



ERIC GARCETTI  
MAYOR

June 1, 2022

Honorable Members of the Los Angeles City Council  
City Clerk  
City Hall, Room 395

**APPROVAL TO ESTABLISH AND EXECUTE IRREVOCABLE STANDING LETTERS OF CREDIT THROUGH A LETTER OF CREDIT FACILITY PURSUANT TO CONTRACT C-135446 BETWEEN THE CITY AND JPMORGAN CHASE BANK, N.A. (C.F. No. 17-1259-S1).**

Dear Honorable Members:

In accordance with the Mayor's Executive Directive No. 3, the Office of Finance (Finance) requests approval to establish a Letter of Credit facility (LOC) between the City and JPMorgan Chase Bank (JPMorgan) pursuant to Contract No. C-135446 and the attached bank credit application documents. Finance is requesting authority to establish an LOC in the amount of \$4 million dollars to support the City's Contractor Development and Bonding Program (CDBAP).

In accordance with Los Angeles Administrative Code Section 10.5(b)(1), City Council approval of the proposed amendment is required because it is anticipated that the actual or estimated duration for Irrevocable Letters of Credit (ILOC) issued as part of the LOC may be for a cumulative period longer than three (3) years as of the date of execution of the ILOC.

**BACKGROUND**

Council previously granted the City Treasurer authority to arrange a \$4 million line of credit with a qualified bank to support the City's Contractor Development and Bonding Program, formerly the Bonding Assistance Program (CF 03-0600-S11). Finance (and the former Office of the Treasurer) supported the CDBAP through a Letter of Credit Agreement with Wells Fargo Bank through June 30, 2021.

Finance released a Request for Proposals (RFP) for general banking services on January 5, 2018 to identify new bank and treasury service providers and to establish succession agreements to the existing Wells Fargo agreements for banking services. Among the services requested through the RFP was the establishment of an LOC to support the City's CDBAP.

**AN EQUAL OPPORTUNITY-AFFIRMATIVE ACTION EMPLOYER**

Bank of America and JPMorgan prevailed as the most qualified bidders to provide general banking services to City departments. On February 18, 2020, the City Council authorized Finance to execute general banking services agreements with JPMorgan for disbursement activities and Bank of America for all depository banking services, including the establishment of a Letter of Credit Facility to support the CDBAP. Finance executed its agreement with JPMorgan on April 20, 2020 and Bank of America on March 27, 2020.

Finance subsequently terminated its agreement with Bank of America in October, 2020. At the time of the termination of the agreement for the LOC between the City and Bank of America the City had six existing ILOCs with an outstanding liability amount of \$1,460,404 issued by Wells Fargo Bank that needed to be transitioned onto a new LOC facility as the LOC agreement with Wells Fargo Bank was to end on June 30, 2021. It was Finance's initial intent to transition those ILOCs to Bank of America, but that was no longer a viable option as the City had terminated its agreement with Bank of America.

Finance immediately initiated negotiations with JP Morgan to establish an LOC to continue the existing ILOCs supporting City construction projects through the CDBAP. Finance renewed the aforementioned LOCs with JP Morgan for one year through June 30, 2022. Finance is now working with JP Morgan Bank to automatically extend those agreements through the duration of the construction projects the ILOCs support. Finance is requesting Council authority to establish an LOC with JP Morgan for the duration of the City's agreement with JP Morgan, which currently runs through April 2025, with an option to extend the agreement through April 2030. Currently, there are six (6) active ILOCs previously issued by Wells Fargo that have been reissued by JP Morgan, and one new ILOC issued by JP Morgan. These seven ILOCs have an outstanding liability of \$1,557,500.

## **LETTER OF CREDIT FACILITY**

The City Charter and State law mandate that the City obtain bid bonds, performance bonds, and payment bonds on public works construction contracts. In recognizing the difficulty of obtaining surety bonds, the City Council established the CDBAP in 2005 to assist small, local contractors, including minority, women, and veteran owned businesses, in obtaining the required bid, performance, and payment bonds to compete for City contracts. The City provides partial bond guarantees for contractors enrolled in the program if it is determined such guarantees are the only way in which a contractor could get surety bonding.

The CDBAP is administered by the Risk Management Group in the Office of the City Administrative Officer that partners with a broker/administrator, Merriwether and Williams Insurance Services, Inc. (C-132996), who works with contractors in preparing them to meet bond underwriting requirements (i.e., contractor assessments, Certified Public Accountant prepared financial statements, referrals to qualified financial institutions, etc.), thereby providing surety companies a comfort level allowing them to bond those contractors previously unable to obtain the necessary bonding.

However, surety companies who are providing the bonds will only work through a banking institution when calling on the bond guarantee, thus necessitating a line of credit. Therefore in order to effectuate a Citywide CDBAP, the Office of the City Attorney (City Attorney) has recommended that Finance seek authorization from Council and the Mayor to establish a \$4,000,000 line of credit to cover outstanding bond guarantees. The City Attorney further

recommended that letters of credit that carry a maximum amount of \$250,000 be posted against the line of credit.

The LOC is established to cover outstanding bond guarantees. The LOC is drawn by the surety company in the event that a CDBAP contractor defaults. The maximum bond guarantee and LOC limit per contract is \$250,000. As a condition of the surety company receiving a LOC guarantee, the surety company must assign the City first rights of recovery against the contractor's personal and business assets for the full amount of the City guarantee paid to the surety company. If a default occurs, the City, through an indemnification agreement, would immediately proceed to collect the amount of the default from the contractor, or if necessary from the personal assets of the contractor's owners.

The City Council established a special fund called the Insurance Premiums Special Fund, a portion of which is used to pay sureties for contractor bond defaults where the City provided a guarantee under the CDBAP. In connection with the CDBAP, the City Council also established a special fund called the Insurance and Bond Special Fund to immediately reimburse the bank for any draws against the LOC. City departments are required to reimburse this fund within 30 days of the LOC drawdown for any defaults that occur within their department's contracting activities. To my Office's knowledge, there has only been one draw on the LOC in the amount of \$35,000 related to a contractor default since the CDBAP was established.

The LOC fees are made up of two components: 1) transaction fees and 2) an LOC commitment commission. The transaction fees compensate the bank for the cost of issuing the LOC. Transaction fees are the following: Issuance Fee (\$500), Auto Renewal Fee (\$250), and Amendment Fee (\$250). The LOC commitment commission, which equals 0.75 percent per annum, compensates the bank for the credit and capital expense of issuing an LOC. The City is billed quarterly as follows:

Letter of Credit Facility Fee Schedule

Service	Fee
Issuance Fee	\$ 500
Advising	\$ 500
Amendment	\$ 250
Auto Renewal Fee	\$ 250
Payments/Draw Downs	10 basis points on the amount; minimum \$500
Stand by commission	.75% per annum fee. Calculated and assessed based upon the actual number of days the LOC will be outstanding.

## **FISCAL IMPACT**

There is no additional General Fund impact as sufficient funding is provided in the Department's Bank Service Fees Account, No. 004040. Additionally, the Contractor Development and Bonding Program is currently funded sufficiently to cover the costs of establishing a line of credit and the associated costs with issuing letters of credit.

## **RECOMMENDATIONS**

Finance respectfully requests that the Mayor, subject to approval of the City Council:

1. Approve, and authorize the Director of Finance, or designee, to execute the attached service agreement amendment to contract C-135446 with JPMorgan to provide general banking depository and transaction processing services;
2. Approve and authorize the Director of Finance to negotiate and enter into a service agreement with JPMorgan Bank to provide a Letter of Credit Facility up to \$4 million to support the City's Bonding Assistance Program.

If you require any further information regarding this request, please contact Tom Juarez, Chief Investment Officer, at (213) 978-1774.

Sincerely,



Diana Mangioglu  
Director of Finance / City Treasurer

## Attachments

cc: Jeanne Holm, Office of the Mayor  
Matt Hale, Council District 2  
Ha To, Office of the City Administrative Officer  
Victor Parker, Office of the City Administrative Officer

**Application and Agreement for Irrevocable  
Standby Letter of Credit**

**J.P.Morgan**

**WHEN TRANSMITTING THIS APPLICATION BY FACSIMILE ALL PAGES MUST BE TRANSMITTED.  
QUESTIONS REGARDING COMPLETION OF THIS FORM SHOULD BE DIRECTED TO  
GTS.CLIENT.SERVICES@JPMCHASE.COM OR 800-634-1969.**

**For assistance in filling out this application, please place your cursor over the underlined, blue text for specific instructions/hints.**

**To: JPMorgan Chase Bank, N.A. and/or its subsidiaries and/or affiliates (“Issuer”).**

Date: July 1, 2021

**I. Pursuant to the Terms and Conditions contained herein, please issue an IRREVOCABLE STANDBY Letter of Credit (together with any replacements, extensions or modifications, the “Credit”) and transmit it by:**

S.W.I.F.T. (to Advising Bank)       Courier (directly to the Beneficiary)

*If completing in Microsoft Word, please enter data by ‘clicking’ on the gray boxes.*

<p><b><u>Applicant/Obligor</u></b> (Full name and address, jointly and severally if more than one, individually and collectively, “Applicant/Obligor”): City of Los Angeles Acting by and through its Office of Finance 200 North Spring Street, Room 220 Los Angeles, CA 90012</p> <p>[Signature lines are on last page].</p>	<p><b><u>Beneficiary</u></b> (Full name and address): H.O. Credit: Liberty Mutual Insurance Company H.O. Financial – Credit 175 Berkeley Street Boston, MA 02117 Attn: Steve Whalen /LMS-MS.06D</p>
<p><b><u>Account Party</u></b> (Full name and address of entity to be named in Letter of Credit if different than the above Applicant/Obligor):</p>	<p><b><u>Advising Bank</u></b> Specify name, S.W.I.F.T./address through whom the Credit is to be transmitted to the Beneficiary. (If left blank, Issuer may, at its own discretion, transmit through one of its branches, affiliates or correspondents.):</p>
<p><b>Amount:</b> Up to an aggregate amount of \$250,000.00 If not USD, indicate currency</p>	<p><b><u>Expiry Date:</u></b> Issuance/cancellation to be presented to the counters of the nominated bank not later than 7/1/2022</p>
<p><b>II. <u>REQUIRED FOR SANCTION SCREENING PURPOSES.</u></b> A brief description of the purpose of the Credit including, where applicable, a description of the merchandise, the country of origin of the merchandise, and the name of the countries where merchandise is being shipped from and to must be entered: <b>Applicant request a Letter of Credit to Support the City’s Contractor Development and Bonding program participants. Program Participant: Coalition for Responsible Community Development, 3101 S. Grand Avenue, Los Angeles, CA 90007</b></p> <p><b>City Project No: C.130701</b></p>	
<p><b>III. <u>Complete only</u> if automatic extension of the expiry date is required.</b> Credit to contain automatic extension clause with extension period of <input type="checkbox"/> one year/<input type="checkbox"/> other (please specify). No less than _____ calendar days non-extension notice to the beneficiary. Automatic extension final expiration date: _____ (the date after which the Credit will no longer be subject to automatic extension).</p>	
<p><b>IV. AVAILABLE BY</b> (indicate A, B, C or D) <input type="checkbox"/> <b>A.</b> Beneficiary’s dated statement referencing JPMorgan Chase Bank, N.A. Letter of Credit Number indicating amount of demand/claim and purportedly signed by an authorized person reading as follows (Please state within the quotation marks the wording to appear on the statement to be presented):</p>	

“(insert appropriate reason for drawing) ”

See attached sheet(s) for additional documents and/or special instructions, which form(s) an integral part of this Application. Such attachments/special instructions must be approved and signed by Applicant/Obligor.

