

# 2020 HEMA BONDCO I B.V. CREDIT DERIVATIVES AUCTION SETTLEMENT TERMS

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by DC Administration Services, Inc. ("**DCAS**") on behalf of the International Swaps and Derivatives Association, Inc.<sup>1</sup>

Any capitalized term used but not defined in these 2020 HEMA Bondco I B.V. Credit Derivatives Auction Settlement Terms (these "**Credit Derivatives Auction Settlement Terms**") shall have the meaning given to the relevant capitalized term in (a) the 2014 ISDA Credit Derivatives Definitions (the "**2014 Definitions**") (as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**")) or (b) the Credit Derivatives Determinations Committees Rules, as amended from time to time and as most recently published by the DC Secretary on behalf of ISDA on the Website as of the date hereof (the "**Rules**"), as applicable. In the event of any inconsistency between the 2014 Definitions and these Credit Derivatives Auction Settlement Terms, these Credit Derivatives Auction Settlement Terms shall govern.

For purposes of Article VI (Terms Relating to Auction Settlement) of the 2014 Definitions, the DC Secretary has published these Credit Derivatives Auction Settlement Terms on behalf of ISDA to enable parties to Auction Covered Transactions to settle such Auction Covered Transactions based upon an Auction Final Price determined according to an auction procedure on the terms set out below.

In circumstances where these Credit Derivatives Auction Settlement Terms are published following (a)(i) a Restructuring for the purpose of settling Credit Derivative Transactions incorporating the Updated 2003 Definitions for which "Restructuring Maturity Limitation and Fully Transferable Obligation Applicable" or "Modified Restructuring Maturity Limitation and Conditionally Transferable Obligation Applicable", as applicable, is specified in the related Confirmations, or (ii) an M(M)R Restructuring in the case of a Credit Derivative Transaction incorporating the 2014 Definitions, and (b) more than one Designated Range of Scheduled Termination Dates is specified in Schedule 1, these Credit Derivatives Auction Settlement Terms shall be construed as constituting two or more separate sets of Credit Derivatives Auction Settlement Terms, each referencing a different set of Permissible Deliverable Obligations, each specifying a different Designated Range of Scheduled Termination Dates, each specifying a different Maximum Initial Market Bid-Offer Spread and each relating to a separate set of Auction Covered Transactions, but each otherwise identical in all respects (except as otherwise specified). The procedures set forth in these Credit Derivatives Auction Settlement Terms shall be conducted by the Administrators separately for each set of Auction Covered Transactions (each such auction procedure for purposes of the relevant set of Credit Derivatives Auction Settlement Terms, an "**Auction**"), except that the procedures set forth in Sections 1 and 2 of these Credit Derivatives Auction Settlement Terms shall be conducted once and applied to each Auction.

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<sup>1</sup> DCAS has been appointed by ISDA as the DC Secretary pursuant to the Rules. These Credit Derivatives Auction Settlement Terms are published on behalf of ISDA by the DC Secretary on the Website pursuant to the requirement of Section 6.7 of the 2014 Definitions.

Relevant Governing Law (as defined in the Rules) as the governing law and the Relevant Currency as the Termination Currency)) on the Auction Final Price Determination Date and for which:

