

Limit means, in relation to the Secured Liabilities owed by a Specified Obligor, the limit, if any, set out in the Third Party Instrument applicable to that Specified Obligor.

Master Agreement means any OTC Derivatives Master Agreement and any ISDA Master Agreement.

Obligor means the **Chargor** and each Specified Obligor.

OTC Derivatives Master Agreement has the meaning ascribed to it in the **Private Client Terms**.

Party means a party to this Security Agreement.

Private Client Terms means the terms on which J.P. Morgan Bank Luxembourg S.A. undertakes banking business with the **Chargor**, as executed on the date specified in the front page to this Security Agreement, and including without limitation the General Terms together with the Investment Services Special Terms (discretionary investment management and dealing and advisory), Banking and Custody Special Terms and Electronic Communications Special Terms and any other Special Terms to which the **Chargor** is subject, the Definitions, Application Form and any Related Agreement, all as amended, novated, supplemented or replaced from time to time.

Receiver means a receiver and manager or a receiver, in each case, appointed under this Security Agreement.

Related Agreement has the meaning ascribed to it in the **Private Client Terms**.

Related Rights means:

- (a) any dividend, interest or other distribution paid or payable in relation to any Collateral Investments; and
- (b) any right, money or property accruing or offered at any time in relation to any Collateral Investments by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise.

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Finance Party under any Finance Document, except for any obligation or liability which, if it were so included, would result in this Security Agreement contravening any law (including section 678 or section 679 of the Companies Act 2006 or an equivalent law in any jurisdiction), including without limitation, all Relevant Liabilities (as defined in the **Private Client Terms**).

Security means any Security Interest created, evidenced or conferred by or under this Security Agreement.

Security Assets means all assets of the **Chargor** the subject of any security created by this Security Agreement.

Security Period means the period beginning on the date of this Security Agreement and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

Specified Finance Party means:

- (a) J.P. Morgan Bank Luxembourg S.A.;
- (b) any Affiliate of J.P. Morgan designated as a Specified Finance Party in a Third Party Instrument; and
- (c) any person to which a Specified Finance Party assigns or transfers all or any part of its rights and obligations under the Finance Documents.

Specified Obligor means any person designated as a Specified Obligor in a Third Party Instrument.

Third Party Instrument means any document designated in writing as such and entered into by:

- (a) the **Chargor**;
- (b) the **Security Agent**; and

(c) a Specified Obligor and/or a Specified Finance Party,

substantially in the form attached in Schedule 1 (Form of Third Party Instrument).

Subsidiary means a subsidiary within the meaning of Section 1159 of the Companies Act 2006.

Time Deposit Account has the meaning ascribed to it in the Private Client Terms.

1.2 Construction

(a) Capitalised terms defined in the Private Client Terms have, unless expressly defined in this Security Agreement, the same meaning in this Security Agreement.

(b) A reference to a Finance Document or other document or security includes (without prejudice to any prohibition on amendments) any amendment to that Finance Document or other document or security, including any change in the purpose of, any extension of or any increase in the amount of a facility or any additional facility.

(c) Any covenant of the Chargor under this Security Agreement (other than a payment obligation) remains in force during the Security Period and is given for the benefit of each Finance Party.

(d) If the Security Agent considers that an amount paid to a Finance Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Security Agreement.

(e) Unless the context otherwise requires, a reference to a Security Asset includes:

- (i) any part of that Security Asset; and
- (ii) the proceeds of that Security Asset.

(f) If there is any conflict between the provisions of this Security Agreement and the Private Client Terms, this Security Agreement will prevail.

2. CREATION OF SECURITY

2.1 General

(a) All the security created under this Security Agreement:

- (i) is created in favour of the Security Agent;
- (ii) is security for the payment, discharge and performance of all the Secured Liabilities; and
- (iii) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

(b) The Security Agent holds the Security and the benefit of this Security Agreement on trust for the Finance Parties.

2.2 Private Client Terms

The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights under the

Private Client Terms (including its rights to require the Custodian to deliver securities or cash to the Chargor or to its order).

2.3 Collateral Investments and Collateral Cash

The Chargor charges by way of a first fixed charge:

- (a) all Collateral Investments and all Related Rights;
- (b) all Collateral Cash; and
- (c) all other assets held by the Custodian for the Chargor from time to time.

2.4 Master Agreement

The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights under any Master Agreement.

3. FURTHER ASSURANCES

The Chargor must, at its own expense, take whatever action the Security Agent or a Receiver may require for:

- (a) creating, perfecting or protecting any security intended to be created by or pursuant to this Security Agreement;
- (b) facilitating the realisation of any Security Asset;
- (c) facilitating the exercise of any right, power or discretion exercisable, by the Security Agent or any Receiver or any of their delegates or sub-delegates in respect of any Security Asset; or
- (d) creating and perfecting security in favour of the Security Agent (equivalent to the security intended to be created by this Security Agreement) over any assets of the Chargor located in any jurisdiction outside England and Wales.