- B.** Issue substantially as per the attached sheet(s) and/or special instructions, which form(s) an integral part of this Application. Such attachments/special instructions must be approved and signed by Applicant/Obligor.
- C.** Issue Credit in your standard format in favor of another bank (See Section VI. below).
- D.** Other:

DELIVERY INSTRUCTIONS/SPECIAL HANDLING (IF ANY)

Adam Zeserman, Liberty Mutual Surety – Customer Accounting  
Office: 610-832-8231  
Adam.Zeserman@LibertyMutual.com

- Multiple drawings prohibited** (if blank, multiple drawings will be permitted).
- Partial drawings prohibited** (if blank, partial drawings will be permitted).
- Credit is transferable only in its entirety (Issuer is authorized to include its standard transfer conditions and is authorized to nominate a transferring bank if applicable). Transfer fees/charges are for the account of Beneficiary or  if box is checked, for the account of the Applicant/Obligor.

SAMPLE

**V. The Credit, or any Credit issued by you shall be subject to the International Standby Practices 1998, International Chamber of Commerce Publication 590 (“ISP”) or,  if box is checked, it shall be subject to the Uniform Customs and Practice for Documentary Credits 2007 Revision, International Chamber of Commerce Publication No. 600 (“UCP”).**

**VI. Complete only when another bank is to issue its guarantee or undertaking based on the issued Credit.**

**We understand and agree that by making this request, we shall remain liable under this Credit until Issuer is fully released in writing by such entity.**

- (i)** Please issue a Credit in your customary format (as a counter guarantee) in favor of another bank (or Issuer’s affiliated office, branch or other correspondent bank) and we request that such bank issue a local guarantee, bond, standby letter of credit or other undertaking (collectively referred to as “**Undertaking**”) substantially as set forth below. The term “Credit” as used in this Agreement shall also include any such Undertaking.

Details provided below:

Type of Undertaking:  Bid;  Performance;  Advance Payment;  Specify Other:

Expiry Date (at least 30 days prior to the Expiry Date on page 1):

Beneficiary (Full name and full street address):

Bid/contract ref no.:

Bid/contract purpose/description/name:

Conditions for Drawing:

- (ii)** Please request/authorize another bank to issue their Undertaking substantially in the attached format

See attached sheet(s) for additional documents and/or special instructions, which form(s) an integral part of this Application. Such attachments/special instructions must be approved and signed by Applicant/Obligor.

Unless otherwise stated herein, the nominated bank (if any) is authorized to send all documents to you in one airmail or courier service, if available.

SAMPLE

To induce JPMorgan Chase Bank, N.A. and/or any of its subsidiaries or affiliates (individually and collectively, the “**Bank**”), in its sole discretion, to issue at the request of the undersigned (individually and, if more than one, collectively, the “**Applicant**”), a standby letter of credit or other independent undertaking (together with any replacement, extension or modification thereof, the “**Credit**”), the Applicant agrees as follows:

## ARTICLE I – DEFINED TERMS; APPLICATION PROCESS

Section 1.01. Defined Terms. Unless otherwise defined herein, capitalized terms used herein have the meaning set forth in Annex A.

Section 1.02. Applications. The request to issue the Credit hereunder (the “**Application**”) shall be irrevocable and in a form acceptable to the Bank. The Applicant shall be responsible for the final text of the Credit requested hereunder notwithstanding the Bank’s recommendation, assistance or drafting or the Bank’s use, non-use or refusal to use text submitted by the Applicant.

Section 1.03. Letter of Credit Issued for Affiliates. Notwithstanding that the Credit issued or outstanding hereunder supports any obligations of, or is for the account of, an Affiliate of the Applicant, or states that an Affiliate of the Applicant is the “account party,” “applicant,” “customer,” “instructing party,” or the like of or for the Credit, and without derogating from any of the Bank’s rights (whether arising by contract, at law, in equity or otherwise) against such Affiliate in respect of the Credit, the Applicant (a) shall reimburse, indemnify and compensate the Bank for the Credit (including to reimburse any and all drawings thereunder) as if the Credit had been issued solely for the account of the Applicant and (b) irrevocably waives any and all defenses that might otherwise be available to it as a guarantor or surety of any or all of the obligations of such Affiliate in respect of the Credit. The Applicant hereby acknowledges that the issuance of the Credit for an Affiliate inures to the benefit of the Applicant, and that the Applicant’s business derives substantial benefits from the businesses of such Affiliate.

Section 1.04. Joint and Several Liability. If more than one Person signs this Agreement or the Application hereunder, each of them shall be jointly and severally liable hereunder and thereunder and all the terms and provisions regarding liabilities, obligations and property of such Persons shall apply to any liabilities, obligations and property of any and all of them.

## ARTICLE II – PAYMENT TERMS

Section 2.01. Draw Reimbursement; Fees. For the Credit, the Applicant shall pay the Bank (a) the amount of each drawing on demand and (b) related commissions, fees and charges (including any third party fees incurred by the Bank), at such rates, amounts and times as the Bank and the Applicant shall mutually agree (or in the absence of such an agreement, as reasonably determined by the Bank).

Section 2.02. Interest. If any amount payable by the Applicant to the Bank hereunder is not paid when due, such overdue amount shall bear interest at a rate per annum equal to the Default Rate, calculated on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable on demand for the actual number of days elapsed (including the first day but excluding the last day).

Section 2.03. Non-USD Draw. Unless otherwise previously agreed by the Bank, if an amount drawn under the Credit is in a currency other than United States dollars, the Applicant shall reimburse the Bank, on demand, the United States dollar equivalent of such drawn amount based on the Bank’s actual cost of settlement of its obligation.

Section 2.04. Debit Authorization; Payments Generally. The Applicant hereby authorizes the Bank to debit from any of Applicant’s accounts maintained with the Bank any amount payable by the Applicant hereunder, including the amount of any drawing under the Credit payable pursuant to Section 2.01(a). All payments required to be made by the Applicant hereunder shall be made in immediately available funds, without setoff, recoupment or counterclaim.

Section 2.05. Increased Costs. If, as a result of any Regulatory Change, the Bank determines that the cost (including but not limited to, any reserve, special deposit, insurance charge, capital charge, liquidity requirement, Tax (imposed on letters of credit or other obligations, or its deposits, reserves, other liabilities, or capital attributable thereto but excluding Excluded Taxes) or other assessment) to the Bank of issuing or maintaining the Credit is increased, or any amount received or receivable by the Bank hereunder is reduced, or the Bank is required to make any payment in connection with any transaction contemplated hereby, then the Applicant shall pay to the Bank on demand such additional amount or amounts as the Bank determines will compensate the Bank for such increased cost, reduction or payment.

Section 2.06. Taxes.

(a) All payments to be made hereunder shall be made without setoff or counterclaim and free and clear of, and without any deduction for any Taxes, except as required by applicable law. If any Indemnified Taxes are required by applicable law to be withheld from any amounts payable to the Bank hereunder, the amounts so payable to the Bank shall be increased to the extent necessary to yield to the Bank (after payment of all Indemnified Taxes) the amounts payable hereunder and in the full amounts to be paid. If any applicable law requires the deduction or withholding of any Tax from any amounts payable to the Bank hereunder, whenever any such Tax is paid by the Applicant, as promptly as possible thereafter, the Applicant shall send to the Bank an official receipt showing payment thereof, together with such additional documentary evidence as may be reasonably required from time to time by the Bank. The Applicant shall indemnify the Bank, within ten (10) days after demand therefor, for Indemnified Taxes imposed with respect to payments made hereunder and paid or otherwise borne by the Bank whether or not such Indemnified Taxes were correctly or legally imposed.

(b) The Applicant shall indemnify the Bank against any stamp Taxes, transfer Taxes, documentary Taxes, assessments or charges made by any governmental authority by reason of the execution and delivery of this Agreement or any other Facility Document.

**ARTICLE III – OBLIGATIONS ABSOLUTE**

Section 3.01. Obligations Absolute. The Applicant's obligation to reimburse any drawing under the Credit as provided in Section 2.01(a) shall be absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever, including, without limitation: (a) any lack of validity, enforceability or legal effect of the Credit or this Agreement, or any term or provision therein or herein; (b) payment against presentation of any Drawing Document that does not comply in whole or in part with the terms of the Credit or which proves to be fraudulent, forged or invalid in any respect or any statement therein being untrue or inaccurate in any respect, or which is signed, issued or presented by a Person (or a transferee of such Person) purporting to be a successor or transferee of the beneficiary of the Credit; (c) the Bank being the beneficiary of the Credit; (d) the Bank or any correspondent honoring drawings against a Drawing Document up to the amount available under the Credit even if such Drawing Document claims an amount in excess of the amount available under the Credit; (e) the existence of any claim, set-off, defense or other right that the Applicant or any other Person may have at any time against any beneficiary, any assignee of proceeds, the Bank or any other Person; (f) the Bank or any correspondent having previously paid against fraudulently signed or presented Drawing Documents (whether or not the Applicant reimbursed the Bank for such drawing); and (g) any other event, circumstance or conduct whatsoever, whether or not similar to any of the foregoing, that might, but for this Section, constitute a legal or equitable defense to or discharge of, or provide a right of set-off against, the Applicant's obligations hereunder (whether against the Bank, the beneficiary or any other Person).

Section 3.02. Limitation of Liability. Subject to Section 3.03 below, neither the Bank nor any of its Related Parties shall have any liability or responsibility, and the Bank's rights and remedies against the Applicant shall not be impaired, by reason of or in connection with: (a) honor of a presentation under the Credit which on its face substantially complies with the terms of the Credit; (b) honor of a presentation of any Drawing Documents which appear on their face to have been signed, presented or issued (i) by any purported successor or transferee of any beneficiary or other party required to sign, present or issue the Drawing Documents or (ii) under a new name of the beneficiary; (c) acceptance as a draft of any written or electronic demand or request for payment under the Credit, even if nonnegotiable or not in the form of a draft, and may disregard any requirement that such draft, demand or request bear any or adequate reference to the Credit; (d) the identity or authority of any presenter or signer of any Drawing Document or the form, accuracy, genuineness, or legal effect of any presentation under the Credit or of any Drawing Documents; (e) disregard of any non-documentary conditions stated in the Credit; (f) acting upon any Instruction which it, in Good Faith, believes to have been given by a Person or entity authorized to give such Instruction; (g) any errors, omissions, interruptions or delays in transmission or delivery of any message, advice or document (regardless of how sent or transmitted) or for errors in interpretation of technical terms or in translation; (h) any delay in giving or failing to give any notice; (i) any acts, omissions or fraud by, or the solvency of, any beneficiary, any nominated Person or any other Person; (j) any breach of contract between the beneficiary and the Applicant or any of the parties to the underlying transaction; (k) assertion or waiver of any provision of the UCP or ISP which primarily benefits an issuer of a letter of credit, including, any requirement that any Drawing Document be presented to it at a particular hour or place; (l) payment to any paying or negotiating bank (designated or permitted by the terms of the Credit) claiming that it rightfully honored or is entitled to reimbursement or indemnity under the Standard Letter of Credit Practice applicable to it; or (m) acting or failing to act as required or permitted under Standard Letter of Credit Practice (or in the case of other independent undertakings or guarantees, the UN Convention).

