

AGREEMENT TO AMEND CERTAIN QUALIFIED FINANCIAL CONTRACTS¹

This AGREEMENT TO AMEND CERTAIN QUALIFIED FINANCIAL CONTRACTS (this “**Agreement**”) is entered into as of [●], 2018 (the “**Execution Date**”) by and among [Name of G-SIB Entity] and each of its BHCA Affiliates listed on [the signature pages hereof/Schedule 1 hereto]² (together with [Name of G-SIB Entity] and any additional BHCA Affiliates of [Name of G-SIB Entity] that execute a Joinder Agreement, the “**Covered Entity Group**”)³, and [Name of Counterparty Entity], a company incorporated under the laws of [●], and each of its Counterparty Affiliates listed on the signature pages hereof (together with [Name of Counterparty Entity] and any additional Counterparty Affiliates of [Name of Counterparty Entity] that execute a Joinder Agreement, the “**Counterparty Group**”)⁴].

Capitalized terms used but not otherwise defined herein have the meanings specified in the Appendix.

RECITALS

1. The Covered Entity Group is subject to the requirements of the QFC Stay Rules. These rules require that all Covered Agreements between members of the Covered Entity Group and members of the Counterparty Group be amended to expressly recognize the stay-and-transfer powers of the FDIC under the FDI Act and OLA and limit the exercise of certain default rights and transfer restrictions related to a BHCA Affiliate of a Covered Entity entering into insolvency or resolution proceedings.
2. Under the QFC Stay Rules, if members of the Covered Entity Group enter into new QFCs with members of the Counterparty Group after January 1, 2019, all existing Covered Agreements between members of the Covered Entity Group and the Counterparty Group must be amended to comply with the requirements of the QFC Stay Rules by the Applicable Compliance Date.
3. The Parties wish to enter into this Agreement to amend the Covered Agreements on the terms provided herein in order to comply with requirements of the QFC Stay Rules.

¹ **NTD:** This Agreement is drafted to amend all in-scope QFCs (other than QFCs that benefit from an exemption under the applicable provisions of the QFC Stay Rules) between members of the G-SIB group and members of the consolidated counterparty group. If this agreement is to be used on an individual counterparty-by-counterparty basis (i.e., amending all in-scope QFCs between members of the G-SIB group and a particular entity within a Counterparty Group), rather than on a Counterparty Group-wide basis, conforming changes will be required. In addition, please note that this is a standard form agreement and that it can be customized as needed. A different form is being prepared for use with investment managers and other agents acting on behalf of their clients. This form of agreement is not intended to amend QFCs between two G-SIB groups.

² **NTD:** Consider whether one entity of the G-SIB Group will be signing the Agreement on behalf of all of its affiliates or whether each affiliate of the G-SIB Group will sign the Agreement separately.

³ **NTD:** This defined term could be customized to reflect the name of the G-SIB group, if desired.

⁴ **NTD:** This defined term could be customized to reflect the name of the counterparty group, if desired.

Now, therefore, the Parties hereto agree as follows:

SECTION 1 RECOGNITION OF U.S. SPECIAL RESOLUTION REGIMES

Each Covered Agreement shall be modified as follows:

1.1. Recognition of U.S. Special Resolution Regimes.

(a) In the event that a Covered Entity becomes subject to a proceeding under the FDI Act or OLA (together, the "**U.S. Special Resolution Regimes**"), the transfer of the Covered Agreement, and any interest and obligation in or under, and any property securing, the Covered Agreement, from a Covered Entity will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Covered Agreement, and any interest and obligation in or under, and any property securing, the Covered Agreement, were governed by the laws of the United States or a State of the United States. In the event a Covered Entity or a BHCA Affiliate of such Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights with respect to the Covered Agreement that may be exercised against the Covered Entity are permitted to be exercised to no greater extent than such Default Rights could be exercised under such U.S. Special Resolution Regime if the Covered Agreement were governed by the laws of the United States or a State of the United States.

(b) The terms of this Section 1.1 shall not apply to any Covered Agreement described in 12 C.F.R. 252.83(a), 12 C.F.R. 382.3(a) or 12 C.F.R. 47.4(a).