- (a) the Reference Entity is the Affected Reference Entity;
- (b) Physical Settlement is the applicable Settlement Method, as modified with respect to one or more Deliverable Obligations by any DC Resolution, Resolved by Supermajority, implementing the provisions of any market advisory published with respect to such Deliverable Obligation(s) by The Loan Market Association, The Loan Syndications and Trading Association, Inc. or any other loan market trade association (any such advisory, the provisions of which are so implemented by a DC Resolution, a "**Loan Market Advisory**");
- (c) the Settlement Currency is the Relevant Currency;
- (d) the Calculation Agent City is the Relevant City;
- (e) the Event Determination Date is the Credit Event Resolution Request Date specified in Schedule 1 to these Credit Derivatives Auction Settlement Terms;
- (f) a Credit Event Notice and Notice of Publicly Available Information are deemed to have been effectively delivered on a timely basis;
- (g) all Fixed Amounts are deemed to have been paid when due;
- (h) the only Deliverable Obligations (as defined in the 2014 Definitions) applicable are either (1), in circumstances where the Auction is held to settle Credit Derivative Transactions with respect to which an M(M)R Restructuring has occurred, each of the Permissible Deliverable Obligations specified by the DC Secretary on the Website or (2), in all other circumstances, each of the Deliverable Obligations included in the Final List published by the DC Secretary on the Website; provided that, with respect to each such Permissible Deliverable Obligation, in the case of (1), or each such Deliverable Obligation, in the case of (2), as applicable, the relevant Credit Derivatives Determinations Committee has not Resolved as of the Delivery Date to remove such Permissible Deliverable Obligation or Deliverable Obligation, as applicable, from the Final List as a result of any material change to the terms of such Permissible Deliverable Obligation or Deliverable Obligation, as applicable, occurring following the publication of the Final List and on or prior to the Delivery Date;
- (i) the Reference Price is the Auction Final Price;
- (j) the Calculation Agent is (i) if both parties to the Representative Auction-Settled Transaction are Participating Bidders, Seller under such Representative Auction-Settled Transaction and (ii) if only one party to the Representative Auction-Settled Transaction is a Participating Bidder, such Participating Bidder;
- (k) with respect to any Deliverable Obligation ~~that is a Loan~~, the Physical Settlement Period is 30~~10~~ Business Days, ~~and with respect to any Deliverable Obligation that is not a Loan, the Physical Settlement Period is as specified in the Relevant Credit Derivatives Physical Settlement Matrix~~; and
- (l) the following amendments are hereby made to the 2014 Definitions for purposes of the Representative Auction-Settled Transaction:
  - (i) Section 1.15 of the 2014 Definitions is hereby amended by:
    - (A) deleting the words "5.1 (Settlement)," and

amount in the Settlement Currency (in each case, the "**Outstanding Amount**") and, if different, the face amount, of each such Deliverable Obligation and the aggregate Outstanding Amount of all Deliverable Obligations specified in the Notice of Physical Settlement that Buyer intends to Deliver to Seller (the "**Aggregate Outstanding Amount**") of each such Deliverable Obligation and the information described in the Form of Notice of Physical Settlement attached as Exhibit 3 to the relevant Credit Derivatives Auction Settlement Terms.

Buyer may, from time to time, notify Seller in the manner specified above (each such notification, a "**NOPS Amendment Notice**") that Buyer is replacing, in whole or in part, one or more Deliverable Obligations specified in the Notice of Physical Settlement or a prior NOPS Amendment Notice, as applicable, (to the extent the relevant Deliverable Obligation has not been Delivered as of the date such NOPS Amendment Notice is effective). A NOPS Amendment Notice shall contain a revised detailed description of each replacement Deliverable Obligation that Buyer will Deliver to Seller (each, a "**Replacement Deliverable Obligation**") and shall also specify the Outstanding Amount of each Deliverable Obligation identified in the Notice of Physical Settlement or prior NOPS Amendment Notice, as applicable, that is being replaced (with respect to each such Deliverable Obligation, the "**Replaced Deliverable Obligation Outstanding Amount**"). The Outstanding Amount of each Replacement Deliverable Obligation identified in a NOPS Amendment Notice shall be determined by applying the Revised Currency Rate to the relevant Replaced Deliverable Obligation Outstanding Amount. The Outstanding Amount of the Replacement Deliverable Obligations specified in any NOPS Amendment Notice in aggregate with the Outstanding Amount of the Deliverable Obligations specified in the Notice of Physical Settlement or any earlier NOPS Amendment Notice which, in each case, are not being replaced must not be greater than the Aggregate Outstanding Amount. Each such NOPS Amendment Notice must be effective at or prior to 11:00 a.m. Relevant City Time (as defined in the Rules) on the Physical Settlement Date (determined without reference to any change resulting from such NOPS Amendment Notice).

