

## FERRETTI S.P.A. UNIFORM ELCDS SETTLEMENT AGREEMENT

This Ferretti S.p.A. Uniform ELCDS Settlement Agreement (this "**Agreement**") is entered into on 19 February, 2009 between the entities specified in Schedule 1 hereto (each, a "**Party**" and together "**the Parties**").

**WHEREAS** the Parties hereto wish to facilitate the orderly settlement of any Covered Transactions (as defined below) relating to the Reference Obligations (as defined below) of the relevant Reference Entity (as defined below) to which they are respectively a party by agreeing that Credit Event Notices and Notices of Publicly Available Information in respect of the relevant Covered Transactions will be deemed to have been effectively delivered on the Notice Date (as defined below) without requiring the actual delivery of such notices.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Interpretation

As used in this Agreement, "**Confirmation**" and "**Credit Support Document**" each has the respective meaning given to that term in the related Governing Master Agreement and "**Credit Derivative Transaction**" has the meaning given to that term in the 2003 ISDA Credit Derivatives Definitions, as supplemented by the May 2003 Supplement to the 2003 ISDA Credit Derivatives Definitions, each as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**") (the "**2003 Definitions**"). Each other capitalised term used in this Agreement but not defined herein has the meaning given to that term in the 2003 Definitions, the ELCDS Standard Terms, or the LevX Standard Terms, as applicable.

#### 1.2 Definitions

"**Bespoke Portfolio Transaction**" means any Bespoke Untranch Portfolio Transaction and any Bespoke Tranch Portfolio Transaction.

"**Bespoke Tranch Portfolio Transaction**" means a tranch Credit Derivative Transaction that references more than one Reference Credit Agreement and is not any other type of Covered Transaction.

"**Bespoke Untranch Portfolio Transaction**" means an untranch Credit Derivative Transaction that references more than one Reference Credit Agreement and is not any other type of Covered Transaction.

"**Constant Maturity Swap Transaction**" means any Portfolio Constant Maturity Swap Transaction and any Single Name Constant Maturity Swap Transaction.

"**Covered Transaction**" means any Credit Derivative Transaction that (i) is not an Excluded Transaction, (ii) is an ELCDS Transaction, a LevX Transaction, a Constant Maturity Swap Transaction, a Principal Only Transaction, an Interest Only Transaction, a Recovery Lock Transaction, a Bespoke

Portfolio Transaction, a Single Name Swaption, a Portfolio Swaption, an Nth to Default Transaction or a First to Default Transaction and (iii) for which:

- (a) (i) where the relevant Reference Obligations include the Relevant Senior Loan, Ferretti S.p.A. is a Reference Entity and (ii) where the relevant Reference Obligations include the Relevant Subordinated Loan, Sestante 2 S.À.R.L. is a Reference Entity;
- (b) the relevant Reference Obligations and Senior Loans are the only Deliverable Obligations;
- (c) the Effective Date is on or prior to the Default Date;
- (d) the Trade Date is on or prior to the date that is 30 calendar days after the Notice Date;
- (e) the Scheduled Termination Date is on or after the Default Date; and
- (f) in respect of a Covered Transaction which references more than one Reference Credit Agreement, any portion thereof attributable to the relevant Reference Obligations is still outstanding as of the Notice Date.

**"Default Date"** means (i) with respect to an ELCDS Transaction, a LevX Transaction, a Constant Maturity Swap Transaction, a Principal Only Transaction, an Interest Only Transaction, a Recovery Lock Transaction, a Bespoke Portfolio Transaction, a Single Name Swaption, a Portfolio Swaption, an Nth to Default Transaction or a First to Default Transaction, in each case for which the Relevant Senior Loan is a Reference Obligation, 4 February, 2009, or (ii) with respect to an ELCDS Transaction, a LevX Transaction, a Constant Maturity Swap Transaction, a Principal Only Transaction, an Interest Only Transaction, a Recovery Lock Transaction, a Bespoke Portfolio Transaction, a Single Name Swaption, a Portfolio Swaption, an Nth to Default Transaction or a First to Default Transaction, in each case for which the Relevant Subordinated Loan is a Reference Obligation, 28 January, 2009.

