**IECA Form of Insert under “Other Changes” to EEI COVER SHEET:**

**Article Eleven: U.S. QFC Stay Rule Compliance Provisions**

THE FOLLOWING TEXT MAY BE INCLUDED UNDER “OTHER CHANGES” OF AN EEI COVER SHEET AS A NEW ARTICLE ELEVEN TO THE GENERAL TERMS AND CONDITIONS OF A NEW QFC THAT IS AN EEI MASTER POWER PURCHASE AND SALE AGREEMENT.

**ARTICLE ELEVEN: U.S. QFC Stay Rule Compliance Provisions.**

11.1 Recognition of the U.S. Special Resolution Regimes.[[1]](#footnote-1)

(a) In the event that Party A, as the Covered Entity, becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from Party A of this Agreement,as a Covered Direct QFC, and any interest and obligation in or under, and any property securing, this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any interest and obligation in or under, and any property securing, this Agreement were governed by the laws of the United States or a state of the United States.

(b) In the event that Party A or a BHCA Affiliate of Party A becomes subject to a proceeding under a U.S. Special Resolution Regime, any Default Rights under this Agreement that may be exercised against Party A are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

11.2 Limitation on Exercise of Certain Default Rights Related to a BHCA Affiliate’s Entry Into Insolvency Proceedings. Notwithstanding anything to the contrary in this Agreement, the parties expressly acknowledge and agree that:

(a) Party B, as the Counterparty Entity, shall not be permitted to exercise any Default Right with respect to this Agreement or any Covered Affiliate Credit Enhancement that is related, directly or indirectly, to a BHCA Affiliate of Party A, as the Covered Entity, becoming subject to an Insolvency Proceeding, except to the extent that the exercise of such Default Right would be permitted under the Creditor Protection Provisions of the QFC Stay Rules as acknowledged and agreed by both parties in Section 11.4; and

(b) Nothing in this 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 Party A becoming subject to an Insolvency Proceeding, unless the transfer would result in Party B, as the Counterparty Entity, being the beneficiary of such Covered Affiliate Credit Enhancement in violation of any law applicable to the Counterparty Entity.

(c) Burden of Proof. After a BHCA Affiliate of Party A, as the Covered Entity, has become subject to an Insolvency Proceeding, if Party B, as the Counterparty Entity, seeks to exercise any Default Right with respect to this Agreement or any Covered Affiliate Credit Enhancement, the Counterparty Entity shall have the burden of proof, by clear and convincing evidence, that the exercise of such Default Right is permitted under this Agreement or such Covered Affiliate Credit Enhancement.[[2]](#footnote-2)

11.3 U.S. Protocol. If Party B, as the Counterparty Entity, adheres to the ISDA U.S. Protocol after the date of this Agreement,the terms of the ISDA U.S. Protocol will supersede and replace the terms of this Article Eleven; provided, however, that the “Creditor Protection Provisions” Events of Default in Section 11.4 of this Agreement shall remain fully in effect and binding on the parties to this Agreement.

[ALTERNATE PROVISIONS FOR SECTIONS 11.1, 11.2 AND 11.3 THAT MAY BE USED BY PARTIES THAT HAVE PREVIOUSLY ADHERED TO THE ISDA PROTOCOL (1A, 2A, and 3A), OR PREVIOUSLY EXECUTED AN ISDA BILATERAL AMENDMENT OR AN IECA BILATERAL AMENDMENT (1B, 2B, and 3B)]

11.1A Incorporation by Reference of QFC Stay Rule Compliance Terms from ISDA Protocol. To the extent that prior to the date hereof, both parties have adhered to the ISDA 2018 US Resolution Stay Protocol, published by ISDA on July 31, 2018 (“**ISDA Protocol**”), the terms of the ISDA Protocol are incorporated into and form a part of this Agreement, and, for such purposes, this Agreement shall be deemed a “Protocol Covered Agreement” and each party to this Agreement shall be deemed to have the same status as a “Regulated Entity” and/or an “Adhering Party” as applicable to it under the ISDA Protocol;

11.2A Notwithstanding the provisions of Section 11.1 incorporating the terms of the ISDA Protocol, the “Creditor Protection Provisions” Events of Default in Section 11.4 of this Agreement shall remain fully in effect and binding on the parties to this Agreement.

