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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X		Chapter 11
In re:	:	
	:	Case No. 11-15059 (MG)
MF GLOBAL HOLDINGS LTD., <i>et al.</i> ,	:	
	:	(Jointly Administered)
Debtors.	:	
-----X		
MF GLOBAL HOLDINGS USA INC. by and through	:	
MF GLOBAL HOLDINGS LTD., as Plan Administrator,	:	
	:	
Plaintiff,	:	
	:	
-against-	:	
	:	Adversary Proceeding
HEARTLAND CO-OP,	:	No.: 16-_____(MG)
	:	
	:	
Defendant.	:	
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**ADVERSARY COMPLAINT FOR
BREACH OF CONTRACT AGAINST HEARTLAND CO-OP**

Plaintiff, MF Global Holdings USA Inc. (“MF Global Holdings USA”), by and through MF Global Holdings Ltd. (“MF Global”), the Plan Administrator under the *Second Amended and Restated Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code for MF Global Holdings Ltd., MF Global Finance USA Inc., MF Global Capital LLC, MF Global FX Clear LLC, MF Global Market Services LLC, and MF Global Holdings USA Inc.* (the

“Plan”) [Docket No. 1382], for its Complaint against Heartland Co-Op (“Heartland” or the “Defendant”), hereby states as follows:

I. SUMMARY OF ACTION

1. This action arises from Heartland’s five year long effort to shirk its responsibility to compensate MF Global Market Services, LLC (“MFGMS”) for MFGMS’s gains on its portfolio of over-the-counter (“OTC”) derivatives trades with Heartland between the date of MF Global’s bankruptcy filing and the date when Heartland chose to terminate those trades.

2. Under the parties’ standard-form 1992 International Swaps and Derivatives Association Master Agreement (the “ISDA Master”), Heartland was contractually entitled to designate a date of its choosing (the “Early Termination Date”) for termination of the parties’ derivatives transactions after MF Global’s bankruptcy, on which date (or as soon as practicable thereafter) Heartland was required to calculate the parties’ current net loss or gain on those transactions (pursuant to an ISDA Master measure referred to as “Loss”). The ISDA Master further provided that Loss would be settled through a one-time payment to the in-the-money counterparty.

3. When MF Global declared bankruptcy on October 31, 2011, the current mark-to-market value of Heartland’s portfolio of OTC derivatives transactions with MFGMS was largely collateralized. Specifically, at that time, MFGMS had a mark-to-market gain on the portfolio of \$14,934,509.61, which was covered by a cumulative total of \$14,628,221.07 in collateral posted by Heartland to MFGMS on Thursday October 27, 2011, the last day on which the parties exchanged collateral. The \$306,288.54 difference between the collateral posted and the mark-to-market value of the portfolio on October 31, 2011 reflected the portion of the market move during the interim period not covered by “independent margin” (*i.e.*, the initial \$700,000 margin amount Heartland had agreed to post at the outset of the parties’ trading relationship in order to

protect MFGMS against mark-to-market movements in the price of Heartland's derivatives positions in between collateral calls). Thus, had Heartland designated October 31, 2011 as the Early Termination Date, the Loss on the portfolio—and therefore the payment owed by Heartland to MFGMS upon early termination—would have been largely covered by collateral previously posted by Heartland. In fact, had Heartland honored a collateral call it received, but ignored, on October 28, 2011—this inaction being itself an independent breach of the parties' credit support agreement—collateral posted to MFGMS would have covered the entire Loss amount, and Heartland would have owed MFGMS nothing.

4. Instead, Heartland chose to wait eight days after the Event of Default before designating the Early Termination Date on November 8, 2011. During that eight day period, the mark-to-market value of the parties' derivatives transactions moved in MFGMS's favor by approximately \$1.42 million. Under the plain terms of the parties' ISDA Master, Heartland was therefore required to compensate MFGMS for that market move between October 31, 2011 and November 8, 2011, just as MFGMS would have been required to compensate Heartland had the market moved in the opposite direction during that period.

5. In the face of this clear contractual obligation, Heartland has gone to great lengths to avoid payment. First, Heartland failed for over four years to deliver the valuation statement it was required to prepare under the ISDA Master, and avoided or otherwise ignored a year's worth of repeated requests from MF Global, starting in October 2014, for delivery of the valuation statement. Indeed, Heartland only delivered a valuation statement after MF Global provided Heartland with MF Global's own trade-by-trade calculation of Loss on October 28, 2015, showing total Loss as \$1,734,098.25 plus interest owing to MFGMS.

6. In response to MF Global's calculation of Loss, Heartland produced one of its own, purporting to show a Loss amount of only \$47,614.96 owing to MFGMS. In order to achieve this result, Heartland deviated radically from anything resembling a commercially reasonable valuation of the portfolio, as well as from the valuation methodology used for the entirety of the parties' trading relationship before MF Global's bankruptcy.

7. Among other errors, Heartland ignored critical components of the parties' OTC derivatives trades that had significant value to MFGMS. For example, many of the commodities derivatives transactions Heartland entered into with MFGMS allowed Heartland to either sell corn above the then-current market price at the time the transaction was entered into, or buy it below the then-current market price. In order to make the economics of such transactions work for Heartland, the transactions included certain protection for MFGMS so that Heartland's right to buy below or sell above the market would terminate if the market price of corn futures rose above (in the case of sales) or fell below (in the case of purchases) a pre-agreed level or "barrier". Despite being fully aware of the value of these knock-out features—which were valued as part of the daily valuation of the parties' trading portfolio under the ISDA Master for the calculation of margin—Heartland completely ignores them in its Loss calculation, pretending it received premium pricing from MFGMS for nothing in return. Relatedly, Heartland completely ignores other trades where it sold options to MFGMS, despite the obvious and ongoing value of those options to MFGMS and Heartland's obligation to value Loss on the entire portfolio, not just those trades that it arbitrarily selected.

8. In light of these and other similar errors, Heartland's calculation statement fails to provide a good faith and commercially reasonable calculation of Loss, and its refusal to pay MFGMS amounts owed under the ISDA Master is a material breach of that agreement. MFGMS

has since assigned, transferred, and distributed its rights under the ISDA Master to its parent, MF Global Holdings USA. Therefore, as explained in more detail below, MF Global respectfully requests that this Court enter judgment against Heartland for breach of contract and award MF Global Holdings USA damages in the amount of \$1,734,098.25 plus interest at the Default Rate¹ of 9.5 percent per annum from the Early Termination Date to present, as well as costs, attorneys' fees, and such other relief as this Court deems just and proper.

II. PARTIES

9. Plaintiff **MF Global Holdings USA** is a New York corporation and a wholly-owned subsidiary of MF Global. It is the assignee of all assets, including legal claims, formerly held by non-party MFGMS, the operating subsidiary of MF Global responsible for engaging in the derivatives transactions at issue in this case. As Plan Administrator under the confirmed plan of liquidation [Docket No. 1382] in the jointly administered chapter 11 cases of MF Global and certain affiliated debtors (collectively, the "Debtors"),² and parent of MF Global Holdings USA, MF Global is responsible for managing and liquidating assets, including legal claims, held by MF Global Holdings USA and making distributions to creditors of the Debtors' estates.

10. Defendant **Heartland** is a cooperative organized and existing under the laws of the State of Iowa, located at 2829 Westown Parkway, Suite 350, in West Des Moines, Iowa. Heartland provides commodity hedging services to more than 5,800 members, including the sale

¹ The "Default Rate" is the "Applicable Rate" for payments owed under Section 6(e) of the ISDA Master ("Payments on Early Termination") and is "a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum." ISDA Master § 14 at 14 (definition of "Default Rate"); *see also id.* (definition of "Applicable Rate," paragraph (b)).

² The Debtors consist of MF Global, MF Global Finance USA Inc., MF Global Capital LLC, MF Global FX Clear LLC, MFGMS, and MF Global Holdings USA. On February 11, 2016, the Court entered an order of final decree closing the chapter 11 cases of MF Global Capital LLC, MF Global FX Clear LLC, and MFGMS.

of tens of millions of bushels of corn each year in both the futures and OTC derivatives markets. During the timeframe when Heartland began trading OTC derivatives with MFGMS, it had nearly \$1 billion in annual sales and over \$200 million in total assets listed on its balance sheet.

III. VENUE AND JURISDICTION

11. This adversary proceeding is commenced pursuant to Rules 7001 and 7003 of the Federal Rules of Bankruptcy Procedure.

12. The Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. §§ 1334(b) and (e). This Adversary Proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O). MF Global Holdings USA consents to the entry of final orders or judgment by the Court if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution. The Court expressly retained broad jurisdiction under Article XII of the Plan [Docket No. 1382 at 73-74] and in the Order Confirming Amended and Restated Joint Plan of Liquidation [Docket No. 1288 at 42 ¶ 89], and this proceeding is part of the liquidation of estate assets under the Plan. The Court has core jurisdiction over this dispute, which involves the disposition of property of the estate and requires interpretation and enforcement of agreements and orders over which this Court expressly retained exclusive jurisdiction. [See, e.g., Docket No. 1288 ¶¶ 14(h)(iv), 89; Docket No. 1382 at 45]. This Court's exercise of its jurisdiction is necessary to preserve the objectives of the Bankruptcy Code and to avoid inequitable distributions as the Plan Administrator, under the supervision of the Court, marshals one of the final remaining material assets of the Debtors' estates.

13. This Court has personal jurisdiction over Heartland because Heartland has "irrevocably . . . submit[ted] to the jurisdiction of . . . the United States District Court located in

the Borough of Manhattan in New York City” under the ISDA Master and “waive[d] the right to object . . . that such Court does not have any jurisdiction over such party.” ISDA Master § 13(b).

14. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

IV. FACTUAL ALLEGATIONS

A. The Parties’ ISDA Master Agreement

15. On April 9, 2010, MFGMS and Heartland entered into a standard-form 1992 ISDA Master, which is attached hereto as Exhibit A. The contract contained certain standard-form provisions and included a schedule by which the parties customized the terms of the ISDA Master.

16. Section 5(a)(vii) of the ISDA Master provides that an Event of Default occurs when, among other things, either party to the contract or any Credit Support Provider, in this case, MF Global, files for bankruptcy. In the schedule to the ISDA Master, MFGMS and Heartland agreed that, in the case of such an Event of Default, the parties’ transactions would not terminate automatically, but that the party which had not defaulted (the “Non-defaulting Party”) would have the right to terminate them by designating an Early Termination Date. *See* ISDA Master § 6(a) & Schedule Part 1(g).

17. The parties further agreed that, in the case of such an early termination, the amount payable would be determined by the “Loss” method, which provides:

[W]ith respect to this Agreement . . . and a party, the Termination Currency Equivalent of an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement . . . including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them).

ISDA Master § 14 at 15 (definition of “Loss”). The ISDA Master requires that the Non-defaulting Party determine Loss “as of the Early Termination Date”—a date chosen by the Non-

defaulting Party, *see id.* § 6(a)—“or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable,” *id.* § 14 at 15. Through the Loss mechanism, the Non-defaulting Party has either a right to collect its total losses and costs or an obligation to pay to the Defaulting Party its gains associated with the termination of transactions under the ISDA Master, as of the Early Termination Date.

18. The ISDA Master further directs the Non-defaulting Party to “provide to the other party a statement [the “Statement”] (1) showing in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid.” *Id.* § 6(d)(i); *see also* 1992 User’s Guide § 4(c)(iv) (“The Non-defaulting Party is the party that makes the relevant determination in this case.”). The Statement must be delivered “[o]n or as soon as reasonably practicable following the occurrence of an Early Termination Date” *Id.*

B. Transactions Under The Parties’ ISDA Master

19. Having entered into the ISDA Master, the parties proceeded to enter into approximately 280 over-the-counter (“OTC”) derivatives transactions under the ISDA Master that were outstanding at the Early Termination Date,³ primarily referencing corn futures. The portfolio was particularly concentrated in trades referencing corn futures contracts for December 2011 (using the Chicago Board of Trade standard-form futures contract, known as “December 2011 CBOT Corn”), which accounted for more than 65% of the total trading activity. The parties also entered into a handful of trades referencing futures contracts for March, July, and December 2012 CBOT Corn, and December 2013 CBOT Corn, as well as a limited number of trades referencing futures contracts on soy beans and heating oil.

³ These 280 transactions are memorialized in 534 trade confirmations, as many of the trades were executed in packages memorialized in two separate trade confirmations.

20. The overwhelming majority of Heartland's trades were Premium Sales Swap Knock-out Accumulator (or "PSS KO Accumulator") transactions referencing contracts for the future delivery of corn, in which Heartland was the seller and MFGMS was the buyer. In these trades, Heartland agreed to sell a set volume of corn futures contracts every day (or, in some instances, every week) at a set price, provided that the current market price of those futures contracts stayed above an agreed-upon level, known as a knock-out barrier. In this sense, Heartland accumulated a growing futures position over time to sell corn at a constant price, unless and until the price of the underlying futures contract traded below the knock-out level, at which point sales of the futures contract stop accumulating, and all remaining, unaccumulated obligations under the PSS KO Accumulator are canceled.

21. PSS KO Accumulator transactions are similar to plain vanilla futures contracts insofar as the contract seller (Heartland) locks in a future price for its product (corn), while the contract buyer (MFGMS) agrees to enter into a contract for future delivery of corn futures at that set price. However, the structure of these accumulators allowed Heartland to get a better price—*i.e.*, to sell at a price above the then-current market, referred to as the "Premium Sales Level"—than it would otherwise achieve in the market. However, in exchange it also agreed that Heartland's right to sell at above-market prices would terminate if market prices fell below a pre-agreed level, providing protection for MFGMS against prices moving too far below the parties' agreed-upon price. Specifically, Heartland has agreed to knock-out barriers, which protect MFGMS by halting the accumulation of contracts to buy corn at the Premium Sales Level when current market prices drop to an agreed-upon level below that Premium Sales Level. If and when the price of the reference contract reaches the knock-out barrier, the contract terminates—*i.e.*, Heartland stops accumulating additional notional amounts of the reference contract at the

Premium Sales Level—and MFGMS is protected against further growth of its unfavorable position.

22. PSS KO Accumulator transactions can be best understood by illustration. The trade memorialized by OTC Swap Confirmation Number 12199 (“Trade 12199”), which is attached hereto as Exhibit B, is an example of PSS KO Accumulator. Its key terms are the following:

Trade Date	April 14, 2010
Total Notional Quantity	200,000 bushels
Notional Quantity per Trading Date during the Calculation Period	486.618 bushels per business day
Reference Contract	December 2011 CBOT Corn
Termination Date	November 25, 2011
Premium Sales Level	\$4.8800 per bushel
Barrier Level	\$3.50 per bushel

23. Taking these material terms, Trade 12199 functions as follows: On April 14, 2010 (the “Trade Date”), Heartland agreed to sell and MFGMS agreed to purchase futures contracts for *up to* 200,000 bushels (the “Total Notional Amount”) of December 2011 CBOT Corn (the “Reference Contract”), to be delivered on November 25, 2011 (the “Termination Date”) at a price of \$4.8800 per bushel (the “Premium Sales Level”). Between the Trade Date and Termination Date, on each day when 2011 CBOT Corn contracts trade at the Chicago Mercantile Exchange, Heartland accumulates one additional “unit” of a futures contract referencing December 2011 CBOT Corn with a notional amount of 486.618 bushels (the “Notional Quantity per Calculation Period”)—a number determined by dividing the Total

Notional Amount by the number of trading days between the Trade Date and Termination Date—at the Premium Sales Level of \$4.8800, unless and until the Reference Contract trades down to a price of \$3.50 per bushel (the “Barrier Level”), at which point the contract terminates. If and when the Barrier Level is reached, Heartland remains entitled to delivery of the previously accumulated Notional Quantity of futures contracts referencing December 2011 CBOT Corn at the Premium Sale Price, but is not entitled to the unaccumulated Notional Quantity (*i.e.*, the difference between the previously accumulated Notional Quantity and the Total Notional Quantity).

24. The Premium Sales Level of \$4.8800 per bushel was well above the then-current market price for December 2011 CBOT Corn on the Trade Date, which closed at only \$4.1325. Heartland was able to sell corn at \$0.7475 above the then-current market price because of the offsetting value of the knock-out feature embedded in the trade which protected MFGMS against falling prices on the Reference Contract beyond an agreed-upon amount. Stated differently, the premium price afforded to Heartland under Trade 12199 was funded by the value of the protection provided to MFGMS, which capped its potential losses on the trade.