Notwithstanding the foregoing, (i) Buyer may correct any errors or inconsistencies in the detailed description of each Deliverable Obligation contained in the Notice of Physical Settlement or any NOPS Amendment Notice, as applicable, by notice to Seller prior to the relevant Delivery Date and (ii) if Asset Package Delivery is applicable, Buyer shall on the NOPS Effective Date, or as soon as reasonably practicable thereafter (but in any case, prior to the Delivery Date), notify Seller of the detailed description of the Asset Package, if any, that it intends to Deliver to Seller in lieu of the Prior Deliverable Obligation or Package Observable Bond, if any, specified in the Notice of Physical Settlement or NOPS Amendment Notice, as applicable, it being understood in each case that such notice shall not constitute a NOPS Amendment Notice.

If Buyer fails to deliver an effective Notice of Physical Settlement on or before the first day following the Auction Final Price Determination Date on which commercial banks and foreign exchange markets are generally open to settle payments in the Relevant City (as defined in the Rules) (the "**Notice of Physical Settlement Date**"), Buyer will have no right thereafter to deliver a Notice of Physical Settlement. If Buyer has not delivered an effective Notice of Physical Settlement, Seller will have the right, from, but excluding, the Notice of Physical Settlement Date to, and including, the ~~fifteenth~~fifth calendar day after the Notice of Physical Settlement Date (subject to adjustment in accordance with the Following Business Day Convention) (the "**Final Notice of Physical Settlement Date**"), to deliver a notice to Buyer containing a detailed description of the Deliverable Obligations that Buyer will be required to Deliver to Seller, including the Outstanding Amount of each such

permitted to designate such designee to Deliver or to take Delivery unless the non-designating party has received an indemnity acceptable to it from the designating party with respect to such Tax, loss or cost."

- (xxv) The 60 Business Day Cap on Settlement shall not be applicable with respect to any Relevant Transaction Type for which it would otherwise be applicable.

For the purposes of the Representative Auction-Settled Transaction only, the 2014 Definitions shall be deemed to include the following definitions:

- (i) "**Auction RAST**" means a Representative Auction-Settled Transaction between a Participating Bidder as Buyer and a Participating Bidder as Seller formed pursuant to the relevant Credit Derivatives Auction Settlement Terms.
- (ii) "**Customer Buy RAST**" means a Representative Auction-Settled Transaction deemed to be created pursuant to Section 18 of the relevant Credit Derivatives Auction Settlement Terms between a Participating Bidder as Seller and its customer as Buyer.
- (iii) "**Customer Sell RAST**" means a Representative Auction-Settled Transaction deemed to be created pursuant to Section 18 of the relevant Credit Derivatives Auction Settlement Terms between a Participating Bidder as Buyer and its customer as Seller.
- (iv) "**Related RAST**" means with respect to an Auction RAST, a Customer Buy RAST under which Buyer under the Auction RAST has designated its customer to Deliver the Deliverable Obligations and/or a Customer Sell RAST under which Buyer has designated the party specified by Buyer under the Auction RAST to make Delivery of the Deliverable Obligations under such Customer Sell RAST, in each case for which the relevant Notice of Physical Settlement (or NOPS Amendment Notice, as applicable) refers to all or a portion of the same Deliverable Obligations as the Auction RAST.

If, on or prior to the Physical Settlement Date, the Deliverable Obligations of the Reference Entity are converted or exchanged such that a holder of a Deliverable Obligation would instead hold a package of assets (which may include an amount of the relevant Deliverable Obligation), then the relevant Credit Derivatives Determinations Committee will publish a supplement to these Auction Settlement Terms pursuant to Section 3.2(d) of the Rules (the "**Supplement**"). The Supplement will automatically amend the terms of any Representative Auction-Settled Transactions under which the Deliverable Obligations have not yet been delivered to facilitate settlement by delivery of the relevant package of assets.