Section 3.03. Standard of Care. Nothing in Section 3.02 shall be construed to excuse the Bank from liability to the Applicant to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Applicant to the extent permitted by applicable law) suffered by the Applicant that are caused by the Bank's failure to exercise care when determining whether Drawing Documents presented under the Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the Bank (as finally determined by a court of competent jurisdiction) in (a) honoring a presentation that does not at least substantially comply with the Credit, or (b) failing to honor a presentation that strictly complies with the Credit, the Bank shall be deemed to have exercised care in each such determination or action. In no event shall the Bank be deemed to have failed to act with due diligence or reasonable care if the Bank's conduct is in accordance with Standard Letter of Credit Practice or in accordance with this Agreement. The Applicant's aggregate remedies against the Bank and any Related Party for wrongfully honoring a presentation under the Credit or wrongfully retaining honored Drawing Documents shall in no event exceed the aggregate amount paid by the Applicant to the Bank in respect of the honored presentation in respect of the Credit under Section 2.01 above, plus interest. The Applicant shall take action to avoid and mitigate the amount of any damages claimed against the Bank or any Related Party, including by enforcing its rights in the underlying transaction. Any claim by the Applicant for damages under or in connection with this Agreement or the Credit shall be reduced by an amount equal to the sum of (i) the amount saved by the Applicant as a result of the breach or alleged wrongful conduct and (ii) the amount of the loss that would have been avoided had the Applicant mitigated damages.

Section 3.04. Non-New York Law Governed Credit. If the Credit is to be governed by a law other than that of the State of New York, the Bank shall not be liable for any Costs resulting from any act or omission by the Bank in accord with the UCP or the ISP, as applicable, and the Applicant shall indemnify the Bank for all such Costs.

Section 3.05. Notice of Objection, Etc. The Applicant shall notify the Bank of (a) any noncompliance with any Instruction, any other irregularity with respect to the text of the Credit or any amendment thereto or any claim of an unauthorized, fraudulent or otherwise improper Instruction, within one (1) Business Day of the Applicant's receipt of a copy of the Credit or amendment and (b) any objection the Applicant may have to the Bank's honor or dishonor of any presentation under the Credit or any other action or inaction taken or proposed to be taken by the Bank under or in connection with this Agreement or the Credit, within three (3) Business Days after the Applicant receives notice of the objectionable action or inaction. The failure to so notify the Bank within said times shall discharge the Bank from any loss or liability that the Bank could have avoided or mitigated had it received such notice, to the extent that the Bank could be held liable for damages hereunder; provided, that, in the event the Applicant shall not provide such notice to the Bank within three (3) Business Days of the date of receipt in the case of clause (a) or within ten (10) Business Days of the date of receipt in the case of clause (b), the Bank shall have no liability whatsoever for such noncompliance, irregularity, action or inaction and the Applicant shall be precluded from raising such noncompliance, irregularity or objection as a defense or claim against the Bank. The Bank shall not be required to seek any waiver of discrepancies from the Applicant or to grant any waiver of discrepancies which the Applicant approves or requests.

#### ARTICLE IV – REPRESENTATIONS AND WARRANTIES

The Applicant hereby represents and warrants on and as of the date hereof, and the date of each issuance, amendment, and extension of the Credit, as applicable, that:

Section 4.01. Organization; Powers. It is duly organized or formed, validly existing and in good standing under the laws of the jurisdiction of its organization and has all necessary power and authority to enter into and perform this Agreement and the other Facility Documents.

Section 4.02. Authorization; Enforceability. It has obtained all authorizations, consents and approvals required for it to enter into and perform this Agreement and the other Facility Documents in accordance with its terms. This Agreement and each other Facility Document has been duly executed and delivered by the Applicant and constitutes the legal, valid and binding obligation of the Applicant, enforceable against it in accordance with its terms.

Section 4.03. Governmental Approvals; No Conflicts. The execution, delivery and performance of this Agreement and the other Facility Documents by the Applicant (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect, (b) will not violate any applicable law or regulation or the charter, by-laws or other organizational documents of the Applicant or any order of any Governmental Authority, and (c) will not violate or result in a default under any material agreement or arrangement to which the Applicant is a party or by which it or its properties may otherwise be bound.

Section 4.04. Financial Condition. The financial statements most recently furnished to the Bank by the Applicant fairly present the financial condition of the Applicant in accordance with generally accepted accounting principles, and there has been no material adverse change in the Applicant's business, condition (financial or otherwise) or results of operation since the date of the Applicant's most recent annual financial statements.

Section 4.05. Disclosure. No information now or hereafter furnished by the Applicant to the Bank in connection with this Agreement, any other Facility Document or the Credit is or shall be materially false or misleading when furnished.

Section 4.06. Litigation. There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Applicant, threatened against or affecting the Applicant which, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a material adverse effect on its financial condition or business or which purports to affect the validity or enforceability of this Agreement, any other Facility Document, the Credit or any transaction related to the Credit.

Section 4.07. Anti-Corruption Laws and Sanctions. The Applicant has implemented and maintains in effect policies and procedures designed to ensure compliance by the Applicant, its subsidiaries, Affiliates and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Applicant, its subsidiaries, Affiliates and their respective officers and directors and to the knowledge of the Applicant, its employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and if the Applicant is organized outside of the United States of America, the Applicant further represents that it is not knowingly engaged in any activity that would reasonably be expected to result in the Applicant being designated as a Sanctioned Person. None of (a) the Applicant, any subsidiary, Affiliate, any of their respective directors, officers or employees, or (b) to the knowledge of the Applicant, any agent of the Applicant or any subsidiary or Affiliate that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Credit, use of proceeds or other transaction contemplated by this Agreement or any other Facility Documents will violate any Anti-Corruption Law or applicable Sanctions.

ARTICLE V - COVENANTS  
**SAMPLE**

The Applicant covenants and agrees with the Bank that:

Section 5.01. Financial Statements and Other Information. To the extent not otherwise provided to the Bank under other agreements, upon request, the Applicant will furnish to the Bank its most recent year-end, quarterly and monthly (if any), financial statements (as audited) and such other information regarding the financial condition, business affairs or operations of the Applicant as the Bank may reasonably request. Further, the Applicant acknowledges and agrees to provide the Bank additional information, records, and documentation as requested by the Bank, pursuant to the Bank's programs enacted to comply with Section 326 of the USA Patriot Act, the applicable regulations promulgated thereunder, and the Bank's Customer Identification Program and authorizes the Bank to verify information as per the USA Patriot Act Regulation.

Section 5.02. Existence; Conduct of Business. The Applicant will do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises material to the conduct of its business.

Section 5.03. Compliance with Laws. The Applicant will comply with all laws, rules, regulations and orders of any Governmental Authority (including the USA Patriot Act, foreign exchange control regulations, foreign asset control regulations and other trade-related regulations) now or hereafter applicable to the Credit, the transactions underlying the Credit or Applicant's execution, delivery and performance of this Agreement and each other Facility Document.

Section 5.04. Inspection Rights. The Applicant will permit the Bank (or its representatives), upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested.

Section 5.05. Payment of Taxes. The Applicant will pay all Taxes required to have been paid by it when due, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, and (b) the Applicant has set aside on its books and records adequate reserves with respect thereto in accordance with generally accepted accounting principles.

Section 5.06. Insurance. The Applicant will cause all Released Merchandise to be insured against theft, fire and such other risks usually insured against in connection with the underlying transaction.

Section 5.07. Anti-Corruption and Sanctions. The Applicant will maintain in effect and enforce policies and procedures designed to ensure compliance by the Applicant, its subsidiaries, Affiliates and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions. The Applicant agrees that no goods or vessels used to transport goods will be the subject of any Sanctions. The Applicant will not request the Credit, and shall not use, and shall procure that its subsidiaries, Affiliates and its or their respective directors, officers, employees and agents shall not use, the proceeds of the Credit (a) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (b) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, except to the extent permitted for a Person required to comply with Sanctions, or (c) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

## ARTICLE VI – EVENTS OF DEFAULT

Section 6.01. Events of Default. If any of the following events (“**Events of Default**”) shall occur and be continuing:

- (a) the Applicant shall fail to pay any Obligations when and as the same shall become due and payable;
- (b) any representation or warranty made or deemed made by or on behalf of the Applicant or any Guarantor in or in connection with this Agreement or any other Facility Document, or in any Instruction, report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Facility Document, shall prove to have been incorrect in any material respect when made or deemed made;
- (c) the Applicant or any Guarantor shall fail to observe or perform any covenant, condition or agreement contained in this Agreement or any other Facility Document;
- (d) the Applicant or any Guarantor shall fail to pay when due any indebtedness (including but not limited to indebtedness for borrowed money) or any event or condition shall occur that shall result in any such indebtedness becoming due prior to its scheduled maturity or that permits (with or without the giving of notice, the lapse of time or both) the holder of such indebtedness or obligee to cause such indebtedness to become due, by acceleration or otherwise, prior to its scheduled maturity;
- (e) the Applicant or any Guarantor: (i) shall generally not, or be unable to, or shall admit in writing its inability to, pay its debts as its debts become due; (ii) shall make an assignment for the benefit of creditors; (iii) shall file a petition in bankruptcy or for any relief under any law of any jurisdiction relating to reorganization, arrangement, readjustment of debt, dissolution or liquidation; (iv) shall have any such petition filed against it in which an adjudication is made or order for relief is entered or which shall remain undismissed for a period of thirty (30) days or shall consent or acquiesce thereto; or (v) shall have had a receiver, custodian or trustee appointed for all or a substantial part of its property;
- (f) any Facility Document shall at any time cease to be in full force and effect or its validity or enforceability shall be disputed or contested or any lien or security interest securing the Obligations shall cease to create a valid and perfected first priority lien or security interest in the property purported to be subject thereto;
- (g) there shall be commenced against the Applicant or any Guarantor any proceeding for enforcement of a money judgment, which proceeding shall not have been stayed within thirty (30) days;
- (h) a Change of Control shall have occurred or, if an individual, the death of the Applicant or any Guarantor; or
- (i) the Applicant or any Guarantor shall (i) merge into or consolidate with any other Person, (ii) dispose of all or substantially all of its assets (whether now owned or hereafter acquired), or (iii) liquidate or dissolve;

THEN, and in every such event (other than an event with respect to the Applicant described in clause (e) above), and at any time thereafter during the continuance of such event, the Bank may, by notice to the Applicant, take any and all of the following actions, at the same or different times: (i) declare the Obligations then outstanding to be due and payable (in whole or in part), and thereupon such Obligations shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of

which are hereby waived by the Applicant; (ii) require that the Applicant provide cash collateral as required in Section 7.03; and (iii) exercise all other rights and remedies available to it under the Facility Documents and applicable law; and in case of any event with respect to the Applicant described in clause (e) above, the Obligations then outstanding shall automatically become due and payable and the obligation of the Applicant to cash collateralize the aggregate undrawn amount of the outstanding Credit at such time as provided in clause (ii) above shall automatically become effective, in each case, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Applicant.