This includes:

- (i) the re-execution of this Security Agreement;
- (ii) the execution of any transfer or assignment of any property, whether to the Security Agent or to its nominee; and
- (iii) the giving of any notice and the making of any filing or registration,

which, in any such case, the Security Agent may think expedient.

4. DEALING WITH ASSETS – RIGHTS AND RESTRICTIONS

4.1 Restrictions

Subject to clause 4.2 below, the Chargor must not:

- (a) create or permit to subsist any Security Interest on any Security Asset; or
- (b) sell, transfer or otherwise dispose of:

(i) any of its rights under the Private Client Terms or any Master Agreement; or

(ii) except as expressly allowed under the Private Client Terms, any of its rights to the Collateral Investments, the Collateral Cash or any other Security Asset.

4.2 Withdrawals and Substitutions

In accordance with the Private Client Terms, the Chargor will be permitted to withdraw or substitute Collateral from the Cash Accounts, Time Deposit Accounts or Custody Accounts if (prior to such withdrawal or substitution) the Custodian has confirmed to the Chargor that:

(a) either there are no existing Secured Liabilities or the existing Collateral in the Chargor's Cash Accounts, Time Deposit Accounts and Custody Accounts has a Collateral Value which is in excess of the Secured Liabilities; and

(b) the Collateral in the Chargor's Cash Accounts, Time Deposit Accounts and Custody Accounts immediately after such withdrawal or substitution will have a Collateral Value in excess of the Secured Liabilities."

5. REPRESENTATIONS AND WARRANTIES - GENERAL

5.1 Representations and warranties

The Chargor makes the representations and warranties set out in this Clause to each Finance Party.

5.2 Status

It is a limited liability company, duly incorporated and validly existing under the laws of the jurisdiction of its incorporation.

5.3 Powers and authorisations

It has the power to enter into and perform and has taken all necessary action to authorise the entry into and performance of, this Security Agreement and the transactions contemplated by this Security Agreement.

5.4 Legal validity

This Security Agreement constitutes its legally valid, binding and enforceable obligation.

5.5 Non-conflict

The entry into and performance by it of, and the transactions contemplated by, this Security Agreement do not and will not conflict with:

- (a) any law or regulation applicable to it; or
- (b) its constitutional documents; or
- (c) any document which is binding upon it or any of its assets.

5.6 Authorisations

All authorisations required by it in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, this Security Agreement have been obtained or effected (as appropriate) and are in full force and effect.

5.7 Nature of security

This Security Agreement creates those Security Interests it purports to create and is not liable to be avoided or otherwise set aside on its bankruptcy, insolvency, liquidation or administration or otherwise.

5.8 Stamp duties

As at the date of this Security Agreement, no stamp or registration duty or similar tax or charge is payable in its jurisdiction of incorporation in respect of this Security Agreement.

5.9 Title

The Security Assets are free from any Security Interests (except for those created by or under this Security Agreement) and any other rights or interests in favour of third parties.

5.10 Times for making representations and warranties

(a) The representations and warranties set out in this Security Agreement (including in this Clause) are made on the date of this Security Agreement.

(b) Each representation and warranty under this Security Agreement is deemed to be repeated by the Chargor on each date during the Security Period.

(c) When a representation and warranty is deemed to be repeated, it is applied to the circumstances existing at the time of repetition.

6. PRIVATE CLIENT TERMS AND MASTER AGREEMENTS

6.1 Representations and warranties

The Chargor represents and warrants to each Finance Party that:

(a) the Private Client Terms create legally valid, binding and enforceable obligations of the Chargor and the Custodian;

(b) each Master Agreement creates legally valid, binding and enforceable obligations of the Chargor and the respective counterparty under each Master Agreement;

(c) all amounts owed to it by the Custodian and the respective counterparty under each Master Agreement are not and will not be subject to any right of set-off or similar right;

(d) it is not in default of any of its obligations under the Private Client Terms or any Master Agreement; and

(e) its entry into and performance of this Security Agreement will not conflict with any term of the Private Client Terms or any Master Agreement.

6.2 Preservation

The Chargor may not, without the prior consent of the Security Agent:

(a) amend or waive any term of or terminate the Private Client Terms or any Master Agreement; or

(b) take any action which might jeopardise the existence or enforceability of the Private Client Terms or any Master Agreement.

6.3 Other undertakings

The Chargor must:

- (a) duly and promptly perform its obligations under the Private Client Terms and each Master Agreement; and
- (b) supply the Security Agent and any Receiver with a copy of the Private Client Terms and each Master Agreement and any information and documentation relating to the Private Client Terms and each Master Agreement requested by the Security Agent or any Receiver.