"**Rounding Amount**" means, if the Relevant Currency is (a) USD or EUR, 1,000 units of the Relevant Currency, unless otherwise specified in Schedule 1 to these Credit Derivatives Auction Settlement Terms, (b) JPY, 100,000 units of the Relevant Currency, unless otherwise specified in Schedule 1 to these Credit Derivatives Auction Settlement Terms, or (c) any other currency, such amount approved by the relevant Convened DC and set forth in Schedule 1 to these Credit Derivatives Auction Settlement Terms.

"**Rounding Convention**" means that, if a Participating Bidder's order is matched in an amount that is not an integral multiple of the Rounding Amount, then the amount to be so matched will be rounded down to the nearest Rounding Amount. The difference between the total amounts of all orders having been filled Pro Rata and the total of all rounded down amounts will be allocated in amounts equal to the Rounding Amount one at a time to Participating Bidders in order, beginning with the Participating Bidder with the order stating the largest Quotation Amount at the same price. In the event that there are Participating Bidders with identical orders of such type, Rounding Amounts will be allocated first to the Participating Bidder whose orders were received first by the Administrators.

**Form of Participating Bidder Letter**

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**[Letterhead of Participating Bidder]**

**[Date]**

**Markit Group Limited**

**Send to: cea@ihsmarkit.com**

**Creditex Brokerage LLP or Creditex Securities Corporation, as applicable, in its capacity as the Relevant Creditex Entity**

**Send to: CEA@creditex.com**

**DC Administration Services, Inc.**

**Send to: dcsecretary@cdsdeterminationscommittees.org**

To whom it may concern,

We write to inform you that we wish to be a "Participating Bidder" with respect to each auction to be held for the purpose of settling credit derivatives transactions referencing HEMA Bondco I B.V. (each, an "**Auction**"). Capitalized terms used in this Participating Bidder Letter but not defined herein shall have the meanings specified in the 2020 HEMA Bondco I B.V. Credit Derivatives Auction Settlement Terms governing each such Auction as published by the DC Secretary on behalf of ISDA on ~~1~~[September 5](#), 2020 (the "**Credit Derivatives Auction Settlement Terms**").

We hereby notify you that it is our intention that, pursuant to the Credit Derivatives Auction Settlement Terms, any Dealer Physical Settlement Request we submit with respect to an Auction will, at the time of submission, be, to the best of our knowledge and belief, on the same side of the market as, and will not exceed, our Market Position.

By signing and returning this Participating Bidder Letter to you, we represent, as of the date of this Participating Bidder Letter, that:

- (a) from time to time we regularly trade, or one of our Affiliates regularly trades, in one or more obligations of the types of obligations listed as Deliverable Obligations in the secondary market and/or we regularly trade, or one of our Affiliates regularly trades, credit default swaps with HEMA Bondco I B.V. as the Reference Entity;
- (b) either:
  - (i) we have, or one of our Affiliates has, participated as a Participating Bidder in no fewer than either five or, if fewer, all Non-LCDS Auctions that have been held during the twelve calendar months immediately preceding the date of this letter and for which one or more of the Relevant Transaction Types specified in the Credit Derivatives Auction Settlement Terms was also a Relevant Transaction Type for purposes of each such Non-LCDS Auction, provided that for purposes of this representation, the auction exemptions available to Global Dealer Voting Members and Regional Dealer Voting Members in Section 1.10(e) and Section 1.10(f) of the Rules shall have been available to us to the same extent as they would be available to: (1) a Participating Dealer Institution for purposes of the application of the

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**Form of Customer Physical Settlement Request Letter**

[Letterhead of Customer]

[Date]

**Send to: [Participating Bidder]**

To whom it may concern,

We write to inform you that we wish to submit a Customer Physical Settlement Request as defined in the 2020 HEMA Bondco I B.V. Credit Derivatives Auction Settlement Terms, as published by the DC Secretary on behalf of ISDA on ~~1~~September 5, 2020 (the "**Credit Derivatives Auction Settlement Terms**"). Capitalized terms used in this letter but not defined herein have the meanings specified in the Credit Derivatives Auction Settlement Terms.