25. Heartland was very familiar with PSS KO Accumulator structure from the very outset of its trading relationship with MFGMS, and was fully familiar with the significance of the knock-out feature in pricing PSS KO Accumulator transactions. Indeed, Heartland represented to MFGMS that, as of August 2009, around when the parties initiated their trading relationship, Heartland was selling 90 million bushels of corn annually, including using accumulator transactions with knock-out features. Heartland’s website, to this day, markets similar accumulator transactions with knock-out features to its members, including

“Accumulator – PSS KO (Weekly Double)”; “Accumulator – PSS KO (Euro Double)”; and “Accumulator – PSS KO Either/Or – Guaranteed Quantity”.⁴

26. Because Heartland was an overall seller of corn futures in its OTC derivatives book with MF Global, and its selling activity was heavily concentrated in derivatives referencing futures contracts on December 2011 CBOT Corn like Trade 12199, the value of Heartland’s positions would go up if the price of futures contracts on December 2011 CBOT Corn went down—because the Premium Sales Level locked in by its trades would become more favorable relative to the then-current market price for that reference contract—and the value of its positions would go down if the price of futures contracts on December 2011 CBOT Corn went up—because the future price locked in by its trades would become less favorable relative to the then-current market price for that reference contract.

B. Daily Margining Of The Heartland OTC Derivatives Portfolio

27. At the same time as they entered into the ISDA Master, Heartland and MFGMS entered into a Credit Support Annex (“CSA”), which was appended to the ISDA Master and governed the collateralization of their OTC derivatives trading book. The CSA provided that either MFGMS or Heartland had a daily obligation to post collateral to its counterparty to cover any mark-to-market move in the value of the parties’ OTC derivatives contracts under the ISDA Master. CSA ¶ 13(c)(2). Thus, if the value of Heartland’s portfolio of trades with MFGMS (the “Heartland Portfolio”) from Heartland’s perspective went up on any given day, MFGMS was required to post additional collateral to Heartland. If, on the other hand, the value of the Heartland Portfolio went down, Heartland was required to post additional collateral to MFGMS.

⁴ See Heartland Co-op, *Heartland Grain Programs*, <http://www.heartlandcoop.com/pages/custom.php?id=152> (last visited Jan. 2, 2017).

28. In determining daily margining for the Heartland Portfolio, the parties were required to agree to the valuation of that portfolio on a daily basis. The CSA provides for a dispute resolution mechanism to resolve disagreements over the proper mark-to-market determinations for daily margining. CSA ¶ 5. Heartland and MFGMS never had a disagreement over valuation that required implementation of these formal dispute resolution provisions. Critically, Heartland and MFGMS always included the value of all positions between them, including the value of all features of each outstanding trade, in the daily mark-to-market valuation of the Heartland Portfolio.

29. Over the parties' year and half-long trading relationship, the value of the Heartland Portfolio moved in MFGMS's favor, mainly because the price of corn rose. As a result, Heartland was required to post margin to MFGMS in order to cover its mark-to-market losses. As of October 27, 2011, the last time when the parties transferred margin under the CSA before MF Global's bankruptcy filing, Heartland had posted \$14,628,221.07 of cash margin to cover these losses. Thus, as of that date, the parties agreed that the value of their OTC derivatives portfolio was \$13,928,221.07 in MFGMS's favor (*i.e.*, \$14,628,221.07 in total collateral less \$700,000 in independent margin), using a valuation methodology that valued all the material elements of their trades.

C. MF Global's Bankruptcy And Heartland's Selection Of The Early Termination Date

30. On the morning of October 31, 2011, MF Global filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, triggering an Event of Default under the ISDA Master because MF Global was a guarantor of MFGMS's obligations and a designated Credit Support Provider under the ISDA Master. Thereafter, on December 19, 2011, MFGMS also

filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code and on March 2, 2012, MF Global Holdings USA filed a voluntary petition for relief under Chapter 11.

31. As the Non-defaulting Party, Heartland had the right to select the Early Termination Date for the transactions governed by the ISDA Master, as of which date it would be required to calculate the Loss for purposes of making the termination payment. ISDA Master § 6(a). Heartland decided to wait a full eight days after MF Global's bankruptcy filing triggered an Event of Default under the ISDA Master before sending MFGMS a letter, dated November 8, 2011 (the "Early Termination Letter," attached hereto as Ex. C) designating November 8, 2011, as the Early Termination Date.

32. In that letter, Heartland acknowledged its obligation, "[a]s soon as reasonably practicable following the Early Termination Date," to "provide [MFGMS] with a statement in accordance with Section 6(d) ('Calculations') (i) ('Statement') of the Agreement specifying the payments due in relation to the Early Termination Date."

C. The Value Of The Terminated Transactions Moves Against Heartland

33. During the eight day period between the date of MFGMS's default under the ISDA Master and Heartland's designation of November 8, 2011 as the Early Termination Date, the market price of futures contracts on December 2011 CBOT Corn increased by \$0.135 from \$6.470 per bushel to \$6.605 per bushel. The market prices for all other corn futures contracts referenced by Heartland's trades with MFGMS increased as well. Due to Heartland's concentrated position as a seller of futures contracts on corn, and on December 2011 CBOT Corn in particular, this increase in the market price caused the value of the Heartland Portfolio to move significantly in MFGMS's favor. Between October 31, 2011 and November 8, 2011, the value of MFGMS's trading position with Heartland under the ISDA Master increased by

approximately \$1.42 million. Combined with the change in mark-to-market between October 27, 2011—the last date when the parties’ transferred collateral under the CSA—and October 31, 2011, this change in value accounts for the \$1,734,098.25 owing to MFGMS under the definition of Loss.

34. Because Heartland stopped posting collateral to cover the daily moves in the market value of its derivatives portfolio on October 27, 2011, the move in the market value of Heartland’s derivatives portfolio was not accounted for in the margin previously posted from Heartland to MFGMS. As a result, at the time of the Early Termination Date, MFGMS was under-secured on a properly calculated Loss amount by the total \$1,734,098.25 market move between October 27, 2011 and the Early Termination Date.

35. Heartland could have avoided the overwhelming majority of this adverse move in the value of its portfolio if it had designated October 31, 2011 as the Early Termination Date, on which date it would have owed just \$306,288.54. If it had done so, Heartland would have locked in a Loss calculation as of the Early Termination Date at or close to the mark-to-market value used for the purpose of margining under the CSA, and avoided any significant additional losses. Instead, Heartland chose to wait for over a week to terminate. As a result, it must compensate MFGMS for the market move during that period, just as MFGMS would be required to compensate Heartland if the market had moved in the opposite direction.

C. The Parties’ Dispute Over Calculation Of Loss

36. Notwithstanding Heartland’s recognition of its obligation to deliver a valuation statement to MFGMS “as soon as reasonably practicable” after the Early Termination date, it failed to do so for over four years. Indeed, Heartland ignored repeated requests from MF Global personnel to provide such a valuation statement for over a year between October 2014 and

October 2015, and during that timeframe refused to engage in good faith discussions regarding its determination of the Loss amount.

37. Without any valuation statement from Heartland, MF Global was forced to perform its own calculation of Loss. Using market-standard valuation techniques that employ the same methods used by the parties to determine daily margining of the Heartland Portfolio prior to the bankruptcy filing, MF Global determined that the Loss on the Heartland Portfolio was -\$16,263,319.32,⁵ which was \$1,734,098.25 more than the \$14,628,221.07 in collateral posted by Heartland to MFGMS as of the Early Termination Date. In other words, after accounting for collateral already provided by Heartland to MFGMS as of the Early Termination Date, Heartland continued to owe MFGMS \$1,734,098.25, plus interest accruing thereafter at the Default Rate. MF Global provided this calculation to Heartland on October 28, 2015. *See* Oct. 28, 2015 Letter from L. Ferber to T. Hauschel, attached hereto as Ex. D.

38. The valuation statement provided by MF Global to Heartland properly calculates Loss as \$1,734,098.25. This amount reflects the mark-to-market move in the value of Heartland's portfolio of OTC derivative transactions between October 27, 2011, at which point Heartland stopped posting margin on the portfolio, and the Early Termination Date chosen by Heartland, twelve days later. It is consistent with the valuation methodology that the parties employed under the CSA for the entire life of their trading relationship.

39. Only after MF Global provided its calculation of Loss did Heartland finally produce its own valuation statement. By letter dated November 19, 2015, Heartland provided what it claims is its good faith determination of Loss, finding that amount to equal -\$47,614.96 (*i.e.*, \$47,614.96, plus interest, owed by Heartland to MFGMS).

⁵ The Loss is stated as a negative number because it reflects a negative mark-to-market on the Heartland Portfolio from Heartland's perspective.

40. Heartland's purported calculation of Loss radically departs from valuation techniques that had been accepted and employed for the Heartland Portfolio throughout the parties' relationship, and wholly fails to account for the features of those transactions that distinguish them from plain vanilla futures contracts. For example, Heartland's calculation completely ignores the knock-out feature in all of the PSS KO Accumulator transactions where Heartland agreed to sell and MFGMS agreed to buy futures contracts referencing corn, which provided MFGMS a hedge against the market price of those futures contracts moving too far in Heartland's favor, notwithstanding the fact that the strike price on the contract—literally referred to as the *Premium* Sales Level—was provided at a premium to market in light of this embedded hedge. Erroneous valuation techniques of this type account for approximately \$1.2 million out of the total valuation difference.

41. Out of the \$1.2 million difference associated with Heartland's failure to value material features of the parties' trades, \$759,198.00 of that mark-to-market difference is based on a single trade documented under confirmation number 80449 ("Trade 80449"; attached hereto as Ex. E). That trade was an OTC Synthetic Consumer Hedge-to-Arrive (or "HTA") transaction, entered into on October 11, 2011 (the "Trade Date"), where—in contrast to most other transactions in the Heartland Portfolio—Heartland agreed to *buy* and MFGMS agreed to *sell* futures contracts on July 2012 CBOT Corn in a Notional Quantity of 500,000 bushels at a Synthetic Price of \$5.20 per bushel on June 22, 2012 (the "Expiration Date"). On the Trade Date, the closing price of July 2012 CBOT Corn was \$6.6925. The trade included a knock-out feature, which provided that if and when the market price of futures contracts on July 2012 CBOT Corn traded above \$7.50 per bushel (the "Barrier Level"), the entire contract would knock-out completely, meaning that MFGMS would be excused from delivery of any futures

contracts in the Notional Amount on the Expiration Date, and Heartland would not be required to pay the Synthetic Price on the Expiration Date. Trade 80449's knock-out feature is what allowed Heartland to buy July 2012 CBOT Corn \$1.4925 below the then-current market price (*i.e.*, \$5.20 rather than \$6.6925) so long as the price of July 2012 CBOT Corn futures did not exceed \$7.50 per bushel between the Trade Date and Expiration Date. The knock-out feature provided MFGMS protection against the value of the trade moving too far in Heartland's favor, a material term of the contract because the trade would be cancelled in its entirety if current market prices for the Reference Contract went too far above the Synthetic Price at any time before the Expiration Date. When MFGMS was buying corn futures from Heartland (at above-market prices) the knock-out level acted as a floor against the price of the Reference Contract moving too far below the agreed-upon price in the parties' OTC derivative contract, as described above. When, as here, MFGMS was selling corn futures to Heartland (at below-market prices), the knock-out level acted as a ceiling against the price of the Reference Contract moving too far above the agreed-upon price in the parties' OTC derivative contract.

42. In calculating Loss, Heartland valued Trade 80449 as if it were a plain vanilla futures contract, ignoring entirely the fact that Heartland had been allowed to buy CBOT July 2012 Corn at \$1.4925 below its then-current market price in substantial part because the trade would knock-out if prices rose dramatically, effectively capping MFGMS's risk. Without this feature, Heartland would never have been able execute Trade 80449 at zero-cost, *i.e.*, where neither party had to pay an upfront premium. Nevertheless, Heartland valued Trade 80449 as worth \$794,150.00 to Heartland as of the Early Termination Date, despite having agreed that it was worth just \$27,460.19 to Heartland on October 27, 2011. The absurdity of Heartland's calculation is well-illustrated by applying its valuation methodology to determine the "value" of

Trade 80449 as of October 11, 2011—the date on which Heartland and MFGMS entered into the trade. Accepting Heartland’s valuation methodology described above, Trade 80449 would have been worth approximately \$745,000 in Heartland’s favor on October 11th—*i.e.*, the discount to market (\$1.4925) * the notional value (500,000 bushels)—meaning that MFGMS would have essentially gifted three-quarters of a million dollars to Heartland for nothing in return. Of course, that was not the case, and Heartland’s methodology for calculating Loss massively overstates the value of Trade 80449, which was actually worth only \$34,952.00 to Heartland as of the Early Termination Date.

43. Several other errors in Heartland’s calculation of Loss account for the remaining difference in valuation. *First*, Heartland’s calculation simply fails to value several trades where Heartland sold MFGMS options to buy or sell futures contracts on corn. Since these trades represented long option positions owned by MFGMS, some with over a year until expiration, they had real economic value for MFGMS that is not accounted for in Heartland’s valuation statement.⁶ These trades account for approximately \$350,000 out of the total valuation difference. *Second*, Heartland inaccurately recorded certain trade terms in its valuation model (*e.g.*, by conflating the Premium Sales Level with the Double Up Level, *see* Trade 16459), and these errors account for approximately \$70,000 out of the total valuation difference. *Third*, Heartland’s calculation is based on unjustified market inputs and assumptions, which account for the remaining differential in the calculation of Loss.

⁶ The trade bearing the confirmation number 80450 (“Trade 80450”), which was entered into as a package with Trade 80449, discussed above, provides an example of this error. In Trade 80450, Heartland sold MFGMS an option to sell a futures contract on 500,000 bushels of July 2012 CBOT Corn at \$5.20 per bushel. Heartland assigns no value to this trade when, in fact, it was worth \$44,370.26 to MFGMS on the Early Termination Date.

44. Heartland has not provided an adequate or coherent explanation for its deviation in the calculation of Loss from standard valuation techniques, nor has it justified its departure from the parties' daily mark-to-market valuation of their OTC derivatives book under the CSA, which measured the value of options embedded in the Heartland Portfolio for over 18 months without a single valuation dispute. Instead, Heartland's Loss calculation can only be explained as a deliberate effort to bilk MFGMS, MF Global Holdings USA, and its creditors out of amounts rightfully owed.

D. The Assignment Of MFGMS's Claims To MF Global Holdings USA

45. Having fully satisfied all allowed claims against MFGMS pursuant to the Plan, the Plan Administrator moved this Court on or about January 25, 2016 to close the Chapter 11 case of MFGMS. The Court granted the motion by Order and Final Decree dated February 11, 2016.

46. On or about that time, the remaining cash, assets, legal claims, and receivables of MFGMS were assigned, transferred and distributed to MF Global Holdings USA, including MFGMS's contractual rights, legal claims, and receivables under the ISDA Master. As assignee of MFGMS's claims under the ISDA Master, MF Global Holdings USA has standing to pursue the contract claims set forth in this Complaint.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Breach Of Contract Against Heartland)

47. MF Global repeats and realleges each of the allegations contained in paragraphs 1 through 45 above as if fully set forth herein.

48. MFGMS and Heartland were parties to the ISDA Master, which is a valid and binding contract governing the operation of OTC derivative transactions between MFGMS and Heartland entered into thereunder.

49. Under Part 1(f)(i) of the Schedule to the ISDA Master, MFGMS and Heartland agreed that payments upon Early Termination would be calculated pursuant to the Loss method.

50. Under Section 6(d)(i) of the ISDA Master, Heartland, as the Non-defaulting Party, was responsible for preparing and delivering to MFGMS “[o]n or as soon as reasonably practicable following the occurrence of an Early Termination Date” a Statement showing in reasonable detail its calculation of Loss.

51. The Loss method requires that Heartland calculate, “with respect to this Agreement . . . the Termination Currency Equivalent of an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement . . . including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them).” ISDA Master § 14 at 15 (definition of “Loss”).

52. Heartland breached its obligation to pay MFGMS an amount properly calculated pursuant to the definition of Loss, reflecting its gains associated with the termination of all transactions under the parties’ ISDA Master.

53. Heartland further breached its obligation to deliver the aforementioned Statement by failing to do so for over four years following its designation of November 8, 2011 as the Early Termination Date, and by delivering a Statement that failed to calculate Loss in good faith and in accordance with the definition of Loss incorporated into the ISDA Master.

54. MFGMS suffered financial harm as a result of Heartland's breaches and is entitled to damages in an amount to be determined at trial.

