

The Ministry of Economy and Finance  
Acting for and on behalf of  
The Republic of Ecuador  
as Borrower

and

The Bank of New York Mellon  
as Facility Agent

	
SUBSECRETARÍA DE FINANCIAMIENTO PÚBLICO	
REGISTRO:	806
FECHA:	26 de diciembre de 2025
PÁGINA:	00000050
<b>REGISTRO DE LA DEUDA PÚBLICA</b>	

---

FACILITY AGREEMENT

## CONTENTS

Clause	Page
1. Definitions and Interpretation .....	2
2. The Facility.....	25
3. Purpose.....	27
4. Conditions of Utilization .....	27
5. Utilization.....	29
6. Repayment .....	31
7. Prepayment and Cancellation.....	31
8. Interest.....	36
9. Interest Periods.....	37
10. Changes to the Calculation of Interest.....	37
11. Fees .....	40
12. Tax Gross Up and Indemnities.....	42
13. Increased Costs.....	47
14. Other Indemnities.....	49
15. Mitigation by the Lenders .....	50
16. Costs and Expenses.....	51
17. Representations.....	52
18. Information Undertakings.....	57
19. General Undertakings .....	59
20. Events of Default.....	65
21. Successors and Assigns.....	70
22. Role of the Facility Agent .....	75
23. Conduct of Business by the Finance Parties.....	91
24. Sharing among the Finance Parties.....	91
25. Payment Mechanics.....	94
26. Set-Off.....	98

27. Notices.....	98
28. Calculations and Certificates .....	102
29. Partial Invalidity.....	102
30. Remedies and Waivers .....	103
31. Amendments and Waivers.....	103
32. Confidentiality.....	104
33. Counterparts.....	108
34. Patriot Act.....	108
35. Data protection .....	109
36. Bail-In .....	109
37. Governing Law.....	112
38. Dispute Resolution.....	112
39. Immunity.....	113
40. Service of process.....	114
41. WAIVER OF JURY TRIAL.....	116
42. Entire Agreement.....	116
43. Limited Recourse and Non-Petition.....	116
Schedule 1 The Original Lenders .....	118
Schedule 2 Conditions Precedent .....	119
Schedule 3 Utilization Request.....	122
Schedule 4 Form of Assignment and Assumption.....	124
Schedule 5 Timetables .....	129
Schedule 6 Quito Public Holidays .....	130

**THIS AGREEMENT** (this "**Agreement**") is dated 26 December 2025 and made by and among:

- (1) **THE MINISTRY OF ECONOMY AND FINANCE ACTING FOR AND ON BEHALF OF THE REPUBLIC OF ECUADOR**, as borrower (the "**Borrower**");
- (2) **THE BANK OF NEW YORK MELLON**, a banking corporation organized and existing under the laws of the State of New York, not in its individual capacity, but solely as facility agent of the other Finance Parties (as defined below) (the "**Facility Agent**"); and
- (3) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 as lenders (the "**Original Lenders**").

#### **RECITALS**

- (A) The Borrower wishes to have a loan facility upon the terms and subject to the conditions set out in this Agreement.
- (B) IADB (as defined below) is prepared to provide a guarantee in respect of certain payment obligations of the Borrower under this Agreement upon the terms and subject to the conditions set out in the IADB Guarantee (as defined below). The provision of the IADB Guarantee by IADB is conditioned on, among other things, the entry by the Borrower into the Counter-Guarantee Agreement (as defined below) and the performance by the Republic (as defined below) of certain conditions precedent provided therein.
- (C) The Borrower shall apply the proceeds of the Loans solely towards the financing of Eligible Social Projects and/or Eligible Green Projects in connection with the Republic of Ecuador's Sovereign Financing Framework for Affordable and Resilient Housing (each as defined below).

**IT IS AGREED** as follows:

## **SECTION 1 INTERPRETATION**

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

In this Agreement:

**"ABR Loan"** means any Loan that bears interest based on the Alternate Base Rate.

**"Acceptable Bank"** means a bank or financial institution which has a rating for its long-term unsecured and non-credit-enhanced debt obligations of BBB or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or Baa2 or higher by Moody's Investor Services Limited or a comparable rating from an internationally recognized credit rating agency and in respect of which the Lenders and IADB have completed satisfactory "know your customer" or other similar checks under all applicable laws.

**"Administration Trust"** has the meaning given to it in the Sovereign Financing Framework for Affordable and Resilient Housing.

**"Affiliate"** means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

**"Affordable and Resilient Housing Loan"** has the meaning given to it in Clause 19.9(a).

**"Affordable and Resilient Housing Loan Report"** means the reports on the actual use of proceeds and the actual and/or expected social and/or environmental impact of the Eligible Social Projects and/or Eligible Green Projects, made in accordance with the "Reporting" component of the Sovereign Financing Framework for Affordable and Resilient Housing.

**"Alternate Base Rate"** means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Term SOFR Rate for a one month Interest Period plus 1%. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Term SOFR Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Term SOFR Rate, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Clause 10 (*Changes to the calculation of interest*) (for the avoidance of doubt, only until the Benchmark Replacement has been determined pursuant to Clause 10.1(b) (*Alternate Rate of Interest*)), then the Alternate Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

**"Anti-Money Laundering Framework"** has the meaning given in Clause 17.18 (*Anti-Terrorism; Anti-Money laundering*).

**"APLMA"** means the Asia Pacific Loan Market Association.

**"Applicable Discount Rate"** means a series of discount rates equivalent to the daily compounded SOFR forward curve as determined by the Facility Agent (as directed in writing by the Majority Lenders).

**"Approved Assignee"** has the meaning given to it in the IADB Guarantee, *provided that* the Facility Agent shall have no responsibility for determining whether an assignee is an Approved Assignee.

**"Assignee"** has the meaning given in Schedule 4 (*Form of Assignment and Assumption*).

**"Assignment and Assumption"** means an assignment and assumption entered into by a Lender and an eligible assignee (with the consent of any party whose consent is required by Clause 21 (*Successors and Assigns*)), and acknowledged and accepted by the Facility Agent, in substantially the form of Schedule 4 (*Form of Assignment and Assumption*) or any other form acceptable to the Facility Agent (acting at the direction of the relevant Lender).

**"Assignor"** has the meaning given in Schedule 4 (*Form of Assignment and Assumption*).

**"Authorization"** means an authorization, consent, approval, resolution, permit, license, exemption, filing, notarization or registration.

**"Available Commitment"** means a Lender's Commitment minus the amount of its participation in any outstanding Loans.

**"Available Facility"** means the aggregate for the time being of each Lender's Available Commitment.

**"Available Tenor"** means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark (or component thereof) or payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, that is or may be used for determining the length of an Interest Period for any term rate or otherwise, and/or for determining any frequency of making payments of interest calculated pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to Clause 10.1(e) (*Alternate Rate of Interest*).

**"Availability Period"** means the period from and including the date of this Agreement to and including the date falling 60 calendar days after the date of this Agreement.

**"Benchmark"** means, initially, the Term SOFR Rate; ***provided that*** if a Benchmark Transition Event, and the related Benchmark Replacement Date have occurred with respect to the Term SOFR Rate, as applicable, or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) of Clause 10.1 (*Alternate Rate of Interest*). If the Benchmark would be less than the Floor, the Benchmark will be deemed to be the Floor for the purposes of this Agreement.

**"Benchmark Replacement"** means, with respect to any Benchmark Transition Event, the first alternative set forth in the order below that can be determined by the Facility Agent

(acting at the written direction of the Majority Lenders) for the applicable Benchmark Replacement Date:

- (a) the sum of: (a) the Daily Compounded SOFR and (b) the related Benchmark Replacement Adjustment (if any); or
- (b) the sum of: (a) the Alternate Base Rate and (b) the related Benchmark Replacement Adjustment (if any); or
- (c) the sum of: (a) the alternate benchmark rate that has been selected by the Facility Agent (acting at the written direction of the Majority Lenders who have consulted with the Borrower) as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for dollar-denominated syndicated credit facilities at such time in the United States and (b) the related Benchmark Replacement Adjustment (if any);

If the Benchmark Replacement as determined pursuant to paragraphs (a) or (b) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement.