By signing and returning this Customer Physical Settlement Request Letter to you, we represent and agree that:

- (a) a Governing Master Agreement has been entered into or otherwise put in place between you, or one of your Affiliates, and us;
- (b) the Customer Physical Settlement Request set out below is, to the best of our knowledge and belief,
  - [(i) on the same side of the market as and not in excess of our Dealer-Specific Market Position, and
  - (ii)]<sup>4</sup> on the same side of the market as and (when aggregated with all Customer Physical Settlement Requests submitted by us or our Affiliates to one or more Participating Bidders) not in excess of our Market Position; and
- (c) either:
  - (i) we are not, as of the date of this Customer Physical Settlement Request Letter, subject to any requirement that would make it impossible or illegal for us to Deliver or accept Delivery of any of the Deliverable Obligations; or
  - (ii) if we are, as of the date of this Customer Physical Settlement Request Letter, subject to any requirement that would make it impossible or illegal for us to Deliver or accept Delivery of any of the Deliverable Obligations, we will procure a designee to whom you consent and for whom it is not impossible or illegal to Deliver or accept Delivery of the relevant Deliverable Obligations, provided that by your acceptance of our Customer Physical Settlement Request, you will be deemed to agree that you will not unreasonably withhold your consent to such designation and provided further that such consent will be deemed given in the case where the relevant designee is a Participating Bidder for whom it is not impossible or illegal to Deliver or accept Delivery of the relevant Deliverable Obligations.

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<sup>4</sup> Delete as applicable.

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**Form of Notice of Physical Settlement**

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Attention: [client contact]

By Fax: [facsimile]

By Phone: [telephone]

[Recipient of Notice of Physical Settlement]

To whom it may concern

**NOTICE OF PHYSICAL SETTLEMENT**

Credit Derivative Transaction Details:<sup>7</sup>

Representative Auction-Settled Transaction, formed pursuant to the 2020 HEMA Bondco I B.V. Credit Derivatives Auction Settlement Terms, published by the DC Secretary on behalf of ISDA on ~~1~~ [September 5](#), 2020 (the "**Credit Derivatives Auction Settlement Terms**") entered into between [SELLER], as Seller (i.e., the party identified by the Auction Administrators as having an obligation to accept Delivery of Deliverable Obligations), and [BUYER] as Buyer (i.e., the party identified by the Auction Administrators as having the obligation to Deliver Deliverable Obligations), and for which the Floating Rate Payer Calculation Amount is [*Relevant Currency and amount*]<sup>8</sup>.

Reference is made to the Credit Derivative Transaction described above (the "**Transaction**").

- (1) Pursuant to the Credit Derivatives Auction Settlement Terms, the Credit Event Resolution Request Date for the Transaction is the date specified as such in Schedule 1 to the Credit Derivatives Auction Settlement Terms.
- (2) Any capitalized term not otherwise defined in this Notice of Physical Settlement will have the meaning, if any, assigned to such term in the Credit Derivatives Auction Settlement Terms or, if no meaning is specified therein, in the 2014 Definitions.
- (3) We hereby confirm that we will settle the Transaction and require performance by you in accordance with the terms relating to Physical Settlement in the 2014 Definitions. Subject to the terms of the Transaction, we will deliver to you on or before the Physical Settlement Date the following Deliverable

<sup>7</sup> These Transactions Details will need to be adjusted appropriately where this form is used with respect to a transaction between a customer and a Participating Bidder.

<sup>8</sup> The Quotation Amount of the Transaction identified by Auction Administrators or, in the case of a Representative Auction-Settled Transaction between a Participating Bidder and a customer, the amount specified by such Participating Bidder.