6.4 Instructions to Custodian

The Chargor irrevocably instructs and authorises the Custodian to:

- (a) on the Security Agent's request, disclose to the Security Agent any information relating to the Private Client Terms or to any Collateral Investments or Collateral Cash requested by the Security Agent;
- (b) hold all the Collateral Investments and the Collateral Cash to the order of the Security Agent; and
- (c) comply with the terms of any written notice or instruction relating to the Collateral Investments or Collateral Cash received by the Custodian from the Security Agent, including any instruction to realise the Collateral Investments, to deliver the Collateral Investments to any person nominated by the Security Agent and to pay the Collateral Cash to the Security Agent or any person the Security Agent nominates.

6.5 Instructions to counterparty in respect of Master Agreements

The Chargor irrevocably instructs and authorises its counterparty in respect of each Master Agreement to:

- (a) on the Security Agent's request, disclose to the Security Agent any information relating to the Master Agreement requested by the Security Agent; and
- (b) comply with the terms of any written notice or instruction relating to each Master Agreement received by such counterparty from the Security Agent, including any instruction to pay any monies owed to the Chargor pursuant to each Master Agreement to the Security Agent or any person the Security Agent nominates.

7. COLLATERAL INVESTMENTS

7.1 General

In this Clause **Relevant Investments** means

- (a) the Collateral Investments; and
- (b) all Related Rights.

7.2 Representations and warranties

The Chargor represents and warrants to each Finance Party that:

- (a) the Collateral Investments are duly authorised, validly issued and fully paid and are not subject to any option to purchase or similar right;
- (b) it is the person beneficially entitled to the Collateral Investments; and

- (c) it is the sole legal and beneficial owner of all of its rights in relation to the Collateral Investments.

7.3 Changes to rights

Except as expressly allowed under the Private Client Terms, the Chargor must not take or allow the taking of any action on its behalf which may result in the rights attaching to any Relevant Investments being altered.

7.4 Calls

- (a) The Chargor must pay all calls and other payments due and payable in respect of all Relevant Investments.

- (b) If the Chargor fails to do so, the Security Agent may pay any such calls or other payments on behalf of the Chargor. The Chargor must immediately on request reimburse the Security Agent for any payment made by the Security Agent under this Subclause.

7.5 Other obligations in respect of Relevant Investments

- (a) The Chargor must comply with all requests for information which is within its knowledge and which are made under any law or regulation or by any listing or other authority or any similar provision contained in any constitutional document relating to any Relevant Investments. If it fails to do so, the Security Agent may elect to provide such information as it may have on behalf of the Chargor.

- (b) The Chargor must promptly supply to the Security Agent a copy of any information referred to in sub-paragraph (a) above.

- (c) The Chargor must comply with all other conditions and obligations assumed by it in respect of any Relevant Investments.

- (d) No Finance Party is obliged to:

- (i) perform any obligation of the Chargor;
- (ii) make any payment;
- (iii) make any enquiry as to the nature or sufficiency of any payment received by it or the Chargor; or
- (iv) present or file any claim or take any other action to collect or enforce the payment of any amount to which it may be entitled under this Security Agreement,

in respect of any Relevant Investments.

7.6 Voting rights and dividends

- (a) Before this Security becomes enforceable, the Chargor may continue to exercise the voting rights, powers and other rights in respect of the Relevant Investments in accordance with the Private Client Terms.

- (b) After this Security has become enforceable, the Security Agent may serve a notice on the Custodian requiring that:

- (i) any voting rights; and
- (ii) any other powers or rights which may be exercised by the legal or beneficial owner

of any Relevant Investments, any person who is the holder of any Relevant Investments or otherwise,

be exercised as directed by the Security Agent.

(c) The Security Agent will have no liability to the Chargor for any loss that results from the exercise or non-exercise of any voting rights attaching to the Relevant Investments or for any failure to deal with any notice relating to the Relevant Investments that is sent to the Security Agent.

7.7 Financial Collateral

(a) To the extent that the assets mortgaged or charged under this Security Agreement constitute "financial collateral" and this Security Agreement and the obligations of the Chargor under this Security Agreement constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) the Security Agent will have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.

(b) Where any financial collateral is appropriated:

(i) if the financial collateral is listed or traded on a recognised exchange its value will be taken as the value at which it could have been sold on the exchange on the date of appropriation; or

(ii) in any other case, the value of the financial collateral will be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it, and each Finance Party will give credit for the proportion of the value of the financial collateral appropriated to its use.

8. COLLATERAL CASH

8.1 Representations and warranties

The Chargor represents and warrants to each Finance Party that:

(a) it is the sole legal and beneficial owner of the Collateral Cash; and

(b) the Collateral Cash is free from any Security Interest (except for those created by or under this Security Agreement) and any other rights or interests in favour of third parties.