**"Benchmark Replacement Adjustment"** means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Facility Agent (acting at the written direction of the Majority Lenders who have consulted with the Borrower) for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for dollar-denominated syndicated credit facilities at such time.

**"Benchmark Replacement Conforming Changes"** means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Alternate Base Rate," the definition of "Business Day," the definition of "U.S. Government Securities Business Day," the definition of "Interest Period," timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Facility Agent (acting at the written direction of the Majority Lenders)

decides may be appropriate to reflect the adoption and implementation of such Benchmark in a manner substantially consistent with market practice (or, if the Facility Agent (acting at the written direction of the Majority Lenders) decides that adoption of any portion of such market practice is not administratively feasible or if the Facility Agent (acting at the written direction of the Majority Lenders) determines that no market practice for the administration of such Benchmark exists, in such other manner of administration as the Facility Agent (acting at the written direction of the Majority Lenders) decides is reasonably necessary in connection with the administration of this Agreement and the other Finance Documents).

**"Benchmark Replacement Date"** means, with respect to any Benchmark, the earliest to occur of the following events with respect to such then-current Benchmark determined by the Facility Agent (acting at the written direction of the Majority Lenders):

1. in the case of clause (1) or (2) of the definition of "Benchmark Transition Event," the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or
2. in the case of clause (3) of the definition of "Benchmark Transition Event," the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; **provided that** such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

**"Benchmark Transition Event"** means, with respect to any Benchmark, the occurrence of one or more of the following events with respect to such then-current Benchmark determined by the Facility Agent (acting at the written direction of the Majority Lenders):

1. a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, **provided that**, at the time of such statement or

publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

2. a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the NYFRB, the CME Term SOFR Administrator, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; **provided that**, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or
3. a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer, or as of a specified future date will no longer be, representative.

For the avoidance of doubt, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

**"Benchmark Unavailability Period"** means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Finance Document in accordance with Clause 10 and (y) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Finance Document in accordance with Clause 10.

**"Borrower"** has the meaning as that term is defined in the preamble.

**"Break Costs"** means the amount (if any) by which:

- (a) the interest (excluding Margin) which a Lender should have received for the period from the date of receipt of all or any part of its participation in the Loans to the last day of the current Interest Period in respect of the Loans, had the principal amount received been paid on the last day of that Interest Period;

exceeds:

- (b) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount received by it on deposit with a leading bank for a period

starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

For the avoidance of doubt, if both Break Costs and a Make-Whole Payment are applicable to any early repayment or prepayment, there shall be no double counting of the components that comprise such amounts.

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for general business in New York and Madrid, and which is a Quito Business Day; **provided that**, in addition to the foregoing, in relation to any interest rate setting of the Loans referencing the Term SOFR Rate, such day shall also be a U.S. Government Securities Business Day.

**"Central Bank"** means the Central Bank of Ecuador (*Banco Central del Ecuador*).

**"CME Term SOFR Administrator"** means CME Group Benchmark Administration Limited as administrator of the forward-looking term Secured Overnight Financing Rate (SOFR) (or a successor administrator).

**"Code"** means the U.S. Internal Revenue Code of 1986.

**"Commitment"** means:

- (a) in relation to an Original Lender, the amount set opposite its name in Schedule 1 (*The Original Lenders*) and the amount of any other Commitment transferred to it under this Agreement; and
- (b) in relation to any other Lender, the amount of any Commitment transferred to it under this Agreement,

to the extent not cancelled, reduced or transferred by it under this Agreement.

**"Confidential Information"** means all information relating to the Borrower, the Republic, the Finance Documents or the Facility of which any Party becomes aware in its capacity as, or for the purpose of becoming, a Party or which is received by a Party in relation to, or for the purpose of becoming a Party under, the Finance Documents from any other Party or any of its advisors, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

- (a) is or becomes public information other than as a direct or indirect result of any breach by that Party of Clause 32 (*Confidentiality*); or
- (b) is identified in writing at the time of delivery as non-confidential by the sending Party or any of its advisors; or
- (c) is known by that Party before the date the information is disclosed to it in accordance with paragraphs (a) or (b) above or is lawfully obtained by that Party after that date, from a source which is, as far as that Party is aware, unconnected

with any other Party and which, in either case, as far as that Party is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

**"Confidentiality Undertaking"** means a confidentiality undertaking substantially in the relevant recommended form of the LSTA confidentiality undertaking, as recommended from time to time, or any other confidentiality undertaking under substantially similar terms customary for access to investor data sites agreed between the Borrower and the Facility Agent.

**"Corresponding Tenor"** with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

**"Counter-Guarantee Agreement"** means the contingency reimbursement contract (*Contrato de Reembolso por Contingencia*) dated 25 December 2025 between the Borrower and IADB.

**"Daily Compounded SOFR"** means, for any day (a **"SOFR Rate Day"**), a rate per annum equal to SOFR for the day (such day **"SOFR Determination Date"**) that is five (5) U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator's Website, **provided that** if Daily Compounded SOFR as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement. Any change in Daily Compounded SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower. If by 5:00 p.m. (New York City time) on the second (2nd) U.S. Government Securities Business Day immediately following any SOFR Determination Date, SOFR in respect of such SOFR Determination Date has not been published on the SOFR Administrator's Website and a Benchmark Replacement Date with respect to the Daily Compounded SOFR has not occurred, then SOFR for such SOFR Determination Date will be SOFR as published in respect of the first preceding U.S. Government Securities Business Day for which such SOFR was published on the SOFR Administrator's Website.

**"Default"** means an Event of Default or any event or circumstance specified in Clause 20 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

**"Dispute"** has the meaning as that term is defined in Clause 38.1 (*Arbitration*).

**"Disruption Event"** means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions

contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; or

- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
  - (i) from performing its payment obligations under the Finance Documents; or
  - (ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

**"Early Disbursement Event"** has the meaning given to it in Section 2.10(a) (*Early Disbursement*) of the IADB Guarantee.

**"Ecuador"** means the Republic of Ecuador.

**"Eligible Green Project"** means a project that qualifies as eligible under the category of "Affordable and Resilient Housing" under the "Use of Proceeds" component of the Green Loan Principles and the Sovereign Financing Framework for Affordable and Resilient Housing.

**"Eligible Social Project"** means a project that qualifies as eligible under the category of "Affordable Housing" under the "Use of Proceeds" component of the Social Loan Principles and the Sovereign Financing Framework for Affordable and Resilient Housing.

**"Erroneous Payment"** means a payment of an amount by the Facility Agent to another Finance Party which the Facility Agent determines (in its sole discretion) was made in error.

**"Escrow Demand Notice"** means any demand notice submitted by the Facility Agent (acting at the written direction of the relevant Lenders in accordance with Clause 22.4(b)) or, if applicable, a Lender, under, and in accordance with the terms of, any IADB Escrow Arrangements.

**"Event of Default"** means any event or circumstance specified as such in Clause 20 (*Events of Default*).

**"Excluded Indebtedness"** means the following series of securities issued by Ecuador:

- (a) the 12 per cent. U.S. Dollar Denominated Global Bonds due 2012 (ISIN: XS0115748401); and
- (b) the U.S. Dollar Denominated Step-up Global Bonds due 2030 (ISIN: XS0115743519).

**"External Indebtedness"** means all Indebtedness that is not (a) issued pursuant to agreements or evidenced by instruments that expressly submit the resolution of all disputes to the exclusive jurisdiction of the courts of Ecuador or (b) governed by Ecuadorian law,

(and External Indebtedness shall include, for the avoidance of doubt, the Counter Guarantee Agreement).