11.3A Except as provided in Section 11.2, in the event of any inconsistencies between the terms of the ISDA Protocol (the “**QFC Stay Terms**”) and the terms of this Agreement, the QFC Stay Terms shall govern. For purposes of this Section 11.3, references to “this Agreement” include any related credit enhancements entered into between the parties or provided by one to the other

11.1B Incorporation by Reference of QFC Stay Rule Compliance Terms from [ISDA Bilateral Amendment or IECA Bilateral Amendment]. To the extent that prior to the date hereof, Party A and Party B have entered into [the form of bilateral template entitled “Full-Length Omnibus (for use between U.S. GSIBs and Corporate Groups)” published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org and a copy of which is available upon request) (“**ISDA Bilateral Amendment**”)] OR [the IECA’s Customized Version of the ISDA Bilateral Amendment template entitled “Template [1-Full-Length Omnibus (for use between U.S. GSIB Group and Corporate Counterparty Entity)],” with the further caption of “(IECA Version 10-21-2019)” (currently available on the website of the International Energy Credit Association at www.ieca.net) (“**IECA Bilateral Amendment**”)], the terms of Section 1 and Section 2 and the related defined terms of the [ISDA Bilateral Agreement OR IECA Bilateral Agreement] (together, the “**Bilateral Terms**”) are hereby incorporated into and form part of this Agreement, and for such purposes this Agreement shall be deemed a “Covered Agreement,” Party A shall be deemed a “Covered Entity” and Party B shall be deemed a “Counterparty Entity;”

11.2B U.S. Protocol. If Party B, as the Counterparty Entity, adheres to the ISDA Protocol after the date of this Agreement,the terms of the ISDA Protocol will supersede and replace the terms of this Article Eleven; provided, however, that the “Creditor Protection Provisions” Events of Default in Section 11.4 of this Agreement shall remain fully in effect and binding on the parties to this Agreement.

11.3B Except as provided in Section 11.2, in the event of any inconsistencies between the terms of, as applicable, the ISDA Protocol, the [ISDA Bilateral Amendment OR IECA Bilateral Amendment] or the Bilateral Terms (each, the “**QFC Stay Terms**”) and the terms of this Agreement, the QFC Stay Terms shall govern. For purposes of this Section 11.3, references to “this Agreement” include any related credit enhancements entered into between the parties or provided by one to the other.]

11.4 “Creditor Protection Provisions” Events of Default.

(a) In the Creditor Protection Provisions[[3]](#footnote-3) of the QFC Stay Rules, the U.S. Bank Regulators have listed multiple factual events (each of which events is called a “**CPP Event of Default**” in this Section 11.4).

(b) Each of the CPP Events of Default enumerated in the Creditor Protection Provisions of the QFC Stay Rules has been listed below in Sections 11.4(g)(i)(1), (2), (3), and (4), 11.4(g)(ii)(1), (2), (3), (4), (5), and (6), and 11.4(g)(iii)(1) and (2) of this Agreement. For each such CPP Event of Default, Sections 11.4(g)(i)(1), (2), (3), and (4), 11.4(g)(ii)(1), (2), (3), (4), (5), and (6), and 11.4(g)(iii)(1) and (2) of this Agreement also designates a “**Corresponding Event of Default**.” Each Corresponding Event of Default is comprised of (i) a specified event of default (“**Event of Default**”) potentially in effect under Section 5.1 of this Agreement and (ii) with respect to some but not all of such Corresponding Events of Default, certain additional commercial provisions (“**Commercial Provisions**”) that are required to be in effect under this Agreement.

(c) Party A, as the Covered Entity, and Party B, as the Counterparty Entity, hereby acknowledge and agree that with respect to this Agreement, as a Covered Direct QFC, and with respect to any Guarantor that supports Party A’s obligations, as a Covered Affiliate Support Provider, and with respect to any guaranty or other Performance Assurance provided by such Guarantor, as a Covered Affiliate Credit Enhancement that supports this Agreement as a Covered Direct QFC, and with respect to any Transferee:

(i) if a CPP Event of Default occurs with respect to Party A, as the Direct Party under this Agreement as the Covered Direct QFC, or the Guarantor of Party A’s obligations under this Agreement, as the applicable Covered Affiliate Support Provider, or a Transferee, as applicable under such CPP Event of Default; and

(ii) if the Corresponding Event of Default designated with respect to such CPP Event of Default, as shown below, is in effect under this Agreement and has not been otherwise contractually removed by a written agreement of the parties to this Agreement, as the Covered Direct QFC; then

(iii) such CPP Event of Default will be an Event of Default under this Agreement, as the Covered Direct QFC, with respect to Party A, as the Direct Party under such Covered Direct QFC, and Party B, as the Counterparty Entity, may exercise Default Rights in accordance with applicable law and in accordance with the notice and grace periods, if any, specified in this Agreement as applicable to the specific Event of Default that is specified as a component of the Corresponding Event of Default designated below for such CPP Event of Default.