9. PRESERVATION OF SECURITY

9.1 Continuing security

This Security is a continuing security and will extend to the ultimate balance of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

9.2 Reinstatement

If any discharge (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) or arrangement is made in whole or in part on the faith of any payment, security or other disposition which is avoided or must be restored on bankruptcy, insolvency, liquidation, administration or otherwise without limitation, the liability of the Chargor under this Security Agreement will continue or be reinstated as if the discharge or arrangement had not occurred.

9.3 Waiver of defences

The obligations of the Chargor under this Security Agreement will not be affected by any act, omission or thing (whether or not known to it or any Finance Party) which, but for this provision, would reduce, release or prejudice any of its obligations under this Security Agreement. This includes:

(a) any time or waiver granted to or composition with, any person;

(b) any release of any person under the terms of any composition or arrangement;

(c) any amendment of a Finance Document or any other document or security; or

(d) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under a Finance Document or any other document or security.

9.4 Immediate recourse

The Chargor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other right or security or claim payment from any person or file any proof or claim in any insolvency, administration, winding-up or liquidation proceedings relative to any other person before claiming from the Chargor under this Security Agreement.

9.5 Appropriations

At any time during the Security Period, each Finance Party (or any trustee or agent on its behalf) may without affecting the liability of the Chargor under this Security Agreement:

(a) refrain from applying or enforcing any other monies, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) against those amounts, or apply and enforce them in such manner and order as it sees fit (whether against those amounts or otherwise); and

(b) hold in an interest-bearing suspense account any monies received from the Chargor or on account of the Chargor's liability under this Security Agreement.

9.6 Non-competition

Unless the Security Period has expired or the Security Agent otherwise directs, the Chargor will not, after a claim has been made under this Security Agreement or by virtue of any payment or performance by it under this Security Agreement:

(a) be subrogated to any rights, security or monies held, received or receivable by any Finance Party (or any trustee or agent on its behalf);

(b) be entitled to any right of contribution or indemnity in respect of any payment made or monies received on account of the Chargor's liability under this Clause;

(c) claim, rank, prove or vote as a creditor of any Obligor, or its estate in competition with any Finance Party (or any trustee or agent on its behalf); or

(d) receive, claim or have the benefit of any payment, distribution or security from or on account of any Obligor or exercise any right of set-off as against any Obligor.

The Chargor must hold in trust for and immediately pay or transfer to the Security Agent for the Finance Parties any payment or distribution or benefit of security received by it contrary to this Clause or in accordance with any directions given by the Security Agent under this Clause.

9.7 Additional security

This Security Agreement is in addition to and is not in any way prejudiced by any other security now or subsequently held by any Finance Party.

10. THE SECURITY AGENT

10.1 Duties of the Security Agent

The Security Agent has only those duties which are expressly specified in this Security Agreement. Those duties are solely of a mechanical and administrative nature.

10.2 Individual position of the Security Agent

If it is also a Finance Party in any other capacity, the Security Agent in such other capacity may exercise its rights and powers under the relevant Finance Documents as though it were not the Security Agent.

10.3 Reliance

The Security Agent may:

(a) rely on any notice or document believed by it to be genuine and correct and to have been signed by or with the authority of, the proper person;

(b) rely on any statement made by any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify;

(c) engage, pay for and rely on professional advisers selected by it (including those representing the Chargor); and

(d) act under this Security Agreement through its personnel and agents.

10.4 Finance Parties' instructions

The Security Agent is fully protected if it acts on the instructions of a Finance Party in the exercise of any right, power or discretion or any matter not expressly provided for in this Security Agreement. In the absence of instructions, the Security Agent may act as it considers to be in the best interests of the Finance Parties.

10.5 Information

(a) In acting as the Security Agent, the Security Agent will be regarded as acting through its agency division which will be treated as a separate entity from

its other divisions and departments. Any information acquired by the Security Agent which, in its opinion, is acquired by another division or department or otherwise than in its capacity as the Security Agent may be treated as confidential by the Security Agent and will not be treated as information possessed by the Security Agent in its capacity as such.

(b) The Chargor irrevocably authorises the Security Agent to disclose to the Finance Parties any information which, in its opinion, is received by it in its capacity as the Security Agent.

10.6 Compliance

The Security Agent may refrain from doing anything (including the disclosure of any information) which might, in its opinion, constitute a breach of any law or regulation or be otherwise actionable at the suit of any person and may do anything which, in its opinion, is necessary or desirable to comply with any law or regulation.

10.7 Resignation of the Security Agent

(a) The Security Agent may resign and appoint any of its Affiliates as successor Security Agent by giving notice to the Parties.

(b) The resignation of the Security Agent and the appointment of any successor Security Agent will both become effective only when the successor Security Agent notifies the Chargor and the Finance Parties that it accepts its appointment.

(c) On giving of the notification, the successor Security Agent will succeed to the position of the Security Agent and the term **Security Agent** will mean the successor Security Agent.

(d) The Chargor must, at its own cost, take any action and enter into and deliver any document which is required by the Security Agent to ensure that this Security Agreement provides for effective and perfected Security Interests in favour of any successor Security Agent.