"**Facility**" means the term loan facility made available under this Agreement as described in Clause 2 (*The Facility*).

"**Facility Agent**" has the meaning as that term is defined in the preamble.

"**Facility Office**" means the office or offices notified by a Lender to the Facility Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five (5) Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

"**FATCA**" means:

- (a) sections 1471 to 1474 of the Code or any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the U.S. and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; or
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (a) or (b) above with the U.S. Internal Revenue Service, the U.S. government or any governmental or taxation authority in any other jurisdiction.

"**FATCA Application Date**" means:

- (a) in relation to a "withholdable payment" described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014; and
- (b) in relation to a "passthru payment" described in section 1471(d)(7) of the Code not falling within paragraphs (a) above, the first date from which such payment may become subject to a deduction or withholding required by FATCA.

"**FATCA Deduction**" means a deduction or withholding from a payment under a Finance Document required by FATCA.

"**FATCA Exempt Party**" means a Party that is entitled to receive payments free from any FATCA Deduction.

"**FATF**" has the meaning given in Clause 17.18 (*Anti-Terrorism; Anti-Money laundering*).

"**Federal Funds Effective Rate**" means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depository institutions, as determined in such manner as shall be set forth on the NYFRB's Website from time to time, and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; **provided that** if the Federal Funds Effective Rate as so determined would be less than 0%, such rate shall be deemed to be 0% for the purposes of this Agreement.

**"Fee Letter"** means the Fee Letter dated on or about the date of this Agreement between the Borrower and the Original Lenders.

**"Finance Document"** means each of this Agreement, the Fee Letters, the IADB Guarantee and any other document designated as such by the Facility Agent (acting at the written direction of the Majority Lenders) and the Borrower (but not including, for the avoidance of doubt, the Counter-Guarantee Agreement).

**"Finance Party"** means the Facility Agent (not in its individual capacity, but solely as agent for the Lenders) or a Lender.

**"Floor"** means a rate of interest equal to 0%.

**"Governmental Authority"** means (a) any national, state, county, city, town, village, municipal or local government, or any political subdivision thereof, (b) any agency, authority, instrumentality, regulatory body, court, central bank, Superintendence, Ministry, department, commission, board, or bureau, whether civilian or military, or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank), or (c) a government-owned, government-run or government-controlled association, organization, business, or enterprise.

**"Green Loan Principles"** means the Green Loan Principles, issued in March 2025, by the LMA, LSTA and (APLMA), as may be amended from time to time, and the Guidance on Green Loan Principles issued in March 2025 by the LMA, LSTA and APLMA as may be amended from time to time.

**"Green-Related Information"** means information relating to the Sovereign Financing Framework for Affordable and Resilient Housing, the Affordable and Resilient Housing Loan Reports and the Green Loan Principles.

**"Guarantee Demand Notice"** means notice in writing from the Facility Agent (acting at the written direction of the relevant Lenders in accordance with Clause 22.4(b)) or, if applicable and permitted under the IADB Guarantee, a Lender, to IADB, in the form set forth in Exhibit A to the IADB Guarantee.

**"Guarantee Payment"** has the meaning given to it in the IADB Guarantee.

**"Holding Company"** means, in relation to a person, any other person in respect of which it is a Subsidiary.

**"IADB"** means the Inter-American Development Bank.

**"IADB Escrow Account"** has the meaning given to it in Clause 2.3(f) (*IADB Guarantee*).

**"IADB Escrow Arrangements"** means any escrow arrangements that are established in accordance with Section 2.10 (*Early Disbursement*) of the IADB Guarantee in connection with the occurrence of an Early Disbursement Event and the depositing by IADB of amounts

into an IADB Escrow Account, which arrangements shall permit drawings from the IADB Escrow Account in accordance with the IADB Guarantee and Clause 2.3(f) (*IADB Guarantee*).

**"IADB Guarantee"** means the Partial Credit Guarantee dated on or about the date hereof among IADB, the Facility Agent and the Original Lenders with respect to certain payment obligations of the Borrower under this Agreement, up to the Maximum Guaranteed Amount.

**"IMF"** means the International Monetary Fund.

**"Immune Property"**, in accordance with the provisions of the laws of Ecuador, means:

- (a) any property which is used or designated for use in the performance of the functions of the diplomatic missions of Ecuador or its consular posts;
- (b) aircraft, naval vessels and other property of a military character or used or designated for use in the performance of military functions;
- (c) property forming part of the cultural heritage of Ecuador or part of its archives;
- (d) unexploited natural non-renewable resources in Ecuador;
- (e) funds in the national Treasury Account;
- (f) assets and resources comprising available monetary reserves of Ecuador;
- (g) public domain assets used for providing public services in Ecuador;
- (h) national assets located in the territory of Ecuador and belonging to Ecuador, such as streets, bridges, roads, squares, beaches, sea and land located over 4,500 meters above sea level;
- (i) accounts of the Central Bank, whether they are held abroad or locally; and
- (j) public entities' deposits with the Central Bank, whether they are maintained abroad or locally.

**"Indebtedness"** means for any person (a) all indebtedness of or guaranteed by such person for or in connection with borrowed money, and (b) all obligations of or guaranteed by such person (other than those specified in (a)) evidenced by debt securities, debentures, notes or other similar instruments; **provided that** Indebtedness shall not include commercial agreements not having the commercial effect of a borrowing.

**"Independent Auditor"** means an independent international recognized auditing firm appointed by the Borrower to be in charge of auditing financial statements of the Administration Trust that manages the proceeds of the financing, which shall at all times be one of Deloitte & Touche, Ernst & Young, KPMG or PricewaterhouseCoopers or any Affiliate thereof.

**"Insolvency Event"** in relation to a Finance Party means that the Finance Party:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) 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 (in each case as determined in accordance with the laws applicable to such Finance Party);
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organization or the jurisdiction of its head or home office, 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 by it or such regulator, supervisor or similar official;
- (e) 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 is instituted or presented by a person or entity not described in paragraph (d) above and:
  - (i) 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
  - (ii) is not dismissed, discharged, stayed or restrained in each case within thirty (30) days of the institution or presentation thereof;
- (f) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (g) 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 (other than, for so long as it is required by law or regulation not to be publicly disclosed, any such appointment which is to be made, or is made, by a person or entity described in paragraph (d) above);
- (h) 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 thirty (30) days thereafter;
- (i) 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 paragraphs (a) to (h) above; or

- (j) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

**"Interest Payment Date"** means 15 March, 15 June, 15 September and 15 December in each year, with the first Interest Payment Date falling on 15 March 2026.

**"Interest Period"** means, in relation to any Loan, each period determined in accordance with Clause 9 (*Interest Periods*) and, in relation to an Overdue Amount, each period determined in accordance with Clause 8.3 (*Default interest*).

**"Impaired Facility Agent"** means the Facility Agent at any time when:

- (a) it has failed to make (or has notified a Finance Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;
- (b) the Facility Agent otherwise rescinds or repudiates a Finance Document; or
- (c) an Insolvency Event has occurred and is continuing with respect to the Facility Agent;

unless, in the case of paragraph (a) above:

- (i) its failure to pay is caused by:
- (A) administrative or technical error; or
- (B) a Disruption Event; and
- payment is made within two (2) Business Days of its due date; or
- (ii) the Facility Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

**"Interim Process Agent"** has the meaning as that term is defined in Clause 40 (*Service of Process*).

**"Lender"** means:

- (a) the Original Lenders; and
- (b) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 21.2 (*Assignments by Lenders*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement. For the avoidance of doubt, a "Lender" does not include the Facility Agent in its role as facility agent under this Agreement.

**"LCIA"** means the London Court of International Arbitration.

**"LCIA Rules"** has the meaning given to that term in Clause 38.1 (*Arbitration*).

"**LMA**" means the Loan Market Association.