55. In February 2016, MFGMS assigned, transferred and distributed its contractual rights, legal claims, and receivables under the ISDA Master to its parent, MF Global Holdings USA, including its right to payment of a properly calculated Loss amount.

REQUEST FOR RELIEF

WHEREFORE, MF Global Holdings USA, by and through MF Global as Plan Administrator, respectfully requests that the Court enter judgment:

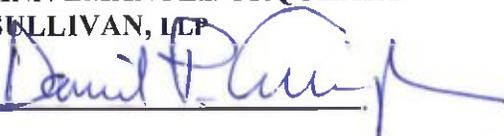
A. Awarding MF Global Holdings USA, as assignee and successor in interest to MFGMS, damages in an amount commensurate with the value of all the Loss improperly withheld by Heartland totaling at least \$1,734,098.25 plus interest at the Default Rate of 9.5 percent from the Early Termination Date to present;

B. Awarding MF Global Holdings USA, as assignee and successor in interest to MFGMS, costs and disbursements of this action and attorneys' fees; and

C. Granting such other and further relief as the Court deems just and proper.

Dated: January 3, 2017
New York, New York

**QUINN EMANUEL URQUHART
& SULLIVAN, LLP**

By: 

Daniel P. Cunningham
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*Counsel for MF Global Holdings Ltd.,
As Plan Administrator, and MF Global
Holdings USA Inc.*

EXHIBIT A

(Multicurrency — Cross Border)



International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of

..... and

have entered and/or anticipate entering into one or more transactions (each a “Transaction”) that are or will be governed by this Master Agreement, which includes the schedule (the “Schedule”), and the documents and other confirming evidence (each a “Confirmation”) exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows: —

1. Interpretation

- (a) **Definitions.** The terms defined in Section 14 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.
- (b) **Inconsistency.** In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.
- (c) **Single Agreement.** All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this “Agreement”), and the parties would not otherwise enter into any Transactions.

2. Obligations

- (a) **General Conditions.**
 - (i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.
 - (ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.
 - (iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

(b) **Change of Account.** Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) **Netting.** If on any date amounts would otherwise be payable:—

- (i) in the same currency; and
- (ii) in respect of the same Transaction,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of Offices through which the parties make and receive payments or deliveries.

(d) **Deduction or Withholding for Tax.**

(i) **Gross-Up.** All payments under this Agreement will be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, then in effect. If a party is so required to deduct or withhold, then that party ("X") will:—

- (1) promptly notify the other party ("Y") of such requirement;
- (2) pay to the relevant authorities the full amount required to be deducted or withheld (including the full amount required to be deducted or withheld from any additional amount paid by X to Y under this Section 2(d)) promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against Y;
- (3) promptly forward to Y an official receipt (or a certified copy), or other documentation reasonably acceptable to Y, evidencing such payment to such authorities; and
- (4) if such Tax is an Indemnifiable Tax, pay to Y, in addition to the payment to which Y is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by Y (free and clear of Indemnifiable Taxes, whether assessed against X or Y) will equal the full amount Y would have received had no such deduction or withholding been required. However, X will not be required to pay any additional amount to Y to the extent that it would not be required to be paid but for:—

(A) the failure by Y to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d); or

(B) the failure of a representation made by Y pursuant to Section 3(f) to be accurate and true unless such failure would not have occurred but for (I) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (II) a Change in Tax Law.

(ii) **Liability.** If: —

- (1) X is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, to make any deduction or withholding in respect of which X would not be required to pay an additional amount to Y under Section 2(d)(i)(4);
- (2) X does not so deduct or withhold; and
- (3) a liability resulting from such Tax is assessed directly against X,

then, except to the extent Y has satisfied or then satisfies the liability resulting from such Tax, Y will promptly pay to X the amount of such liability (including any related liability for interest, but including any related liability for penalties only if Y has failed to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d)).

(e) **Default Interest; Other Amounts.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(f), at all times until the termination of this Agreement) that:—

(a) **Basic Representations.**

- (i) **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;
- (ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorise such execution, delivery and performance;
- (iii) **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;
- (iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and
- (v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

(e) **Payer Tax Representation.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(e) is accurate and true.

(f) **Payee Tax Representations.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(f) is accurate and true.

4. Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:—

(a) **Furnish Specified Information.** It will deliver to the other party or, in certain cases under subparagraph (iii) below, to such government or taxing authority as the other party reasonably directs:—

(i) any forms, documents or certificates relating to taxation specified in the Schedule or any Confirmation;

(ii) any other documents specified in the Schedule or any Confirmation; and

(iii) upon reasonable demand by such other party, any form or document that may be required or reasonably requested in writing in order to allow such other party or its Credit Support Provider to make a payment under this Agreement or any applicable Credit Support Document without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of the party in receipt of such demand), with any such form or document to be accurate and completed in a manner reasonably satisfactory to such other party and to be executed and to be delivered with any reasonably required certification,

in each case by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

(b) **Maintain Authorisations.** It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) **Comply with Laws.** It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

(d) **Tax Agreement.** It will give notice of any failure of a representation made by it under Section 3(f) to be accurate and true promptly upon learning of such failure.

(e) **Payment of Stamp Tax.** Subject to Section 11, it will pay any Stamp Tax levied or imposed upon it or in respect of its execution or performance of this Agreement by a jurisdiction in which it is incorporated,

organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting for the purpose of this Agreement is located (“Stamp Tax Jurisdiction”) and will indemnify the other party against any Stamp Tax levied or imposed upon the other party or in respect of the other party’s execution or performance of this Agreement by any such Stamp Tax Jurisdiction which is not also a Stamp Tax Jurisdiction with respect to the other party.

5. Events of Default and Termination Events

(a) **Events of Default.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an “Event of Default”) with respect to such party:—

(i) **Failure to Pay or Deliver.** Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

(ii) **Breach of Agreement.** Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) or to give notice of a Termination Event or any agreement or obligation under Section 4(a)(i), 4(a)(iii) or 4(d)) to be complied with or performed by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) **Credit Support Default.**

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party; or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) **Misrepresentation.** A representation (other than a representation under Section 3(e) or (f)) made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) **Default under Specified Transaction.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) **Cross Default.** If “Cross Default” is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however

described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

(vii) **Bankruptcy**. The party, any Credit Support Provider of such party or any applicable Specified Entity of such party: —

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) **Merger Without Assumption**. The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer: —

(1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) **Termination Events**. The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, a Tax Event if the event is specified in (ii) below or a Tax Event Upon Merger if the event is specified in (iii) below, and, if specified to be applicable, a Credit Event

Upon Merger if the event is specified pursuant to (iv) below or an Additional Termination Event if the event is specified pursuant to (v) below:—

- (i) **Illegality.** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party): —
- (1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or
 - (2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;
- (ii) **Tax Event.** Due to (x) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (y) a Change in Tax Law, the party (which will be the Affected Party) will, or there is a substantial likelihood that it will, on the next succeeding Scheduled Payment Date (1) be required to pay to the other party an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount is required to be deducted or withheld for or on account of a Tax (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) and no additional amount is required to be paid in respect of such Tax under Section 2(d)(i)(4) (other than by reason of Section 2(d)(i)(4)(A) or (B));
- (iii) **Tax Event Upon Merger.** The party (the “Burdened Party”) on the next succeeding Scheduled Payment Date will either (1) be required to pay an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount has been deducted or withheld for or on account of any Indemnifiable Tax in respect of which the other party is not required to pay an additional amount (other than by reason of Section 2(d)(i)(4)(A) or (B)), in either case as a result of a party consolidating or amalgamating with, or merging with or into, or transferring all or substantially all its assets to, another entity (which will be the Affected Party) where such action does not constitute an event described in Section 5(a)(viii);
- (iv) **Credit Event Upon Merger.** If “Credit Event Upon Merger” is specified in the Schedule as applying to the party, such party (“X”), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or
- (v) **Additional Termination Event.** If any “Additional Termination Event” is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).
- (c) **Event of Default and Illegality.** If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. Early Termination

(a) **Right to Terminate Following Event of Default.** If at any time an Event of Default with respect to a party (the “Defaulting Party”) has occurred and is then continuing, the other party (the “Non-defaulting Party”) may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, “Automatic Early Termination” is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

(b) **Right to Terminate Following Termination Event.**

(i) **Notice.** If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

(ii) **Transfer to Avoid Termination Event.** If either an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there is only one Affected Party, or if a Tax Event Upon Merger occurs and the Burdened Party is the Affected Party, the Affected Party will, as a condition to its right to designate an Early Termination Date under Section 6(b)(iv), use all reasonable efforts (which will not require such party to incur a loss, excluding immaterial, incidental expenses) to transfer within 20 days after it gives notice under Section 6(b)(i) all its rights and obligations under this Agreement in respect of the Affected Transactions to another of its Offices or Affiliates so that such Termination Event ceases to exist.

If the Affected Party is not able to make such a transfer it will give notice to the other party to that effect within such 20 day period, whereupon the other party may effect such a transfer within 30 days after the notice is given under Section 6(b)(i).

Any such transfer by a party under this Section 6(b)(ii) will be subject to and conditional upon the prior written consent of the other party, which consent will not be withheld if such other party’s policies in effect at such time would permit it to enter into transactions with the transferee on the terms proposed.

(iii) **Two Affected Parties.** If an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.

(iv) **Right to Terminate.** If: —

(1) a transfer under Section 6(b)(ii) or an agreement under Section 6(b)(iii), as the case may be, has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

(2) an Illegality under Section 5(b)(i)(2), a Credit Event Upon Merger or an Additional Termination Event occurs, or a Tax Event Upon Merger occurs and the Burdened Party is not the Affected Party,

either party in the case of an Illegality, the Burdened Party in the case of a Tax Event Upon Merger, any Affected Party in the case of a Tax Event or an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then

continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) ***Effect of Designation.***

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(e) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) ***Calculations.***

(i) ***Statement.*** On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) ***Payment Date.*** An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment) in the Termination Currency, from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) ***Payments on Early Termination.*** If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss", and a payment method, either the "First Method" or the "Second Method". If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method", as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) ***Events of Default.*** If the Early Termination Date results from an Event of Default: —

(1) ***First Method and Market Quotation.*** If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party over (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party.

(2) ***First Method and Loss.*** If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) ***Second Method and Market Quotation.*** If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the

Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party less (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(4) *Second Method and Loss*. If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(ii) **Termination Events**. If the Early Termination Date results from a Termination Event: —

(1) *One Affected Party*. If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(i)(3), if Market Quotation applies, or Section 6(e)(i)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(2) *Two Affected Parties*. If there are two Affected Parties: —

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount ("X") and the Settlement Amount of the party with the lower Settlement Amount ("Y") and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (II) the Termination Currency Equivalent of the Unpaid Amounts owing to Y; and

(B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss ("X") and the Loss of the party with the lower Loss ("Y").

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

(iii) **Adjustment for Bankruptcy**. In circumstances where an Early Termination Date occurs because "Automatic Early Termination" applies in respect of a party, the amount determined under this Section 6(e) will be subject to such adjustments as are appropriate and permitted by law to reflect any payments or deliveries made by one party to the other under this Agreement (and retained by such other party) during the period from the relevant Early Termination Date to the date for payment determined under Section 6(d)(ii).

(iv) **Pre-Estimate**. The parties agree that if Market Quotation applies an amount recoverable under this Section 6(e) is a reasonable pre-estimate of loss and not a penalty. Such amount is payable for the loss of bargain and the loss of protection against future risks and except as otherwise provided in this Agreement neither party will be entitled to recover any additional damages as a consequence of such losses.

7. Transfer

Subject to Section 6(b)(ii), neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that: —

- (a) a party may make such a transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and
- (b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(e).

Any purported transfer that is not in compliance with this Section will be void.

8. Contractual Currency

(a) **Payment in the Contractual Currency.** Each payment under this Agreement will be made in the relevant currency specified in this Agreement for that payment (the “Contractual Currency”). To the extent permitted by applicable law, any obligation to make payments under this Agreement in the Contractual Currency will not be discharged or satisfied by any tender in any currency other than the Contractual Currency, except to the extent such tender results in the actual receipt by the party to which payment is owed, acting in a reasonable manner and in good faith in converting the currency so tendered into the Contractual Currency, of the full amount in the Contractual Currency of all amounts payable in respect of this Agreement. If for any reason the amount in the Contractual Currency so received falls short of the amount in the Contractual Currency payable in respect of this Agreement, the party required to make the payment will, to the extent permitted by applicable law, immediately pay such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall. If for any reason the amount in the Contractual Currency so received exceeds the amount in the Contractual Currency payable in respect of this Agreement, the party receiving the payment will refund promptly the amount of such excess.

(b) **Judgments.** To the extent permitted by applicable law, if any judgment or order expressed in a currency other than the Contractual Currency is rendered (i) for the payment of any amount owing in respect of this Agreement, (ii) for the payment of any amount relating to any early termination in respect of this Agreement or (iii) in respect of a judgment or order of another court for the payment of any amount described in (i) or (ii) above, the party seeking recovery, after recovery in full of the aggregate amount to which such party is entitled pursuant to the judgment or order, will be entitled to receive immediately from the other party the amount of any shortfall of the Contractual Currency received by such party as a consequence of sums paid in such other currency and will refund promptly to the other party any excess of the Contractual Currency received by such party as a consequence of sums paid in such other currency if such shortfall or such excess arises or results from any variation between the rate of exchange at which the Contractual Currency is converted into the currency of the judgment or order for the purposes of such judgment or order and the rate of exchange at which such party is able, acting in a reasonable manner and in good faith in converting the currency received into the Contractual Currency, to purchase the Contractual Currency with the amount of the currency of the judgment or order actually received by such party. The term “rate of exchange” includes, without limitation, any premiums and costs of exchange payable in connection with the purchase of or conversion into the Contractual Currency.

(c) **Separate Indemnities.** To the extent permitted by applicable law, these indemnities constitute separate and independent obligations from the other obligations in this Agreement, will be enforceable as separate and independent causes of action, will apply notwithstanding any indulgence granted by the party to which any payment is owed and will not be affected by judgment being obtained or claim or proof being made for any other sums payable in respect of this Agreement.

(d) **Evidence of Loss.** For the purpose of this Section 8, it will be sufficient for a party to demonstrate that it would have suffered a loss had an actual exchange or purchase been made.

9. Miscellaneous

- (a) **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.
- (b) **Amendments.** No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.
- (c) **Survival of Obligations.** Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.
- (d) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.
- (e) **Counterparts and Confirmations.**
- (i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.
- (ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex or electronic message constitutes a Confirmation.
- (f) **No Waiver of Rights.** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.
- (g) **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.

10. Offices; Multibranch Parties

- (a) If Section 10(a) is specified in the Schedule as applying, each party that enters into a Transaction through an Office other than its head or home office represents to the other party that, notwithstanding the place of booking office or jurisdiction of incorporation or organisation of such party, the obligations of such party are the same as if it had entered into the Transaction through its head or home office. This representation will be deemed to be repeated by such party on each date on which a Transaction is entered into.
- (b) Neither party may change the Office through which it makes and receives payments or deliveries for the purpose of a Transaction without the prior written consent of the other party.
- (c) If a party is specified as a Multibranch Party in the Schedule, such Multibranch Party may make and receive payments or deliveries under any Transaction through any Office listed in the Schedule, and the Office through which it makes and receives payments or deliveries with respect to a Transaction will be specified in the relevant Confirmation.

11. Expenses

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees and Stamp Tax, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document

to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

12. Notices

(a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received;
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or
- (v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.

(b) **Change of Addresses.** Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

13. Governing Law and Jurisdiction

(a) **Governing Law.** This Agreement will be governed by and construed in accordance with the law specified in the Schedule.

(b) **Jurisdiction.** With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably:—

- (i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City, if this Agreement is expressed to be governed by the laws of the State of New York; and
- (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) **Service of Process.** Each party irrevocably appoints the Process Agent (if any) specified opposite its name in the Schedule to receive, for it and on its behalf, service of process in any Proceedings. If for any

reason any party's Process Agent is unable to act as such, such party will promptly notify the other party and within 30 days appoint a substitute process agent acceptable to the other party. The parties irrevocably consent to service of process given in the manner provided for notices in Section 12. Nothing in this Agreement will affect the right of either party to serve process in any other manner permitted by law.

(d) **Waiver of Immunities.** Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

14. Definitions

As used in this Agreement:—

“Additional Termination Event” has the meaning specified in Section 5(b).

“Affected Party” has the meaning specified in Section 5(b).