11. SECURITY

11.1 Title

The Security Agent may accept without enquiry the title (if any) the Chargor may have to any asset over which any Security is intended to be created by this Security Agreement.

11.2 Possession of documents

Unless the Security Agent agrees otherwise, the Security Agent is not obliged to hold in its own possession this Security Agreement, title deed or other document in connection with any asset over which security is intended to be created by this Security Agreement. The Security Agent may allow the Chargor to retain any such documents in its possession if it considers it is appropriate to do so. Without prejudice to the above, the Security Agent may allow any bank providing safe custody services or any professional adviser to the Security Agent to retain any of those documents in its possession.

11.3 Investments

Except as otherwise provided in this Security Agreement, all monies received by the Security Agent under this Security Agreement may be invested in the

name of or under the control of the Security Agent in any investments which may be selected by the Security Agent. Additionally, those monies may be placed on deposit in the name of or under the control of the Security Agent at any bank or institution (including itself) and upon such terms as it may think fit.

11.4 Co-operation

Each Party agrees to use reasonable endeavours to ensure that any Security is held by the Security Agent (to the extent legally possible) for the joint benefit of the Finance Parties in accordance with this Security Agreement.

11.5 Enforcement

The Security Agent is not responsible to the Chargor for any failure to enforce or to maximise the proceeds of any enforcement.

11.6 Release of Security

(a) If a disposal of any asset owned by the Chargor which is subject to any Security occurs in the following circumstances:

- (i) the Finance Parties agree to the disposal;
- (ii) the disposal is allowed by the Private Client Terms and will not result or could not reasonably be expected to result in any breach of any term of the Private Client Terms;
- (iii) the disposal is being made at the request of the Security Agent in circumstances where any Security has become enforceable; or
- (iv) the disposal is being effected by enforcement of this Security Agreement,

that asset will be released from any Security affecting it and created by this Security Agreement.

(b) The proceeds of any disposal (or an amount corresponding to it) must be applied in accordance with the Private Client Terms or, where relevant, the requirements of this Security Agreement.

(c) The Security Agent is authorised by each Finance Party to execute any document which is reasonably required to achieve a release allowed under this Subclause.

12. WHEN SECURITY BECOMES ENFORCEABLE

12.1 Timing

This Security will become immediately enforceable if an Event of Default occurs or at any time while an Event of Default is continuing and the Security Agent gives notice to the Chargor that this Security is enforceable.

12.2 Enforcement

After this Security has become enforceable, the Security Agent may in its absolute discretion enforce all or any part of this Security in any manner it sees fit.

13. ENFORCEMENT OF SECURITY

13.1 General

(a) The power of sale and any other powers conferred on a mortgagee by law (including under Section 101 of the Act), as amended by this Security Agreement, will be immediately exercisable at any time after this Security has become enforceable.

(b) Any restriction imposed by law on the power of sale (including under Section 103 of the Act) or the right of a mortgagee to consolidate mortgages (including under Section 93 of the Act) does not apply to this Security.

13.2 No liability as mortgagee in possession

Neither the Security Agent nor any Receiver will be liable, by reason of entering into possession of a Security Asset to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

13.3 Privileges

Each Receiver and the Security Agent is entitled to all the rights, powers, privileges and immunities conferred by law (including the Act) on mortgagees and receivers duly appointed under any law (including the Act), except that Section 103 of the Act does not apply.

13.4 Applying Collateral Cash

The Security Agent may at any time after this Security becomes enforceable require the Custodian to pay the Collateral Cash to the Security Agent or as the Security Agent may direct and the Security Agent may apply all or any part of the Collateral Cash against all or any part of the Secured Liabilities.

13.5 Protection of third parties

No person (including a purchaser) dealing with the Security Agent or a Receiver or its or his agents will be concerned to enquire:

- (a) whether the Secured Liabilities have become payable;
- (b) whether any power which the Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Finance Documents; or
- (d) how any money paid to the Security Agent or to that Receiver is to be applied.

13.6 Redemption of prior mortgages

(a) At any time after this Security has become enforceable, the Security Agent may:

- (i) redeem any prior Security Interest against any Security Asset; and/or
- (ii) procure the transfer of that Security Interest to itself; and/or
- (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Chargor.

(b) The Chargor must pay to the Security Agent, immediately on demand, the costs and expenses incurred by the Security Agent in connection with any such redemption and/or transfer, including the payment of any principal or interest.

13.7 Contingencies

If this Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Security Agent (or the Receiver) may pay the proceeds of any recoveries effected by it into such number of suspense accounts as it considers appropriate.

14. RECEIVER

14.1 Appointment of Receiver

(a) Except as provided below, the Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:

- (i) this Security has become enforceable; or
- (ii) the Chargor so requests the Security Agent in writing at any time.

(b) Any appointment under paragraph (a) above may be by deed, under seal or in writing under its hand.