**"Documentation"** means the Governing Master Agreement and Confirmation (including a master confirmation) relating to a Covered Transaction.

**"ELCDS Confirmation"** means the form of confirmation (or, in the case of the General Terms Cancellable Form, loan transaction supplement) for use with the ELCDS Standard Terms or any predecessor thereof.

**"ELCDS Standard Terms"** means the ISDA Standard Terms Supplement for use with Credit Derivative Transactions on Leveraged Loans published by ISDA on 3 October, 2008.

**"ELCDS Transaction"** means a Credit Derivative Transaction the documentation for which is based on the ELCDS Standard Terms or any predecessor to such ELCDS Standard Terms (including the General Terms Confirmation for Credit Derivative Transactions on Leveraged Loans (the **"General Terms Cancellable Form"**) or the Credit Derivative Transactions on Leveraged Loans Standard Terms Supplement (the **"Standard Terms Cancellable Form"**)).

**"Excluded Transaction"** means (a) any Bespoke Portfolio Transaction that relates to a portfolio of Reference Credit Agreements that is also the relevant portfolio for any series of credit-linked notes, trust certificates or other similar securities and for which the parties thereto intend settlement to be consistent with the settlement terms applicable to such securities and (b) any Fixed Recovery Transaction.

**"First to Default Transaction"** means a Credit Derivative Transaction linked to more than one Reference Credit Agreement pursuant to which Cash Settlement Amounts or Physical Settlement Amounts will only be paid to the Buyer after the Conditions to Settlement have been satisfied for the first time in respect of any of the relevant Reference Credit Agreements.

**"Fixed Recovery Transaction"** means a Credit Derivative Transaction in respect of which the Final Price is pre-determined and specified in the Documentation.

**"Governing Master Agreement"** means, in respect of a Covered Transaction, the master agreement governing such Covered Transaction, whether executed by the parties thereto or incorporated by reference in the Confirmation relating to such Covered Transaction.

**"Interest Only Transaction"** means a Credit Derivative Transaction linked to more than one Reference Credit Agreement under which the Seller pays to the Buyer either (a) an upfront amount or (b) a floating interest rate, neither party pays Cash Settlement Amounts during the term of the Transaction and the Buyer pays Fixed Amounts to the Seller during the term of the Transaction (which amounts are reduced due to Credit Events).

**"LevX Standard Terms"** means the iTraxx® LevX® Standard Terms Supplement for use with Credit Derivative Transactions on Leveraged Loans published by ISDA on 3 October, 2008.

**"LevX Transaction"** means a Credit Derivative Transaction referencing a LevX index published by International Index Company Ltd. for which the documentation is based on the LevX Standard Terms or any predecessor to such LevX Standard Terms (including the iTraxx® LevX® Standard Terms Supplement published on 30 October 2006 (the **"LevX Cancellable Form"**)).

**"Notice Date"** means 13 February, 2009.

**"Nth to Default Transaction"** means a Credit Derivative Transaction linked to more than one Reference Credit Agreement pursuant to which Cash Settlement Amounts or Physical Settlement Amounts will only be paid to the Buyer after the occurrence of Credit Events in respect of a specified number of Reference Credit Agreements.

**"Portfolio Constant Maturity Swap Transaction"** means a Credit Derivative Transaction linked to a portfolio of Reference Credit Agreements in respect of which the Fixed Rate is reset at the end of each Fixed Rate Payer Calculation Period to the then-current market rate for the relevant Credit Derivative Transaction.

**"Portfolio Swaption"** means any unexercised option to enter into a Covered Transaction (other than another Portfolio Swaption) referencing more than one Reference Credit Agreement.

**"Principal Only Transaction"** means a Credit Derivative Transaction linked to more than one Reference Credit Agreement under which the Seller pays an upfront amount to the Buyer, neither party pays any Fixed Amounts or Cash Settlement Amounts during the term of the Transaction and, upon termination of the Transaction, the Buyer pays to the Seller the notional amount of the Transaction, minus aggregate Cash Settlement Amounts.

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

**"Reference Credit Agreement"** means each credit agreement that would constitute a Reference Credit Agreement under a Credit Derivative Transaction documented under the ELCDS Standard Terms or the LevX Standard Terms (or any predecessor thereof).