“Affected Transactions” means (a) with respect to any Termination Event consisting of an Illegality, Tax Event or Tax Event Upon Merger, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions.

“Affiliate” means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, “control” of any entity or person means ownership of a majority of the voting power of the entity or person.

“Applicable Rate” means:—

- (a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate;
- (b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate;
- (c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate; and
- (d) in all other cases, the Termination Rate.

“Burdened Party” has the meaning specified in Section 5(b).

“Change in Tax Law” means the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (or in the application or official interpretation of any law) that occurs on or after the date on which the relevant Transaction is entered into.

“consent” includes a consent, approval, action, authorisation, exemption, notice, filing, registration or exchange control consent.

“Credit Event Upon Merger” has the meaning specified in Section 5(b).

“Credit Support Document” means any agreement or instrument that is specified as such in this Agreement.

“Credit Support Provider” has the meaning specified in the Schedule.

“Default Rate” means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum.

“Defaulting Party” has the meaning specified in Section 6(a).

“Early Termination Date” means the date determined in accordance with Section 6(a) or 6(b)(iv).

“Event of Default” has the meaning specified in Section 5(a) and, if applicable, in the Schedule.

“Illegality” has the meaning specified in Section 5(b).

“Indemnifiable Tax” means any Tax other than a Tax that would not be imposed in respect of a payment under this Agreement but for a present or former connection between the jurisdiction of the government or taxation authority imposing such Tax and the recipient of such payment or a person related to such recipient (including, without limitation, a connection arising from such recipient or related person being or having been a citizen or resident of such jurisdiction, or being or having been organised, present or engaged in a trade or business in such jurisdiction, or having or having had a permanent establishment or fixed place of business in such jurisdiction, but excluding a connection arising solely from such recipient or related person having executed, delivered, performed its obligations or received a payment under, or enforced, this Agreement or a Credit Support Document).

“law” includes any treaty, law, rule or regulation (as modified, in the case of tax matters, by the practice of any relevant governmental revenue authority) and **“lawful”** and **“unlawful”** will be construed accordingly.

“Local Business Day” means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

“Loss” means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, the Termination Currency Equivalent of an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except, so as to avoid duplication, if Section 6(e)(i)(1) or (3) or 6(e)(ii)(2)(A) applies. Loss does not include a party’s legal fees and out-of-pocket expenses referred to under Section 11. A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets.

“Market Quotation” means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the “Replacement Transaction”) that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have

been required after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

“Non-default Rate” means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount.

“Non-defaulting Party” has the meaning specified in Section 6(a).

“Office” means a branch or office of a party, which may be such party’s head or home office.

“Potential Event of Default” means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

“Reference Market-makers” means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable, from among such dealers having an office in the same city.

“Relevant Jurisdiction” means, with respect to a party, the jurisdictions (a) in which the party is incorporated, organised, managed and controlled or considered to have its seat, (b) where an Office through which the party is acting for purposes of this Agreement is located, (c) in which the party executes this Agreement and (d) in relation to any payment, from or through which such payment is made.

“Scheduled Payment Date” means a date on which a payment or delivery is to be made under Section 2(a)(i) with respect to a Transaction.

“Set-off” means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

“Settlement Amount” means, with respect to a party and any Early Termination Date, the sum of: —

(a) the Termination Currency Equivalent of the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and

(b) such party’s Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result.

“Specified Entity” has the meanings specified in the Schedule.

“Specified Indebtedness” means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

“Specified Transaction” means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

“Stamp Tax” means any stamp, registration, documentation or similar tax.

“Tax” means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment under this Agreement other than a stamp, registration, documentation or similar tax.

“Tax Event” has the meaning specified in Section 5(b).

“Tax Event Upon Merger” has the meaning specified in Section 5(b).

“Terminated Transactions” means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if “Automatic Early Termination” applies, immediately before that Early Termination Date).

“Termination Currency” has the meaning specified in the Schedule.

“Termination Currency Equivalent” means, in respect of any amount denominated in the Termination Currency, such Termination Currency amount and, in respect of any amount denominated in a currency other than the Termination Currency (the “Other Currency”), the amount in the Termination Currency determined by the party making the relevant determination as being required to purchase such amount of such Other Currency as at the relevant Early Termination Date, or, if the relevant Market Quotation or Loss (as the case may be), is determined as of a later date, that later date, with the Termination Currency at the rate equal to the spot exchange rate of the foreign exchange agent (selected as provided below) for the purchase of such Other Currency with the Termination Currency at or about 11:00 a.m. (in the city in which such foreign exchange agent is located) on such date as would be customary for the determination of such a rate for the purchase of such Other Currency for value on the relevant Early Termination Date or that later date. The foreign exchange agent will, if only one party is obliged to make a determination under Section 6(e), be selected in good faith by that party and otherwise will be agreed by the parties.

“Termination Event” means an Illegality, a Tax Event or a Tax Event Upon Merger or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.

“Termination Rate” means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts.

“Unpaid Amounts” owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market

value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

MF Global Market Services LLC

Heartland Co-Op

(Name of Party)

(Name of Party)

By: 

By: 

Name: MF Global Market Services LLC

Name: Heartland Co-Op

Title: Frederick Demler

Title: CEO/General Mgr.

Date: April 8, 2010

Date: 4-9-10

Senior Vice President

Execution

(Multicurrency Cross Border)

Assumes 1992 ISDA

**SCHEDULE
to the
Master Agreement**

dated as of April 9, 2010

between

**MF Global Market Services LLC,
a New York limited liability company
("Party A")**

and

**Heartland Co-Op,
an Iowa cooperative association
("Party B")**

Part 1. Termination Provisions.

(a) **"Specified Entity"** means in relation to Party A for the purpose of:

- Section 5(a)(v): None.
- Section 5(a)(vi): None.
- Section 5(a)(vii): None.
- Section 5(b)(iv): None.

and in relation to Party B for the purpose of:

- Section 5(a)(v): Any entity (other than a Credit Support Provider in respect of Party B) that, at any relevant time, is a subsidiary, or managing member or a general partner, as appropriate, of Party B (a "Responsible Party").
- Section 5(a)(vi): Any Responsible Party.
- Section 5(a)(vii): Any Responsible Party.
- Section 5(b)(iv): None.

(b) **"Specified Transaction"** will have the meaning specified in Section 14 of this Agreement, except that Section 14 is hereby amended by adding, after the words "foreign exchange transaction" in the sixth line thereof, the text "commodity transaction, spot contract, forward contract, option on a spot or forward contract, credit derivative transaction, repurchase or reverse repurchase transaction, securities lending transaction, buy/sell-back transaction, futures transaction, prime brokerage or margin lending transaction". For this purpose and for the purpose of Part 6 of this Schedule, "Commodity" means any tangible or intangible commodity of any type or description (including, without limitation, electric energy and/or capacity, grain, petroleum and natural gas and the products and byproducts thereof). Notwithstanding the provisions of Section 5(a)(v), the failure to make any delivery on the due date therefor of the underlying security in a Specified Transaction that is a repurchase or reverse repurchase transaction shall not constitute a "Default under Specified Transaction" if such failure results from the failure of a non-affiliated entity to deliver such underlying securities in a separate repurchase or reverse repurchase transaction in respect of such securities.

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(c) **Cross Default**

(i) The “**Cross Default**” provisions of Section 5(a)(vi) will apply to Party A and will apply to Party B, provided, however, that:

- (A) Section 5(a)(vi) is amended by deleting in the seventh line thereof the words “, or becoming capable at such time of being declared,”;
- (B) “Cross Default” shall not include any default that is the result of mistake, administrative or back office error, wire transfer difficulties or an error or problem of an administrative or operational nature, so long as (x) funds were available to the relevant party to enable it to make the relevant payment when due and (y) payment is made within one (1) Local Business Day after receipt or written notice from the relevant holder of such Specified Indebtedness.

If such provisions apply:

(ii) “**Specified Indebtedness**” will not have the meaning specified in Section 14 of this Agreement but will mean any obligation in respect of the payment of money (whether present or future, contingent or otherwise, as principal or surety or otherwise.

(ii) “**Threshold Amount**” means for Party A, 2% of Party A’s Credit Support Provider’s shareholder equity as specified in that party’s latest published audited financial statements, or its equivalent in any other currency;

and for Party B, 2% of Party B’s shareholder equity as specified in that Party’s latest published audited financial statements, or its equivalent in any other currency.

In determining the amount to be included in “Threshold Amount” with respect to any Specified Indebtedness of the type referred to in the definition of Specified Transaction, the termination or settlement value of such Specified Indebtedness shall be used or, if not available, the amount to be used shall be the amount determined by the other party in accordance with customary valuation techniques in the relevant market and on the basis of information available to it to be the amount that would be required to be paid if such Specified Indebtedness were terminated as of the date of such determination.

(d) The “**Credit Event Upon Merger**” provision of Section 5(b)(iv) will apply to Party A and will apply to Party B provided, however, that the text thereof shall be deleted and the following substituted therefor:

“A ‘Credit Event upon Merger’ shall occur if a Designated Event (as defined below) occurs with respect to a party (‘X,’ which will be the Affected Party), such Designated Event does not constitute an event described in Section 5(a)(viii) and after such Designated Event the creditworthiness of X or, if applicable, the successor, surviving or transferee entity of X (X or, if applicable, such entity being the “Relevant Entity”) is Materially Weaker (as defined below).

“Designated Event” with respect to X means that, after the date of this Agreement:

- (A) X, any Credit Support Provider of X or any Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers, in any one transaction or a

Execution

series of transactions, all or substantially all its assets to, or receives all or substantially all the assets or obligations of, another entity;

- (B) any person or persons or entity or entities acquires directly or indirectly the beneficial ownership of equity securities having the power to elect a majority of the board of directors of X, any Specified Entity of X or any Credit Support Provider of X;
- (C) X, any Specified Entity of X or any Credit Support Provider of X enters into a leveraged buy-out, management buy-out, going private or similar transaction, in which there is a substantial change in its capital structure effected by means of the issuance, incurrence or guarantee of debt or the issuance of preferred stock or other securities convertible into, or exchangeable for, debt or preferred stock; or
- (D) X, any Specified Entity of X or any Credit Support Provider of X enters into any agreement providing for any of the foregoing.

“Materially Weaker” shall mean (I) if the Relevant Entity has a Credit Rating, such Credit Rating being below the lower of (A) the Credit Rating of X or its Credit Support Provider, if applicable, immediately prior to the Designated Event and (B) BBB- by S&P or Baa3 by Moody’s, or (II) if the Relevant Entity has no Credit Rating, the Policies (as defined below), in effect at the time, of the other party lead such other party, solely as a result of a change in the nature, character, identity or condition of X from its state (as a party to this agreement) prior to the Designated Event, and after taking into account any Credit Support Document, to decline to make an extension of credit to, or enter into a Transaction with, X. “Credit Rating” means with respect to an entity on any date of the determination thereof, the respective rating then assigned by Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) (“S&P”) and/or Moody’s Investor Services, Inc. (“Moody’s”) to the unsecured and unsubordinated long-term debt obligations (not supported by third-party credit enhancement) of (x) if such entity is not a party hereto, such entity, (y) if such entity is Party A, the Credit Support Provider of Party A or (z) if such entity is Party B, Party B. “Policies” means (x) (i) internal credit limits applicable to individual entities or (ii) other limits on doing business with entities domiciled or doing business in certain jurisdictions or engaging in certain activities, or (y) internal restrictions on doing business with entities with which the other party has had prior adverse business relations.”

- (e) The “**Automatic Early Termination**” provisions of Section 6(a) will not apply to Party A and will not apply to Party B.
- (f) **Payments on Early Termination.** For the purpose of Section 6(e) of this Agreement:
 - (i) Loss will apply.
 - (ii) The Second Method will apply.
- (g) “**Termination Currency**” means United States Dollars.

Execution

(h) **“Additional Termination Event”**

- (I) The following Additional Termination Event **will** apply to Party A and **will** apply to Party B:

Adequate Assurance. The failure of a party to this Agreement (the “First Party”) to give adequate assurances of its ability to perform any of its obligations under this Agreement within two (2) Local Business Days of a written request to do so when the other party (the “Second Party”) has reasonable grounds for insecurity shall be an Additional Termination Event. The First Party shall be the Affected Party in respect of this Additional Termination Event.

During the pendency of a reasonable request by the Second Party to the First Party for adequate assurances of the First Party’s ability to perform its obligations under the Agreement, the Second Party may, at its election and without penalty, suspend its obligations under the Agreement.

- (II) The following Additional Termination Event will apply to Party B only. The occurrence or existence of any of the following events or circumstances will constitute an Additional Termination Event in respect of Party B in which case Party B shall be the sole Affected Party and all Transactions will be Affected Transactions:

It shall be an Additional Termination Event if Party B does not provide its monthly balance sheet to Party A in a commercially reasonable time, following the last day of the reporting period.

Part 2. Tax Representations.

- (a) **Payer Representations.** For the purpose of Section 3(e) of the Agreement, Party A and Party B will make the following representation:—

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on (i) the accuracy of any representation made by the other party pursuant to Section 3(f) of this Agreement, (ii) the satisfaction of the agreement contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement and (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement, *provided* that it shall not be a breach of this representation where reliance is placed on clause (ii) and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its commercial or legal position.

- (b) **Payee Representations.** For the purpose of Section 3(f) of this Agreement:

- (i) Party A represents as follows:

- (A) Party A is a limited liability company duly organized and validly existing under the laws of the State of New York and is a disregarded entity for U.S. tax purposes. Party A’s taxpayer identification number is 02-0692193.
- (B) Party A is indirectly wholly-owned by MF Global Holdings USA Inc., a New York corporation whose taxpayer identification number is 13-1962847.

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(ii) Party B represents as follows:

Party B is a cooperative association duly organized and validly existing under the laws of the State of Iowa and is a resident of the United States of America.

Part 3. Agreement to Deliver Documents.

For the purpose of Sections 4(a)(i) and (ii) of this Agreement, each party agrees to deliver the following documents, as applicable:

(a) Tax forms, documents or certificates to be delivered:

Party Required to Deliver Document	Form/Document/Certificate	Date by which to be delivered
Party A and Party B	Any document or certificate reasonably required or reasonably requested by a party in connection with its obligations to make a payment under this Agreement which would enable that party to make the payment free from any deduction or withholding for or on account of Tax or as would reduce the rate at which deduction or withholding for or on account of Tax is applied to the payment.	On the first to occur of: (a) learning that the form or document is required; or (b) as soon as reasonably practicable following a written request by the other party

(b) Other documents to be delivered:

Party Required to Deliver Document	Form/Document/Certificate	Date by Which to be Delivered	Covered by Section 3(d) Representation
Party A and Party B	Incumbency certificate signed by an authorized officer certifying the names, true signatures and authority of those officers signing this Agreement, any Credit Support Document, any Confirmation, and any other documents delivered or to be delivered in connection with this Agreement.	Upon the execution of this Agreement and/or Credit Support Document and, if requested by a Party, as soon as practicable after execution of any Confirmation of any Transaction.	Yes
Party A and Party B	Officer's Certificate certifying the adoption of resolutions by the Board of Directors or Members, as is applicable, of such party and, where applicable, of such party's Credit Support Provider, in each	Upon the execution of this Agreement and/or Credit Support Document and, if requested by a Party, as soon as practicable after execution of any Confirmation of any	Yes

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	case, authorizing it to enter into, execute and deliver this Agreement and each Confirmation, in the case of a party, and the Credit Support Document in the case of a Credit Support Provider.	Transaction.	
Party A and Party B	Each Credit Support Document in respect of the party duly executed by such party or, where relevant, the Credit Support Provider in the form acceptable to the other Party.	Upon execution of this Agreement and/or Credit Support Document.	Yes
Party A	Unaudited financial statement of Party A.	120 days after the end of Party A's fiscal year	Yes
Party B	Audited financial statements of Party B.	120 days after the end of Party B's fiscal year; provided, that, publication on Party B's website shall constitute delivery.	No
Party B	Monthly balance sheet	Upon request by Party A in a commercially reasonable time following the last day of the reporting period.	No
Party A and Party B	Audited annual financial statements and unaudited semi-annual financial statements of the Credit Support Provider in respect of Party A and, if applicable, the Credit Support Provider in respect of Party B.	Upon request by the other Party.	No
Party A and Party B	Such other information and documents as the other party may reasonably request.	Upon request.	Yes

Execution

Part 4. Miscellaneous.