Section 6.02. Code and Other Remedies. In addition to any other rights and remedies granted to the Bank in the Facility Documents, the Bank may exercise all rights and remedies of a secured party under the New York UCC or any other applicable law. Upon and during the continuance of an Event of Default, the Applicant agrees, at the Bank's request, to assemble all Collateral and make it available to the Bank at places which the Bank shall reasonably select, whether at the premises of the Applicant or elsewhere, and the Bank shall be authorized to liquidate or sell immediately, without demand for payment, advertisement or notice to the Applicant, all of which are hereby expressly waived (except such notice as is required by applicable law and that cannot be waived, in which event such notice shall be deemed proper if mailed at least five (5) Business Days before disposition or other action) any and all Collateral (whether received pursuant to Section 7.03 hereof or otherwise) at private sale or at public auction or at brokers' board or upon any exchange or otherwise, at Bank's option, in such parcels and at such time and at such place and at such price and upon such terms and conditions as the Bank may deem proper, and to apply the net proceeds of such sale or sales, together with any balance of deposits and any sums credited by or due from the Bank to the Applicant in general account or otherwise, to the payment of any and all of the Obligations, all without prejudice to the rights of the Bank against the Applicant with respect to any and all amounts which may be or remain unpaid and if any such sale be at broker's board or public auction or upon any exchange the Bank may itself be a purchaser at such sale, free from any right of redemption, which the Applicant hereby expressly waives and releases.

Section 6.03. Bank's Appointment as Attorney-in-Fact, Etc. The Applicant hereby gives the Bank the power and right to amend or terminate, or transfer drawing rights or cure one or more discrepancies under, the Credit on behalf of the Applicant, without notice to or assent by the Applicant. The Applicant further irrevocably constitutes and appoints the Bank and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Applicant and in the name of the Applicant or its own name, for the purpose of carrying out the terms of this Agreement and the other Facility Documents, to take any and all appropriate action and to execute all such documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement and the other Facility Documents and to protect, preserve or realize upon the Collateral and the Bank's security interest therein. All powers, authorizations and agencies herein provided in Section 6.03 are coupled with an interest and are irrevocable until this Agreement is terminated; provided that Bank agrees that it will not exercise any rights under this Section 6.03 including under the power of attorney provided for herein unless an Event of Default shall have occurred and be continuing.

## ARTICLE VII – PLEDGE AND ASSIGNMENT OF SECURITY

Section 7.01. Grant of Security. As security for the payment and performance of all Obligations, the Applicant hereby assigns and transfers to the Bank, and hereby grants to the Bank, a security interest in, all of the following property now owned or at any time hereafter acquired by the Applicant or in which the Applicant now has or at any time in the future may acquire any right, title or interest (collectively, the "Collateral"):

- (a) all Deposit Accounts and Securities Accounts with any office of the Bank wherever located;
- (b) all Underlying Property which has been or at any time shall be (i) received or receivable by the Applicant, the Bank or any correspondent under or in connection with the Credit, or (ii) delivered to or otherwise come into the possession, custody or control of any office of the Bank or any correspondent (which shall be deemed a collateral agent or a bailee of the Bank for the purpose of perfecting a security interest in the Underlying Property) for any purpose, whether or not for the express purpose of being used by any such entity as collateral security or for safekeeping, custody, pledge, transmission or otherwise;
- (c) all present and future claims and rights of the Applicant against any beneficiary of the Credit arising in connection with the Credit or the transaction underlying the Credit; and
- (d) all products and proceeds of the foregoing.

Section 7.02. Holder in Trust, Etc. To the extent the Applicant shall hold any Collateral or any proceeds of Collateral, it shall hold such Collateral in trust for the Bank. The Bank shall be deemed to have possession, custody or control of all Collateral actually in

transit to or set apart for it (or any of its agents, correspondents or others acting on its behalf), it being understood that the receipt at any time by the Applicant (or any of its agents, correspondents, or others acting on its behalf), of Collateral shall not be deemed a waiver of any of the Bank's rights or powers.

Section 7.03. Cash Collateral. If at any time there shall occur and be continuing (a) any Event of Default, (b) any material adverse change in the condition (financial or otherwise), business, operations or prospects of the Applicant or any Guarantor, (c) any action for a temporary restraining order, preliminary or permanent injunction, beneficiary wrongful dishonor action or the issuance or commencement of any similar order, action or event in connection with the Credit or any Drawing Document or this Agreement, which order, action or event may apply, directly or indirectly, to the Bank or which otherwise threatens to extend or increase the Bank's contingent liability beyond the time, amount or other limit provided in the Credit or this Agreement; or (d) any other event or condition which provides a basis for the Bank in good faith to deem itself insecure, **then**, the Applicant shall, upon Bank's demand, deliver to the Bank, as additional security for the Obligations, cash in an amount required by the Bank.

Section 7.04. Filing of Financing Statements, Etc. The Applicant hereby authorizes the Bank to file UCC financing statements, naming the Applicant as debtor and the Bank as secured party, with respect to any or all of the Collateral hereunder. The Bank is authorized to take any action necessary to protect its rights in the Collateral. The Applicant will, at its own expense upon request by the Bank from time to time, sign any other instrument or document (including any security agreement, or control agreement) and take any other action the Bank may reasonably deem necessary or desirable to preserve, perfect, protect or maintain the Collateral and the priority of the Bank's security interest therein and to realize upon the Bank's rights and remedies as a secured party. For the avoidance of doubt and not in limitation of the rights of the Bank under Sections 9-104(a)(1), 9-106(a) and 8-106(e) of the New York UCC, the Applicant and the Bank (acting as a bank with respect to all Deposit Accounts and as a securities intermediary with respect to all Securities Accounts) agree that the Bank may direct disposition of the funds in any Deposit Account and may issue and follow its own entitlement orders with respect to any Securities Account, in either case, without the consent of the Applicant.

Section 7.05. Assertion of Applicant's Rights. To the extent the Bank honors a presentation for which the Bank remains unpaid, the Bank may assert rights of the Applicant and the Applicant shall cooperate with the Bank in its assertion of the Applicant's rights against the beneficiary, the beneficiary's rights against the Applicant and any other rights that the Bank may have by subordination, subrogation, reimbursement, indemnity or assignment.

SAMPLE  
ARTICLE VIII - OPERATIONAL PROVISIONS

Section 8.01. Installments. If the Credit is issued subject to UCP 600, unless otherwise agreed, in the event that any installment of the Credit is not drawn within the period allowed for that installment, the Credit may continue to be available for any subsequent installments in the sole discretion of the Bank, notwithstanding Article 32 of UCP.

Section 8.02. Auto Extend Notice. If the Credit provides for automatic extension without amendment, the Applicant agrees that it will notify the Bank in writing at least thirty (30) days prior to the last day specified in the Credit by which the Bank must give notice of non-extension if the Applicant wishes the Credit not to be extended. Any decision to extend or not extend the Credit shall be in the Bank's sole discretion and judgment. The Applicant hereby acknowledges that in the event the Bank notifies the beneficiary of the Credit that it has elected not to extend the Credit and the beneficiary draws on the Credit after receiving the notice of non-extension, the Applicant acknowledges and agrees that the Applicant shall have no claim or cause of action against the Bank or defense against payment under the Agreement for the Bank's discretionary decision to extend or not extend the Credit.

Section 8.03. Pending Expiry Notice. If the Credit's terms and conditions provide that the Bank give the beneficiary a notice of pending expiration, Applicant agrees that it will notify the Bank in writing at least thirty (30) days prior to the last day specified in the Credit by which the Bank must give such notice of the pending expiration date. In the event the Applicant fails to so notify the Bank and the Credit is extended, the Applicant's Obligations under this Agreement shall continue in effect and be binding on the Applicant with regard to the Credit as so extended.

## ARTICLE IX – MISCELLANEOUS

Section 9.01. Notices.

(a) Notices to the Bank provided for herein shall be sent to the address of the Bank as set forth in the Credit and shall be delivered by hand, overnight courier or certified mail, return receipt requested. Notices to the Applicant provided for herein shall be sent to the address set forth in the Application unless advised otherwise in writing.

(b) The Bank may transmit the Credit and any amendment thereto by S.W.I.F.T. message and thereby bind the Applicant directly and as indemnitor to the S.W.I.F.T. rules.

(c) The Bank is authorized to accept and process any Application and any amendments, transfers, assignments of proceeds, Instructions, consents, waivers and all documents relating to the Credit or the Application which are sent by Electronic Transmission and such Electronic Transmission shall have the same legal effect as an original and shall be binding upon and enforceable against the Applicant. The Bank may, but shall not be obligated to, require authentication of such Electronic Transmission or receipt of original documents prior to acting on such Electronic Transmission. If it is a condition of the Credit that payment may be made upon receipt by the Bank of an Electronic Transmission advising negotiation, the Applicant hereby agrees to reimburse the Bank on demand for the amount indicated in such Electronic Transmission advice, and further agrees to hold the Bank harmless if the documents fail to arrive, or if, upon the arrival of the documents, the Bank should determine that the documents do not comply with the terms and conditions of the Credit.

(d) The Bank's records of the content of any Instruction shall be conclusive absent manifest error.

Section 9.02. Amendment; Waiver. Neither the Bank nor the Applicant shall be deemed to have amended or modified any term hereof, or waived any of their rights unless the Bank and the Applicant consent in writing to such amendment, modification or waiver. No such waiver, unless expressly stated therein, shall be effective as to any transaction which occurs subsequent to such waiver, nor as to any continuance of a breach after such waiver. The Bank's or the Applicant's consent to any amendment, waiver, or modification does not mean that the Bank or the Applicant shall consent or has consented to any other or subsequent Instruction to amend, modify, or waive a term of this Agreement, any other Facility Document or the Credit.

Section 9.03. Indemnification. The Applicant shall indemnify and hold harmless the Bank, and its correspondents and each of its Related Parties (each, including the Bank, an **Indemnified Person**) from and against any and all Costs, arising out of, in connection with, or as a result of: (a) the Credit or any proceeds of its issuance; (b) any transfer, sale, delivery, surrender, or endorsement of any Drawing Document at any time (whether held by any Indemnified Person in connection with the Credit); (c) any action or proceeding arising out of or in connection with the Credit or this Agreement or any other Facility Document (whether administrative, judicial or in connection with arbitration), including any action or proceeding to compel or restrain any presentation or payment under the Credit, or for the wrongful dishonor of or honoring a presentation under the Credit; (d) any independent undertakings issued by the beneficiary of the Credit (in connection with the Credit); (e) any unauthorized Instruction or error in any Electronic Transmission; (f) an adviser, confirmer or other nominated person seeking to be reimbursed, indemnified or compensated; (g) any third party seeking to enforce the rights of an applicant, beneficiary, nominated person, transferee, assignee of letter of credit proceeds or holder of an instrument or document; (h) the fraud, forgery or illegal action of parties other than the Indemnified Person; (i) the enforcement of this Agreement or any other Facility Document or any rights or remedies under or in connection with this Agreement, any other Facility Document or the Credit; (j) the Bank's performance of the obligations of a confirming institution or entity that wrongfully dishonors a confirmation; (k) Bank dishonoring any presentation upon or during the continuance of any Event of Default or for which the Applicant is unable or unwilling to make any payment to the Bank required under Section 2.01; and (l) the acts or omissions, whether rightful or wrongful, of any present or future de jure or de facto governmental or regulatory authority or cause or event beyond the control of such Indemnified Person; provided, however, that such indemnity shall not be available to any Person claiming indemnification under this Agreement or any other Facility Document to the extent that such Costs are found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted directly from the gross negligence or willful misconduct of such Indemnified Person. If and to the extent that the obligations of the Applicant under this Section are unenforceable for any reason, the Applicant shall make the maximum contribution to the Costs permissible under applicable law.