SECTION 2 LIMITATIONS ON EXERCISE OF CERTAIN DEFAULT RIGHTS

Each Covered Agreement shall be modified as follows:

2.1. **Limitation on Exercise of Certain Default Rights Related to a BHCA Affiliate's Entry Into Insolvency Proceedings.** Notwithstanding anything to the contrary in the Covered Agreement or any other agreement, the Parties expressly acknowledge and agree that:

(a) Subject to Sections 2.2, 2.3 and 2.4, a Counterparty Entity shall not be permitted to exercise any Default Right with respect to such Covered Agreement that is related, directly or indirectly, to a BHCA Affiliate of the Direct Party becoming subject to an Insolvency Proceeding, and

(b) Nothing in a Covered Agreement shall prohibit the transfer of any Covered Affiliate Credit Enhancement, any interest or obligation in or under such Covered Affiliate Credit Enhancement, or any property securing such Covered Affiliate Credit Enhancement to a Transferee upon or following a BHCA Affiliate of the Direct Party becoming subject to an Insolvency Proceeding, unless the transfer would result in the Counterparty Entity being the beneficiary of such Covered Affiliate Credit Enhancement in violation of any law applicable to the Counterparty Entity.

2.2. **General Creditor Protections.** Nothing in Section 2.1 shall restrict the exercise by a Counterparty Entity of any Default Right with respect to a Covered Direct QFC or a Covered Affiliate Credit Enhancement that supports a Covered Direct QFC that arises as a result of:

(a) the Direct Party becoming subject to an Insolvency Proceeding;

(b) the Direct Party not satisfying a payment or delivery obligation pursuant to (A) such Covered Agreement or (B) another contract between the relevant Covered Entity and the relevant Counterparty Entity that gives rise to a Default Right in the Covered Agreement, or

(c) the failure of a Covered Affiliate Support Provider, or any Transferee thereof, to satisfy a payment or delivery obligation pursuant to any Covered Affiliate Credit Enhancement that supports the Covered Direct QFC.

2.3. Additional Creditor Protections. With respect to a Covered Direct QFC that is supported by a Covered Affiliate Credit Enhancement, nothing in Section 2.1 shall restrict the exercise by a Counterparty Entity after the QFC Stay Period of a Default Right that is related, directly or indirectly, to a Covered Affiliate Support Provider becoming subject to an Insolvency Proceeding if:

(a) the Covered Affiliate Support Provider that remains obligated under the Covered Affiliate Credit Enhancement becomes subject to an Insolvency Proceeding other than a Chapter 11 Proceeding;

(b) subject to Section 2.4, the Transferee, if any, becomes subject to an Insolvency Proceeding;

(c) the Covered Affiliate Support Provider does not remain, and a Transferee does not become, obligated to the same, or substantially similar, extent as the Covered Affiliate Support Provider was obligated immediately prior to entering such Insolvency Proceeding with respect to:

(i) such Covered Affiliate Credit Enhancement;

(ii) all other Covered Affiliate Credit Enhancements provided by the Covered Affiliate Support Provider in support of other Covered Direct QFCs between the Direct Party and the supported Counterparty Entity under the Covered Affiliate Credit Enhancement referenced in (i) above; and

(iii) all Covered Affiliate Credit Enhancements provided by the Covered Affiliate Support Provider in support of Covered Direct QFCs between the Direct Party and Counterparty Affiliates of the supported Counterparty Entity referenced in (ii) above; or

(d) in the case that the Covered Affiliate Credit Enhancement is transferred to a Transferee:

(i) all of the ownership interests of the Direct Party directly or indirectly held by the Covered Affiliate Support Provider are not transferred to the Transferee; or

(ii) reasonable assurance has not been provided that all or substantially all of the assets of the Covered Affiliate Support Provider (or net proceeds therefrom), excluding any assets reserved for the payment of costs and expenses of administration in the Insolvency Proceeding, will be transferred or sold to the Transferee in a timely manner.