(d) Any requisite notice or grace period applicable to an exercise of Default Rights arising upon the occurrence of the specific Event of Default that is specified as a component of the Corresponding Event of Default designated below for such CPP Event of Default, as provided in the provisions of this Agreement applicable to such Event of Default, shall also be applicable to any exercise of Default Rights arising upon the occurrence of the CPP Event of Default to which such Corresponding Event of Default is designated below in this Section 11.4.[[4]](#footnote-4)

(e) The requirements of Section 11.1, Recognition of the U.S. Special Resolution Regimes, [or, if the alternate provisions for Sections 11.1, 11.2 and 11.3 are elected by the parties, then, as applicable, the requirements of Section 1(b)(i), Counterparty in Resolution, of the Attachment to the ISDA Protocol (but solely with respect to the U.S. Special Resolution Regime – FDIA and the U.S. Special Resolution Regime – OLA), Section 1.1, Recognition of U.S. Special Resolution Regimes, of the ISDA Bilateral Amendment, or Section 1.1, Recognition of U.S. Special Resolution Regimes, of the IECA Bilateral Amendment] apply notwithstanding this Section 11.4.

(f) The provisions of this Section 11.4(f) are without limitation of the generality of the Burden of Proof provisions in Section 11.2(c) [or, if the alternate provisions for Sections 11.1, 11.2 and 11.3 are elected by the parties, then, as applicable, the requirements of Section 2(j), Burden of Proof, of the Attachment to the ISDA Protocol (but solely with respect to the U.S. Special Resolution Regime – FDIA and the U.S. Special Resolution Regime – OLA), Section 2.6, Burden of Proof, of the ISDA Bilateral Amendment, or Section 2.6, Burden of Proof, of the IECA Bilateral Amendment]. After a BHCA Affiliate of Party A, as the Covered Entity, has become subject to an Insolvency Proceeding, if Party B, as the Counterparty Entity, then seeks to exercise any Default Right with respect to this Agreement, as a Covered Direct QFC, or any Covered Affiliate Credit Enhancement supporting this Agreement, arising upon the occurrence of a CPP Event of Default, then Party B, as the Counterparty Entity, will be required to bear the burden of proof that the exercise of any Default Right is permitted under this Agreement by providing clear and convincing evidence or a similar or higher burden of proof demonstrating that:

(i) the factual circumstances comprising the applicable CPP Event of Default have occurred;

(ii) the Event of Default and any required Commercial Provisions comprising the Corresponding Event of Default designated for such CPP Event of Default (as shown below) are in effect under this Agreement and have not been otherwise contractually removed by written agreement of the parties to this Agreement; and

(iii) any Default Right that the Counterparty Entity seeks to exercise is permitted by this Agreement, or any Covered Affiliate Credit Enhancement supporting this Agreement, to be exercised upon the occurrence of the Event of Default specified as a component of the Corresponding Event of Default designated for such CPP Event of Default.

(g) Enumerated CPP Events of Default and the Corresponding Events of Default.

(i) General Creditor Protection Events of Default under Section 252.84(d) of the FRB Rules, Section 382.4(d) of the FDIC Rules, and Section 47.5(d) of the OCC Rules of the Creditor Protection Provisions of the QFC Stay Rules.