- (a) **Address for Notices.** For the purpose of Section 12(a) of this Agreement:

Address for notices or communications to Party A:

Address: MF Global Market Services LLC
717 Fifth Avenue
New York, New York 10022
Attention: OTC Energy
Facsimile: 212 589-6228
Telephone: 212 589-6300

A copy of any notice sent to Party A pursuant to Sections 5 or 6 must also be sent to:

Address: MF Global Inc.
717 Fifth Avenue, 9th Floor
New York, NY 10022
Attention: Credit Department
Facsimile: 212-589-6237
Telephone: 212-589-6262

A copy of any notice sent to Party A pursuant to Sections 5, 6, or 13(c) must also be sent to:

Address: MF Global Inc.
717 Fifth Avenue, 9th Floor
New York, NY 10022
Attention: Legal Department
Facsimile: 212-589-6236
Telephone: 212-589-6339

Address for notices or communications to Party B:

Address: Heartland Co-Op
2829 Westown Parkway, Suite 350
West Des Moines, IA 50266
Attention: Tom Hauschel
Facsimile: (515) 225-8511
Telephone: (515) 974-4359

- (b) **Process Agent.** Party A appoints as its Process Agent: Not Applicable.

Party B appoints as its Process Agent: Not Applicable.

The parties agree that, notwithstanding the penultimate sentence of section 12 hereof, service of process shall be given only by hand delivery in person or by courier.

- (c) **Offices.** The provisions of Section 10(a) will apply to this Agreement.

- (d) **Multibranch Party.** For purposes of Section 10(c) of this Agreement:

Party A is not a Multibranch Party.

Party B is not a Multibranch Party.

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- (e) **Calculation Agent.** The Calculation Agent is Party A, unless otherwise specified in a Confirmation in relation to the relevant Transaction; provided, that any failure by Party A to perform properly any obligation assumed by it to act as Calculation Agent for the purpose of any Transaction shall not constitute an Event of Default but shall entitle Party B to nominate itself or a third party reasonably selected by Party B as Calculation Agent and upon such nomination, Party B or such third party shall be Calculation Agent for the purposes of the relevant Transaction accordingly.
- (f) **Credit Support Document.** Details of any Credit Support Document:

With respect to Party A: (i) The ISDA Credit Support Annex annexed hereto, the terms and conditions of which are incorporated herein (the “Credit Support Annex”); and (ii) the Guarantee issued by Party A’s Credit Support Provider.

With respect to Party B: Credit Support Annex.
- (g) **Credit Support Provider.** Credit Support Provider means in relation to Party A, MF Global Holdings Ltd.

Credit Support Provider means in relation to Party B, Not Applicable.
- (h) **Governing Law; Exclusive Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the State of New York (without reference to choice of law doctrine except as set forth in Section 5-1401 of the New York General Obligations Law). Section 13(b) is amended by: (1) deleting “non-“ from the second line of clause (i); and (2) deleting the final paragraph.
- (i) **WAIVER OF JURY TRIAL. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY PROCEEDINGS RELATING TO THIS AGREEMENT OR ANY CREDIT SUPPORT DOCUMENT.**
- (j) **Netting of Payments.** Subparagraph (ii) of Section 2(c) of this Agreement will not apply to all Transactions.
- (k) **“Affiliate”** will have no meaning for purposes of this Agreement.

Part 5. Other Provisions.

- (a) **Scope of Agreement.** Notwithstanding anything in this Agreement to the contrary, if the parties enter into any Specified Transaction, such Specified Transaction shall be subject to, governed by and construed in accordance with the terms of this Agreement even where not so specified in the confirmation, and such confirmation shall constitute a “Confirmation” as referred to in this Agreement unless the confirmation relating thereto expressly provides that the relevant Specified Transaction is governed by the terms of another agreement. Each such Specified Transaction shall be a Transaction for the purposes of this Agreement.
- (b) **Definitions.** With respect to each Transaction, unless otherwise specified in a Confirmation, this Agreement and each such Transaction are subject to the 2006 ISDA Definitions, as published by the International Swaps and Derivatives Association, Inc. (“ISDA”), (the “Definitions”) (except that references to “Swap Transactions” will be deemed to be references to “Transactions”), which

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Definitions are incorporated herein by reference, and will be governed by the provisions of the Definitions, without regard to any amendments to the Definitions subsequent to the date hereof unless agreed to in writing by the parties hereto. In the event of any inconsistency between the provisions of this Agreement and the Definitions, this Agreement will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Agreement or the Definitions, such Confirmation will prevail for the purposes of the relevant Transaction.

(c) **Inconsistencies.** In the event of any inconsistencies, the parts of this Agreement shall rank as follows and the relevant term in the highest-ranking document shall prevail:

- (i) the Confirmation;
- (ii) Part 6 in relation to Commodity Transactions;
- (iii) this Schedule;
- (iv) the printed form of Agreement;
- (v) the Commodity Definitions in relation to Commodity Transactions; and
- (vi) the Definitions.

(d) **Non-fungible Agreement.** Each party acknowledges and agrees that neither this Agreement nor any Transaction is one of a fungible class of the agreements that are standardized as to their material economic terms, within the meaning of Regulation 35.2(b) of the CFTC Regulations, 17 C.F.R. Section 35.2(b).

(e) **Additional Representations.** Section 3 of this Agreement is hereby amended by adding the following additional subsections:

“(g) **Eligible Contract Participant.** It is an “eligible contract participant” within the meaning of section 1(a)(12) of the Commodity Exchange Act, as amended (7 U.S.C §§ 1, et. seq.).

(h) **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon any advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction; it being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered to be investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party shall be deemed to be an assurance or guarantee as to the expected results of that Transaction.

(i) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.

(j) **Status of Parties.** The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.

(k) **No Agency.** It is entering into this Agreement and each Transaction as principal and not as agent.”

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- (f) **Additional Party B Representations.** Without limiting the representations in Section 3, Party B represents and warrants to (which representations and warranties shall be deemed to be continuously repeated until the termination of this Agreement) and agrees with Party A as follows:
- (i) **Agricultural Swaps.** In respect of any Transaction relating to an agricultural commodity (as “commodity” is defined in Part 1(b) of this Schedule), it is an “eligible swap participant” within the meaning of CFTC Regulation 35.1(a)(2), as amended.
 - (ii) **Agricultural Options.** In respect of any Transaction that is an Option in respect of an agricultural commodity, (A) it is a producer, processor, commercial user of, or merchant handling, the commodity subject to the Transaction or the products or byproducts thereof and it has entered into such Transaction solely for purposes related to its business as such and (B) it has a net worth of not less than \$10 million or its obligation under the Option are guaranteed by a person that has a net worth of not less than \$10 million and has a majority interest in, is owned by, or under common ownership with Party B.
 - (iii) **Plan Assets.** Party B represents and warrants that the source of any of the funds or assets involved in any Transaction are not the assets of any “plan” (as such term is defined in Section 4975 of the Internal Revenue Code of 1986 (United States), as amended (the “Code”)) subject to Section 4975 of the Code or any “employee benefit plan” (as such term is defined in Section 3(3) of the United States’ Employee Retirement Income Security Act of 1974, as amended (“ERISA”)) subject to Title I of ERISA, or otherwise out of “plan assets” within the meaning of Section 3(42) of ERISA or United States Department of Labor regulation § 2510.3-101, 29CFR § 2510-3-101.
- (g) **Modified Representation.** For purposes of Section 3(d) of this Agreement, the following shall be added, immediately prior to the period at the end thereof:
- “; provided that, in the case of financial statements delivered by or on behalf of it, such financial statements fairly present the financial position of the relevant entity to which they relate as of the date of such financial statements”.
- (h) **No Consequential Damage.** No Party shall be required to pay or be liable to the other party for any consequential, indirect or punitive damages, opportunity costs or lost profits.
- (i) **Set-Off.** Section 6 of this Agreement is revised by adding a new subsection (f) as follows:
- “(f) **Set-off.** Any amount (the ‘Early Termination Amount’) payable to one party (the ‘Payee’) by the other party (the ‘Payer’) under Section 6(e), in circumstances where there is a Defaulting Party or one Affected Party in the case where any Termination Event under Section 5(b)(iv) has occurred, will, at the option of the party (‘X’) other than the Defaulting Party or the Affected Party (and without prior notice to the Defaulting Party or the Affected Party), be reduced by its set-off against any amount(s) (the ‘Other Agreement Amount’) payable (whether at such time or in the future or upon the occurrence of a contingency) by the Payee to the Payer (irrespective of the currency, place of payment or booking office of the obligation) under this Agreement or any other agreement(s) between the Payee and the Payer or instrument(s) or undertaking(s) issued

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or executed by one party to, or in favor of, the other party (and the Other Agreement Amount will be discharged promptly and in all respects to the extent it is so set-off). X will give notice to the other party of any set-off effected under this Section 6(f).

For this purpose, either the Early Termination Amount or the Other Agreement Amount (or the relevant portion of such amounts) may be converted by X into the currency in which the other is denominated at the rate of exchange at which X would be able, acting in a reasonable manner and in good faith, to purchase the relevant amount of such currency.

If an obligation is unascertained, X may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained.

Nothing in this Section 6(f) shall be effective to create a charge or other security interest. This Section 6(f) shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise).”

- (j) **Telephone Recording.** Each party (i) consents to the recording of the telephone conversations of its trading, operations and marketing personnel in connection with this Agreement or any potential Transaction by the other party and (ii) agrees that, to the extent otherwise admissible, any such recordings may be submitted in evidence if any Proceedings relating to this Agreement; provided, that in respect of any such Proceedings, such party agrees promptly to provide the other party, upon the other party’s request, with copies of any relevant tapes.
- (k) **Severability.** In the event any one or more of the provisions contained in the Agreement should be held invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby provided that this severability provision shall not be applicable if any provision of Section 1(a), 2, 5, 6 or 13 (or any definition or provision in Section 14 to the extent relating to any such section) shall be held invalid, illegal or unenforceable. The parties shall endeavor to engage in good faith negotiations to replace any invalid, illegal or unenforceable provision with a valid provision, the legal and economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provision.
- (l) **Delivery.** To the extent that a Party is obligated to make delivery pursuant to Section 2(a)(i), such delivering Party will have at the time of delivery to the other Party, good and marketable title to the delivered product and the delivered product will at such time be free and clear of all claims, pledges, liens, encumbrances or security interest(s) of every nature whatsoever; provided, however, that to the extent the delivered product is encumbered with liens for the benefit of the warehouseman and/or other bailee, the delivering Party shall be obligated to apply whatever portion of the payment it receives with respect to such delivery to cause such liens to be promptly released.
- (m) **Conditions Precedent.** The condition precedent in Section 2(a)(iii)(1) of the Agreement shall not apply with respect to a payment or delivery owing by a party in respect of a Transaction if the other party shall have satisfied in full all of its payment or delivery obligations under 2(a)(i) of the Agreement in respect of such Transaction and shall at the relevant time have no future payment or delivery obligations, whether absolute or contingent, under Section 2(a)(i) in respect of such Transaction.

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- (n) **Escrow.** If (whether by reason of the time difference between the cities in which payments are to be made or otherwise) it is not possible for simultaneous payments to be made on any date on which both parties are required to make payments hereunder, either party may on two Business Days notice elect for payments due on that date to be deposited in escrow. In such case deposit of the payment due earlier on that date shall be made not later than 2:00 p.m. (local time at the place for the earlier payment) on that date with an escrow agent selected by the notifying party (and to which the other party has failed to raise a reasonable objection), accompanied by irrevocable payment instructions (1) to release the deposited payment to the intended recipient upon receipt by the escrow agent of the required deposit of the corresponding payment from the other party on the same date accompanied by irrevocable payment instructions to the same effect or (2) if the required deposit of the corresponding payment is not made on that same date, to return the payment deposited to the party that paid it into escrow. The party that elects to have payments made in escrow shall pay all costs of the escrow arrangements.
- (o) **Limitations on Confirmation Override.** None of the provisions listed below in this Part 5(o) shall be overridden by the terms of a Confirmation that contradicts or is inconsistent with that provision unless the Confirmation is executed and delivered by an authorized signatory of Party B and the text immediately preceding the signature block states: “This Confirmation constitutes an amendment to _____ of the Agreement for purposes of the Transaction confirmed herein,” completed so as to identify the relevant provision listed below:
- (i) Part 1 of this Schedule (“Termination Events”);
 - (ii) Part 5(i) of this Schedule (“Set-Off”);
 - (iii) Part 6 of this Schedule (“Additional Terms for Commodity Transactions”);
 - (iv) Section 5 of this Agreement, as supplemented and amended by Part 1 of this Schedule (“Events of Default and Termination Events”);
 - (v) Section 6 of this Agreement (“Early Termination”); and
 - (vi) The Credit Support Annex, including paragraph 13 thereof.

To the extent that this provision is inconsistent with Section 1(b) or Section 9(b) of this Agreement or any statement in a Confirmation relating to inconsistencies with this Agreement, this provision will prevail.

- (p) **Impossibility.** The occurrence of an Impossibility shall also be a Termination Event as to which the Affected Party shall be the party that is subject to an Impossibility. For purposes of this Agreement, “Impossibility” shall mean the occurrence of a natural or man-made disaster, armed conflict, act of terrorism, riot, or any other circumstances beyond the control of a party after the date on which a Transaction is entered into which continues for a period of more than twenty (20) days and which occurrence or condition makes it impossible (other than as a result of its own misconduct) for such a party:
- (i) to perform any absolute or contingent obligation, to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such transaction; or

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- (ii) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction.

All terms and conditions of this Agreement applicable to an Illegality shall be equally applicable to an Impossibility and the definitions of Termination Event shall be amended to include Impossibility.

- (q) **Confirmations.** On or promptly following the date on which the parties reach agreement on the terms of a Transaction, as contemplated by the first sentence of Section 9(e)(ii), Party A will send to Party B a Confirmation. Party B will promptly thereafter confirm the accuracy of (in the manner required by Section 9(e)(ii)), or request, in writing, the correction of, such Confirmation (in the later case, indicating how it believes the terms of such Confirmation should be correctly stated and such other terms which should be added to or deleted from such Confirmation to make it correct). If any disputes shall arise as to whether an error exists in a Confirmation, the parties shall resolve the dispute in good faith. If Party B has not accepted or disputed the Confirmation in the manner set forth above within three (3) Local Business Days after it was received by Party B, the Confirmation shall be deemed binding as sent, absent manifest error.

Part 6 Additional Terms for Commodity Transactions

- (a) **Scope.** The terms and conditions of this Part 6 shall apply only to a Transaction which is of the nature of: (a) a transaction that is a commodity swap transaction, cross-commodity swap transaction, commodity cap transaction, commodity floor transaction, commodity collar transaction, commodity option transaction, commodity forward, commodity spot or any other similar transaction (including any Option with respect to any of these transactions), (b) a combination of these transactions and (c) any other transactions identified as a Commodity Transaction in the related Confirmation. Any such Transaction shall constitute a “Transaction” for the purposes of this Agreement and this Schedule, but shall be referred to in this Part 6 as a “Commodity Transaction”. “Commodity” shall have the meaning set out in Part 1(b) of this Schedule.
- (b) **Commodity Definitions.** The terms and provisions of the 2005 ISDA Commodity Derivatives Definitions, as published by ISDA, without regard to any supplement or modification thereto subsequent to the date of this Agreement (the “Commodity Definitions”) are hereby incorporated by reference.
- (c) **Market Disruption Events.** The following Market Disruption Events shall apply to Commodity Transactions between the parties:
 - (i) Price Source Disruption
 - (ii) Trading Suspension
 - (iii) Disappearance of Commodity Reference Price
 - (iv) Material Change in Formula
 - (v) Material Change in Content
 - (vi) Trading Limitation
- (d) **Disruption Fallbacks.**
 - (i) Fallback Reference Price
 - (ii) Postponement - 3 Maximum Days of Disruption

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- (iii) Negotiated Fallback
- (iv) Fallback Reference Dealers
- (v) No Fault Termination

[Signature page follows]

Execution

IN WITNESS WHEREOF, the parties have executed this Schedule by their duly authorized officers as of the date first written above.

MF Global Market Services LLC

By: 
Name: Frederick Demler
Title: Senior Vice President

Heartland Co-Op

By: 
Name: Larry Petesen
Title: CEO/General Mgr.

(Bilateral Form)

(ISDA Agreements Subject to New York Law Only)

ISDA®

International Swaps and Derivatives Association, Inc.