"**Loan**" means a loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan.

"**LSTA**" means the Loan Syndications & Trading Association.

"**Majority Lenders**" means a Lender or Lenders whose Commitments aggregate more than 66⅔% of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 66⅔% of the Total Commitments immediately prior to the reduction).

"**Make-Whole Payment**" means an amount equal to the sum of (a) (x) the present value (calculated by the Facility Agent (acting at the written direction of the Majority Lenders, who will provide a spreadsheet with the method of calculation at the time of such written direction), applying a discount rate equal to the Applicable Discount Rate) of the aggregate amount of principal and interest that would have accrued hereunder on the portion of the Loan being prepaid (if that portion had not been prepaid) from the date of prepayment to the applicable originally scheduled repayment date *minus* (y) the principal amount of the portion of the Loan being prepaid, and (b) any cost, loss or liability incurred by a Lender (as determined by such Lender) as a result of a prepayment and/or the related termination, settlement or reestablishment of any hedge arrangement or related trading position (irrespective of the currency thereof), **provided that** the Make-Whole Payment shall not be less than zero. For the avoidance of doubt, the calculation of Make-Whole Payment shall not double count any interest included in the present value amount.

"**Margin**" means 3.40 per cent. per annum.

"**Material Adverse Effect**" means a material adverse effect on:

- (a) the financial or economic condition, or external liabilities, of the Borrower;
- (b) the ability of the Borrower to perform its payment obligations under the Finance Documents to which the Borrower is a party; or
- (c) the validity or enforceability of any Finance Document to which the Borrower is a party against the Borrower or the rights or remedies of any Finance Party thereunder.

"**Maturity Date**" means the final Repayment Date for the Loans.

"**Maximum Guaranteed Amount**" means, as of any date of determination, an amount equal to the lesser of: (a) USD250,000,000, *minus* the aggregate of all Guarantee Payments previously paid as of such date of determination, plus any amount returned to the IADB pursuant to section 2.04(c) of the IADB Guarantee, and (b) the Maximum Guaranteed Loan Amounts.

"**Maximum Guaranteed Loan Amounts**" means, on any given day of calculation: the amount specified in the column titled "Maximum Guaranteed Loan Amounts" in Schedule I

to the IADB Guarantee determined by reference to the period ending on (but excluding) the period end date occurring on or immediately preceding the date of calculation, as such table included in Schedule I to the IADB Guarantee is provided (by electronic mail or otherwise in writing) by any of IADB, the Facility Agent (acting at the written direction of the Majority Lenders) or the Original Lenders to the Borrower.

**"New York Convention"** means the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958.

**"NYFRB"** means the Federal Reserve Bank of New York.

**"NYFRB Rate"** means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); **provided that** if none of such rates are published for any day that is a Business Day, the term "NYFRB Rate" means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Facility Agent from a federal funds broker of recognized standing selected by the Facility Agent (acting at the written direction of the Majority Lenders); provided, further, that if any of the aforesaid rates as so determined be less than 0%, such rate shall be deemed to be 0% for purposes of this Agreement.

**"NYFRB's Website"** means the website of the NYFRB at <http://www.newyorkfed.org>, or any successor source.

**"OECD"** means The Organisation for Economic Co-operation and Development.

**"Operating Regulations"** means the Reglamento Operativo del Programa de Vivienda de Interés Social y Público approved by the Republic of Ecuador in terms agreed to by IADB in December 2025.

**"Original Lenders"** has the meaning as that term is defined in the preamble.

**"Overdue Amount"** has the meaning as that term is defined in Clause 8.3 (*Default Interest*).

**"Overnight Bank Funding Rate"** means, for any day, the rate calculated and published by the Federal Reserve Bank of New York as the overnight bank funding rate, based on transactions in the federal funds market and Eurodollar deposits, as reported in the FR 2420 Report of Selected Money Market Rates (or any successor source), and published on the New York Fed's website (or any successor source) for such day.

**"Participant"** has the meaning as that term is defined in Clause 21.4 (*Participations*).

**"Party"** means a party to this Agreement.

**"PATRIOT Act"** means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001, as amended)).

**"Paying Party"** has the meaning as that term is defined in Clause 25.5 (*Impaired Facility Agent*).

**"Permanent Process Agent"** has the meaning as that term is defined in Clause 40 (*Service of Process*).

**"Permitted Security"** has the meaning given to that term in Clause 19.4 (*Negative pledge*).

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

**"Prohibited Nations Act"** means any law, statute, regulation or executive order enacted by any Sanctions Authority that prohibits or restricts transactions, dealings or investments with certain countries, regions, territories or persons designated as prohibited or restricted, including any successor legislation thereto.

**"Project Financing"** means any financing of all or part of the costs of the acquisition, construction or development of any properties in connection with a project if the person or persons providing such financing expressly agree to look to the properties financed and the revenues to be generated by the operation of, or loss of or damage to, such properties as the principal source of repayment for the moneys advanced.

**"Public Housing Investment Program"** means the Social and Public Interest Housing Program, as approved by the Republic of Ecuador and IADB in January 2025.

**"Public Planning and Finance Code"** means the Código Orgánico de Planificación y Finanzas Públicas.

**"Quito Business Day"** means a day other than:

- (a) Saturday or Sunday; or
- (b) any day which is a public holiday in Ecuador and is listed in Schedule 6 (*Quito Public Holidays*).

**"Recipient Party"** has the meaning as that term is defined in Clause 25.5 (*Impaired Facility Agent*).

**"Reference Time"** with respect to any setting of the then-current Benchmark means (1) if such Benchmark is the Term SOFR Rate, 11:00 a.m. (New York time) on the day that is two U.S. Government Securities Business Days preceding the date of such setting or (2) if such

Benchmark is not the Term SOFR Rate, the time determined by the Facility Agent (acting at the written direction of the Majority Lenders) in its reasonable discretion.

**"Related Fund"** in relation to a fund (the **"first fund"**), means:

- (a) a fund which is managed or advised by the same investment manager or investment adviser as the first fund; or
- (b) if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser is an Affiliate of the investment manager or investment adviser of the first fund.

**"Relevant Entity"** means any Ministry of the Republic and any affiliated entity of the Borrower that are involved in the transactions contemplated by the Finance Documents.

**"Relevant Governmental Body"** means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

**"Repayment Date"** means each repayment date set out in Clause 6.1 (*Repayment of the Loans*).

**"Repayment Instalment"** means each instalment for repayment of a Loan referred to in Clause 6.1 (*Repayment of the Loans*).

**"Repeating Representations"** means each of the representations set out in Clauses 17.1 (*Status*) to 17.5 (*Governing law, arbitral awards and scope of immunity*), Clause 17.8(a) (*No material defaults*) and Clause 17.11 (*Acts of commercial public credit*).

**"Replacement Agent"** has the meaning as that term is defined in Clause 40 (*Service of Process*).

**"Representative"** means any delegate, agent, manager, administrator, nominee, attorney, payment or settlement system operator, trustee or custodian.

**"Republic"** means the Republic of Ecuador.

**"Responsible Officer"** means, with respect to the Facility Agent, any officer within the department of the Facility Agent administering this matter, including any vice president, assistant vice president, senior associate, assistant secretary, assistant treasurer, trust officer or any other officer of the Facility Agent who customarily performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any such matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Agreement.