2.4. Limitation on Exercise of Certain Default Rights Upon Entry of a BHCA Affiliate Into FDI Act Proceedings. Notwithstanding anything to the contrary in Sections 2.1, 2.2 or 2.3, with respect to a Covered Direct QFC that is supported by a Covered Affiliate Credit Enhancement, the Counterparty Entity supported by such Covered Affiliate Credit Enhancement may exercise a Default Right that is

related, directly or indirectly, to the Covered Affiliate Support Provider becoming subject to proceedings under the FDI Act:

(a) after the FDI Act Stay Period, if such Covered Affiliate Credit Enhancement is not transferred pursuant to 12 U.S.C. 1821(e)(9)–(e)(10) and any regulations promulgated thereunder; or

(b) during the FDI Act Stay Period, if the Default Right may only be exercised so as to permit such Counterparty Entity to suspend performance with respect to such Counterparty Entity's obligations under the Covered Direct QFC to the same extent as such Counterparty Entity would be entitled to do so if the Covered Direct QFC were with such Covered Affiliate Support Provider and were treated in the same manner as such Covered Affiliate Credit Enhancement.

2.5. Scope of Application of Sections 2.1, 2.2, 2.3 and 2.4. The terms of Sections 2.1, 2.2, 2.3 and 2.4 shall not apply to any Covered Agreement described in 12 C.F.R. 252.84(a), 12 C.F.R. 382.4(a) or 12 C.F.R. 47.5(a).

2.6. Burden of Proof. After a BHCA Affiliate of a Covered Entity has become subject to an Insolvency Proceeding, a Counterparty Entity that seeks to exercise any Default Right with respect to a Covered Agreement with such Covered Entity shall have the burden of proof, by clear and convincing evidence, that the exercise of such Default Right is permitted under the Covered Agreement, as amended hereby.⁵

2.7. Relationship Between Sections 1 and 2. The requirements of Section 1 apply notwithstanding Sections 2.2, 2.3 and 2.4.

SECTION 3 REPRESENTATIONS AND UNDERTAKINGS

3.1. Each Counterparty Entity represents to each Covered Entity with which it has entered into a Covered Agreement or to which it has provided or from which it has received a Covered Agreement, and each Covered Entity represents to each Counterparty Entity with which it has entered into a Covered Agreement or to which it has provided or from which it has received a Covered Agreement, that, as of the date such Person became a Party:

(a) Status. It is, if relevant, duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing or, if it otherwise represents its status in or pursuant to the Covered Agreement, has such status.

(b) Powers. It has the power to execute and deliver this Agreement and to perform its obligations under this Agreement and the Covered Agreement as amended by this Agreement, and has taken all necessary action to authorize such execution, delivery and performance.

(c) No Violation or Conflict. Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets.

⁵ See 12 C.F.R. 47.5(i); 12 C.F.R. 252.84(i); 12 C.F.R. 382.4(i).

(d) Consents. All governmental and other consents that are required to have been obtained by it with respect to this Agreement and the Covered Agreement, as amended by this Agreement, have been obtained and are in full force and effect and all conditions of any such consents have been complied with.

(e) Obligations Binding. This Agreement has been duly executed and delivered by it and its obligations under this Agreement and the Covered Agreement, as amended by this Agreement, constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(f) Credit Support. Its amendment under this Agreement (other than any amendments affecting when rights in respect of a Credit Enhancement or Third Party Credit Enhancement may be exercised) will not, in and of itself, adversely affect the enforceability, effectiveness or validity of any obligations owed, whether by it or by any Third Party, under any Credit Enhancement or Third Party Credit Enhancement in respect of its obligations relating to the Covered Agreement as amended by this Agreement.

3.2. [[Name of G-SIB Entity] represents to each Counterparty Entity that it has the power and authority to enter into this Agreement on behalf of all of the members of the Covered Entity Group listed in Schedule 1 hereto.]]⁶

3.3. In the case of a Covered Agreement that contains a Default Right based on a misrepresentation or other analogous provision, the Parties hereto agree that, for purposes of such provisions, each of the foregoing representations will be deemed to be a representation under such Covered Agreement that is made as of the date on which such Party executes this Agreement.