Section 9.04. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the Bank and the Applicant and their respective successors and assigns permitted hereby, except that the Applicant may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Bank. Nothing in this Agreement, expressed or implied, shall be construed to confer any right or benefit upon any Person (other than the parties hereto, the Indemnified Persons and their respective successors and permitted assigns). The Bank may assign or sell participations in all or a portion of its rights and obligations under this Agreement (including all or a portion of its rights and obligations under the Credit) to another entity without the prior written consent of the Applicant.

Section 9.05. Termination; Survival.

(a) This Agreement is a continuing agreement and may not be terminated by the Applicant except upon (i) thirty (30) days' prior written notice of such termination by the Applicant to the Bank at the address of the Bank set forth on the most recent Credit issued hereunder, (ii) payment of all Obligations and (iii) the expiration or cancellation of the Credit issued hereunder. Notwithstanding the foregoing sentence, if the Credit is issued in favor of another entity, which entity is to issue a guarantee or undertaking on Applicant's behalf in connection therewith, or is issued as support for such a guarantee, the Applicant shall remain liable with respect to the Credit until the Bank is fully released in writing by such entity.

(b) The provisions of Articles II, III, VII and Sections 9.03, 9.05, 9.10 and 9.11 shall survive and remain in full force and effect regardless of the consummation of any transactions contemplated hereby, the reimbursement or repayment of any drawings or Obligations, the expiration or termination of the Credit or the termination of this Agreement or any provision hereof.

Section 9.06. Counterparts; Integration; Electronic Execution. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the Facility Documents constitute the entire contract and final agreement among the parties relating to the subject matter and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. Delivery of an executed counterpart of a signature page of this Agreement or any other Facility Document that is an Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement or such other Facility Document, as applicable. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this Agreement and/or any other Facility Document shall be deemed to include Electronic Signatures, deliveries or the keeping of records in any electronic form (including deliveries by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be; provided that nothing herein shall require the Bank to accept Electronic Signatures in any form or format without its prior written consent and pursuant to procedures approved by it; provided, further, without limiting the foregoing, to the extent the Bank has agreed to accept an Electronic Signature, the Bank shall be entitled to rely on such Electronic Signature purportedly given by or on behalf of the Applicant (or any Guarantor) without further verification thereof and without any obligation to review the appearance or form of any such electronic signature and (b) upon the request of the Bank, any Electronic Signature shall be promptly followed by a manually executed counterpart. Without limiting the generality of the foregoing, the Applicant hereby (i) agrees that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation, Electronic Signatures transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page and/or any electronic images of this Agreement or any other Facility Document shall have the same legal effect, validity and enforceability as any paper original, (ii) agrees that the Bank may, at its option, create one or more copies of this Agreement or any other Facility Document in the form of an imaged electronic record in any format, which shall be deemed created in the ordinary course of the Bank's business, and destroy the original paper document (and all such electronic records shall be considered an original for all purposes and shall have the same legal effect, validity and enforceability as a paper record), and (iii) waives any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement or any other Facility Document based solely on the lack of paper original copies of this Agreement or such other Facility Document, respectively, including with respect to any signature pages thereto.

Section 9.07. Severability. Any provisions of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof, and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 9.08. Right of Setoff. The Applicant agrees that, if an Event of Default shall have occurred and be continuing, the Bank shall be entitled, at any time and from time to time, (a) to setoff and apply any and all deposits (general or special, time or demand, provisional or final, matured or unmatured) at any time held, and other obligations at any time owing, by the Bank to or for the credit or the account of the Applicant, against any and all of the Obligations, and (b) to advance funds to the Applicant under any line of credit (committed or uncommitted) made available to the Applicant by the Bank and to apply such funds against any and all of the Obligations, irrespective of, in the case of both (a) and (b), whether or not the Bank shall have made any demand under this Agreement or any other Facility Document and although such Obligations may be contingent or unmatured or are owed to a branch or office of the Bank different from the branch or office that is holding such deposit, obligated on such indebtedness or extending such credit line, as applicable. The rights of the Bank under this Section are in addition to other rights and remedies (including other rights of setoff) that the Bank may have. The Bank agrees to

notify the Applicant promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

Section 9.09. Foreign Currency Indemnity. The Applicant's obligation to make payments in any currency (the "**Contract Currency**") shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment or otherwise, that is expressed in or converted into any currency other than the Contract Currency, except to the extent that such tender or recovery results in the actual receipt by the Bank at its designated office of the full amount of the Contract Currency specified to be payable hereunder. The Applicant's obligation to make payments in the Contract Currency shall be enforceable as an alternative or additional cause of action to the extent that such actual receipt is less than the full amount of the Contract Currency specified to be payable hereunder, and shall not be affected by judgment being obtained for other sums due hereunder. The Applicant shall indemnify the Bank for any shortfall in such actual receipt.

Section 9.10. Governing Law; Jurisdiction; Consent to Service of Process; Etc.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to principles of conflict of laws. The UCP and the ISP are incorporated by reference into this Agreement provided, however, that to the extent permitted by applicable law, this Agreement shall prevail in case of a conflict between this Agreement, the New York UCC, the UCP, ISP and/or Standard Letter of Credit Practice and the UCP shall prevail in case of conflict between the UCP and the New York UCC or other Standard Letter of Credit Practice, if the Credit is governed by the UCP and the ISP shall prevail in case of a conflict between the ISP and the New York UCC and other Standard Letter of Credit Practice if the Credit is a standby Credit governed by the ISP.

(b) The Applicant consents to the nonexclusive jurisdiction and venue of the federal courts located in the Borough of Manhattan, City of New York (or New York state courts sitting in the Borough of Manhattan in the event that the federal court lacks subject matter jurisdiction) and any appellate court from any thereof in any action or proceeding arising out of or relating to this Agreement, any other Facility Document, any Instruction or the Credit: provided that, a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(c) Service of process in any legal action or proceeding arising out of or in connection with this Agreement, any other Facility Document, any Instruction or the Credit may be made upon the Applicant by mailing a copy of the summons to the Applicant either at the address set forth in the applicable Application or at the Applicant's last address appearing in the Bank's records. In addition, if the Applicant is organized in a jurisdiction outside the United States of America, service of process by the Bank in connection with any dispute shall be binding on the Applicant if sent to the Process Agent (as defined below) by registered mail at the address specified below. The Applicant hereby irrevocably appoints CT Corporation (the "**Process Agent**"), presently located at 28 Liberty Street, New York, New York 10005 as its agent to receive on its behalf and behalf of its property service of copies of the summons and complaint and any other process which may be served in any such action or proceeding. Such service may be made by mailing or delivering a copy of such process to the Applicant in care of the Process Agent at its address and the Applicant hereby irrevocably authorizes and directs the Process Agent to accept such service on its behalf. Nothing herein shall affect the right of the Bank to serve legal process in any other manner permitted by law or affect the right of the Bank to bring any action or proceeding against the Applicant or its property in the courts of any other jurisdiction.

(d) No legal action or proceeding arising out of or in connection with this Agreement, any Facility Document, any Instruction or the Credit may be brought by the Applicant against the Bank (i) except in a state or federal court located in the Borough of Manhattan, City of New York, State of New York and (ii) unless commenced within one (1) year after (x) the expiration date of the Credit or (y) the alleged breach shall have purportedly occurred, whichever is earlier.

Section 9.11. WAIVER OF JURY TRIAL. THE APPLICANT HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO JURY TRIAL IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER FACILITY DOCUMENT, ANY INSTRUCTION, THE CREDIT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY).

Section 9.12. Disclosure. The Bank may disseminate information relating to the Applicant, this Agreement and the Credit (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors, and third parties (including any correspondent bank) selected by any of the foregoing, wherever situated, for confidential use in connection with Bank's performance, administration or enforcement of this Agreement or any other Facility Document (including in connection with the provision

of any service and for data processing, statistical and risk analysis purposes); (b) to the extent requested by any Governmental Authority; (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) in connection with the exercise of any remedies hereunder or under any other Facility Document or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder or under any other Facility Document, (e) subject to an agreement containing customary confidentiality provisions, to any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under this Agreement or the Credit; (f) with the consent of the Applicant or (g) to the extent such information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Bank on a non-confidential basis from a source other than the Applicant.

Section 9.13. Waiver of Immunity. The Applicant acknowledges that this Agreement and the Credit is entered into (or will be entered into) for commercial purposes. To the extent that the Applicant may now or hereafter be entitled, in any jurisdiction in which judicial proceedings may at any time be commenced with respect to this Agreement, any other Facility Document or the Credit, to claim for itself or its revenues or properties any immunity from the jurisdiction of any court or from legal process (whether from service or notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise), and to the extent that in any such jurisdiction there may be attributed to the Applicant any such immunity (whether or not claimed), the Applicant hereby irrevocably agrees not to claim, and hereby waives, such immunity in respect of its obligations under this Agreement, any other Facility Document or the Credit.

Section 9.14. Interest Rate Limitation. In no case shall the interest which may be charged by the Bank hereunder exceed the maximum amount which the Bank may charge or collect under the law applicable to it.

Section 9.15. Headings. Article and Section headings used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SAMPLE

IN WITNESS WHEREOF, the Applicant has caused this Agreement to be duly executed and delivered by its authorized officer as of the day and year written below.

**APPLICANT  
CITY OF LOS ANGELES**

By:   
Name: **Diana Mangioglu**  
Title: **Director of Finance**  
Date: **June 9, 2021**

**THE FOLLOWING IS TO BE EXECUTED IF THE CREDIT IS TO BE ISSUED FOR THE ACCOUNT OF A PERSON OTHER THAN THE PERSON SIGNING ABOVE:**

**AUTHORIZATION AND AGREEMENT OF ADDITIONAL PARTY NAMED AS ACCOUNT PARTY**

To: THE ISSUER OF THE CREDIT

We join in the above Agreement, naming us as Account Party, for the issuance of the Credit and, in consideration thereof, we irrevocably agree (i) that the above Applicant has sole right to give instructions and make agreements with respect to this Application, the Agreement, the Credit, and the disposition of documents, and we have no right or claim against you, any of your affiliates or subsidiaries, or any correspondent in respect of any matter arising in connection with any of the foregoing and (ii) to be bound by the Agreement and all obligations of Applicant thereunder as if we were a party hereto. Applicant is authorized to assign or transfer to you all or any part of any security held by Applicant for our obligations arising in connection with this transaction and, upon any such assignment or transfer, you shall be vested with all powers and rights in respect of the security transferred or assigned to you and you may enforce your rights under this Agreement against us and our Property in accordance with the terms hereof.

**ACCOUNT PARTY**

By: \_\_\_\_\_  
Name:  
Title:  
Date:

## ANNEX A - DEFINITIONS

The following terms shall have the following meanings:

“**Affiliate**” means, with respect to a specific Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under the common Control with the Person specified.

“**Agreement**” means this Application and Agreement for an Irrevocable Standby Letter of Credit, including the Annex hereto, as it may be amended, supplemented, or otherwise modified from time to time.

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to the Applicant or any of its subsidiaries or Affiliates from time to time concerning or relating to bribery or corruption.

“**Business Day**” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City, New York are authorized or required by law to remain closed.

“**Change of Control**” means the acquisition of direct or indirect Control of the Applicant or any Guarantor by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the date hereof).

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the arrangement or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlling**” and “**Controlled**” have meanings correlative thereto.