**"Reference Entity"** means (i) with respect to an ELCDS Transaction, a LevX Transaction, a Constant Maturity Swap Transaction, a Principal Only Transaction, an Interest Only Transaction, a Recovery Lock Transaction, a Bespoke Portfolio Transaction, a Single Name Swaption, a Portfolio Swaption, an Nth to Default Transaction or a First to Default Transaction, in each case for which the Relevant Senior Loan is a Reference Obligation, Ferretti S.p.A., or (ii) with respect to an ELCDS Transaction, a LevX Transaction, a Constant Maturity Swap Transaction, a Principal Only Transaction, an Interest Only Transaction, a Recovery Lock Transaction, a Bespoke Portfolio Transaction, a Single Name Swaption, a Portfolio Swaption, an Nth to Default Transaction or a First to Default Transaction, in each case for which the Relevant Subordinated Loan is a Reference Obligation, Sestante 2 S.À.R.L.

**"Reference Obligations"** means either (a) each obligation that would constitute a Reference Obligation pursuant to the ELCDS Standard Terms or the LevX Standard Terms assuming that the Relevant Senior Loan is specified as the Reference Obligation in the ELCDS Confirmation in the case of an ELCDS Transaction or in respect of any Component Transaction in the case of a LevX Transaction or (b) each obligation that would constitute a Reference Obligation pursuant to the ELCDS Standard Terms or the LevX Standard Terms assuming that the Relevant Subordinated Loan is specified as the Reference Obligation in the ELCDS Confirmation in the case of an ELCDS Transaction or in respect of any Component Transaction in the case of a LevX Transaction.

**"Relevant Senior Loan"** means the EUR 175,000,000 ST Facility A1 Loan entered into pursuant to the Senior and Second Lien Facilities Agreement dated 22 January, 2007, as amended, restated and/or supplemented from time to time.

**"Relevant Subordinated Loan"** means the EUR 200,000,000 Facility Loan entered into pursuant to the Mezzanine Facility Agreement dated 22 December, 2006, as amended, restated and/or supplemented from time to time.

**"Senior Loans"** means either (a) in the case where the Relevant Senior Loan is a Reference Obligation, each obligation that would constitute a Senior Loan pursuant to the ELCDS Standard Terms or LevX Standard Terms (or, in the case of the General Terms Cancellable Form, the Standard Terms Cancellable Form or the LevX Cancellable Form, a Senior Obligation) assuming that the Relevant Senior Loan is specified as a Reference Obligation in the ELCDS Confirmation in the case of an ELCDS Transaction or in respect of any Component Transaction in the case of a LevX Transaction or (b) in the case where the Relevant Subordinated Loan is a Reference Obligation, each obligation that would constitute a Senior Loan (or, in the case of the General Terms Cancellable Form, the Standard Terms Cancellable Form or the LevX Cancellable Form, a Senior Obligation) pursuant to the ELCDS Standard Terms or LevX Standard Terms assuming that the Relevant Subordinated Loan is specified as a Reference Obligation in the ELCDS Confirmation in the case of an ELCDS Transaction or in respect of any Component Transaction in the case of a LevX Transaction.

**"Single Name Constant Maturity Swap Transaction"** means a Credit Derivative Transaction linked to not more than one Reference Credit Agreement for which the Fixed Rate is reset at the end of each Fixed Rate Payer Calculation Period to the then-current market rate for the relevant Credit Derivative Transaction.

**"Single Name Swaption"** means any unexercised option to enter into a Covered Transaction (other than another Single Name Swaption) referencing not more than one Reference Credit Agreement.

## **2. SETTLEMENT AGREEMENT EFFECTIVE DATE**

The Parties hereby agree that the agreements set forth in Section 3 of this Agreement will be deemed to take effect from the Notice Date.