3.4. Each Counterparty Entity and Covered Entity agrees to do all such further things and execute such further documents as the other may reasonably request to ensure that this Agreement and the amendments described herein extend to, and are effective and enforceable under applicable law with respect to, all Covered Agreements to which such Counterparty Entity is a party or provided by or to such Counterparty Entity. Without limiting the generality of the foregoing, with respect to any Covered Agreement between a Covered Entity and a Counterparty Entity to which a Third Party is also a party, each such Counterparty Entity and Covered Entity agrees (i) that this Agreement amends and modifies the rights of the Counterparty Entity under such Covered Agreement on the terms provided herein as between such Counterparty Entity and Covered Entity, and (ii) to exercise any rights it may have to direct such Third Party to execute such further documents as may be necessary to give effect to the provisions of this Agreement.

3.5. With respect to any Covered Agreement or Third Party Credit Enhancement that expressly requires the consent, approval, agreement, authorization or other action (each, a "consent") of a Third Party to be obtained, each Party whose obligations under such arrangements are secured, guaranteed or otherwise supported by such Third Party Credit Enhancement undertakes that it has obtained the consent of such Third Party and that it will, upon demand, deliver evidence thereof. To the extent any such required consent has not been obtained, the relevant Covered Agreement supported by

⁶ **NTD:** Omit if each G-SIB affiliate will sign this Agreement on its own behalf.

such Third Party will not be amended hereby. Each Party that is also a Third Party in relation to a Third Party Credit Enhancement is hereby deemed to have consented to the amendments imposed by this Agreement on the Covered Agreements supported by such Third Party Credit Enhancement.

3.6. Notwithstanding any provision in a Covered Agreement to which a Third Party is also a party or a Third Party Credit Enhancement that, in each case, expressly requires the consent of, or a writing signed by, all parties (including a Third Party) in order to amend such Covered Agreement or Third Party Credit Enhancement, each Party agrees and consents to (i) amend such Covered Agreement or Third Party Credit Enhancement as herein provided; (ii) such Third Party providing its consent to such amendment in a separate writing; and (iii) the amendment of such Covered Agreement or Third Party Credit Enhancement as between such Third Party and the relevant Covered Entity in such form as is consistent with this Agreement.

SECTION 4 GENERAL CONDITIONS

4.1. Effectiveness. The amendments contemplated by this Agreement, on the terms and conditions set forth herein, shall become effective between a Counterparty Entity and a Covered Entity as of the applicable Effective Date.

4.2. Entire Agreement; Restatement; Survival.

(a) This Agreement constitutes the entire agreement and understanding of each Party with respect to its subject matter and supersedes all oral communication and prior writings (except as otherwise provided herein) with respect thereto. Each Party acknowledges that in executing this Agreement it has not relied on any oral or written representation, warranty or other assurance (except as provided for or referred to elsewhere in this Agreement) and waives all rights and remedies which might otherwise be available to it in respect thereof, except that nothing in this Agreement will limit or exclude any liability of a Party for fraud.

(b) Except for any amendment made or deemed made pursuant to this Agreement in respect of any Covered Agreement, all terms and conditions of each Covered Agreement will continue in full force and effect in accordance with its provisions as in effect immediately prior to the date on which it first becomes subject to this Agreement. Except as explicitly stated in this Agreement, nothing herein shall constitute a waiver or release of any rights of any Party under any Covered Agreement to which it is a party or a provider or recipient of any Credit Enhancement. This Agreement will, with respect to its subject matter, survive, and any amendments made or deemed made pursuant to this Agreement will form a part of each Covered Agreement, notwithstanding any statements in a Covered Agreement to the effect that such Covered Agreement constitutes the entire agreement and understanding between the parties to such Covered Agreement with respect to the subject of such Covered Agreement.

4.3. Amendments. An amendment, modification or waiver in respect of the matters contemplated by this Agreement will be effective in respect of a Covered Agreement only if made in accordance with the terms of the Covered Agreement and then only with effect between the parties to that Covered Agreement (and will only be effective to amend or override the provisions set forth in this Agreement if it expressly refers in writing to this Agreement). No amendment of any provision of this Agreement, other than an amendment pursuant to Section 4.5 below, shall be valid unless made by a document in writing signed by all Parties.