“**Costs**” means any and all claims, suits, judgments, costs, losses, fines, penalties, damages, liabilities, and expenses, including expert witness fees and legal fees, charges and disbursements of any kind or for any Indemnified Person.

“**Default Rate**” means a rate per annum equal to 2% above the Prime Rate.

“**Deposit Account**” has the meaning set forth in the New York UCC.

“**Drawing Document**” means any draft, demand or claim for payment under the Credit or other document presented for purposes of drawing under the Credit.

“**Electronic Signature**” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

“**Electronic Transmission**” means any electronic transmission using SWIFT, electronic mail, facsimile, any other computer generated telecommunications, or any electronic platform as agreed by the Bank from time to time.

“**Excluded Taxes**” means any (i) Taxes imposed on or measured by net income (however denominated), franchise taxes or branch profit taxes, in each case imposed by the jurisdiction in which the Bank is organized or in which its applicable office issuing the Credit hereunder is located, and (ii) U.S. Federal withholding taxes imposed under Sections 1471 through 1474 of the Internal Revenue Code of 1986, as amended, (the “**Code**”) as of the date hereof (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

“**Facility Document**” means this Agreement and any other agreement entered into in connection herewith by the Applicant or any Guarantor with or in favor of the Bank, including any Application but excluding the Credit.

“**Good Faith**” means honesty in fact in the conduct or transaction concerned.

“**Governmental Authority**” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

**“Guarantor”** means any Person that has guaranteed or provided credit support for all or part of the Obligations.

**“Indemnified Taxes”** means Taxes other than Excluded Taxes.

**“Instruction”** means the Application, any inquiries, communications and instructions (in any form, whether oral, telephonic, written, electronic mail or transmission or facsimile) regarding the Credit.

**“ISP”** means, with respect to the Credit, International Standby Practices 1998 (International Chamber of Commerce Publication No. 590) and any subsequent revision thereof adhered to by the Bank on the date the Credit is issued.

**“New York UCC”** means the Uniform Commercial Code as from time to time in effect in the State of New York.

**“Obligations”** means all obligations and liabilities of the Applicant to the Bank under any Facility Document or otherwise with respect to the Credit issued hereunder (if any), whether matured or unmatured, absolute or contingent, now existing or hereafter incurred. Without limiting the foregoing, the Obligations include (a) the obligation to pay interest, commissions, charges, expenses, fees, indemnities and other amounts payable by the Applicant under any Facility Document and (b) the obligation of the Applicant to reimburse any amount in respect of any of the foregoing that the Bank may elect to pay or advance on behalf of the Applicant.

**“Person”** means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, governmental authority or other entity.

**“Prime Rate”** means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Bank) or any similar release by the Federal Reserve Board (as determined by the Bank). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

**“Regulatory Change”** means any change after the date hereof in United States federal, state or foreign laws or regulations (including Regulation D of the Board of Governors of the Federal Reserve System) or the adoption or making after such date of any interpretations, directives or requests applying to a class of banks including the Bank of or under any United States federal or state, or any foreign, laws or regulations (whether or not having the force of law) by any court or governmental or monetary authority charged with the interpretation or administration thereof; provided that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith or in the implementation thereof and (y) all requests, rules, guidelines or directives promulgated by Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall, in each case, be deemed to be a “Regulatory Change”, regardless of the date enacted, adopted, issued, or implemented.

**“Related Parties”** means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.

**“Released Merchandise”** means, with respect to the Credit, all Underlying Property released (including pursuant to a forwarders cargo receipt or by any other means whatsoever) or consigned to the Applicant or any Person designated by the Applicant in connection with the Credit.

**“Sanctioned Country”** means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea and Syria).

**“Sanctioned Person”** means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, by the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b), or (d) any Person otherwise the subject of any Sanctions.

**“Sanctions”** means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) if the Applicant is organized outside of the United States of America the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority.

**“Securities Account”** has the meaning set forth in the New York UCC.

**“Standard Letter of Credit Practice”** means, for the Bank, any domestic or foreign law or letter of credit practices applicable in the city in which the Bank issued the Credit or for its branch or correspondent, such laws and practices applicable in the city in which it has advised, confirmed or negotiated the Credit, as the case may be. Such practices shall be (i) of banks that regularly issue Credits in the particular city and (ii) required or permitted under the UCP or the ISP, as chosen in the Credit.

**“Taxes”** means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees, value added tax or any other goods and services, use or sales tax or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

**“UCP”** means, with respect to the Credit, Uniform Customs and Practice for Documentary Credits 2007 Revision, International Chamber of Commerce Publication No. 600 and any subsequent revision thereof adhered to by the Bank on the date the Credit is issued.

**“UN Convention”** means the United Nations Convention on Independent Guarantees and Standby Letters of Credit.

**“Underlying Property”** means all property of any kind whatsoever (now existing or hereafter acquired) referred to, or relating to, the Credit including, without limitation, any and all right, title and interest of the Applicant in any goods, equipment, inventory, money, documents, letters of credit, warehouse receipts, instruments, securities, security entitlements, financial assets, investment property, precious and base metals, chattel paper, electronic chattel paper, accounts, commercial tort claims, deposit accounts, general intangibles (including any claims for breach of contract, breach of warranty claims and any insurance policies and proceeds), letter of credit rights, choses in action and the proceeds of any and all thereof (including any and all of the aforesaid referred to in the Credit or the Drawing Documents relating thereto).

SAMPLE

## Agreement for Trade Related Electronic Services

v2.2\_12-07-2016

THIS AGREEMENT FOR TRADE-RELATED ELECTRONIC SERVICES, dated as of \_\_\_\_\_, 2022 (as it may be amended, supplemented or otherwise modified from time to time, this “**Agreement**”), is made by and between **City of Los Angeles**, a California corporation (the “**Customer**”), an organization that has an office at 200 N. Spring St, Los Angeles, CA 90012, and the **JPMorgan Chase Bank, N.A.** (“**JPMorgan**”), a national banking association organized under the laws of the United States that has an office at 4 New York Plaza, New York, New York 10004 and/or any of its domestic or foreign subsidiaries or affiliates, and Customer and JPMorgan being referred to each as a “**Party**” or as the collectively the “**Parties**”).

**RECITALS.**

- A. JPMorgan provides to other entities letter of credit, collections and other trade-related services, referred to collectively in this Agreement as “**Trade Services**”.
- B. JPMorgan also provides to other entities certain on-line, and other, electronic services related to the Trade Services, the “**Electronic Services**” as further defined in Appendix A, which also may be accessible through one or more specified Internet websites, collectively the JPMorgan Site, as further defined in Appendix A.
- C. Customer would like to use some or all of those Electronic Services, and JPMorgan would like to provide them to Customer.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Defined Terms.** Capitalized terms used in this Agreement shall have the meanings ascribed thereto in Appendix A hereto.
2. **Scope of Agreement and Related Matters**
  - 2.1 This Agreement contains the terms and conditions applicable to the Electronic Services only. Other agreements apply to the Trade Services. Some of the Electronic Services may be governed by additional terms and conditions. Notwithstanding anything to the contrary contained in this Agreement, JPMorgan shall not be obligated to provide such Electronic Services to Customer unless and until Customer and JPMorgan execute such additional terms and conditions as may be related thereto. Customer acknowledges that it has received from JPMorgan or has electronic access to written descriptions of each of the Electronic Services. If and to the extent that there is any conflict between the provisions of this Agreement and the provisions of the other agreements relating to the Trade Services the provisions of this Agreement shall prevail.
  3. **Right to Access and Use of the Electronic Services and JPMorgan Site**
    - 3.1 Subject to the terms and conditions of this Agreement, JPMorgan hereby grants to Customer a nonexclusive and non-transferable license to access and use (i) the JPMorgan Site and (ii) the other Electronic Services during the term of this Agreement. The provisions hereof apply to the Electronic Services provided by JPMorgan to Customer and Customer’s use of the JPMorgan Site and the other Electronic Services. By use of the JPMorgan Site and Electronic Services, Customer agrees to be bound by all of the provisions contained in this Agreement. Customer shall be liable for all actions taken through the JPMorgan Site or with the Electronic Services by Customer or any person using the User ID and Password or a digital certificate or other JPMorgan issued or approved security device issued to Customer.
    - 3.2 Customer shall access the JPMorgan Site and use the Electronic Services as described in the User Manuals therefor and shall do so only as described in such User Manuals or this Agreement. In addition, Customer shall use the Electronic Services only for the purposes for which they are intended and only in connection with Customer’s trade-related business. The Customer may download the Data and print out hard copies for its reference, provided that it does not remove any copyright or other notices contained therein or any hyperlink or other reference to any such notice. Any downloading and use of Data from the Electronic Services is solely at Customer’s risk, but does not guarantee that the JPMorgan Site and the Electronic Services will be available or that the use thereof will not be interrupted.
    - 3.3 Subject to the terms of this Agreement, JPMorgan shall use its reasonable efforts (i) to provide the Customer with access to the JPMorgan Site and the Electronic Services, subject to any scheduled and notified system outages, maintenance windows or any outages beyond JPMorgan’s control; and (ii) to provide the JPMorgan Site and the Electronic Services in all material respects in accordance with the service descriptions contained in the User Manuals.
    - 3.4 In the event that JPMorgan provides any software to Customer in connection with any of the Electronic Services, Customer shall be bound by, and use such software in accordance with, any and all terms and conditions applicable to such software, whether those terms and conditions are in electronic form (including, but not limited to, in the form of a “click-wrap agreement”), a “shrink-wrap agreement” or some other form. In no event shall JPMorgan be liable for any damages of any kind (including, but not limited to, any indirect, special, consequential or punitive damages of any kind, even in the event that it is advised of the possibility that such damages may arise, occur or result) that arise or result from, or are related to, any software that Customer uses in connection with the Trade Services or the Electronic Services that JPMorgan does not own (even in the event that JPMorgan provides it to Customer).
    - 3.5 The Customer acknowledges that JPMorgan shall not be liable for any delays in any Data, message notification or alert delivered via any mobile device.
  4. **User IDs and Passwords**
    - 4.1 In order to access the JPMorgan Site, and use the Electronic Services, Customer must use the applicable security procedure as set forth in the User Manual, which may include a User ID and Password, and, if required by JPMorgan, a digital certificate or other JPMorgan issued or approved security device (collectively, the “**Security Procedure**”). Customer shall safeguard and keep confidential all of its User IDs and Passwords, digital certificates or other JPMorgan issued or approved security device, in relation to the Electronic Services. Customer shall be bound by, and JPMorgan may act upon, any Requests issued in Customer’s name or that appear to be issued in Customer’s name.

## 5. Requests and Data

- 5.1 JPMorgan may, but shall not be obliged to: (i) act pursuant to Requests received by JPMorgan or (ii) display all of the Information it has in its possession. JPMorgan may, without limitation, refuse to act upon Requests received by it which might lead to a breach of any law or regulation to which JPMorgan or any of its branches or offices may be subject to within or outside the United States, as determined by JPMorgan. Notice of any such refusal will be provided to the Customer as soon as reasonably practicable if JPMorgan determines that such notice is not in breach or potentially in breach of any applicable laws. In the event that JPMorgan does act pursuant to a Request, JPMorgan may do so as JPMorgan deems appropriate. **All Requests received by JPMorgan are final and may not be revoked or cancelled unless JPMorgan consents to such revocation or cancellation.** JPMorgan's records of the contents of Requests and Data shall be conclusive.