(c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Security Agreement.

(d) The Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Section 1A of the Insolvency Act 1986.

14.2 Removal

The Security Agent may by writing under its hand remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

14.3 Remuneration

The Security Agent may fix the remuneration of any Receiver appointed by it and any maximum rate imposed by law (including under section 109(6) of the Act) will not apply.

14.4 Agent of the Chargor

(a) A Receiver will be deemed to be the agent of the Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Chargor is solely responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver.

(b) No Finance Party will incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

14.5 Relationship with Security Agent

To the fullest extent allowed by law, any right, power or discretion conferred by this Security Agreement (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Security Agent in relation to any Security Asset without first appointing a Receiver or notwithstanding the appointment of a Receiver.

15. POWERS OF RECEIVER

15.1 General

(a) A Receiver has all the rights, powers and discretions set out below in this Clause in addition to those conferred on it by any law. This includes all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act, 1986.

(b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all the powers conferred on a Receiver under this Security Agreement individually and to the exclusion of any other Receiver.

15.2 Possession

A Receiver may take immediate possession of, get in and collect any Security Asset.

15.3 Sale of assets

(a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.

(b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.

15.4 Receipts

A Receiver may give a valid receipt for any monies and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

15.5 Delegation

A Receiver may delegate his powers in accordance with this Security Agreement.

15.6 Other powers

A Receiver may:

(a) do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Security Agreement or law;

(b) exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset; and

(c) use the name of the Chargor for any of the above purposes.

16. APPLICATION OF PROCEEDS

(a) Unless otherwise determined by the Security Agent or any Receiver, any monies received by the Security Agent or that Receiver after this Security has become enforceable must be applied in the following order of priority:

(i) in or towards payment of or provision for all costs and expenses incurred by the Security Agent or any Receiver under or in connection with this Security Agreement and of all remuneration due to any Receiver under or in connection with this Security Agreement;

(ii) in payment to the Security Agent for application towards the balance of the Secured Liabilities owed to J.P. Morgan Bank Luxembourg S.A. in its capacity as a Specified Finance Party and, if a Limit is applicable in respect of the Secured Liabilities owed to J.P. Morgan Bank Luxembourg S.A. by any Specified Obligor, then in relation to such Secured Liabilities in an amount up to and not exceeding the amount of that Limit;

(iii) in payment to the Security Agent for application towards the balance of the Secured Liabilities pro rata to the amount of the Secured Liabilities owed to each other Specified Finance Party and, if a Limit is applicable in respect of the Secured Liabilities owed to any such Specified Finance Party by any Specified Obligor, then in relation to such Secured Liabilities in an amount up to and not exceeding the amount of that Limit; and

(iv) in payment of the surplus (if any) to the Chargor or other person entitled to it.

(b) This Clause is subject to the payment of any claims having priority over this Security. This Clause does not prejudice the right of any Finance Party to recover any shortfall from the Chargor.

17. EXPENSES AND INDEMNITY

The Chargor must:

(a) immediately on demand pay all costs and expenses (including legal fees) incurred in connection with this Security Agreement by any Finance Party, Receiver, attorney, manager, agent or other person appointed by the Security Agent under this Security Agreement; and

(b) keep each of them indemnified against any loss or liability incurred by it in connection with any litigation, arbitration or administrative proceedings concerning this Security.

18. DELEGATION

18.1 Power of Attorney

The Security Agent or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Security Agreement.

18.2 Terms

Any such delegation may be made upon any terms (including power to sub-delegate) which the Security Agent or any Receiver may think fit.

18.3 Liability

Neither the Security Agent nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

19. POWER OF ATTORNEY

The Chargor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take under this Security Agreement. The Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause.

20. CHANGES TO THE PARTIES

20.1 The Chargor

The Chargor may not assign or transfer any of its rights or obligations under this Security Agreement without the prior consent of the Security Agent.

20.2 The Finance Parties

(a) Any Finance Party may assign or otherwise dispose of all or any of its rights under this Security Agreement in accordance with the terms of the Finance Documents to which it is a party and may disclose any information in its possession relating to the Chargor to any actual or prospective assignee, transferee or participant.

(b) References to the Security Agent in this Security Agreement include any successor Security Agent appointed under Clause 10.7 of this Security Agreement.

21. MISCELLANEOUS

21.1 Covenant to pay

The Chargor must pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents subject (where applicable) to any Limit in respect of the Secured Liabilities owed by any Specified Obligor.

21.2 Tacking

Each Finance Party must perform its obligations under the Finance Documents (including any obligation to make available further advances).

21.3 New Accounts

(a) If any subsequent charge or other interest affects any Security Asset, the relevant Finance Party may open a new account with the Chargor.

(b) If the relevant Finance Party does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.