**"Sanctioned Jurisdiction"** has the meaning assigned to such term in the definition of Sanctioned Person.

**"Sanctioned Person"** means (a) any person that is the subject or target of any Sanctions administered by a Sanctions Authority, or the equivalent Governmental Authorities in the Republic or any jurisdiction in which amounts deriving from the Facility will be used or from which repayments of the obligations will be derived (hereinafter, the **"Sanctions Programs"**), (b) any person domiciled, resident, or located in Iran, Cuba, North Korea or the Crimea, Donetsk, and Luhansk regions of Ukraine and the non-government controlled areas of Ukraine in the oblasts of Kherson, the non-government controlled areas of Ukraine in the oblasts of Zaporizhzhia (hereinafter, **"Sanctioned Jurisdiction"**) or (c) any other person, organization or vessel with whom a U.S. Person may not engage under any Prohibited Nations Act in the absence of specific governmental authorization or (d) any person, organization or vessel owned or controlled by, or acting on behalf of, persons, entities or other parties referred to in (a) to (c), or (e) located within or operating from a Sanctioned Territory, or otherwise subject to or the target of any Sanctions.

**"Sanctioned Territory"** means any country or territory that is the subject or target of a general export, import, financial or investment embargo under Sanctions.

**"Sanctions"** means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by a relevant Sanctions Authority.

**"Sanctions Authority"** means any agency or person which is duly appointed, empowered or authorized to enact, administer, implement and/or enforce Sanctions, including (without limitation):

- (a) the Department of the Treasury's Office of Foreign Assets Control of the United States of America (OFAC);
- (b) the U.S. Department of State;
- (c) the U.S. Department of Commerce;
- (d) the United Nations Security Council;
- (e) the European Union (EU) or any of its member states;
- (f) His Majesty's Treasury in the United Kingdom (UK HMT);
- (g) the Swiss Secretariat of Economic Affairs (SECO);
- (h) the Hong Kong Monetary Authority (HKMA);
- (i) the Monetary Authority of Singapore (MAS);
- (j) the Ministry of Foreign Affairs of Japan;
- (k) Global Affairs Canada of Canada; and
- (l) the Department of Foreign Affairs and Trade of Australia.

"**Sanctions Programs**" has the meaning assigned to such term in the definition of Sanctioned Person.

"**Second-Party Opinion**" means the second-party opinion provided by Sustainable Fitch dated 9 December 2025.

"**Security**" means any mortgage, lien, pledge, security interest, deed of trust to secure indebtedness, charge, or other encumbrance or preferential arrangement having the practical effect of constituting a security interest.

"**Side Letter**" means the side letter between the Borrower and the Original Lenders dated on or about the date hereof.

"**Social Loan Principles**" means the Social Loan Principles, issued in March 2025, by the LMA, LSTA and APLMA, as may be amended from time to time, and the Guidance on Social Loan Principles issued in March 2025 by the LMA, LSTA and APLMA as may be amended from time to time.

"**Social-Related Information**" means information relating to the Sovereign Financing Framework for Affordable and Resilient Housing, the Affordable and Resilient Housing Loan Reports and the Social Loan Principles.

"**SOFR**" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"**SOFR Administrator**" means the NYFRB (or a successor administrator of the secured overnight financing rate).

"**SOFR Administrator's Website**" means the NYFRB's website, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"**Sovereign Financing Framework for Affordable and Resilient Housing**" means the Sovereign Financing Framework for Affordable and Resilient Housing of the Republic of Ecuador dated 12 December 2025 which was reviewed and confirmed to be in line with the Social Loan Principles and the Green Loan Principles by the Second-Party Opinion.

"**Specified Date**" has the meaning given to that term in paragraph (c) of Clause 22.13 (*Resignation of the Facility Agent*).

"**Specified Time**" means a time determined in accordance with Schedule 5 (*Timetables*).

"**Subsidiary**" means, in relation to any company or corporation, a company or corporation:

- (a) which is controlled, directly or indirectly, by the first mentioned company or corporation;
- (b) more than half the issued share capital of which is beneficially owned, directly or indirectly by the first mentioned company or corporation; or

(c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

**"Sustainability Coordinator"** means Banco Santander S.A., appointed hereunder to facilitate voluntary alignment by the parties with the four components of the Social Loan Principles and the Green Loan Principles in connection with this Agreement.

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

**"Term Benchmark Loan"** means any Loan that bears interest at a rate based on the Term SOFR Rate, other than pursuant to clause (c) of the definition of Alternate Base Rate.

**"Term SOFR Determination Day"** has the meaning assigned to it under the definition of Term SOFR Reference Rate.

**"Term SOFR Rate"** means, with respect to any Term Benchmark Loan or any ABR Loan bearing interest pursuant to clause (c) of the definition of Alternate Base Rate, the Term SOFR Reference Rate for a three (3) month tenor at approximately 11:00 a.m., New York time, two U.S. Government Securities Business Days prior to the commencement of every other Interest Period (starting with the first Interest Period), as such rate is published by the CME Term SOFR Administrator. If the Term SOFR Rate would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

**"Term SOFR Reference Rate"** means, for any day and time (such day, the **"Term SOFR Determination Day"**), the Term SOFR Rate. If by 5:00 pm (New York City time) on such Term SOFR Determination Day, the "Term SOFR Reference Rate" for the applicable tenor has not been published by the CME Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then, so long as such day is otherwise a U.S. Government Securities Business Day, the Term SOFR Reference Rate for such Term SOFR Determination Day will be the Term SOFR Reference Rate as published in respect of the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate was published by the CME Term SOFR Administrator, so long as such first preceding U.S. Government Securities Business Day is not more than five (5) U.S. Government Securities Business Days prior to such Term SOFR Determination Day.

**"Total Commitments"** means the aggregate of the Commitments.

**"Unadjusted Benchmark Replacement"** means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

**"U.S."** means the United States of America.

**"U.S. Government Securities Business Day"** means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

**"Utilization"** means a utilization of the Facility.

**"Utilization Date"** means the date of a Utilization, being the date on which the relevant Loan is to be made.

**"Utilization Request"** means the notice substantially in the form set out in Schedule 3 (*Utilization Request*).

**"VAT"** means:

- (a) any value added tax imposed by the Value Added Tax Act 1994;
- (b) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (c) any other tax of a similar nature, whether imposed in the United Kingdom or in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraphs (a) or (b) (as applicable) above, or imposed elsewhere.

## 1.2 **Construction**

- (a) Unless a contrary indication appears, any reference in this Agreement to:
  - (i) the **"Facility Agent"**, any **"Finance Party"**, any **"Lender"**, or any **"Party"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
  - (ii) **"assets"** includes present and future properties, revenues and rights of every description;
  - (iii) an **"agency"** of a state shall be construed as a reference to any political sub division, regional or municipal government, ministry, department, authority or statutory corporation (whether autonomous or not) of or any corporation or other entity which is controlled or (as to fifty percent (50%) or more of its issued share capital or the equivalent thereof) owned, directly or indirectly, by such state or its government and/or one or more such agencies;
  - (iv) a **"Finance Document"** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof;

- (v) "**guarantee**" means (other than where the defined term "**IADB Guarantee**" is used) any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
  - (vi) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (vii) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
  - (viii) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law), as may be amended from time to time, of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organization;
  - (ix) a provision of law is a reference to that provision as amended or re-enacted from time to time;
  - (x) a time of day is a reference to New York time;
  - (xi) words importing the singular include the plural and *vice versa*; and
  - (xii) a Section, Clause or Schedule is, unless otherwise stated, to a section, clause or schedule of this Agreement.
- (b) Section, Clause and Schedule headings are for ease of reference only.
- (c) The Schedules to this Agreement form an integral part thereof.
- (d) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (e) A Default (other than an Event of Default) is "**continuing**" if it has not been remedied or waived, and an Event of Default is "**continuing**" if it has not been (i) in the case of payment Events of Default, remedied or (ii) in the case of non-payment Events of Default, waived.
- (f) The words "**include**" and "**including**" shall be construed as "**including without limitation**" (and cognate expressions shall be construed accordingly).

### 1.3 **Currency symbols and definitions**

"\$", "USD", "US Dollars" and "dollars" denote the lawful currency of the United States of America.

## **SECTION 2 THE FACILITY**

### **2. THE FACILITY**

#### **2.1 The Facility**

Subject to the terms of this Agreement, the Lenders make available to the Borrower a dollar term loan facility in an aggregate amount equal to the Total Commitments.