(1) CPP Event of Default: Party A, as the Direct Party, becoming subject to an Insolvency Proceeding (as designated in Section 252.84(d)(1) of the FRB Rules, Section 382.4(d)(1) of the FDIC Rules, and Section 47.5(d)(1) of the OCC Rules); and

Corresponding Event of Default: an Event of Default with respect to Party A, as the Direct Party, under Section 5.1(d) of this Agreement; provided, that the following additional Commercial Provisions are required: None;

(2) CPP Event of Default: Party A, as the Direct Party, not satisfying a payment or delivery obligation pursuant to this Agreement, as the Covered Direct QFC (as designated in Section 252.84(d)(2) of the FRB Rules, Section 382.4(d)(2) of the FDIC Rules, and Section 47.5(d)(2) of the OCC Rules); and

Corresponding Event of Default: an Event of Default with respect to Party A, as the Direct Party, under Section 5.1(a) of this Agreement; provided, that the following additional Commercial Provisions are required: None;

(3) CPP Event of Default: Party A, as the Direct Party, not satisfying a payment or delivery obligation pursuant to another contract between Party A, as the Covered Entity, and Party B, as the Counterparty Entity, that gives rise to a Default Right in this Agreement, as a Covered Direct QFC between the same Covered Entity and Counterparty Entity (as designated in Section 252.84(d)(2) of the FRB Rules, Section 382.4(d)(2) of the FDIC Rules, and Section 47.5(d)(2) of the OCC Rules); and

Corresponding Event of Default: an Event of Default with respect to Party A, as the Direct Party, under Section5.1(g)(ii) of this Agreement, or any additional Event of Default added to Section 5.1 of this Agreement which is defined as a failure by Party A to satisfy a payment or delivery obligation under any other contract between Party A and Party B or the specific contract between Party A and Party B which gives rise to the CPP Event of Default; provided, that the following additional Commercial Provisions are required: (i) if the failure by Party A, which gives rise to the CPP Event of Default, is a failure to satisfy a delivery obligation, then the Event of Default under Section 5.1(g)(ii), or a comparable additional event of default under this Agreement, must be triggered by a failure to perform a delivery obligation under any other contract between Party A and Party B or in some other way that includes the specific contract between Party A and Party B under which Party A has failed to satisfy a delivery obligation which gives rise to the CPP Event of Default, or (ii) if the failure by Party A, which gives rise to the CPP Event of Default, is a failure to satisfy a payment obligation under another contract between Party A and Party B, such payment obligation must exceed the Cross Default Amount, if any, applicable under Section 5.1(g)(ii) of this Agreement; or

(4) CPP Event of Default: the failure of Party A’s Guarantor, as a Covered Affiliate Support Provider, or any Transferee thereof, to satisfy a payment or delivery obligation pursuant to any guaranty or other Performance Assurance provided by such Guarantor, as a Covered Affiliate Credit Enhancement, that supports this Agreement as a Covered Direct QFC (as designated in Section 252.84(d)(3) of the FRB Rules, Section 382.4(d)(3) of the FDIC Rules, and Section 47.5(d)(3) of the OCC Rules); and

Corresponding Event of Default: an Event of Default with respect to Party A, as the Direct Party, or any Guarantor of Party A’s obligations, as a Covered Affiliate Support Provider, under Section 5.1(h)(ii) of this Agreement; provided, that the following additional Commercial Provisions are required: None;

(ii) Additional Creditor Protection Events of Default for Supported QFCs under Section 252.84(f) of the FRB Rules, Section 382.4(f) of the FDIC Rules, and Section 47.5(f) of the OCC Rules of the Creditor Protection Provisions of the QFC Stay Rules.

(1) CPP Event of Default: after the QFC Stay Period that is related directly or indirectly to the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, becoming subject to an Insolvency Proceeding, the Guarantor of Party A’s obligations under the Agreement, as the Covered Affiliate Support Provider, that remains obligated under any guaranty or other Performance Assurance, as the Covered Affiliate Credit Enhancement, becomes subject to an Insolvency Proceeding other than a Chapter 11 proceeding (as designated in Section 252.84(f)(1) of the FRB Rules, Section 382.4(f)(1) of the FDIC Rules, and Section 47.5(f)(1) of the OCC Rules); and

Corresponding Event of Default: an Event of Default with respect to any Guarantor of Party A’s obligations under Section 5.1(h)(iii) of this Agreement, provided, that the following additional Commercial Provisions are required: None;

(2) CPP Event of Default: after the QFC Stay Period that is related directly or indirectly to the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, becoming subject to an Insolvency Proceeding, subject to the terms of Section 11.4(c), the Transferee, if any, becomes subject to an Insolvency Proceeding (as designated in Section 252.84(f)(2) of the FRB Rules, Section 382.4(f)(2) of the FDIC Rules, and Section 47.5(f)(2) of the OCC Rules); and