(c) As from that time all payments made to the Finance Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

21.4 Currencies

For the purpose of exercising any right to apply the Collateral Cash to the Secured Liabilities, if all or any part of the Collateral Cash and the Secured Liabilities are in different currencies, the Security Agent may convert either amount at a market rate of exchange in its usual course of business for the purpose of exercising that right.

21.5 No liability

The Security Agent will not be liable for any loss of any kind resulting from the exercise of its rights under this Security Agreement to require the Custodian to account to it for the Collateral Cash.

22. RELEASE

At the end of the Security Period, the Finance Parties must, at the request and cost of the Charger, take whatever action is reasonably necessary to release its Security Assets from this Security.

23. EVIDENCE AND CALCULATIONS

23.1 Accounts

Accounts maintained by a Finance Party in connection with this Security Agreement are *prima facie* evidence of the matters to which they relate for the purpose of any litigation or arbitration proceedings.

23.2 Certificates and determinations

Any certification or determination by a Finance Party of a rate or amount under the Finance Documents will be, in the absence of manifest error, conclusive evidence of the matters to which it relates.

23.3 Calculations

Any interest or fee accruing under this Security Agreement accrues from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 or 365 days or otherwise, depending on what the Security Agent determines is market practice.

24. NOTICES

(a) All communication or notices given in connection with this Security Agreement must be given in writing and in accordance with Clause 2 (Communication) of the Private Client Terms.

(b) The contact details of the Charger and the Security Agent for all notices in connection with this Security Agreement are those set out in the front page of this Security Agreement.

25. SEVERABILITY

If a term of this Security Agreement is or becomes illegal, invalid or unenforceable in any respect under any jurisdiction, that will not affect:

(a) the legality, validity or enforceability in that jurisdiction of any other term of this Security Agreement; or

(b) the legality, validity or enforceability in any other jurisdiction of that or any other term of this Security Agreement.

26. WAIVERS AND REMEDIES CUMULATIVE

The rights of each Finance Party under this Security Agreement:

(a) may be exercised as often as necessary;

(b) are cumulative and not exclusive of its rights under the general law; and

(c) may be waived only in writing and specifically.

Delay in exercising or non-exercise of any right is not a waiver of that right.

27. COUNTERPARTS

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

28. GOVERNING LAW

This Security Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

29. ENFORCEMENT

29.1 Jurisdiction

(a) The English courts have exclusive jurisdiction to settle any dispute including a dispute relating to non-contractual obligations arising out of or in connection with this Security Agreement.

(b) The English courts are the most appropriate and convenient courts to settle any such dispute in connection with this Security Agreement. The Charger agrees not to argue to the contrary and waives objection to those courts on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with this Security Agreement.

(c) This Clause is for the benefit of the Finance Parties only. To the extent allowed by law a Finance Party may take:

(i) proceedings in any other court; and

(ii) concurrent proceedings in any number of jurisdictions.

(d) References in this Clause to a dispute in connection with this Security Agreement includes any dispute as to the existence, validity or termination of this Security Agreement.

29.2 Service of process

- (a) This Clause only applies if the Charger is not resident or incorporated in England and Wales.
- (b) The Charger irrevocably confirms that it has appointed an agent to accept service of legal process in England and Wales on its behalf in any proceedings before the English courts in connection with this Security Agreement. The Charger confirms that the name and address of such process agent are listed in the front page of this Security Agreement.
- (c) If any person appointed as process agent under this Clause is unable for any reason to so act, the Charger must immediately (and in any event within 7 days of the event taking place) appoint another agent on terms acceptable to the Security Agent. Failing this, the Security Agent may appoint another process agent for this purpose.
- (d) The Charger agrees that failure by a process agent to notify it of any process will not invalidate the relevant proceedings.
- (e) This Clause does not affect any other method of service allowed by law.

29.3 Waiver of immunity

- (a) This Clause only applies if the Charger is not resident or incorporated in England and Wales.
- (b) The Charger irrevocably and unconditionally:
- (i) agrees not to claim any immunity from proceedings brought by a Finance Party against it in relation to this Security Agreement and to ensure that no such claim is made on its behalf;
 - (ii) consents generally to the giving of any relief or the issue of any process in connection with those proceedings; and
 - (iii) waives all rights of immunity in respect of it or its assets.

This Security Agreement has been entered into and executed as a deed by the Charger with the intention that it be delivered on the date stated at the beginning of this deed. It may be executed by the Security Agent under hand.