## **3. AGREEMENT**

With respect to each Covered Transaction:

- 3.1 a Credit Event Notice specifying Failure to Pay as the Credit Event and a Notice of Publicly Available Information shall be deemed to be effective on the Notice Date and the Notice Date shall be deemed to be the Event Determination Date for purposes of each such Covered Transaction or for any portion of such Covered Transaction applicable to the Reference Obligations, as applicable (and for the avoidance of doubt, such date shall be the Event Determination Date for all Covered Transactions even if any city other than London is specified as the Calculation Agent City for any such Covered Transaction);
- 3.2 any Credit Event Notice or Notice of Publicly Available Information (other than a notice deemed to be given pursuant to this Agreement) delivered in respect of any portion of any Covered Transaction applicable to the Reference Obligations shall be deemed revoked, and neither Party shall have any obligations with respect to such revoked notice; and
- 3.3 each Party agrees not to deliver any other Credit Event Notice or Notice of Publicly Available Information (other than a notice deemed to be given pursuant to this Agreement) in respect of any portion of a Covered Transaction applicable to the Reference Obligations, and any such notice delivered shall be void and have no effect.

## **4. REPRESENTATIONS**

Each Party represents (which representations will each be deemed to be a representation for purposes of Section 5(a)(iv) of the Governing Master Agreement) to each other Party with which it had any Covered Transaction outstanding on the Notice Date, in respect of each Covered Transaction between them, that:

- 4.1 **Status.** It (a) is, if relevant, duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing or (b) if it otherwise represents its status in or pursuant to the Governing Master Agreement, has such status.
- 4.2 **Powers.** It has the power to execute and deliver this Agreement and to perform its obligations under this Agreement and each Covered Transaction, in each case as amended by this Agreement, and has taken all necessary action to authorise such execution, delivery and performance.
- 4.3 **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets.

- 4.4 **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement and each Covered Transaction, in each case as amended by this Agreement, have been obtained and are in full force and effect and all conditions of any such consents have been complied with.
- 4.5 **Obligations Binding.** Its obligations under this Agreement and each Covered Transaction, in each case as amended by this Agreement, constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).
- 4.6 **Credit Support.** This Agreement will not, in and of itself, adversely affect any obligations owed, whether by a Party or by any third party, under any Credit Support Document relating to a Covered Transaction.

## 5. MISCELLANEOUS

- 5.1 **Entire Agreement.** Notwithstanding Section 9(a) of the Governing Master Agreement, this Agreement constitutes the entire agreement and understanding of the Parties with respect to its subject matter.
- 5.2 **Non-reliance.** Each Party acknowledges that in agreeing to this Agreement it has not relied on any oral or written representation, warranty or other assurance, except as otherwise set forth in this Agreement, and waives all rights and remedies which might otherwise be available to it in respect thereof, except that nothing in this Agreement will limit or exclude any liability of a Party for fraud.
- 5.3 **No Waiver.** Except as explicitly stated in this Agreement, nothing herein shall constitute a waiver or release of any rights of any Party under the Documentation for the relevant Covered Transaction.
- 5.4 **Amendments.** An amendment, modification or waiver in respect of the matters contemplated by this Agreement will only be effective if made in accordance with the terms of the Governing Master Agreement and then only with effect between the parties to that Governing Master Agreement (and will only be effective to amend or override the provisions contained in Section 3 hereof if it expressly refers in writing to this Section 5.4 of this Agreement and would otherwise be effective in accordance with Section 9(b) of the Governing Master Agreement).
- 5.5 **Headings.** The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.
- 5.6 **Governing Law.** This Agreement will be governed by and construed in accordance with English law and as between two Parties and in respect of each Covered Transaction between them, the giving of notices deemed to occur under that Covered Transaction pursuant to this Agreement shall be governed by and construed in accordance with the law specified to govern that Covered Transaction and otherwise in accordance with applicable choice of law doctrine.

5.7 **Counterparts.** This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in any number of counterparts (including by facsimile transmission) and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

IN WITNESS whereof the Parties have executed this Agreement on 19 February, 2009.

## **SCHEDULE 1**

### **Parties**

Each of the following entities is a Party to this Agreement:

<b>Legal name of Party<sup>1</sup></b>	<b>DTCC Account # (if any)</b>
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<sup>1</sup>

Specify legal name of Party. If you are an investment or asset manager and act on behalf of multiple funds, you may indicate in the signature block, "Investment/Asset Manager, acting on behalf of each of the funds and accounts listed in the relevant Master Agreement between it and another Party" (or such other language that indicates the funds to which this letter is applicable). A separate signature page for each fund does not need to be submitted to ISDA.