4.4. Subsequent Adherence to the ISDA Protocol. In the event a Counterparty Entity adheres to the ISDA Protocol after becoming a Party hereto, the terms of the ISDA Protocol will supersede and replace the terms of this Agreement with respect to the Counterparty Entity and its Protocol Covered Agreements (as defined under the ISDA Protocol) with all Covered Entities that are adhering parties to the ISDA Protocol.

4.5. Addition of New Parties.

(a) Additional Covered Entities and Counterparty Entities may be added to this Agreement by execution and delivery of a Joinder Agreement in the form of Exhibit A hereto.

(b) [Additional BHCA Affiliates of [Name of G-SIB Entity] may be added as Parties to this Agreement by the delivery by [Name of G-SIB Entity signing as agent] of an amended Schedule 1 to the Counterparty Group in the manner provided in Section 4.7.]⁷

(c) If [Name of Counterparty Entity] becomes aware of any Counterparty Affiliate that is not a Party hereto but is a party to one or more Covered QFCs with one or more members of the Covered Entity Group, [Name of Counterparty Entity] shall use its best efforts to cause such Counterparty Affiliate to execute and deliver a Joinder Agreement or adhere to the ISDA Protocol.

4.6. Governing Law. This Agreement will, as between the Parties and in respect of each Covered Agreement between them or provided by one of them to the other, be governed by and construed in accordance with the laws of the State of New York, without reference to choice of law doctrine, *provided* that the amendments to each Covered Agreement shall be governed by and construed in accordance with the law specified to govern that Covered Agreement and otherwise in accordance with the applicable choice of law doctrine.

4.7. Notice.⁸ Any notice, demand or other communication hereunder, shall be delivered in writing and shall be effective upon receipt:

If to [any member of the Covered Entity Group], at:

[•]

If to [any member of the Counterparty Group], at:

[•]

4.8. Headings. The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.

⁷ **NTD:** Include if a G-SIB entity will sign this Agreement on behalf of its affiliates.

⁸ **NTD:** This contemplates a centralized notice address.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered by their proper and duly authorized representatives as of the Execution Date.

[G-SIB Entity]], on behalf of itself and as agent
for each of the members of the Covered Entity
Group listed on Schedule 1 hereto]⁹

By: /S/
Name: _____
Title: _____

[G-SIB AFFILIATE 1, etc.]]¹⁰

By: /S/
Name: _____
Title: _____

⁹ **NTD:** Delete the bracketed language if each G-SIB affiliate will sign this Agreement on its own behalf.

¹⁰ **NTD:** Delete if one member of the G-SIB group will sign as agent for all.

[COUNTERPARTY ENTITY]

By: /S/
Name: _____
Title: _____

[COUNTERPARTY AFFILIATE 1, etc.]

By: /S/
Name: _____
Title: _____

[Insert list of G-SIB Affiliates Party to the Agreement]

¹¹ **NTD:** This Schedule should not be included if each G-SIB affiliate will be a separate signatory to this Agreement.

1. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

“Applicable Compliance Date” means, (a) for a Covered Entity that was subject to the requirements of the QFC Stay Rules on January 1, 2018, with respect to a Covered Agreement: (1) if the Counterparty Entity is itself subject to the requirements of the QFC Stay Rules, January 1, 2019; (2) if the Counterparty Entity is a Financial Counterparty (other than a Small Financial Institution) that is not itself subject to the requirements of the QFC Stay Rules, July 1, 2019 and (3) if the Counterparty Entity is an entity not described in clause (a)(1) or (a)(2) above, January 1, 2020; and (b) for a Covered Entity that becomes subject to the requirements of the QFC Stay Rules after January 1, 2018, with respect to a Covered Agreement: (1) if the Counterparty Entity is itself subject to the requirements of the QFC Stay Rules, the first day of the calendar quarter immediately following one year after the Covered Entity first became subject to the QFC Stay Rule, (2) if the Counterparty Entity is a Financial Counterparty (other than a Small Financial Institution) that is not itself subject to the requirements of the QFC Stay Rules, the first day of the calendar quarter immediately following 18 months from the date the Covered Entity first became subject to the QFC Stay Rule, and (3) if the Counterparty Entity is an entity not described in clause (b)(1) or (b)(2) above, the first day of the calendar quarter immediately following two years from the date the Covered Entity first became subject to the QFC Stay Rule.