Charger

Authorised Signature(s)



EXECUTED as a DEED by

THE SUTTON TRUST

[Insert name of Company]

acting by: **OLIVER QUICK**

Title: **TRUSTEE**

In the presence of

Witness's signature:



Name:

NINA T CHOA

Address:

**1940 SCOTT ST
SAN FRANCISCO, CA 94115**

29.2 Service of process

- (a) This Clause only applies if the Chargor is not resident or incorporated in England and Wales.
- (b) The Chargor irrevocably confirms that it has appointed an agent to accept service of legal process in England and Wales on its behalf in any proceedings before the English courts in connection with this Security Agreement. The Chargor confirms that the name and address of such process agent are listed in the front page of this Security Agreement.
- (c) If any person appointed as process agent under this Clause is unable for any reason to so act, the Chargor must immediately (and in any event within 7 days of the event taking place) appoint another agent on terms acceptable to the Security Agent. Failing this, the Security Agent may appoint another process agent for this purpose.
- (d) The Chargor agrees that failure by a process agent to notify it of any process will not invalidate the relevant proceedings.
- (e) This Clause does not affect any other method of service allowed by law.

29.3 Waiver of Immunity

- (a) This Clause only applies if the Chargor is not resident or incorporated in England and Wales.
- (b) The Chargor irrevocably and unconditionally:
- (i) agrees not to claim any immunity from proceedings brought by a Finance Party against it in relation to this Security Agreement and to ensure that no such claim is made on its behalf;
 - (ii) consents generally to the giving of any relief or the issue of any process in connection with those proceedings; and
 - (iii) waives all rights of immunity in respect of it or its assets.

This Security Agreement has been entered into and executed as a deed by the Chargor with the intention that it be delivered on the date stated at the beginning of this deed. It may be executed by the Security Agent under hand.

Chargor**Authorised Signature(s)**



EXECUTED as a DEED by

THE SUTTON TRUST

[Insert name of Company]

acting by: SIR PETER LAMPL

Title: TRUSTEE and EXECUTIVE CHAIRMAN

In the presence of:

Witness's s



Name:

JOHN YIGNETTO

Address:

2566 SAN ANDROS
WEST PALM BEACH, FL. 33411

Security Agent

EXECUTED as a DEED by

J.P. MORGAN BANK LUXEMBOURG S.A., a company incorporated at Luxembourg, acting by the below named person who, in accordance with the laws of that territory, is acting under the authority of the company:

[Redacted]

Name:

DANIELLE ORMISTON - VP

The terms of this Security Agreement are acknowledged by

J.P. MORGAN BANK LUXEMBOURG S.A.

in its capacity as Custodian

acting by

Name:

[Redacted]

DANIELLE ORMISTON VP.

The terms of this Security Agreement are acknowledged by

J.P. MORGAN BANK LUXEMBOURG S.A.

in its capacity as counterparty in respect of each OTC Derivatives Master Agreement

acting by

Name:

[Redacted]

DANIELLE ORMISTON VP

The terms of this Security Agreement are acknowledged by

J.P. MORGAN BANK LUXEMBOURG S.A.

in its capacity as counterparty in respect of each ISDA Master Agreement

acting by

Name:

[Redacted]

DANIELLE ORMISTON VP

SCHEDULE 1

FORM OF THIRD PARTY INSTRUMENT

THIS THIRD PARTY INSTRUMENT IS DATED AND MADE BY DEED BETWEEN:

(1) (the Chargor);

(2)

[Insert name of Affiliate of JPMBL as Specified Finance Party, where relevant];

(3)

[Insert name of Specified Obligor, where relevant]; and

(4) J.P. MORGAN BANK LUXEMBOURG S.A. as agent and trustee for the Finance Parties (as defined in the Security Agreement defined below) (the Security Agent).

BACKGROUND:

The Chargor *[insert name of Affiliate of JPMBL]*, *[insert name of Specified Obligor]* and the Security Agent enter into this Third Party Instrument in connection with the Security Agreement dated and made between the Chargor and the Security Agent (the **Security Agreement**) in respect of the Chargor's obligations under and in connection with the Private Client Terms.

Any term used but not defined in this Third Party Instrument shall have the meaning given to such term in the Security Agreement.

IT IS AGREED as follows:

1. [From the date of this Third Party Instrument, *[insert name of Affiliate of JPMBL]* shall be a Specified Finance Party for the purposes of the Security Agreement and *[insert name of Affiliate of JPMBL]*, as a Specified Finance Party acknowledges the terms of the Security Agreement.]

2. [From the date of this Third Party Instrument, *[insert name of Specified Obligor]* shall be a Specified Obligor for the purposes of the Security Agreement and *[insert name of Specified Obligor]* as a Specified Obligor acknowledges the terms of the Security Agreement.]

3. [For the purposes of the Security Agreement, a Limit of shall apply in relation to the Secured Liabilities owed by *[insert name of Specified Obligor]* to *[J.P. Morgan Bank Luxembourg S.A.]* / *[insert name of Affiliate of JPMBL]*.]

4. Each of the following documents will be a Finance Document for the purposes of the Security Agreement, in addition to any other Finance Documents:

(a) this Third Party Instrument; and

(b) [.....].

5. This Third Party Instrument and any non-contractual obligations arising out of or in connection with it are governed by English law

EXECUTED as a DEED by

[Correct signature blocks to be inserted when a Third Party Instrument is to be executed]