Corresponding Event of Default: an Event of Default with respect to any Guarantor of Party A’s obligations under Section 5.1(h)(iii) of this Agreement, provided, that the following additional Commercial Provisions are required: None;

(3) CPP Event of Default: after the QFC Stay Period that is related directly or indirectly to the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, becoming subject to an Insolvency Proceeding, the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, does not remain, and a Transferee does not become, obligated to the same, or substantially similar, extent as the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, was obligated immediately prior to entering such Insolvency Proceeding with respect to any guaranty or other Performance Assurance, as the Covered Affiliate Credit Enhancement (as designated in Section 252.84(f)(3)(i) of the FRB Rules, Section 382.4(f)(3)(i) of the FDIC Rules, and Section 47.5(f)(3)(i) of the OCC Rules); and

Corresponding Event of Default: an Event of Default with respect to the Guarantor of Party A’s obligations under Section 5.1(h)(iii) of this Agreement, provided, that the following additional Commercial Provisions are required: None;

(4) CPP Event of Default: after the QFC Stay Period that is related directly or indirectly to the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, becoming subject to an Insolvency Proceeding, the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, does not remain, and a Transferee does not become, obligated to the same, or substantially similar, extent as the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, was obligated immediately prior to entering such Insolvency Proceeding with respect to all other Covered Affiliate Credit Enhancements provided by the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, in support of other Covered Direct QFCs between Party A, as the Direct Party, and Party B, as the supported Counterparty Entity under the Covered Affiliate Credit Enhancement referenced in paragraph (3) above (as designated in Section 252.84(f)(3)(ii) of the FRB Rules, Section 382.4(f)(3)(ii) of the FDIC Rules, and Section 47.5(f)(3)(ii) of the OCC Rules); and

Corresponding Event of Default: an Event of Default with respect to the Guarantor of Party A’s obligations under Section 5.1(h)(iii) of this Agreement, provided, that the following additional Commercial Provisions are required: this Agreement includes a provision requiring the Guarantor under this Agreement to be obligated to the same, or substantially similar, extent as the Guarantor with respect to all other guaranties or other Performance Assurances provided by the same Guarantor in support of all other EEI Master Power Purchase and Sale Agreements, all transactions thereunder, and/or all other contracts that would be Covered Direct QFCs, between Party A and Party B; or

(5) CPP Event of Default: after the QFC Stay Period that is related directly or indirectly to the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, becoming subject to an Insolvency Proceeding, the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, does not remain, and a Transferee does not become, obligated to the same, or substantially similar, extent as the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, was obligated immediately prior to entering such Insolvency Proceeding with respect to all other Covered Affiliate Credit Enhancements provided by the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, in support of other Covered Direct QFCs between Party A, as the Direct Party, and affiliates of Party B, as the supported Counterparty Entity under the Covered Affiliate Credit Enhancement referenced in paragraph (4) above (as designated in Section 252.84(f)(3)(iii) of the FRB Rules, Section 382.4(f)(3)(iii) of the FDIC Rules, and Section 47.5(f)(3)(iii) of the OCC Rules); and

Corresponding Event of Default: an Event of Default with respect to the Guarantor of Party A’s obligations under Section 5.1(h)(iii) of this Agreement, provided, that the following additional Commercial Provisions are required: this Agreement includes a provision requiring the Guarantor under this Agreement to be obligated to the same, or substantially similar, extent as the Guarantor with respect to all other guaranties or other Performance Assurances provided by the same Guarantor in support of all other EEI Master Power Purchase and Sale Agreements, all transactions thereunder, and/or all other contracts that would be Covered Direct QFCs, between Party A and affiliates of Party B; or

(6) CPP Event of Default: after the QFC Stay Period that is related directly or indirectly to the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, becoming subject to an Insolvency Proceeding, in the case that the guaranty or other Performance Assurance, as the Covered Affiliate Credit Enhancement, is transferred to a Transferee, then either:

(i) all of the ownership interests of Party A, as the Direct Party, directly or indirectly held by the Guarantor of Party A’s obligations, as 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 Guarantor of Party A’s obligations, as 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;

(as designated in Section 252.84(f)(4) of the FRB Rules, Section 382.4(f)(4) of the FDIC Rules, and Section 47.5(f)(4) of the OCC Rules); and

Corresponding Event of Default: an Event of Default with respect to the Guarantor of Party A’s obligations under Section 5.1(h)(iii) of this Agreement, provided, that the following additional Commercial Provisions are required: this Agreement includes a provision requiring either (a) the Guarantor of Party A’s obligations to be a direct or indirect parent of Party A, or (b) if the Guarantor of Party A’s obligations is providing a guaranty, such guaranty from the Guarantor of Party A’s obligations is a parent guaranty or a guaranty by a credit worthy affiliate.