“BHCA Affiliate” has the same meaning as the term “affiliate” as defined in, and shall be interpreted in accordance with, 12 U.S.C. 1841(k).

“Chapter 11 Proceeding” means a proceeding under Chapter 11 of the United States Bankruptcy Code.

“Consolidated Affiliate” has the same meaning specified in, and shall be interpreted in accordance with, 12 C.F.R. 252.81, 12 C.F.R. 382.1 and 12 C.F.R. 47.2.

“Counterparty Entity” means a Party to this Agreement that is a member of the Counterparty Group.

“Counterparty Group” has the meaning specified in the Recitals hereto.

“Counterparty Affiliate” means a Consolidated Affiliate of a Counterparty Entity.

“Covered Affiliate Credit Enhancement” means a Credit Enhancement provided by a Covered Entity that is a BHCA Affiliate of a Direct Party.

“Covered Affiliate Support Provider” means an obligor on any Covered Affiliate Credit Enhancement, provided that it is not a Transferee.

“Covered Agreement” means:

(a) any Covered Direct QFC that is an In-Scope QFC that has been entered into (or deemed entered into) between a Covered Entity and a Counterparty Entity; or

(b) any Credit Enhancement that is an In-Scope QFC that has been entered into (or deemed entered into) between a Covered Entity and a Counterparty Entity, provided by a Covered Entity to a Counterparty Entity or provided by a Counterparty Entity to a Covered Entity in respect of a QFC, including without limitation any Covered Affiliate Credit Enhancement;

in each case, on or prior to the Execution Date (or, if later, the date such Counterparty Entity or Covered Entity became a Party to this Agreement), but does not include any QFC that meets one of the exclusions or exemptions contained in 12 C.F.R. 252.88 (a), (c)-(d), 12 C.F.R. 382.7(a), (c)-(d) or 12 C.F.R. 47.8(a), (c)-(d).

“*Covered Direct QFC*” means a Direct QFC between a Counterparty Entity and a Covered Entity (including all transactions thereunder).

“*Covered Entity Group*” has the meaning specified in the Recitals hereto.

“*Covered Entity*” means a Party to this Agreement that is a member of the Covered Entity Group.

“*Credit Enhancement*” means any credit enhancement or credit support arrangement in support of the obligations of a Covered Entity or a Counterparty Entity under or with respect to a QFC, including any guarantee, collateral arrangement (including any pledge, charge, mortgage or other security interest in collateral or title transfer arrangement), trust or similar arrangement, letter of credit, transfer of margin, reimbursement obligation or any similar arrangement.

“*Direct Party*” means a Covered Entity that is a party to a Covered Direct QFC.

“*Direct QFC*” means a QFC that is not a Credit Enhancement. For a QFC that is a master agreement that includes a Covered Affiliate Credit Enhancement as a supplement to the master agreement, the Direct QFC does not include such Covered Affiliate Credit Enhancement.

“*Default Right*” means, with respect to a Covered Agreement, any:

(a) right of a party, whether contractual or otherwise (including, without limitation, rights incorporated by reference to any other contract, agreement, or document, and rights afforded by statute, civil code, regulation, and common law), to liquidate, terminate, cancel, rescind, or accelerate such agreement or transactions thereunder, set off or net amounts owing in respect thereto (except rights related to same-day payment netting), exercise remedies in respect of collateral or other credit support or property related thereto (including the purchase and sale of property), demand payment or delivery thereunder or in respect thereof (other than a right or operation of a contractual provision arising solely from a change in the value of collateral or margin or a change in the amount of an economic exposure), suspend, delay, or defer payment or performance thereunder, or modify the obligations of a party thereunder, or any similar rights; and

(b) right or contractual provision that alters the amount of collateral or margin that must be provided with respect to an exposure thereunder, including by altering any initial amount, threshold amount, variation margin, minimum transfer amount, the margin value of collateral, or any similar amount, that entitles a party to demand the return of any collateral or margin transferred by it to the other party or a custodian or that modifies a transferee’s right to reuse collateral or margin (if such right previously existed), or any similar rights, in each case, other than a right or operation of a contractual

provision arising solely from a change in the value of collateral or margin or a change in the amount of an economic exposure;

provided that, as used in Sections 2.1, 2.2, 2.3 or 2.4 hereof, the term “Default Right” does not include any right under a contract that allows a party to terminate the contract on demand or at its option at a specified time, or from time to time, without the need to show cause.