CREDIT SUPPORT ANNEX

to the Schedule to the

.....

dated as of

between

..... and

("Party A")

("Party B")

This Annex supplements, forms part of, and is subject to, the above-referenced Agreement, is part of its Schedule and is a Credit Support Document under this Agreement with respect to each party.

Accordingly, the parties agree as follows:—

Paragraph 1. Interpretation

(a) **Definitions and Inconsistency.** Capitalized terms not otherwise defined herein or elsewhere in this Agreement have the meanings specified pursuant to Paragraph 12, and all references in this Annex to Paragraphs are to Paragraphs of this Annex. In the event of any inconsistency between this Annex and the other provisions of this Schedule, this Annex will prevail, and in the event of any inconsistency between Paragraph 13 and the other provisions of this Annex, Paragraph 13 will prevail.

(b) **Secured Party and Pledgor.** All references in this Annex to the "Secured Party" will be to either party when acting in that capacity and all corresponding references to the "Pledgor" will be to the other party when acting in that capacity; *provided, however*, that if Other Posted Support is held by a party to this Annex, all references herein to that party as the Secured Party with respect to that Other Posted Support will be to that party as the beneficiary thereof and will not subject that support or that party as the beneficiary thereof to provisions of law generally relating to security interests and secured parties.

Paragraph 2. Security Interest

Each party, as the Pledgor, hereby pledges to the other party, as the Secured Party, as security for its Obligations, and grants to the Secured Party a first priority continuing security interest in, lien on and right of Set-off against all Posted Collateral Transferred to or received by the Secured Party hereunder. Upon the Transfer by the Secured Party to the Pledgor of Posted Collateral, the security interest and lien granted hereunder on that Posted Collateral will be released immediately and, to the extent possible, without any further action by either party.

Paragraph 3. Credit Support Obligations

(a) **Delivery Amount.** Subject to Paragraphs 4 and 5, upon a demand made by the Secured Party on or promptly following a Valuation Date, if the Delivery Amount for that Valuation Date equals or exceeds the Pledgor's Minimum Transfer Amount, then the Pledgor will Transfer to the Secured Party Eligible Credit Support having a Value as of the date of Transfer at least equal to the applicable Delivery Amount (rounded pursuant to Paragraph 13). Unless otherwise specified in Paragraph 13, the "**Delivery Amount**" applicable to the Pledgor for any Valuation Date will equal the amount by which:

(i) the Credit Support Amount

exceeds

(ii) the Value as of that Valuation Date of all Posted Credit Support held by the Secured Party.

(b) **Return Amount.** Subject to Paragraphs 4 and 5, upon a demand made by the Pledgor on or promptly following a Valuation Date, if the Return Amount for that Valuation Date equals or exceeds the Secured Party's Minimum Transfer Amount, then the Secured Party will Transfer to the Pledgor Posted Credit Support specified by the Pledgor in that demand having a Value as of the date of Transfer as close as practicable to the applicable Return Amount (rounded pursuant to Paragraph 13). Unless otherwise specified in Paragraph 13, the "**Return Amount**" applicable to the Secured Party for any Valuation Date will equal the amount by which:

(i) the Value as of that Valuation Date of all Posted Credit Support held by the Secured Party

exceeds

(ii) the Credit Support Amount.

"Credit Support Amount" means, unless otherwise specified in Paragraph 13, for any Valuation Date (i) the Secured Party's Exposure for that Valuation Date plus (ii) the aggregate of all Independent Amounts applicable to the Pledgor, if any, minus (iii) all Independent Amounts applicable to the Secured Party, if any, minus (iv) the Pledgor's Threshold; *provided, however*, that the Credit Support Amount will be deemed to be zero whenever the calculation of Credit Support Amount yields a number less than zero.

Paragraph 4. Conditions Precedent, Transfer Timing, Calculations and Substitutions

(a) **Conditions Precedent.** Each Transfer obligation of the Pledgor under Paragraphs 3 and 5 and of the Secured Party under Paragraphs 3, 4(d)(ii), 5 and 6(d) is subject to the conditions precedent that:

(i) no Event of Default, Potential Event of Default or Specified Condition has occurred and is continuing with respect to the other party; and

(ii) no Early Termination Date for which any unsatisfied payment obligations exist has occurred or been designated as the result of an Event of Default or Specified Condition with respect to the other party.

(b) **Transfer Timing.** Subject to Paragraphs 4(a) and 5 and unless otherwise specified, if a demand for the Transfer of Eligible Credit Support or Posted Credit Support is made by the Notification Time, then the relevant Transfer will be made not later than the close of business on the next Local Business Day; if a demand is made after the Notification Time, then the relevant Transfer will be made not later than the close of business on the second Local Business Day thereafter.

(c) **Calculations.** All calculations of Value and Exposure for purposes of Paragraphs 3 and 6(d) will be made by the Valuation Agent as of the Valuation Time. The Valuation Agent will notify each party (or the other party, if the Valuation Agent is a party) of its calculations not later than the Notification Time on the Local Business Day following the applicable Valuation Date (or in the case of Paragraph 6(d), following the date of calculation).

(d) Substitutions.

(i) Unless otherwise specified in Paragraph 13, upon notice to the Secured Party specifying the items of Posted Credit Support to be exchanged, the Pledgor may, on any Local Business Day, Transfer to the Secured Party substitute Eligible Credit Support (the “Substitute Credit Support”); and

(ii) subject to Paragraph 4(a), the Secured Party will Transfer to the Pledgor the items of Posted Credit Support specified by the Pledgor in its notice not later than the Local Business Day following the date on which the Secured Party receives the Substitute Credit Support, unless otherwise specified in Paragraph 13 (the “Substitution Date”); *provided* that the Secured Party will only be obligated to Transfer Posted Credit Support with a Value as of the date of Transfer of that Posted Credit Support equal to the Value as of that date of the Substitute Credit Support.

Paragraph 5. Dispute Resolution

If a party (a “Disputing Party”) disputes (I) the Valuation Agent’s calculation of a Delivery Amount or a Return Amount or (II) the Value of any Transfer of Eligible Credit Support or Posted Credit Support, then (1) the Disputing Party will notify the other party and the Valuation Agent (if the Valuation Agent is not the other party) not later than the close of business on the Local Business Day following (X) the date that the demand is made under Paragraph 3 in the case of (I) above or (Y) the date of Transfer in the case of (II) above, (2) subject to Paragraph 4(a), the appropriate party will Transfer the undisputed amount to the other party not later than the close of business on the Local Business Day following (X) the date that the demand is made under Paragraph 3 in the case of (I) above or (Y) the date of Transfer in the case of (II) above, (3) the parties will consult with each other in an attempt to resolve the dispute and (4) if they fail to resolve the dispute by the Resolution Time, then:

(i) In the case of a dispute involving a Delivery Amount or Return Amount, unless otherwise specified in Paragraph 13, the Valuation Agent will recalculate the Exposure and the Value as of the Recalculation Date by:

(A) utilizing any calculations of Exposure for the Transactions (or Swap Transactions) that the parties have agreed are not in dispute;

(B) calculating the Exposure for the Transactions (or Swap Transactions) in dispute by seeking four actual quotations at mid-market from Reference Market-makers for purposes of calculating Market Quotation, and taking the arithmetic average of those obtained; *provided* that if four quotations are not available for a particular Transaction (or Swap Transaction), then fewer than four quotations may be used for that Transaction (or Swap Transaction); and if no quotations are available for a particular Transaction (or Swap Transaction), then the Valuation Agent’s original calculations will be used for that Transaction (or Swap Transaction); and

(C) utilizing the procedures specified in Paragraph 13 for calculating the Value, if disputed, of Posted Credit Support.

(ii) In the case of a dispute involving the Value of any Transfer of Eligible Credit Support or Posted Credit Support, the Valuation Agent will recalculate the Value as of the date of Transfer pursuant to Paragraph 13.

Following a recalculation pursuant to this Paragraph, the Valuation Agent will notify each party (or the other party, if the Valuation Agent is a party) not later than the Notification Time on the Local Business Day following the Resolution Time. The appropriate party will, upon demand following that notice by the Valuation Agent or a resolution pursuant to (3) above and subject to Paragraphs 4(a) and 4(b), make the appropriate Transfer.

Paragraph 6. Holding and Using Posted Collateral

(a) **Care of Posted Collateral.** Without limiting the Secured Party's rights under Paragraph 6(c), the Secured Party will exercise reasonable care to assure the safe custody of all Posted Collateral to the extent required by applicable law, and in any event the Secured Party will be deemed to have exercised reasonable care if it exercises at least the same degree of care as it would exercise with respect to its own property. Except as specified in the preceding sentence, the Secured Party will have no duty with respect to Posted Collateral, including, without limitation, any duty to collect any Distributions, or enforce or preserve any rights pertaining thereto.

(b) **Eligibility to Hold Posted Collateral; Custodians.**

(i) **General.** Subject to the satisfaction of any conditions specified in Paragraph 13 for holding Posted Collateral, the Secured Party will be entitled to hold Posted Collateral or to appoint an agent (a "Custodian") to hold Posted Collateral for the Secured Party. Upon notice by the Secured Party to the Pledgor of the appointment of a Custodian, the Pledgor's obligations to make any Transfer will be discharged by making the Transfer to that Custodian. The holding of Posted Collateral by a Custodian will be deemed to be the holding of that Posted Collateral by the Secured Party for which the Custodian is acting.

(ii) **Failure to Satisfy Conditions.** If the Secured Party or its Custodian fails to satisfy any conditions for holding Posted Collateral, then upon a demand made by the Pledgor, the Secured Party will, not later than five Local Business Days after the demand, Transfer or cause its Custodian to Transfer all Posted Collateral held by it to a Custodian that satisfies those conditions or to the Secured Party if it satisfies those conditions.

(iii) **Liability.** The Secured Party will be liable for the acts or omissions of its Custodian to the same extent that the Secured Party would be liable hereunder for its own acts or omissions.

(c) **Use of Posted Collateral.** Unless otherwise specified in Paragraph 13 and without limiting the rights and obligations of the parties under Paragraphs 3, 4(d)(ii), 5, 6(d) and 8, if the Secured Party is not a Defaulting Party or an Affected Party with respect to a Specified Condition and no Early Termination Date has occurred or been designated as the result of an Event of Default or Specified Condition with respect to the Secured Party, then the Secured Party will, notwithstanding Section 9-207 of the New York Uniform Commercial Code, have the right to:

(i) sell, pledge, rehypothecate, assign, invest, use, commingle or otherwise dispose of, or otherwise use in its business any Posted Collateral it holds, free from any claim or right of any nature whatsoever of the Pledgor, including any equity or right of redemption by the Pledgor; and

(ii) register any Posted Collateral in the name of the Secured Party, its Custodian or a nominee for either.

For purposes of the obligation to Transfer Eligible Credit Support or Posted Credit Support pursuant to Paragraphs 3 and 5 and any rights or remedies authorized under this Agreement, the Secured Party will be deemed to continue to hold all Posted Collateral and to receive Distributions made thereon, regardless of whether the Secured Party has exercised any rights with respect to any Posted Collateral pursuant to (i) or (ii) above.

(d) **Distributions and Interest Amount.**

(i) **Distributions.** Subject to Paragraph 4(a), if the Secured Party receives or is deemed to receive Distributions on a Local Business Day, it will Transfer to the Pledgor not later than the following Local Business Day any Distributions it receives or is deemed to receive to the extent that a Delivery Amount would not be created or increased by that Transfer, as calculated by the Valuation Agent (and the date of calculation will be deemed to be a Valuation Date for this purpose).

(ii) **Interest Amount.** Unless otherwise specified in Paragraph 13 and subject to Paragraph 4(a), in lieu of any interest, dividends or other amounts paid or deemed to have been paid with respect to Posted Collateral in the form of Cash (all of which may be retained by the Secured Party), the Secured Party will Transfer to the Pledgor at the times specified in Paragraph 13 the Interest Amount to the extent that a Delivery Amount would not be created or increased by that Transfer, as calculated by the Valuation Agent (and the date of calculation will be deemed to be a Valuation Date for this purpose). The Interest Amount or portion thereof not Transferred pursuant to this Paragraph will constitute Posted Collateral in the form of Cash and will be subject to the security interest granted under Paragraph 2.

Paragraph 7. Events of Default

For purposes of Section 5(a)(iii)(1) of this Agreement, an Event of Default will exist with respect to a party if:

- (i) that party fails (or fails to cause its Custodian) to make, when due, any Transfer of Eligible Collateral, Posted Collateral or the Interest Amount, as applicable, required to be made by it and that failure continues for two Local Business Days after notice of that failure is given to that party;
- (ii) that party fails to comply with any restriction or prohibition specified in this Annex with respect to any of the rights specified in Paragraph 6(c) and that failure continues for five Local Business Days after notice of that failure is given to that party; or
- (iii) that party fails to comply with or perform any agreement or obligation other than those specified in Paragraphs 7(i) and 7(ii) and that failure continues for 30 days after notice of that failure is given to that party.

Paragraph 8. Certain Rights and Remedies

(a) **Secured Party's Rights and Remedies.** If at any time (1) an Event of Default or Specified Condition with respect to the Pledgor has occurred and is continuing or (2) an Early Termination Date has occurred or been designated as the result of an Event of Default or Specified Condition with respect to the Pledgor, then, unless the Pledgor has paid in full all of its Obligations that are then due, the Secured Party may exercise one or more of the following rights and remedies:

- (i) all rights and remedies available to a secured party under applicable law with respect to Posted Collateral held by the Secured Party;
- (ii) any other rights and remedies available to the Secured Party under the terms of Other Posted Support, if any;
- (iii) the right to Set-off any amounts payable by the Pledgor with respect to any Obligations against any Posted Collateral or the Cash equivalent of any Posted Collateral held by the Secured Party (or any obligation of the Secured Party to Transfer that Posted Collateral); and
- (iv) the right to liquidate any Posted Collateral held by the Secured Party through one or more public or private sales or other dispositions with such notice, if any, as may be required under applicable law, free from any claim or right of any nature whatsoever of the Pledgor, including any equity or right of redemption by the Pledgor (with the Secured Party having the right to purchase any or all of the Posted Collateral to be sold) and to apply the proceeds (or the Cash equivalent thereof) from the liquidation of the Posted Collateral to any amounts payable by the Pledgor with respect to any Obligations in that order as the Secured Party may elect.

Each party acknowledges and agrees that Posted Collateral in the form of securities may decline speedily in value and is of a type customarily sold on a recognized market, and, accordingly, the Pledgor is not entitled to prior notice of any sale of that Posted Collateral by the Secured Party, except any notice that is required under applicable law and cannot be waived.

(b) ***Pledgor's Rights and Remedies.*** If at any time an Early Termination Date has occurred or been designated as the result of an Event of Default or Specified Condition with respect to the Secured Party, then (except in the case of an Early Termination Date relating to less than all Transactions (or Swap Transactions) where the Secured Party has paid in full all of its obligations that are then due under Section 6(e) of this Agreement):

(i) the Pledgor may exercise all rights and remedies available to a pledgor under applicable law with respect to Posted Collateral held by the Secured Party;

(ii) the Pledgor may exercise any other rights and remedies available to the Pledgor under the terms of Other Posted Support, if any;

(iii) the Secured Party will be obligated immediately to Transfer all Posted Collateral and the Interest Amount to the Pledgor; and

(iv) to the extent that Posted Collateral or the Interest Amount is not so Transferred pursuant to (iii) above, the Pledgor may:

(A) Set-off any amounts payable by the Pledgor with respect to any Obligations against any Posted Collateral or the Cash equivalent of any Posted Collateral held by the Secured Party (or any obligation of the Secured Party to Transfer that Posted Collateral); and

(B) to the extent that the Pledgor does not Set-off under (iv)(A) above, withhold payment of any remaining amounts payable by the Pledgor with respect to any Obligations, up to the Value of any remaining Posted Collateral held by the Secured Party, until that Posted Collateral is Transferred to the Pledgor.

(c) ***Deficiencies and Excess Proceeds.*** The Secured Party will Transfer to the Pledgor any proceeds and Posted Credit Support remaining after liquidation, Set-off and/or application under Paragraphs 8(a) and 8(b) after satisfaction in full of all amounts payable by the Pledgor with respect to any Obligations; the Pledgor in all events will remain liable for any amounts remaining unpaid after any liquidation, Set-off and/or application under Paragraphs 8(a) and 8(b).

(d) ***Final Returns.*** When no amounts are or thereafter may become payable by the Pledgor with respect to any Obligations (except for any potential liability under Section 2(d) of this Agreement), the Secured Party will Transfer to the Pledgor all Posted Credit Support and the Interest Amount, if any.