(iii) Creditor Protection Events of Default Related to FDI Act Proceedings under Section 252.84(h) of the FRB Rules, Section 382.4(h) of the FDIC Rules, and Section 47.5(h) of the OCC Rules of the Creditor Protection Provisions of the QFC Stay Rules.

(1) CPP Event of Default. With respect to this Agreement, as a Covered Direct QFC that is supported by a Covered Affiliate Credit Enhancement, the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, becoming subject to proceedings under the FDI Act, if, at any time after the applicable FDI Act Stay Period, any guaranty or other Performance Assurance provided by the Guarantor in support of Party A’s obligations, as the Covered Affiliate Credit Enhancement, is not transferred pursuant to 12 U.S.C. 1821(e)(9)-(e)(10) and any regulations promulgated thereunder; and

Corresponding Event of Default: an Event of Default with respect to the Guarantor of Party A’s obligations under Section 5.1(h)(iii) of this Agreement, provided, that the following additional Commercial Provisions are required: None; or

(2) CPP Event of Default. With respect to this Agreement, as a Covered Direct QFC that is supported by a Covered Affiliate Credit Enhancement, the Guarantor of Party A’s obligations, as the Covered Affiliate Support Provider, becoming subject to proceedings under the FDI Act, then, during the applicable FDI Act Stay Period, such event shall be considered an Event of Default with respect to Party A, as the Direct Party, under Section 5.1(h)(iii) of this Agreement, as the Covered Direct QFC, but only to the extent necessary to permit Party B, as the Counterparty Entity, to suspend its performance pursuant to Section 5.7 of this Agreement with respect to the Counterparty Entity’s obligations under this Agreement, as the Covered Direct QFC, to the same extent as such Counterparty Entity would be entitled under the FDI Act to suspend its performance under this Agreement, if this Agreement were with such Covered Affiliate Support Provider and were treated in the same manner as such Covered Affiliate Credit Enhancement under the FDI Act and Section 5.7 of this Agreement; and

Corresponding Event of Default: an Event of Default with respect to the Guarantor of Party A’s obligations under Section 5.1(h)(iii) of this Agreement, provided, that the following additional Commercial Provisions are required: None.

(h) Definitions. For purposes of this Article 11, capitalized terms used in this Article 11, and not otherwise defined, shall have the meanings set forth below. Capitalized terms used in this Article 11 without definition shall have the meanings assigned to them under the QFC Stay Rules.

“**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).

“**Counterparty Entity**” means each party to this Agreement that is not a Covered Entity.

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

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

“**Covered Direct QFC**” means a Direct QFC to which a Covered Entity is a party (including all transactions thereunder). This Agreement is a Covered Direct QFC.

“**Covered Entity**” means a “covered entity” as described in Section 252.82(b) of the FRB Rules, a “covered FSI” as described in Section 382.2(b) of the FDIC Rules, or a “covered bank” as described in Section 47.3(b) of the OCC Rules.

“**Credit Enhancement**” means any credit enhancement or credit support arrangement in support of the obligations of a Covered Entity or the Counterparty Entity under or with respect to this Agreement, 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 or any similar arrangement.

“**Creditor Protection Provisions**” means those provisions of the QFC Stay Rules set forth in Sections 252.84(d), (f) and (h) of the FRB Rules, Sections 382.4(d), (f), and (h) of the FDIC Rules, and Sections 47.5(d), (f), and (h) of the OCC Rules.

“**Default Right**” has the meaning set forth in Section 252.81 of the FRB Rules, Section 382.1 of the FDIC Rules, and Section 47.2 of the OCC Rules (12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable), which QFC Stay Rules specify that “***Default right***(1) Means, with respect to a QFC, any: (i) 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 (ii) 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; [and]

(2) With respect to [§ 252.84 of the FRB Rules, or § 382.4 of the FDIC Rules, or § 47.5 of the OCC Rules, as applicable], 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.” (Emphasis added.)