References to the “exercise” of a Default Right or the entitlement “to exercise” a Default Right shall include the automatic or deemed exercise of a Default Right.

“*Effective Date*” means, with respect to a Covered Agreement entered into, or provided by or to, a Counterparty Entity, the latest of the Applicable Compliance Date and the date such Counterparty Entity or the relevant Covered Entity becomes a Party to this Agreement.

“*Execution Date*” has the meaning set forth in the Recitals hereto.

“*FDI Act*” means the Federal Deposit Insurance Act and the regulations promulgated thereunder.

“*FDI Act Stay Period*” has the same meaning specified in, and shall be interpreted in accordance with, 12 C.F.R. 252.81, 12 C.F.R. 382.1 and 12 C.F.R. 47.2.

“*FDIC*” refers to the Federal Deposit Insurance Corporation.

“*Financial Counterparty*” has the meaning given to such term in, and shall be interpreted in accordance with, 12 C.F.R. 252.81, 12 C.F.R. 382.1 and 12 C.F.R. 47.2.

“*In-Scope QFC*” has the meaning given to such term in, and shall be interpreted in accordance with, 12 C.F.R. 252.82(d), 12 C.F.R. 382.2(d) and 12 C.F.R. 47.3(d).

“*Insolvency Proceeding*” means a receivership, insolvency, liquidation, resolution, or similar proceeding.

“*ISDA*” refers to International Swaps and Derivatives Association, Inc.

“*ISDA Protocol*” means the ISDA 2018 U.S. Resolution Stay Protocol, as published by ISDA as of July 31, 2018.

“*Joinder Agreement*” means a joinder agreement substantially in the form of Exhibit A hereto.

“*OLA*” means Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

“*Party*” refers to a Person that is listed on the signature pages hereof as a party to this Agreement, [any member of the Covered Entity Group that is listed on Schedule 1 hereto, as amended from time to time,] or, in the case of any Person that becomes a party hereto after the Execution Date, listed as a signatory to a Joinder Agreement provided pursuant to Section 4.5.

“*Person*” includes an individual, bank, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity.

“*QFC*” has the meaning assigned to the term “qualified financial contract” as defined in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

“*QFC Stay Rules*” means, (i) with respect to a Covered Entity described in 12 C.F.R. 252.82(b), the regulations that are codified at 12 C.F.R. 252.2, 252.81–8 (the “**FRB Rule**”); (ii) with respect to a Covered Entity described in 12 C.F.R. 382.2(b), the regulations that are codified at 12 C.F.R. 382.1-7 (the “**FDIC Rule**”); and (iii) with respect to a Covered Entity described in 12 C.F.R. 47.3(b), the regulations that are codified at 12 C.F.R. 47.1-8 (the “**OCC Rule**”). All references in this Agreement to specific provisions of the FRB Rule, the FDIC Rule and the OCC Rule shall be construed, in respect of a Covered Entity or a Covered Agreement to which such Covered Entity is a party or provided by or to such Covered Entity, to refer to the QFC Stay Rules applicable to such Covered Entity.

“*QFC Stay Period*” means, in the event of an Insolvency Proceeding, the period of time beginning on the commencement of such Insolvency Proceeding and ending at the later of 5:00 p.m. (Eastern Time) on the first day on which commercial banks in the jurisdiction of the proceeding are open for general business (including dealings in foreign exchange and foreign currency deposits) following the date of the commencement and 48 hours after the commencement of such Insolvency Proceeding.

“*Small Financial Institution*” has the meaning given to such term in, and shall be interpreted in accordance with, 12 C.F.R. 252.81, 12 C.F.R. 382.1 and 12 C.F.R. 47.2.