#### **2.2 Finance Parties' rights and obligations**

- (a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.
- (b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from the Borrower shall be a separate and independent debt.
- (c) A Finance Party may, except as otherwise stated in the Finance Documents, separately enforce its rights under the Finance Documents.

#### **2.3 IADB Guarantee**

- (a) The Parties acknowledge the IADB Guarantee, pursuant to which IADB guarantees certain payment obligations of the Borrower under the Loans. The execution, delivery and continued validity and enforceability of the IADB Guarantee throughout the tenor of the Loans is integral to the Finance Parties entering into the transactions contemplated by this Agreement.
- (b) Nothing in this Agreement shall oblige any Finance Party to act (or omit to act) in a manner that is inconsistent with any requirements of IADB under or in connection with the IADB Guarantee and, in particular:
  - (i) each Finance Party may take all such actions as it considers necessary (A) to ensure that its obligations under or in connection with, and all requirements of, the IADB Guarantee are complied with and (B) for the purpose of preserving such Finance Party's rights under the IADB Guarantee and the validity and enforceability thereof; and
  - (ii) none of the Finance Parties shall be obliged to do anything if, in its reasonable opinion, to do so could result in a breach of any requirements of IADB under or in connection with the IADB Guarantee or affect the validity of the IADB Guarantee.

- (c) The Finance Parties shall be entitled to consult with IADB in order to determine whether any action would conflict with the terms of the IADB Guarantee.
- (d) The Borrower consents to the provisions of this Clause 2.3 and further agrees to co-operate with the Finance Parties in relation to the preservation, validity and enforceability of the IADB Guarantee including, if applicable, entering into any amendment to any Finance Document which is reasonably requested by the Facility Agent (acting at the written direction of the Majority Lenders) in order to ensure the continued preservation, validity and enforceability of the IADB Guarantee.
- (e) If the Borrower receives notice that an Early Disbursement Event has occurred, it shall use its commercially reasonable efforts to engage with IADB to resolve the relevant events or circumstances that led to the occurrence of such Early Disbursement Event.
- (f) If at any time an Early Disbursement Event has occurred, leading to IADB depositing the Maximum Guaranteed Amount (as defined in the IADB Guarantee) into an escrow account (the "**IADB Escrow Account**") in accordance with Section 2.10 (*Early Disbursement*) of the IADB Guarantee and the IADB Guarantee having been terminated by IADB in connection therewith, then, upon the repayment in full of the Loans, any amounts remaining on deposit in the IADB Escrow Account shall be promptly returned to the Republic.
- (g) In accordance with Clause 22.4(b) (*Duties of the Facility Agent in connection with the IADB Guarantee*), the Facility Agent shall be entitled to submit a Guarantee Demand Notice under the IADB Guarantee (or, if applicable, an Escrow Demand Notice under any relevant IADB Escrow Arrangements) at the direction of any individual Lender. The Borrower acknowledges that, in accordance with the terms of the IADB Guarantee (or any relevant IADB Escrow Arrangements):
  - (i) such a Guarantee Demand Notice (or, if applicable, Escrow Demand Notice) may be submitted at any time following any non-payment of any amount by the Borrower under the Finance Documents;
  - (ii) any Lender may (in its sole discretion) direct the Facility Agent to submit a Guarantee Demand Notice under the IADB Guarantee (or, if applicable, an Escrow Demand Notice under any relevant IADB Escrow Arrangements) in respect of any certain amounts unpaid (but not others) by the Borrower or a part of any such amount unpaid; and
  - (iii) no Lender shall be under any obligation to direct the Facility Agent to submit a Guarantee Demand Notice under the IADB Guarantee (or, if applicable, an Escrow Demand Notice under any relevant IADB Escrow Arrangements) within any specific timeframe following the non-payment of such amount (or part thereof) by the Borrower.

### 3. **PURPOSE**

#### 3.1 **Purpose**

The Borrower shall apply all amounts received by it under the Facility exclusively towards financing and refinancing (including reimbursement for costs previously incurred), in whole or in part, costs related to the Eligible Social Projects and/or Eligible Green Projects and in alignment with the Social Loan Principles, the Green Loan Principles, and the Sovereign Financing Framework for Affordable and Resilient Housing, as applicable.

#### 3.2 **Monitoring**

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

### 4. **CONDITIONS OF UTILIZATION**

#### 4.1 **Initial conditions precedent**

- (a) Subject to paragraphs (b) and (c) below, the Borrower may deliver a Utilization Request from the date of this Agreement.
- (b) The first Utilization Request shall only be effective if, by 11:00 a.m. New York time on the date falling one Business Day prior to the proposed Utilization Date, the Original Lenders and the Facility Agent have received (or waived (in the case of the Facility Agent, on instructions of the Original Lenders) receipt of) all of the documents and other evidence listed in Schedule 2 (*Conditions precedent*) in form and substance satisfactory to the Original Lenders.
- (c) Promptly upon receipt by the Facility Agent of written notice from the Original Lenders confirming the satisfaction of the conditions precedent set forth in Schedule 2 (*Conditions precedent*), the Facility Agent shall notify the Borrower of such satisfaction. In connection with the first Utilization Request, if the Facility Agent does not receive such written notice from the Original Lenders prior to 11:00 a.m. New York time on the date falling one Business Day prior to the proposed Utilization Date, then the relevant Utilization Request shall be automatically deemed null and void (and the next Utilization Request submitted by the Republic under this Agreement shall be deemed to be the first Utilization Request for the purposes of paragraph (b) above and this paragraph (c)).

#### 4.2 **Further conditions precedent**

The Original Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if on the date of a Utilization Request and on the proposed Utilization Date:

- (a) no Default is continuing or would result from the proposed Loan;
- (b) the representations in Clause 17 (*Representations*) made by the Borrower are true and correct in all material respects as of such date;

- (c) since the date of this Agreement, there has been no event which has had a Material Adverse Effect which is continuing, based on objectively verifiable information; and
- (d) in connection with the proposed second Utilization Date only, the conditions in Clause 11.3 (*Commitment Fee*) have been satisfied by the relevant date, as confirmed to the Facility Agent in writing by the Lenders.

#### 4.3 **Maximum number of Loans**

The Borrower may only deliver two Utilization Requests and no more than two Loans may be outstanding.

## **SECTION 3 UTILIZATION**

### **5. UTILIZATION**

#### **5.1 Delivery of the Utilization Request**

The Borrower may utilize the Facility by delivery to the Facility Agent of a duly completed Utilization Request not later than the Specified Time, subject to such Utilization Request not being automatically deemed null and void in accordance with Clause 4.1 (*Initial conditions precedent*).

#### **5.2 Completion of the Utilization Request**

- (a) Subject to Clause 4.1 (*Initial conditions precedent*), each Utilization Request is irrevocable and will not be regarded as having been duly completed unless:
  - (i) the proposed Utilization Date is a Business Day within the Availability Period;
  - (ii) the currency and amount of the Utilization comply with Clause 5.3 (*Currency and amount*); and
  - (iii) the proposed Interest Period complies with Clause 9 (*Interest Periods*).
- (b) Only two (2) Utilization Requests may be submitted under this Agreement.

#### **5.3 Currency and amount**

- (a) The currency specified in a Utilization Request must be dollars.
- (b) The amount of the Loans requested (i) in the first Utilization Request must be an amount equal to or greater than USD250,000,000 and (ii) in the second Utilization Request must be an amount equal to the Available Facility.

#### **5.4 Lenders' participation**

- (a) If the conditions set out in Clause 4 (*Conditions of Utilization*) and this Clause 5 have been met, each Lender shall make its participation in each Loan available by the Utilization Date through its Facility Office.
- (b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its respective Available Commitment to the Total Commitments.
- (c) The Facility Agent shall notify each Lender of the amount of each Loan and the currency of its participation in that Loan, in each case promptly following receipt of the Utilization Request.