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

“**Direct QFC**” means a QFC that is not a credit enhancement, provided, that, 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 the Covered Affiliate Credit Enhancement.

“**FDI Act Stay Period**” means, in connection with an FDI Act proceeding, the period of time during which a party to a QFC with a party that is subject to an FDI Act proceeding may not exercise any right that the party that is not subject to an FDI Act proceeding has to terminate, liquidate, or net such QFC, in accordance with section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) and any implementing regulations.

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

“**ISDA U.S. Protocol**” means the ISDA 2018 U.S. Resolution Stay Protocol, published by the International Swaps and Derivatives Association, Inc. as of July 31, 2018.

“**QFC Stay Period**” means, with respect to an Insolvency Proceeding, the period of time beginning on the commencement of the Insolvency Proceeding and ending at the later of 5:00 p.m. (eastern time) on the business day following the date of the commencement of the Insolvency Proceeding and 48 hours after the commencement of the Insolvency Proceeding.

“**QFC Stay Rules**” means the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require (A) an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and (B) the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements. Collectively, the QFC Stay Rules issued by the U.S. Bank Regulators comprise: (i) with respect to a “covered entity” described in 12 C.F.R. 252.82(b) (i.e., a Covered Entity that is subject to regulation by the FRB), the regulations that are codified at 12 C.F.R. 252.2, 252.81 – 252.88 (the “**FRB Rules**”); (ii) with respect to a “covered FSI” described in 12 C.F.R. 382.2(b) (i.e., a Covered Entity that is subject to regulation by the FDIC), the regulations that are codified at 12 C.F.R. 382.1 - 382.7 (the “**FDIC Rules**”); and (iii) with respect to a “covered bank” described in 12 C.F.R 47.3(b) (i.e., a Covered Entity that is subject to regulation by the OCC), the regulations that are codified at 12 C.F.R. 47.1 - 47.8 (the “**OCC Rules**”).

“**Qualified Financial Contract**” or “**QFC**” has the same meaning as in section 210(c)(8)(D) of Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5390(c)(8)(D)).

“**Supported Party**” means, with respect to a Covered Affiliate Credit Enhancement and the Direct QFC that the Covered Affiliate Credit Enhancement supports, a party that is a beneficiary of the covered affiliate support provider’s obligation(s) under the Covered Affiliate Credit Enhancement.

“**Transferee**” means a person to whom a guaranty, provided by Party A’s Guarantor, is transferred upon Party A’s Guarantor entering an Insolvency Proceeding or thereafter as part of the resolution, restructuring, or reorganization involving Party A’s Guarantor.

“**U.S. Bank Regulators**” refers to the Federal Deposit Insurance Corporation (“**FDIC**”), the Office of the Comptroller of the Currency (“**OCC**”) and the Board of Governors of the Federal Reserve System (“**FRB**”).

“**U.S. Special Resolution Regimes**” means (i) the Federal Deposit Insurance Act (12 U.S.C. 1811-1835a), and the regulations promulgated thereunder, and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381-5394), and the regulations promulgated thereunder.

1. As specified in Section 252.83(a) of the FRB Rules, Section 47.4(a) of the OCC Rules, and Section 382.3(a) of the FDIC Rules, these Sections 11.1(a) and (b) are not required for certain in-scope QFCs that: (i) are contracts that are subject to US laws and (ii) are contracts in which each party that is not a Covered Entity is, essentially, a US Person. Nevertheless, for ease of reference elsewhere in this Agreement, Section 11.1 has been included. [↑](#footnote-ref-1)
2. *See* 12 C.F.R. 47.5(i); 12 C.F.R. 252.84(i); 12 C.F.R. 382.4(i). [↑](#footnote-ref-2)
3. Sections 252.84(d), (f) and (h) of the FRB Rules, Sections 382.4(d), (f), and (h) of the FDIC Rules, and Sections 47.5(d), (f), and (h) of the OCC Rules, which are the “**Creditor Protection Provisions**” of the QFC Stay Rules, correspond to Paragraphs (g)(i), (g)(ii) and (g)(iii) of this Section 11.4. [↑](#footnote-ref-3)
4. **IECA NTD**: For more information, see the QFC User’s Guide to IECA’s QFC Stay Rule Compliance Documents (“IECA QFC User’s Guide”), which is available on the IECA website (www.ieca.net). [↑](#footnote-ref-4)