Paragraph 9. Representations

Each party represents to the other party (which representations will be deemed to be repeated as of each date on which it, as the Pledgor, Transfers Eligible Collateral) that:

(i) it has the power to grant a security interest in and lien on any Eligible Collateral it Transfers as the Pledgor and has taken all necessary actions to authorize the granting of that security interest and lien;

(ii) it is the sole owner of or otherwise has the right to Transfer all Eligible Collateral it Transfers to the Secured Party hereunder, free and clear of any security interest, lien, encumbrance or other restrictions other than the security interest and lien granted under Paragraph 2;

(iii) upon the Transfer of any Eligible Collateral to the Secured Party under the terms of this Annex, the Secured Party will have a valid and perfected first priority security interest therein (assuming that any central clearing corporation or any third-party financial intermediary or other entity not within the control of the Pledgor involved in the Transfer of that Eligible Collateral gives the notices and takes the action required of it under applicable law for perfection of that interest); and

(iv) the performance by it of its obligations under this Annex will not result in the creation of any security interest, lien or other encumbrance on any Posted Collateral other than the security interest and lien granted under Paragraph 2.

Paragraph 10. Expenses

- (a) **General.** Except as otherwise provided in Paragraphs 10(b) and 10(c), each party will pay its own costs and expenses in connection with performing its obligations under this Annex and neither party will be liable for any costs and expenses incurred by the other party in connection herewith.
- (b) **Posted Credit Support.** The Pledgor will promptly pay when due all taxes, assessments or charges of any nature that are imposed with respect to Posted Credit Support held by the Secured Party upon becoming aware of the same, regardless of whether any portion of that Posted Credit Support is subsequently disposed of under Paragraph 6(c), except for those taxes, assessments and charges that result from the exercise of the Secured Party's rights under Paragraph 6(c).
- (c) **Liquidation/Application of Posted Credit Support.** All reasonable costs and expenses incurred by or on behalf of the Secured Party or the Pledgor in connection with the liquidation and/or application of any Posted Credit Support under Paragraph 8 will be payable, on demand and pursuant to the Expenses Section of this Agreement, by the Defaulting Party or, if there is no Defaulting Party, equally by the parties.

Paragraph 11. Miscellaneous

- (a) **Default Interest.** A Secured Party that fails to make, when due, any Transfer of Posted Collateral or the Interest Amount will be obligated to pay the Pledgor (to the extent permitted under applicable law) an amount equal to interest at the Default Rate multiplied by the Value of the items of property that were required to be Transferred, from (and including) the date that Posted Collateral or Interest Amount was required to be Transferred to (but excluding) the date of Transfer of that Posted Collateral or Interest Amount. This interest will be calculated on the basis of daily compounding and the actual number of days elapsed.
- (b) **Further Assurances.** Promptly following a demand made by a party, the other party will execute, deliver, file and record any financing statement, specific assignment or other document and take any other action that may be necessary or desirable and reasonably requested by that party to create, preserve, perfect or validate any security interest or lien granted under Paragraph 2, to enable that party to exercise or enforce its rights under this Annex with respect to Posted Credit Support or an Interest Amount or to effect or document a release of a security interest on Posted Collateral or an Interest Amount.
- (c) **Further Protection.** The Pledgor will promptly give notice to the Secured Party of, and defend against, any suit, action, proceeding or lien that involves Posted Credit Support Transferred by the Pledgor or that could adversely affect the security interest and lien granted by it under Paragraph 2, unless that suit, action, proceeding or lien results from the exercise of the Secured Party's rights under Paragraph 6(c).
- (d) **Good Faith and Commercially Reasonable Manner.** Performance of all obligations under this Annex, including, but not limited to, all calculations, valuations and determinations made by either party, will be made in good faith and in a commercially reasonable manner.
- (e) **Demands and Notices.** All demands and notices made by a party under this Annex will be made as specified in the Notices Section of this Agreement, except as otherwise provided in Paragraph 13.
- (f) **Specifications of Certain Matters.** Anything referred to in this Annex as being specified in Paragraph 13 also may be specified in one or more Confirmations or other documents and this Annex will be construed accordingly.

Paragraph 12. Definitions

As used in this Annex:—

“**Cash**” means the lawful currency of the United States of America.

“**Credit Support Amount**” has the meaning specified in Paragraph 3.

“**Custodian**” has the meaning specified in Paragraphs 6(b)(i) and 13.

“**Delivery Amount**” has the meaning specified in Paragraph 3(a).

“**Disputing Party**” has the meaning specified in Paragraph 5.

“**Distributions**” means with respect to Posted Collateral other than Cash, all principal, interest and other payments and distributions of cash or other property with respect thereto, regardless of whether the Secured Party has disposed of that Posted Collateral under Paragraph 6(c). Distributions will not include any item of property acquired by the Secured Party upon any disposition or liquidation of Posted Collateral or, with respect to any Posted Collateral in the form of Cash, any distributions on that collateral, unless otherwise specified herein.

“**Eligible Collateral**” means, with respect to a party, the items, if any, specified as such for that party in Paragraph 13.

“**Eligible Credit Support**” means Eligible Collateral and Other Eligible Support.

“**Exposure**” means for any Valuation Date or other date for which Exposure is calculated and subject to Paragraph 5 in the case of a dispute, the amount, if any, that would be payable to a party that is the Secured Party by the other party (expressed as a positive number) or by a party that is the Secured Party to the other party (expressed as a negative number) pursuant to Section 6(e)(ii)(2)(A) of this Agreement as if all Transactions (or Swap Transactions) were being terminated as of the relevant Valuation Time; *provided* that Market Quotation will be determined by the Valuation Agent using its estimates at mid-market of the amounts that would be paid for Replacement Transactions (as that term is defined in the definition of “Market Quotation”).

“**Independent Amount**” means, with respect to a party, the amount specified as such for that party in Paragraph 13; if no amount is specified, zero.

“**Interest Amount**” means, with respect to an Interest Period, the aggregate sum of the amounts of interest calculated for each day in that Interest Period on the principal amount of Posted Collateral in the form of Cash held by the Secured Party on that day, determined by the Secured Party for each such day as follows:

- (x) the amount of that Cash on that day; multiplied by
- (y) the Interest Rate in effect for that day; divided by
- (z) 360.

“**Interest Period**” means the period from (and including) the last Local Business Day on which an Interest Amount was Transferred (or, if no Interest Amount has yet been Transferred, the Local Business Day on which Posted Collateral in the form of Cash was Transferred to or received by the Secured Party) to (but excluding) the Local Business Day on which the current Interest Amount is to be Transferred.

“**Interest Rate**” means the rate specified in Paragraph 13.

“**Local Business Day**”, unless otherwise specified in Paragraph 13, has the meaning specified in the Definitions Section of this Agreement, except that references to a payment in clause (b) thereof will be deemed to include a Transfer under this Annex.

“Minimum Transfer Amount” means, with respect to a party, the amount specified as such for that party in Paragraph 13; if no amount is specified, zero.

“Notification Time” has the meaning specified in Paragraph 13.

“Obligations” means, with respect to a party, all present and future obligations of that party under this Agreement and any additional obligations specified for that party in Paragraph 13.

“Other Eligible Support” means, with respect to a party, the items, if any, specified as such for that party in Paragraph 13.

“Other Posted Support” means all Other Eligible Support Transferred to the Secured Party that remains in effect for the benefit of that Secured Party.

“Pledgor” means either party, when that party (i) receives a demand for or is required to Transfer Eligible Credit Support under Paragraph 3(a) or (ii) has Transferred Eligible Credit Support under Paragraph 3(a).

“Posted Collateral” means all Eligible Collateral, other property, Distributions, and all proceeds thereof that have been Transferred to or received by the Secured Party under this Annex and not Transferred to the Pledgor pursuant to Paragraph 3(b), 4(d)(ii) or 6(d)(i) or released by the Secured Party under Paragraph 8. Any Interest Amount or portion thereof not Transferred pursuant to Paragraph 6(d)(ii) will constitute Posted Collateral in the form of Cash.

“Posted Credit Support” means Posted Collateral and Other Posted Support.

“Recalculation Date” means the Valuation Date that gives rise to the dispute under Paragraph 5; *provided, however,* that if a subsequent Valuation Date occurs under Paragraph 3 prior to the resolution of the dispute, then the “Recalculation Date” means the most recent Valuation Date under Paragraph 3.

“Resolution Time” has the meaning specified in Paragraph 13.

“Return Amount” has the meaning specified in Paragraph 3(b).

“Secured Party” means either party, when that party (i) makes a demand for or is entitled to receive Eligible Credit Support under Paragraph 3(a) or (ii) holds or is deemed to hold Posted Credit Support.

“Specified Condition” means, with respect to a party, any event specified as such for that party in Paragraph 13.

“Substitute Credit Support” has the meaning specified in Paragraph 4(d)(i).

“Substitution Date” has the meaning specified in Paragraph 4(d)(ii).

“Threshold” means, with respect to a party, the amount specified as such for that party in Paragraph 13; if no amount is specified, zero.

“Transfer” means, with respect to any Eligible Credit Support, Posted Credit Support or Interest Amount, and in accordance with the instructions of the Secured Party, Pledgor or Custodian, as applicable:

- (i) in the case of Cash, payment or delivery by wire transfer into one or more bank accounts specified by the recipient;
- (ii) in the case of certificated securities that cannot be paid or delivered by book-entry, payment or delivery in appropriate physical form to the recipient or its account accompanied by any duly executed instruments of transfer, assignments in blank, transfer tax stamps and any other documents necessary to constitute a legally valid transfer to the recipient;
- (iii) in the case of securities that can be paid or delivered by book-entry, the giving of written instructions to the relevant depository institution or other entity specified by the recipient, together with a written copy thereof to the recipient, sufficient if complied with to result in a legally effective transfer of the relevant interest to the recipient; and
- (iv) in the case of Other Eligible Support or Other Posted Support, as specified in Paragraph 13.

“Valuation Agent” has the meaning specified in Paragraph 13.

“Valuation Date” means each date specified in or otherwise determined pursuant to Paragraph 13.

“Valuation Percentage” means, for any item of Eligible Collateral, the percentage specified in Paragraph 13.

“Valuation Time” has the meaning specified in Paragraph 13.

“Value” means for any Valuation Date or other date for which Value is calculated and subject to Paragraph 5 in the case of a dispute, with respect to:

- (i) Eligible Collateral or Posted Collateral that is:
 - (A) Cash, the amount thereof; and
 - (B) a security, the bid price obtained by the Valuation Agent multiplied by the applicable Valuation Percentage, if any;
- (ii) Posted Collateral that consists of items that are not specified as Eligible Collateral, zero; and
- (iii) Other Eligible Support and Other Posted Support, as specified in Paragraph 13.

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CREDIT SUPPORT ANNEX

**to the Schedule to the
ISDA Master Agreement-
dated as of April 9, 2010**

between

**MF GLOBAL MARKET SERVICES LLC
("Party A")**

and

**Heartland Co-Op
("Party B")**

Paragraph 13. Elections and Variables

(a) **Security Interest for "Obligations"**. The term "**Obligations**" as used in this Annex includes the following additional obligations:

With respect to Party A: None.
With respect to Party B: None.

(b) **Credit Support Obligations.**

(i) **Delivery Amount, Return Amount and Credit Support Amount.**

- (A) "**Delivery Amount**" has the meaning specified in Paragraph 3(a).
- (B) "**Return Amount**" has the meaning specified in Paragraph 3(b).
- (C) "**Credit Support Amount**" has the meaning specified in Paragraph 3(b).

(ii) **Eligible Collateral.** The following items will qualify as "**Eligible Collateral**" for the party specified:

	Party A	Party B	Valuation Percentage
(A) Cash, in the form of U.S. Dollars	[X]	[X]	100%

(iii) **Other Eligible Support.** The following items will qualify as "**Other Eligible Support**" for the party specified: Not Applicable.

(iv) **Thresholds.**

(A) "**Independent Amount**" means, with respect to each party: Initially, none; and thereafter as may be specified in a Confirmation.

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(B) **“Threshold”** means, with respect to Party A, USD \$100,000 (one hundred thousand); and with respect to Party B, USD \$100,000 (one hundred thousand); provided, however, that if an Event of Default has occurred and is continuing with respect to a party, such party’s Threshold shall be zero.

(C) **“Minimum Transfer Amount”** means, with respect to Party A and Party B: \$100,000; provided, however, that if an Event of Default has occurred and is continuing with respect to a party, such party’s Minimum Transfer Amount shall be zero.

(D) **“Rounding.”** The Delivery Amount and the Return Amount will be rounded up or down to the nearest integral multiple of \$1,000, respectively.

(c) **Valuation and Timing.**

(i) **“Valuation Agent”** means, for purposes of Paragraphs 3 and 5, the party making the demand under Paragraph 3; for purposes of Paragraph 6(d), the Secured Party receiving or deemed to receive the Distributions or the Interest Amount, as applicable; and for purposes of Paragraph 4(d), the Secured Party for purposes of calculating the Value in connection with substitutions. Notwithstanding the foregoing, if an Event of Default or Potential Event of Default has occurred and is continuing with respect to a party, the Valuation Agent shall be the other party.

(ii) **“Valuation Date”** means each Local Business Day.

(iii) **“Valuation Time”** means the close of business on the Local Business Day immediately preceding the Valuation Date or date of calculation, as applicable, or such later time as the parties mutually agree; *provided*, that the calculations of Value and Exposure shall be made at approximately the same time on the same date.

(iv) **“Notification Time”** means 10:00 a.m., New York time, on a Local Business Day.

(v) **“Transfer Timing.”** Notwithstanding the provisions of Paragraph 4(b), the Parties hereby agree that, subject to Paragraphs 4(a) and 5, if a demand for the Transfer of Eligible Credit Support or Posted Credit Support is made by the Notification Time then the relevant Transfer will be made by the close of business on the same Local Business Day demand is made, and if such a demand is made after the Notification Time then the relevant Transfer will be made by the close of business on the next Local Business Day.

(d) **Conditions Precedent and Secured Party’s Rights and Remedies.** Each Termination Event specified below with respect to a party will be a **“Specified Condition”** for that party (the specified party being the Affected Party if a Termination Event or Additional Termination Event occurs with respect to that party).

	Party A	Party B
Illegality	[X]	[X]
Tax Event	N/A	N/A
Tax Event Upon Merger	N/A	N/A
Credit Event Upon Merger	[X]	[X]
Additional Termination Event(s):	[X]	[X]

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(e) **Substitution.**

(i) **"Substitution Date."** will have same meaning as in Paragraph 4(d)(ii).

“(ii) subject to Paragraph 4(a), the Secured Party will Transfer to the Pledgor the items of Posted Credit Support specified by the Pledgor in its notice not later than the close of business on the same Local Business Day on which the Secured Party receives the Substitute Credit Support (if such Substitute Credit Support is received by the Notification Time) or by the close of business on the next following Local Business Day (if such Substitute Credit Support is received after the Notification Time); *provided*, that the Secured Party will only be obligated to Transfer Posted Credit Support with a Value as of the date of Transfer of that Posted Credit Support equal to the Value as of that date of the Substitute Credit Support.”

(ii) **Consent.** If specified here as applicable, then the Pledgor must obtain the Secured Party’s consent for any substitution pursuant to Paragraph 4(d): Not Applicable.

(f) **Dispute Resolution.**

(i) **"Resolution Time"** means 1:00 P.M., New York time, on the Local Business Day following the date on which the notice is given that gives rise to a dispute under Paragraph 5.

(ii) **Value.** For the purpose of Paragraphs 5(i)(C) and 5(ii), the Value of Posted Credit Support will be calculated as set forth in Paragraph 12.

(iii) **Alternative.** The provisions of Paragraph 5 will apply, except to the following extent: (A) the Disputing Party shall notify the other party (and the Valuation Agent, if it is not the other party) not later than 12:00pm (New York time) on the date the demand is made or the date of Transfer, as the case may be and (B) pending the resolution of a dispute, Transfer of the undisputed amount of Eligible Credit Support or Posted Credit Support involved in the relevant demand will be due (I) by the close of business on the same day that such demand is made (if the demand is given by the Notification Time) or (II) on the first Local Business Day after the day on which such demand is made (if demand is given after the Notification Time).

(g) **Holding and Using Posted Collateral.**

(i) **Eligibility to Hold Posted Collateral; Custodians.**

Each of **Party A and Party B** and its Custodian will be entitled to hold Posted Collateral pursuant to Paragraph 6(b), *provided* that the following conditions applicable to the respective party are satisfied:

(A) In the case of Posted Collateral held by a party, such party is not a Defaulting Party.