## 5.5 **Cancellation of Commitment**

The Commitments which, at that time, are unutilized shall be immediately cancelled at the end of the Availability Period. No Utilization may be made after the last day of the Availability Period.

**SECTION 4**  
**REPAYMENT, PREPAYMENT AND CANCELLATION**

**6. REPAYMENT**

**6.1 Repayment of the Loans**

- (a) The Borrower shall repay the Loans in instalments by repaying on each Repayment Date an amount which reduces the amount of the outstanding aggregate Loans by an amount equal to the relevant Repayment Instalment as set out below:

<b>Repayment Date</b> (Months from the Utilization Date)	<b>Repayment Instalment</b> (Amount in USD)
15 March 2027	22,727,272.73
15 June 2027	22,727,272.73
15 September 2027	22,727,272.73
15 December 2027	22,727,272.73
15 March 2028	22,727,272.73
15 June 2028	22,727,272.73
15 September 2028	22,727,272.73
15 December 2028	22,727,272.73
15 March 2029	22,727,272.73
15 June 2029	22,727,272.73
15 September 2029	22,727,272.73
15 September 2038	250,000,000

- (b) Any repayment or prepayment of the Loans shall be made in the currency in which the Loans are denominated pursuant to this Agreement.

**6.2 Reborrowing**

The Borrower may not reborrow any part of the Facility which is repaid.

**7. PREPAYMENT AND CANCELLATION**

**7.1 Illegality**

If, in any applicable jurisdiction, at any time it becomes or will become unlawful for any Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan:

- (a) that Lender may promptly notify the Facility Agent, in writing, who will in turn notify the Borrower; and
- (b) the Borrower shall either exercise its rights pursuant to Clause 7.2 (*Right of replacement or repayment in relation to a single Lender*) or repay that Lender's participation in the Loans made to the Borrower on the last day of the Interest

Period for each Loan occurring after the Facility Agent, acting at the written direction of such Lender, has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law) and that corresponding Lender's Commitment(s) shall be cancelled in the amount of the participations repaid.

## 7.2 **Right of replacement or repayment in relation to a single Lender**

- (a) If:
- (i) any sum payable to any Lender by the Borrower is required to be increased under paragraph (c) of Clause 12.2 (*Tax gross-up*);
  - (ii) any Lender claims indemnification from the Borrower under Clause 12.3 (*Tax indemnity*) or Clause 13.1 (*Increased costs*); or
  - (iii) any Lender claims prepayment of its share of the Loan under Clause 7.1 (*Illegality*),

the Borrower may, whilst the circumstance giving rise to the requirement for that increase, prepayment or indemnification continues, give the Facility Agent written notice of its intention to procure the repayment of that Lender's participation in the Loans or give the Facility Agent written notice of its intention to replace that Lender in accordance with paragraph (c) below.

- (b) On the last day of each Interest Period on which the Borrower has given notice of its intention to procure the repayment of a Lender's participation in the Loan under paragraph (a) above (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender's participation in that Loan.
- (c) The Borrower may, in the circumstances set out in paragraph (a) above, not less than ten (10) Business Days' prior written notice to the Facility Agent and that Lender, replace that Lender by requiring that Lender to (and, to the extent permitted by law, that Lender shall) assign pursuant to Clause 21.2 (*Assignments by Lenders*) all (and not part only) of its rights and obligations under this Agreement to another Lender or to a bank, financial institution, trust, fund or other entity selected by the Borrower which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 21.2 (*Assignments by Lenders*) for a purchase price in cash or other cash payment payable at the time of the transfer equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest, Break Costs and other amounts payable in relation thereto under the Finance Documents.
- (d) The replacement of a Lender pursuant to paragraph (c) above shall be subject to the following conditions:
- (i) the Borrower shall have no right to replace the Facility Agent;

- (ii) neither the Facility Agent nor any Lender shall have any obligation to find a replacement Lender;
  - (iii) in no event shall the Lender replaced under paragraph (c) above be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents;
  - (iv) the Lender shall only be obliged to assign its rights and obligations pursuant to paragraph (c) above once it is satisfied that it has complied with all necessary "know your customer", anti-money laundering, onboarding and/or other similar checks as required under all applicable laws and regulations and/or pursuant to such Lender's internal requirements in relation to that transfer; and
  - (v) so long as the IADB Guarantee remains in full force and effect, the consent of IADB in accordance with Clause 21.2 (*Assignments by Lenders*) may (in the circumstances set out in such Clause) be required for any replacement of a Lender pursuant to paragraph (c) above.
- (e) A Lender shall perform the checks described in paragraph (d)(iv) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (c) above and shall notify the Facility Agent and the Borrower, in writing, when it is satisfied that it has complied with those checks.

### 7.3 **Loss of the IADB Guarantee cover**

If at any time:

- (a) the IADB Guarantee is terminated or otherwise ceases to be in full force and effect for any reason; or
- (b) the IADB formally suspends all of its payment obligations under the IADB Guarantee, (other than any temporary administrative delay or failure to pay not amounting to a formal suspension),

other than (i) the Maximum Guaranteed Amount being reduced to zero or (ii) an Early Disbursement Event occurring leading to IADB depositing all required amounts into the IADB Escrow Account in connection therewith in accordance with the terms of the IADB Guarantee, then:

- (c) the Facility Agent may, if directed in writing, by the Majority Lenders, notify the Borrower; and
- (d) the Borrower shall repay each Lender's participation in the Loans on the later to occur of: (i) the date falling thirty (30) calendar days from the date on which the Facility Agent notifies the Borrower; and (ii) the next Interest Payment Date.

#### 7.4 Voluntary prepayment

- (a) The Borrower may, if it gives the Facility Agent not less than ten (10) calendar days' (or such shorter period as the Majority Lenders may agree) prior written notice, prepay the whole or any part of any Loan (but, if in part, being an amount that reduces the amount of that Loan by a minimum amount of USD 10,000,000 (or integral multiples of USD 1,000,000 in excess thereof)).
- (b) Any prepayment of a Loan pursuant to this Clause 7.4 shall be applied *pro rata* to each Lender's participation in that Loan.
- (c) Any prepayment of a Loan pursuant to this Clause 7.4 shall be subject to Clause 7.5 (*Restrictions*), including paragraph (b) thereof.

#### 7.5 Restrictions

- (a) Any notice of prepayment given by any Party under this Clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant prepayment is to be made and the amount of that prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs and/or applicable Make-Whole Payment, without premium or penalty.

The Make-Whole Payment shall only be due and payable by the Borrower with respect to any amount (i) prepaid under Clauses 7.1 (*Illegality*) or 7.4 (*Voluntary Prepayment*) or, (ii) repaid or transferred upon the exercise by the Borrower of its right of repayment or replacement pursuant to Clause 7.2 (*Right of replacement or repayment in relation to a single Lender*) in connection with the Lender's claim for prepayment under Clause 7.1 (*Illegality*); or (iii) repaid or transferred upon the exercise by the Borrower of its right of repayment or replacement pursuant to Clause 7.2 (*Right of replacement or repayment in relation to a single Lender*) in connection with any tax payments required to be made by the Borrower pursuant to Clause 12 (*Tax Gross Up and Indemnities*); in each case on the date of such prepayment, repayment or the date on which the Lender's rights and obligations are assigned in accordance with Clause 7.2 (*Right of replacement or repayment in relation to a single Lender*), but only if the illegality giving rise to such Lender's claim for prepayment arises under the laws, regulations or decrees of Ecuador, or otherwise arises directly or indirectly from actions of the Borrower **provided that**, in each case, the Lender claiming the Make-Whole Payment shall deliver to the Borrower reasonably detailed supporting documentation, as provided to such Lender by the party appointed to calculate the Make-Whole Payment, evidencing the amount of the Make-Whole Payment.