## 6. Compliance with Laws and Regulations

- 6.1 Without prejudice to the generality of subsection 5.1, JPMorgan and Customer shall each comply with all laws and regulations applicable to it with respect to this Agreement including, but not limited to, any applicable regulations, sanctions or embargoes or anti boycott regulations ("**Anti-Boycott Regulations**") imposed, administered or enforced, from time to time, by OFAC or BIS, the United Nations Security Council; the European Union or Her Majesty's Treasury of the United Kingdom. Notwithstanding anything to the contrary contained in this Agreement, however, Customer shall be solely responsible for conducting such due diligence as it deems advisable with respect to any of its customers or transactions. In the event that JPMorgan determines that Customer, or any transaction using any of the Electronic Services, violates any laws or OFAC, BIS regulations or economic or financial sanctions or trade embargoes imposed, administered or enforced, from time to time, by the United Nations Security Council; (the European Union; or Her Majesty's Treasury of the United Kingdom), JPMorgan may refuse to honour or complete such transaction and may terminate this Agreement immediately by notifying Customer thereof in writing. The Customer represents that prior to submitting any document which designates Authorized Users it shall obtain from the individual(s) referred to in such document all necessary consents to enable JPMorgan to process the data set out therein for the purposes of providing the Electronic Services.
- 6.2 Neither JPMorgan (nor any of its employees or agents) shall have any liability to the Customer in respect of any act, omission, delay or failure by JPMorgan to perform any Electronic Services or comply with its obligations hereunder; or the disclosure or retention of Information in connection with such documents, if it is acting in good faith and/or in compliance with any applicable laws or regulations. Neither JPMorgan (nor any of its employees or agents) shall be responsible for any consequences arising from causes beyond such Party's control nor shall JPMorgan be liable for any loss, howsoever arising, which does not directly result from any act or omission by JPMorgan in relation to any Electronic Service.
- 6.3 The Customer represents that it has implemented and maintains in effect policies and procedures designed to ensure compliance by the Customer, its Subsidiaries, Affiliates and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Customer, its Subsidiaries, Affiliates and their respective officers and employees and to the knowledge of the Customer its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of the Customer, any Subsidiary, Affiliate or any of their respective directors, officers or employees will use the Electronic Services in violation of Anti-Corruption Laws or Sanctions.

## 7. Displays of Unaltered Text

- 7.1 Some of the Information that may be available in connection with the Electronic Services may consist of displays of unaltered text of a letter of credit in favor of Customer incoming by S.W.I.F.T. and to be advised by JPMorgan. Any such displays are for information purposes only and are shown without any responsibility or engagement on the part of JPMorgan. No such display constitutes a released letter of credit advice by JPMorgan and the subsequent released advice if executed may contain additional or amended text to comply with a format and conditions that are acceptable to JPMorgan. To the extent that the U.S. Anti-Boycott Regulations are applicable to Customer, and in the event that such letter of credit contains reportable boycott-related clauses, Customer's viewing of such letter of credit pursuant to the Electronic Services may be considered to be the receipt by Customer of a reportable request pursuant to the U.S. Anti-Boycott Regulations.

## 8. Written Notices from the Customer

- 8.1 The Customer shall provide JPMorgan with written notice of any claim of an Improper Request, or any Unauthorized-Deviation, and shall do so within two (2) Business Days of the date on which the Customer receives notification from JPMorgan of the action taken by JPMorgan pursuant to an Improper Request. In the event that the Customer does not give such notice to JPMorgan within such time period, JPMorgan shall not be responsible for any loss or liability that JPMorgan could have avoided or mitigated had it received such notice, to the extent that JPMorgan could be liable for damages under this Agreement. Without regard to care or lack of care by either the Customer or JPMorgan, in the event that the Customer does not give JPMorgan such notice of any Improper Request or Unauthorized Deviation within three (3) Business Days from the date JPMorgan notifies the Customer of the action taken by JPMorgan pursuant to an Improper Request, JPMorgan shall have no liability whatsoever for such Improper Request or Unauthorized Deviation and the Customer shall be precluded from raising such Unauthorized Deviation or Improper Request as a defense or claim against JPMorgan.

## 9. Ownership of Intellectual Property.

- 9.1 JPMorgan represents and warrants that: (i) it owns the Electronic Services (which for avoidance of doubt shall include the JPMorgan Site and any software provided in relation to the Electronic Services) including any trade marks, service marks and trade names used in conjunction with the Electronic Services, or has authority (without further consent of any third party) to provide the Electronic Services to the Customer; and (ii) no portion of the Electronic Services owned by JPMorgan will violate any Intellectual Property right of any third party.

9.2 Customer acknowledges that JPMorgan is the owner of all right, title and interest in the Electronic Services, to all software and documentation related thereto, and to any modifications or enhancements thereof or have the right to use any of the foregoing. Customer shall not violate any of JPMorgan's Intellectual Property or other proprietary rights related to the Electronic Services. Except as provided in Section 3.1, the Customer may not sub-license, reproduce, transmit, sell, display, distribute, publish, broadcast, establish any hyperlink to, provide access to, circulate, modify, or commercially exploit in whole or in part any part of the Electronic Services or the Data in any manner without the prior written consent of JPMorgan.

#### 10. Fees, Taxes, Payments

10.1 In consideration of JPMorgan's providing the Electronic Services to Customer, Customer shall pay JPMorgan the amount, if any, described in "Attachment 2" to this Agreement ("Attachment 2") and shall do so at such times, and in such a manner, as are also described in such attachment. All payments to be made by Customer pursuant to this Agreement shall be made free and clear of any deduction for any present or future taxes or similar charges imposed by any country or any political subdivision or taxing authority thereof or therein other than the United States of America. In the event that any such taxes are imposed and required to be withheld from any payment, Customer shall (i) increase the amount of such payment so that JPMorgan will receive a net amount (after deduction of all such taxes) equal to the amount due pursuant to this Agreement; (ii) pay such taxes to the appropriate taxing authority for the account of JPMorgan and (iii) as promptly as possible thereafter, send JPMorgan an original receipt (or a copy thereof that has been stamped by the appropriate taxing authority to certify payment) showing payment thereof, together with such additional documentary evidences as JPMorgan may from time to time require. In the event that Customer fails to perform its obligations as described in clause (i) or clause (ii) of the sentence that immediately precedes this sentence, Customer shall indemnify JPMorgan for any incremental taxes, interest or penalties that may become payable by JPMorgan as a consequence of such failure. Customer shall pay all taxes that any country, state, municipality or other taxing authority may assess or impose with respect to the Electronic Services. JPMorgan may charge an amount, or change the amount it charges, as the case may be, with respect to the Electronic Services, at any time by notifying Customer thereof at least thirty (30) days in advance and, in the event that JPMorgan does so, Customer shall begin to pay such amount, or such new amount, as the case may be, on the date specified in such notice.

#### 11. Indemnification.

11.1 Customer shall indemnify JPMorgan against, and hold JPMorgan harmless from, any and all costs and expenses (including, but not limited to, attorneys' fees and the allocated cost of in-house counsel) resulting from any Improper Request or error in Transmission (including, but not limited to, lost or altered Transmissions) relating to any transaction in respect of Trade Services entered into by JPMorgan. Customer, however, shall not be obligated to indemnify JPMorgan against, or hold JPMorgan harmless from, any such costs or expenses to the extent that such costs or expenses are a result of JPMorgan's gross negligence or willful misconduct. This Section 11. shall survive the termination of this Agreement for any reason (without regard to which Party terminates it).

#### 12. Force Majeure.

12.1 JPMorgan shall not be liable for any delays or damages of any kind (including, but not limited to, indirect, special, consequential or punitive damages of any kind, even in the event that it is advised of the possibility thereof) that arise from, are caused by or result from any acts of God; machine or computer breakdown or malfunction; messages sent over the Internet's failing to arrive, being delayed or being directed to the wrong address; computer viruses, bombs, worms, Trojan horses or other malicious code; any act, omission or insolvency of any other entity (including, but not limited to, any act, omission or insolvency of any communications carrier) or for any other similar or dissimilar cause beyond its reasonable control.

#### 13. No Warranties.

13.1 JPMORGAN MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO: (i) ANY OF THE ELECTRONIC SERVICES; (ii) THE ACCURACY, COMPLETENESS OR TIMELINESS OF THE DATA OR THE INFORMATION; OR (iii) CUSTOMER'S ABILITY TO ACCESS OR USE ANY OF THE ELECTRONIC SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

#### 14. Limitations on Liability.

14.1 Notwithstanding anything to the contrary contained in this Agreement, in no event shall JPMorgan be liable (no matter what the cause of action) for any damages of any kind pursuant to or in connection with this Agreement unless and until JPMorgan charges or begins to charge an amount pursuant to Section 10. of this Agreement. In the event that JPMorgan charges or begins to charge such an amount, JPMorgan shall not be liable (no matter what the cause of action) for any damages of any kind that, in the aggregate, exceed in any one-year period such amount Customer paid JPMorgan during that one-year period with respect to the specific Electronic Service involved. In no event shall JPMorgan be liable (no matter what the cause of action) for any indirect, special, consequential or punitive damages of any kind, even in the event that it is advised of the possibility that such damages may arise, occur or result. Without limiting the generality of the rest of this Section 14., in no event shall JPMorgan be liable for any damages of any kind (no matter what the cause of action) that are caused by or result from the use of unsecured electronic mail (by Customer or JPMorgan), use of the Internet or computer viruses, bombs, worms, Trojan horses or other malicious code (no matter who introduces them).

**15. Term and Termination.**

15.1 This Agreement shall be effective as of the Effective Date and shall continue in effect thereafter until either JPMorgan or Customer terminates it. Either JPMorgan or Customer may terminate this Agreement at any time by notifying the other thereof in writing at least thirty (30) days in advance. In addition: (i) JPMorgan may terminate or suspend Customer's right to use one or more of the Electronic Services at any time by notifying Customer thereof in writing at least thirty (30) days in advance, provided that JPMorgan may immediately terminate or suspend Customer's right to use one or more of the Electronic Services if Customer materially breaches any term or condition contained herein and (ii) Customer may terminate its right to use any one or more of the Electronic Services at any time by notifying JPMorgan thereof in writing at least thirty (30) days in advance. Notwithstanding any such termination, however, JPMorgan may continue to act, and this Agreement shall apply, with respect to any Requests received by JPMorgan prior to the effective date of such termination and the Customer shall be bound by those Requests and actions even if those actions were taken after the date of termination. JPMorgan may terminate or suspend the Electronic Services immediately upon written notice to the Customer if JPMorgan determines, in its sole opinion, that providing access to the Electronic Services would violate any applicable law or regulation or the order of any court or regulatory authority or if JPMorgan determines, in its sole opinion, that the security or integrity of the Electronic Services is at risk.

**16. Subsidiaries.**

16.1 Subsidiaries of the Customer may use Electronic Services provided for in this Agreement subject to: a) the Customer ensuring that such Subsidiaries comply with this Agreement and b) the Customer executing Schedule 1 to this Agreement, which lists each Subsidiary authorized to use the Electronic Services hereunder.

**17. Governing Law, Submission to Jurisdiction, Venue.**

17.1 This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, United States of America, without giving effect to the principles of conflict of laws of such state. Each Party hereto submits to the nonexclusive jurisdiction of any state or federal court located in the Borough of Manhattan, City of New York, State of New York, for itself and agrees that any such court shall be a proper forum for any action or suit brought by JPMorgan.