(B) Posted Collateral may only be held in United States.

(C) In the case of Posted Collateral held by a Custodian, the Custodian shall be a Qualified Institution.

(D) Posted Collateral may be moved from one Custodian that is a Qualified

Execution

Institution to another upon reasonable advance notice to the other party. Each party shall cause written statements concerning the Posted Collateral held by its Custodian to be delivered to the other party promptly upon the request of such other party.

Initially, the **Custodian** for **Party A** is:
For US Dollars: JPMorgan Chase Bank

Initially, the **Custodian** for **Party B** is:
For US Dollars: Cobank, ACB

(ii) The provisions of Paragraph 6(c) will apply to Party A and will apply to Party B.

(h) **Distributions and Interest Amount.**

(i) **Interest Rate.** The “**Interest Rate**” will be: the closing daily effective rate for US Federal Funds, as determined and published by the Federal Reserve Bank of New York, as published from time to time.

(ii) **Transfer of Interest Amount.** The Transfer of the Interest Amount will be made on the first Local Business Day following the last Local Business Day of each calendar month in which Posted Collateral has been held by the Secured Party, and on any Local Business Day that Posted Collateral in the form of Cash is transferred to the Pledgor pursuant to Paragraph 3(b).

(iii) **Alternative to Interest Amount.** The provisions of Paragraph 6(d)(ii) will apply.

(i) **Demands and Notices.** All demands, specifications and notices made by a party to this Annex will be made pursuant to the Notices Section of this Agreement.

(j) **Addresses for Transfers:**

Party A: For USD Cash:
To be Provided at Time of Transfer.

For Eligible Collateral:
To be Provided at Time of Transfer.

Party B: For USD Cash:
To be Provided at Time of Transfer.

For Eligible Collateral:
To be Provided at Time of Transfer.

(k) **Other Provisions.**

(i) **Transfer of Undisputed Amount.** Paragraph 5 is hereby amended by adding the following after the phrase “of (II) above” in the eighth line thereof:

“(provided that such Transfer need not be made prior to the time that such Transfer need otherwise be made pursuant to the demand made under Paragraph 3)”

Execution

(ii) **Certain Distributions Received.** If the Secured Party receives or is deemed to receive Distributions on a day that is not a Local Business Day, or after the close of business on a Local Business Day, it will Transfer the Distributions to the Pledgor on the second following Local Business Day, subject to Paragraph 4(a), but only to the extent contemplated in Paragraph 6(d)(i) in connection with Distributions received or deemed received on a Local Business Day.

(iii) **Taxes.** Paragraph 10(b) is hereby amended by adding the following at the end of the text thereof:

“; *provided, however,* that notwithstanding this Paragraph 10(b), Section 2(d) of the Agreement shall apply to any Indemnifiable Tax imposed on a payment or deemed payment by the Pledgor to the Secured Party described in Paragraph 6(d) hereof.

(iv) **Additional Definitions.** As used in this Annex:

(A) **“Credit Rating”** shall mean, with respect to a party or entity on any date of determination, the respective rating then assigned to its unsecured and senior long-term debt or deposit obligations (not supported by third party credit enhancement) by S & P, Moody’s or the specified rating agency.

(B) **“Moody’s”** shall mean Moody’s Investor Services, Inc. (or any successor).

(C) **“Qualified Institution”** shall mean a commercial or cooperative bank organized under the laws of the United States (or a political subdivision thereof) or the United States branch of a commercial bank organized outside the United States, in either case, having total assets of at least \$10 billion and a Credit Rating of at least “A” by S&P or “A2” by Moody’s.

(D) **“S&P”** shall mean Standard & Poor’s Rating Group (a division of The McGraw-Hill Companies, Inc.) or any successor.

Execution

IN WITNESS WHEREOF, the parties have executed this Annex by their duly authorized officers as of the date hereof.

MF Global Market Services LLC

By: 
Name: Frederick Demler
Title: Senior Vice President

Heartland Co-Op

By: 
Name: Larry Petersen
Title: CEO General Mgr.

EXHIBIT B



April 15, 2010

To: **Heartland Co Op**
2829 Westown Pkwy Suite 350
West Des Moines, IA 50266

Attn: Tom Hauschel
Phone: (515) 974-4359
Fax:

ISDA Master Agreement Date: **April 9, 2010**

Ladies and Gentlemen:

The purpose of this letter agreement is to confirm the terms and conditions of the transaction entered into between Party A and Party B on the Trade Date specified below (the "Transaction"). This letter agreement constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below.

The definitions and provisions in the 2006 ISDA Definitions (the "Swap Definitions") and in the 2005 ISDA Commodity Definitions (the "Commodity Definitions") (the Swap Definitions and the Commodity Definitions, collectively, the "Definitions"), each as published by the International Swaps and Derivatives Association, Inc. are incorporated into this Confirmation. In the event of any inconsistency between the Swap Definitions and the Commodity Definitions, the Commodity Definitions will govern. In the event of any inconsistency between the Definitions and the provisions of this Confirmation, this Confirmation will govern.

1. ISDA Master Agreement

This Confirmation supplements, forms a part of, and is subject to, the ISDA Master Agreement dated April 9, 2010 as amended and supplemented from time to time, between you and us (the "Agreement"). All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

2. **Specific Terms of the transaction are as follows:**

Type of Transaction:	OTC Premium Sales Swap KO
Trade Date:	April 14, 2010
Total Notional Quantity:	200,000 bushels
Notional Quantity per Calculation Period:	486.618 bushels per business day

Commodity: CBOT Corn

Reference Contract: December 2011

Effective Date: 4/14/2010

Termination Date: 11/25/2011

Calculation Period: Each Commodity Business Day, from and including the Effective Date, to and including the Termination Date

Fixed Price: Premium Sales Level

Fixed Price Payer: MF Global Market Services LLC

Fixed Price Receiver: Heartland Co-Op

Premium Sales Level: \$4.8800 per bushel

Commodity Reference Price: CORN CBOT

Barrier Level: \$3.50 per bushel

Barrier Event: The first date and time during a Commodity Business Day from the Effective Date to the Termination Date (inclusive), in which the Reference Contract trades at or below the Barrier Level.

Early Termination: A Barrier Event shall immediately terminate the remaining Notional Quantity of this OTC Premium Sales Swap KO

N_Pre Barrier: Number of Pricing Dates that the Reference Contract has not traded or settled at or below the Barrier Level prior to a barrier event.

Accumulated Notional Quantity: (Notional Quantity per Calculation Period * N_Pre Barrier)

Pricing Date(s): Each Commodity Business Day from Effective Date through Termination Date inclusive (411 days).

Settlement: EFR (Exchange for Risk) where Fixed Price Payer receives Long Futures contracts in an amount equivalent to the Accumulated Notional Quantity at the Fixed Price.

Commodity Business Day: A Commodity Business Day is defined as a normal business day of the CME for the Commodity determined by CME's published trade prices occurring during the Open Outcry session for the Commodity Reference Price.

Notification of Barrier Event: The Calculation Agent shall promptly notify the Counterparty of the occurrence of a Barrier Event. A failure to give such notice does not negate the occurrence or effect of a Barrier Event.

Calculation Agent: MFG

If this Confirmation correctly sets forth the terms of the Transaction that we have entered into, please promptly confirm in a reply to us by signing below and sending this Confirmation (or a copy hereof) to us by email within three (3) Business Days after your receipt of this Confirmation (or notifying us of any bona fide error that would require revision in order to accurately reflect our agreement of the Transaction). If you fail to so reply within such time period, the terms hereof will constitute binding and conclusive evidence of the Transaction. We look forward to receiving your prompt reply.

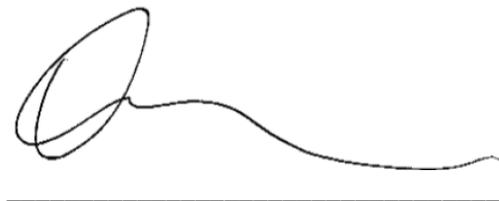
Please confirm that the foregoing correctly sets out the terms of our agreement by signing your acceptance of the details in the area provided and returning the copy to Ed Sweeney via email to: otc.ops.ny@mfglobal.com.

Sincerely,

MF Global Market Services, LLC

Christine Rocke

VP OTC Operations



Heartland Co Op

Name _____

Title _____

EXHIBIT C



2829 Westown Parkway, Suite 350
West Des Moines, IA 50266-1314
PHONE: (800) 513-3938
(515) 225-1334
FAX: (515) 225-8511
www.heartlandcoop.com

November 8, 2011

VIA COURIER AND FACSIMILE

MF Global Market Services LLC
717 Fifth Avenue
New York, NY 10022
Attn: OTC Energy
Fax: 212-589-6228
Tel. 212-589-6304

Re: Notice of Early Termination

Ladies and Gentlemen:

We refer to the 1992 ISDA Master Agreement (the "*Agreement*") dated as of April 9, 2010 between MF Global Market Services LLC and Heartland Co-op, as amended. All capitalized terms not otherwise defined in this notice shall have the meanings assigned to them in the Agreement.

An Event of Default has occurred and is continuing pursuant to Section 5(a)(vii)(4) of the Agreement arising from the bankruptcy filing of the Credit Support Provider under the Agreement. Pursuant to Section 6(a) ("*Early Termination - Right to Terminate Following Event of Default*"), Heartland Co-op hereby designates immediately prior to the opening of business on November 8, 2011 as the Early Termination Date in respect of all outstanding Transactions as a result of the occurrence of such Event of Default.

As soon as reasonably practicable following the Early Termination Date, Heartland Co-op will provide you with a statement in accordance with Section 6(d) ("*Calculations*") (i) ("*Statement*") of the Agreement specifying the payments due in relation to the Early Termination Date.

In accordance with Section 12(a) ("*Effectiveness*") of the Agreement, this notice is being sent by courier during normal business hours and shall be deemed effective immediately prior to the opening of business on November 8, 2011.

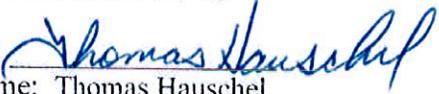
November 8, 2011
Page 2

This notice shall be governed by and construed in accordance with New York law.

Heartland Co-op reserves all rights and remedies provided to it in the Agreement or otherwise.

Very truly yours,

HEARTLAND CO-OP

By: 
Name: Thomas Hauschel
Title: Executive Vice President, Grain and Risk Management
(and at the direction of Larry Petersen, Chief Executive Officer)

cc:

MF Global Inc.
717 Fifth Avenue, 9th Floor
New York, NY 10022
Attn: Credit Department
Facsimile: (212) 589-6237

MF Global Inc.
717 Fifth Avenue, 9th Floor
New York, NY 10022
Attn: Legal Department
Facsimile: (212) 589-6236

EXHIBIT D



October 28, 2015

Heartland Co-Op
2829 Westown Parkway, Suite 350
West Des Moines, IA 50266-1314
Attn: Tom Hauschel, CEO

To Mr. Hauschel:

Heartland Co-Op has an outstanding payable, plus applicable interest, as a result of the closeout of its 1992 ISDA Master Agreement (the "Master Agreement") and related derivatives portfolio facing MF Global Market Services LLC ("MFGMS"). Heartland terminated the Master Agreement on November 8th, 2011 and in the same letter committed to sending a valuation statement as soon as reasonably practicable, in accordance with the Master Agreement. Almost 4 years later, we have received no such statement from Heartland, even after multiple emails requesting it since October 2014. Pursuant to the terms of the Master Agreement, with no receipt of the required valuation statement from Heartland, MFGMS has done its own calculation as of the Termination Date. That calculated principal amount due to the estate is \$1,734,098.25 as of the Termination Date specified by Heartland, plus applicable interest that continues to accrue.

MF Global Holdings Ltd. is the Plan Administrator under the *Second Amended and Restated Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code for MF Global Holdings Ltd., MF Global Finance USA Inc., MF Global Capital LLC, MF Global FX Clear LLC, MF Global Market Services LLC, and MF Global Holdings USA Inc.* (Docket No. 1382). As such, we are responsible to our creditors to collect all debts outstanding from the counterparties of the estate.

If you do not promptly respond and engage with us in good faith efforts to agree to this receivable within the next 15 days, we expect to commence bankruptcy court or other action to collect all amounts owed by Heartland pursuant to the terms of the Master Agreement.

I can be reached at lferber@mfglobalholdings.com, or at (646) 568-8114, and I look forward to speaking with you.

Sincerely,

Laurie R. Ferber
Executive Vice President and General Counsel

cc: Todd Phillips, EVP, Grain & Risk Management
Michael Vaughn

MF Global Holdings Ltd.

142 West 57th Street
Suite 401
New York, New York 10019

EXHIBIT E



To: **Heartland Co Op**
2829 Westown Pkwy Suite 350
West Des Moines, IA 50266

Attn: Tom Hauschel
Phone: (515) 974-4359
Fax:

ISDA Master Agreement Date: **April 9, 2010**

Ladies and Gentlemen:

The purpose of this letter agreement is to confirm the terms and conditions of the transaction entered into between Party A and Party B on the Trade Date specified below (the "Transaction"). This letter agreement constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below.

The definitions and provisions in the 2006 ISDA Definitions (the "Swap Definitions") and in the 2005 ISDA Commodity Definitions (the "Commodity Definitions") (the Swap Definitions and the Commodity Definitions, collectively, the "Definitions"), each as published by the International Swaps and Derivatives Association, Inc. are incorporated into this Confirmation. In the event of any inconsistency between the Swap Definitions and the Commodity Definitions, the Commodity Definitions will govern. In the event of any inconsistency between the Definitions and the provisions of this Confirmation, this Confirmation will govern.

1. ISDA Master Agreement

This Confirmation supplements, forms a part of, and is subject to, the ISDA Master Agreement dated April 9, 2010 as amended and supplemented from time to time, between you and us (the "Agreement"). All provisions contained in the Agreement govern this Confirmation except as expressly modified below.

2. Specific Terms of the transaction are as follows:

Trade Type:	OTC Synthetic Consumer HTA
Fixed Price Payer:	Heartland Co-Op
Fixed Price Receiver:	MF Global Market Services LLC
Synthetic Price:	\$5.20 per bushel
Barrier Level:	\$7.50 per bushel

Direction: Up

Trade Date: October 11, 2011

Notional Quantity: 500,000 bushels

Commodity: CBT Corn

Reference Contract: July 2012

Effective Date: October 11, 2011

Pricing Date: June 22, 2012 (if no Barrier Event)

Expiration Date: June 22, 2012 (if no Barrier Event)

Commodity Reference Price: "CORN-CBOT" (Settlement Price)

Option Premium: \$0.00 USD

Barrier Event: The first date and time during a Commodity Business Day from the Effective Date to the Expiration Date inclusive in which the Reference Contract trades at or above the Barrier Level.

Commodity Business Day: A Commodity Business Day is defined as a normal business day of the primary exchange as defined by the Commodity Reference Price and determined by its published trade prices occurring during the Open Outcry session for the Commodity Reference Price unless there is no open outcry session in which case the definition of a Commodity Business Day would exclude any pre-open, extended, or evening hours for electronic exchanges.

Early Termination: A Barrier Event shall immediately terminate this transaction.

Settlement: If the transaction has not been subject to Early Termination due to a Barrier Event, then EFR (Exchange for Risk) where Fixed Price Payer receives long futures contracts from the Fixed Price Receiver in the amount equivalent to the Notional Quantity at the Synthetic Price.

Notification of Barrier Event: The Calculation Agent shall promptly notify the Counterparty of the occurrence of a Barrier

Event. A failure to give such notice does not negate the occurrence or effect of a Barrier Event.

If this Confirmation correctly sets forth the terms of the Transaction that we have entered into, please promptly confirm in a reply to us by signing below and sending this Confirmation (or a copy hereof) to us by email within three (3) Business Days after your receipt of this Confirmation (or notifying us of any bona fide error that would require revision in order to accurately reflect our agreement of the Transaction). If you fail to so reply within such time period, the terms hereof will constitute binding and conclusive evidence of the Transaction. We look forward to receiving your prompt reply.

Please confirm that the foregoing correctly sets out the terms of our agreement by signing your acceptance of the details in the area provided and returning the copy to Ed Sweeney via email to: otc.ops.ny@mfglobal.com .

Sincerely,

MF Global Market Services LLC

Heartland Co Op

Christine Rocke

Name _____

VP OTC Operations

Title _____