“*State*” means any state, commonwealth, territory, or possession of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

“*Third Party Credit Enhancement*” means, with respect to a Party and a Covered Agreement, any Credit Enhancement that is executed or provided by one or more Third Parties (whether or not a Party is also a party thereto), regardless of whether or not such document is identified as a Third Party Credit Enhancement.

“*Third Party*” means any Person other than the Parties to this Agreement.

“*Transferee*” means, in respect of a Covered Affiliate Credit Enhancement, a Person to whom such Covered Affiliate Credit Enhancement is transferred upon the Covered Affiliate Support Provider entering Insolvency Proceeding or thereafter as part of the resolution, restructuring, or reorganization involving such Covered Affiliate Support Provider.

“*U.S. Special Resolution Regimes*” has the meaning set forth in Section 1.1(a).

2. Terms Generally. The definitions of terms herein (including those incorporated by reference to another document) apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun includes the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise, (i) any definition of or reference to any agreement, schedule, instrument or other document herein shall be construed as referring to such agreement, schedule, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (ii) any reference herein to any Person shall be construed to include such Person’s

successors and assigns, (iii) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to Schedules shall be construed to refer to Sections of, and Schedule to, this Agreement, unless otherwise noted, and (v) the word “property” shall be construed to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

[Form of]
JOINDER AGREEMENT

This joinder agreement (this “**Joinder Agreement**”) to the Agreement to Amend Certain Qualified Financial Contracts dated as of [●], 2018 (as amended and in effect from time to time, the “**Agreement**”) among [Name of G-SIB Entity] and each of its BHCA Affiliates listed on [the signature pages thereto / Schedule 1 thereto]¹² (together with [Name of G-SIB Entity], “**Covered Entity Group**”) and [Name of Counterparty Entity] and each of its Counterparty Affiliates listed on the signature pages thereto (together with [Name of Counterparty Entity], “**Counterparty Group**”) is executed and delivered as of [●], 20[●] by the undersigned Person.

Capitalized terms used but not otherwise defined herein are used as defined in the Agreement.

WITNESSETH:

WHEREAS, pursuant to Section 4.5 of the Agreement, any Person that is a Counterparty Affiliate or BHCA Affiliate of a party to the Agreement but that is not itself a party to the Agreement may execute and deliver this Joinder Agreement; and

WHEREAS, the undersigned Person (the “**New Party**”) wishes to become a Party to the Agreement.

NOW, THEREFORE, the New Party hereby agrees as follows:

1. **Joinder.** In accordance with Section 4.5 of the Agreement, the New Party by its signature to this Joinder Agreement becomes a Party to the Agreement as a [Covered Entity] [Counterparty Entity] with the same force and effect as if originally named therein as a Party. The New Party hereby agrees to all the terms and provisions of the Agreement applicable to it as a [Covered Entity] [Counterparty Entity] thereunder.

2. **Representations and Warranties.** The New Party hereby represents and warrants that (a) the representations and warranties made by it as a Party to the Agreement are true and correct in all material respects on and as of the date hereof and (b) that [it is a BHCA Affiliate of a Covered Entity that is a Party to the Agreement] [it is a Consolidated Affiliate of a Counterparty Entity that is a Party to the Agreement]. Each reference to a Party in the Agreement shall be deemed to include the New Party.

3. **Notice.** All notices, requests and demands to or upon the New Party shall be governed by the terms of Section 4.7 of the Agreement.

4. **Governing Law.** This Joinder Agreement will, as between the New Party and the [Covered Entity Group] [Counterparty Group] and in respect of each Covered Agreement between them or provided by one of them to the other, will be governed by and construed in accordance with the laws of the State of New York, without reference to choice of law doctrine, *provided* that the amendments to each

¹² **NTD:** Customize depending on whether the Agreement will be signed by one member of the G-SIB group as agent for the others.

Covered Agreement shall be governed by and construed in accordance with the law specified to govern that Covered Agreement and otherwise in accordance with the applicable choice of law doctrine.

* * *

IN WITNESS WHEREOF, the undersigned has caused this Joinder Agreement to be duly executed and delivered by its duly authorized representative as of the day and year first written above.

**[NEW COVERED/ COUNTERPARTY
ENTITY]**

By: /S/
Name: _____
Title: _____