**18. Counterparts.**

18.1 This Agreement may be executed in one or more counterparts (including by means of facsimile), each of which shall be deemed an original but all of which together will constitute one and the same instrument.

**19. Miscellaneous.**

19.1 No modification of this Agreement shall be effective unless it is in a writing that is signed by authorized representatives of JPMorgan and Customer. No waiver of any right or remedy under this Agreement shall be effective unless it is in a writing that is signed by an authorized representative of the Party making such waiver. Customer may not assign this Agreement without the prior written consent of JPMorgan and any assignment in contravention of the limits on assignability is null and void. This Agreement supersedes and replaces any and all agreements existing as of the Effective Date between JPMorgan and Customer (written or oral) regarding any of the Electronic Services. This Agreement shall be binding on JPMorgan, Customer and their respective successors and assigns. In the event that there are any inconsistencies between the terms and conditions of this Agreement and the additional terms and conditions related to any specific Electronic Services, the additional terms and conditions related to such specific Electronic Services shall control. Any term or provision of this Agreement, or any agreement incorporated or referred to herein, that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**20. Notices.**

20.1 All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice or other communication hereunder shall be deemed duly given (i) when delivered personally to the recipient, (ii) one (1) Business Day after being sent to the recipient by reputable overnight courier service (charges prepaid), (iii) on the Business Day sent to the recipient by facsimile transmission or electronic mail, if received before 5:00 PM local time, and if received after 5:00 PM local time, on the Business Day following receipt, or (iv) four (4) Business Days after being mailed to recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as follows: If to Customer it shall be sent to the address set forth in the signature block and if to JPMorgan it shall be sent: JPMorgan Chase Bank, N.A., 131 South Dearborn Street, 5<sup>th</sup> Floor, Mail Code: IL1-0236, Chicago, Illinois 60603-5506, Attention: GTS Client Service Group, with a copy to JPMorgan Chase Bank, N.A., 4 New York Plaza, 21<sup>st</sup> Fl, New York, NY 10004-2413, Attention: Trade Legal Group.

IN WITNESS WHEREOF, JPMorgan and Customer have caused duly authorized representatives of their respective organizations to execute this Agreement on the date or dates set forth below.

**City of Los Angeles, as Customer**

By:   
Name: Diana Mangioglu  
Title: Director of Finance / City Treasurer  
Date: 05/16/2022

Address: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, ST, \_\_\_\_\_  
Zip: \_\_\_\_\_  
Attn: \_\_\_\_\_

**JPMORGAN CHASE BANK, N.A.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**APPENDIX A | DEFINED TERMS**

As used in the Agreement for Trade-Related Electronic Services to which this Appendix A is attached, the following terms shall have the meaning ascribed thereto:

The terms Agreement, JPMorgan and Customer have the meanings set forth in the first paragraph of this Agreement. The following terms have the following meanings:

**"Affiliate"** shall mean an entity which directly or indirectly controls, is controlled by, or is under common control with the Customer. "Control", for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**"Anti-Boycott Regulations"** shall have the meaning set forth in Section 6.1 of the Agreement.

**"Anti-Corruption Laws"** means all laws, rules, and regulations of any jurisdiction applicable to the Customer, its Subsidiaries or Affiliates from time to time concerning or relating to bribery or corruption.

**"Authorized Users"** means individuals designated as users and authorized to use the Electronic Services in accordance with the Security Procedures.

**"BIS"** means the Bureau of Industry and Security of the United States Department of Commerce.

**"Business Days"** means any day on which commercial banks in New York City, New York are not authorized or required to be closed for business.

**"Collection"** means documentary collection or clean collection.

**"Data"** means Information that JPMorgan sends to Customer (whether that Information originated with JPMorgan, Customer or any other entity) by means of a Transmission (including, but not limited to, advices of documentary discrepancies in connection with L/Cs, Guarantees, Imaged Documents, and instructions, Information and information reporting in connection with L/Cs, Guarantees or Collections).

**"Effective Date"** means the later of: (a) the date on which JPMorgan executes this Agreement and (b) the date on which Customer executes this Agreement.

**"Electronic Services"** means those on-line, or other, electronic services provided by JPMorgan to Customer and described generally on "Attachment 1" to this Agreement, including the JPMorgan Site.

**"File Transmission Services"** means the provision of a service that is available for certain Trade Services where there is a two-way exchange of data between the Customer system and JPMorgan's transaction processing platforms, leveraging industry standards and client-preferred channels. File Transmission Services include a suite of secure, flexible transmission, transaction initiation and reporting solutions which offer scalable connectivity and data transformation.

**"Guarantee"** means a guarantee issued or to be issued by JPMorgan in respect of the Customer's obligations.

**"Imaged Documents"** refers to non-electronic information that has been scanned and electronically stored by JPMorgan. Imaged commercial documents are non-negotiable and for informational purposes only.

**"Improper Request"** means any unauthorized, fraudulent or otherwise improper Request.

**"Information"** means information (whether that information originated with JPMorgan, Customer or any other entity) that JPMorgan may make available for Customer to view or download (including, but not limited to, invoice numbers; purchase order numbers; Imaged Documents; displays of unaltered text of letters of credit in favor of Customer and amendments thereto, whether to be advised by JPMorgan or by another bank; other items in connection with L/Cs, Guarantees, Collections, steamship guarantees, airway releases and other trade-related information).

**"Intellectual Property"** means: (i) patents; (ii) trademarks, service marks, domain names, trade dress, and logos, including registrations and applications for registration thereof; (iii) copyrights, including registrations and applications for registration thereof; and (iv) trade secrets, in each case to the extent protected by applicable law.

**"JPMorgan Site"** means the JPMorgan Internet Web Site having the URL address notified to Customer by JPMorgan from time to time, to the extent that such Web Site is accessible by Customer.

**"L/C"** means a letter of credit which has been or will be issued, advised or confirmed by JPMorgan.

**"OFAC"** means the Office of Foreign Assets Control of the United States Treasury.

**"Password"** means a code that is used by a user of the Electronic Services in conjunction with a User ID to log in to, or access, the Electronic Services.

**"Persons"** means any natural Person, corporation, limited liability company, trust, joint venture, association, company, partnership, governmental authority or other entity.

**"Request"** means applications, requests, instructions, inquiries and Information that Customer sends to JPMorgan by means of a Transmission (including, but not limited to, applications for the issuance of commercial L/Cs, standby L/Cs, Guarantees, steamship guarantees and airway releases; requests in connection with L/Cs or Guarantees (including, but not limited to, requests for amendments); instructions (including, but not limited to, instructions to honor or reject discrepant documents); inquiries in connection with L/Cs or Guarantees; copies of Collections instructions sent by Customer to its collecting banks in connection with Customer's Collections, and instructions and inquiries with respect thereto; requests for information reporting in connection with L/Cs, steamship guarantees, airway releases, letters of credit in favor of Customer advised by JPMorgan,

Collections received by JPMorgan and presented to Customer for payment and Customer's Collections processed through JPMorgan; and instructions and inquiries regarding debiting and crediting Customer's accounts).

**"Sanctions"** means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the OFAC or the U.S. Department of State, or (b) if the Customer is organized outside of the United States of American the United Nations Security Council, the European Union or Her Majesty's Treasury of the United Kingdom.

**"Sanctioned Country"** means, at any time, a country or territory which is the subject or target of any Sanctions.

**"Sanctioned Person"** means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the OFAC, the U.S. Department of State, or by the United Nations Security Council, the European Union or any EU member state, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person controlled by any such Person.

**"Security Procedure"** shall have the meaning set forth in Section 4.1 of the Agreement.

**"Subsidiary"** shall mean any corporation, partnership, limited liability company, joint venture or other entity in which a Party: (a) holds a majority of the voting rights in it, or (b) is a member of it and has the right to appoint or remove a majority of its board of directors, or (c) is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it, or (d) over which a Party exercises control.

**"S.W.I.F.T."** means the Society for Worldwide Interbank Financial Telecommunication.

**"Trade Services"** shall have the meaning set forth in the Recitals paragraph A of the Agreement.

**"Transmission"** means a computer transmission, including a properly submitted S.W.I.F.T. Message.

**"Unauthorized Deviation"** means any noncompliance by JPMorgan with any Request.

**"User ID"** means a code that is used by a user of the Electronic Services in conjunction with a Password to log in to, or access, the JPMorgan Site or Electronic Services.

**"User Manual"** means any description of, or instructions regarding, any of the Electronic Services, including the Security Procedure, that JPMorgan provides, or makes available, to Customer in any form (including, but not limited to, on paper or in electronic form) and as such description or instructions may be amended from time to time.

**Schedule 1 | Subsidiaries Included under the Agreement**

Effective on this date, the following Subsidiaries of the Customer are to be included as "Customer" in The Agreement for Trade-Related Electronic Services referenced herein and receive the Electronic Services subject to the terms and conditions of the Agreement, and the Customer agrees to be responsible in all respects for the use of the Electronic Services by such Subsidiaries and for all obligations arising from and relating thereto. Customer further waives any defense whatsoever which might constitute a defense available to, or discharge of, a surety or a guarantor.

The Customer for itself and on behalf of each listed Subsidiary represents and warrants that (i) the execution, delivery and performance of this Schedule has been duly authorized by all necessary corporate action; (ii) this Schedule has been validly executed by a duly authorized officer; and (iii) each is a Subsidiary of Customer as defined in the Agreement. If the Customer is executing this Schedule on behalf of the Subsidiaries, the Customer agrees to provide documentation evidencing such authorization at JPMorgan's request, and the Customer further represents and warrants that: (i) it has the authority to bind each Subsidiary to the terms of this Schedule and the Agreement; (ii) it shall deliver copies of the Agreement and User Manuals to each Subsidiary, as applicable, and (iii) this Schedule constitutes a valid, enforceable and binding obligation of the Customer and each such Subsidiary.

The Customer or the Subsidiary receiving Electronic Services shall provide JPMorgan with not less than ninety (90) days prior written notice in the event that the Subsidiary will cease to be a Subsidiary of Customer as defined in the Agreement. In such event, either JPMorgan or the Customer shall have the right to terminate this Schedule and the Electronic Services as to the relevant Subsidiary.

**Listing of Subsidiaries:**

N/A

City of Los Angeles, **as Customer**

By:  \_\_\_\_\_

Name: Diana Mangioglu

Title: Director of Finance / City Treasurer

Date: 05/16/2022

**JPMORGAN CHASE BANK, N.A.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment 1 | Listing of Services to be Provided**

- Trade Channel: Web-based trade finance system that provides the Customer with the capability to view its Trade Services activity with JPMorgan on-line, to view and download reports, make a transaction inquiry and to initiate trade instruments, (such as Import Letters of Credit, Standby Letters of Credit or Guarantees, Open Account and Collections with JPMorgan), all as agreed in any separate Trade Services agreements, as may be applicable. Trade Channel may include for certain Trade Services the File Transmission Services.

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**Attachment 2 | Schedule of Fees**

**[Description of fees and charges, if any, and of timing of, and other details related to, invoicing]**

Without prejudice to Section 10. (Fees, Taxes, Payments), there is no charge for use of the Electronic Services by Customer as of the Effective Date, but, and subject to the right of any Party hereunder to terminate this Agreement, JPMorgan reserves the right to charge for the Electronic Services in the future upon notice to the Customer by giving the other Party not less than thirty (30) days' prior written notice of such charges.