- (c) The Borrower may not reborrow any part of the Facility which is prepaid.
- (d) The Borrower shall not repay or prepay any part of any Loan except at the times and in the manner expressly provided for in this Agreement.

- (e) No amount of the Total Commitments cancelled under this Agreement may be subsequently reinstated.
- (f) If the Facility Agent receives a notice under this Clause 7, it shall promptly forward a copy of that notice to either the Borrower or the affected Lender, as appropriate.
- (g) If all or part of any Lender's participation in a Loan is repaid or prepaid, then an amount of that Lender's Commitments (equal to the amount of the participation which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment.

**SECTION 5  
COSTS OF UTILIZATION**

**8. INTEREST**

**8.1 Calculation of interest**

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of:

- (a) the Margin; and
- (b) the Benchmark.

**8.2 Payment of interest**

The Borrower shall pay accrued interest on each Loan in arrears on each Interest Payment Date.

**8.3 Default interest**

- (a) If the Borrower fails to pay any amount other than accrued interest (the "**Overdue Amount**") payable by it under a Finance Document on its due date, interest shall accrue on the Overdue Amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is 2 per cent. per annum higher than the rate which would have been payable if the Overdue Amount had, during the period of non-payment, constituted a Loan in the currency of the Overdue Amount for successive Interest Periods, each of a duration selected by the Facility Agent (acting reasonably and at the written direction of the Majority Lenders). Any interest accruing under this Clause 8.3 shall be immediately payable by the Borrower on demand by the Facility Agent (acting at the written direction of the Majority Lenders).
- (b) If any Overdue Amount consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:
  - (i) the first Interest Period for that Overdue Amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
  - (ii) the rate of interest applying to the Overdue Amount during that first Interest Period shall be 2 per cent. per annum higher than the rate which would have applied if the Overdue Amount had not become due.
- (c) Any interest (if unpaid) arising on an Overdue Amount will not be compounded but will remain immediately due and payable.

#### 8.4 **Notification of rates of interest**

The Facility Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.

### 9. **INTEREST PERIODS**

#### 9.1 **Interest Periods**

- (a) Each Interest Period in respect of a Loan shall be for a period of three (3) months (subject to the first Interest Period for each Loan potentially being less than three (3) months).
- (b) The first Interest Period for each Loan shall start on the applicable Utilization Date and end on the immediately succeeding Interest Payment Date. Each subsequent Interest Period shall start on the last day of its preceding Interest Period and end on the next Interest Payment Date.
- (c) An Interest Period for a Loan shall not extend beyond the Maturity Date for that Loan.

#### 9.2 **Non-Business Days**

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

#### 9.3 **Consolidation of Loans**

If Interest Periods for two or more Loans end on the same date, those Loans will be consolidated into, and treated as, a single Loan on and from the last day of the relevant Interest Period.

### 10. **CHANGES TO THE CALCULATION OF INTEREST**

#### 10.1 **Alternate Rate of Interest**

- (a) Notwithstanding anything to the contrary herein or in any other Finance Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to any setting of the then-current Benchmark, then if:
  - (i) the Facility Agent (acting at the written direction of the Majority Lenders) determines (which determination shall be conclusive absent manifest error) prior to the commencement of any Interest Period, that adequate and reasonable means do not exist for ascertaining the Term SOFR Rate (including because the Term SOFR Reference Rate is not available or published on a current basis) for such Interest Period; or
  - (ii) the Facility Agent is advised by the Lenders (or Lender) that prior to the commencement of any Interest Period, the Term SOFR Rate for such Interest

Period does not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loans) included in such borrowing for such Interest Period,

then the Facility Agent shall give notice thereof to the Borrower and the Lenders by electronic mail as promptly as practicable thereafter.

- (b) Notwithstanding anything to the contrary herein, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then:
  - (i) if a Benchmark Replacement is determined in accordance with paragraph (a) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark (including any related adjustments) for all purposes hereunder in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement; and
  - (ii) if a Benchmark Replacement is determined in accordance with paragraph (b) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement.
- (c) Notwithstanding anything to the contrary herein or in any other Finance Document, the Facility Agent (acting at the written direction of the Majority Lenders) will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement.
- (d) The Facility Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (e) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Facility Agent (acting at the written direction of the Majority Lenders) or, if applicable, any Lender (or group of Lenders) pursuant to this Clause 10, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and

without consent from any other party to this Agreement or any other Finance Document, except, in each case, as expressly required pursuant to this Clause 10.

- (e) Notwithstanding anything to the contrary herein or in any other Finance Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Term SOFR Reference Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Facility Agent (acting at the written direction of the Majority Lenders) in their reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Facility Agent (acting at the written direction of the Majority Lenders) may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Facility Agent (acting at the written direction of the Majority Lenders) may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.
- (f) Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any request for a Term Benchmark Loan to be made during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any request for a Term Benchmark Loan into a request for an ABR Loan. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of the Alternate Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of the Alternate Base Rate. Furthermore, if any Term Benchmark Loan is outstanding on the date of the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to the Term SOFR Reference Rate then until such time as a Benchmark Replacement is implemented pursuant to this Clause 10.1 any Term Benchmark Loan shall on the last day of the Interest Period applicable to such Loan, be converted by the Facility Agent to, and shall constitute, an ABR Loan.
- (g) The Facility Agent shall be under no obligation (i) to monitor, determine or verify the unavailability or cessation of the Term SOFR Rate (or any other Benchmark) or any component thereof, or whether or when there has occurred, or to give notice to any other transaction party of the occurrence of, any Benchmark Transition Event or related Benchmark Replacement Date, (ii) to select, determine or designate any Benchmark Replacement, or other successor or replacement benchmark index, or whether any conditions to the designation of such a rate or index have been satisfied, or (iii) to select, determine or designate any Benchmark Replacement

Adjustment, or other modifier to any replacement or successor index, or (iv) to determine whether or what Benchmark Replacement Conforming Changes are necessary or advisable, if any, in connection with any of the foregoing, including, but not limited to, adjustments as to any alternative spread thereon, the business day convention, interest determination dates or any other relevant methodology applicable to such substitute or successor Benchmark. In connection with the foregoing, the Facility Agent shall be entitled to conclusively rely on any determinations made by the Borrower or the Majority Lenders, as applicable, without independent investigation, and will have no liability for actions taken at the Borrower's or any Lender's direction in connection therewith.

- (h) The Facility Agent shall not be liable for any inability, failure or delay on its part to perform any of its duties set forth in this Agreement as a result of the unavailability of the Term SOFR Rate (or any component thereof) or other applicable Benchmark Replacement, including as a result of any failure, inability, delay, error or inaccuracy on the part of any other Party in providing any direction, instruction, notice or information required or contemplated by the terms of this Agreement and reasonably required for the performance of such duties.

## 10.2 **Notification to the Borrower**

If Clause 10.1 (*Alternative Rate of Interest*) applies the Facility Agent (acting at the written direction of the Majority Lenders) shall, as soon as is reasonably practicable, notify the Borrower.

## 10.3 **Break Costs**

- (a) The Borrower shall, within five (5) Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan being paid by the Borrower on a day other than the last day of an Interest Period for that Loan.
- (b) Each Lender shall, as soon as reasonably practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

## 11. **FEES**

### 11.1 **Coordination fee**

The Borrower shall pay to the Original Lenders a coordination fee in the amount and at the times agreed in the Fee Letter.

### 11.2 **Agency fee**

- (a) Subject to paragraph (b) below, the Borrower and the Facility Agent shall enter into an agency fee letter no later than the date falling one hundred eighty (180) days after the date of this Agreement, under which the Borrower shall agree to pay to

the Facility Agent its annual agency fee and any other fees and expenses (including expenses of counsel) and charges of the Facility Agent.

- (b) The initial annual agency fee of the Facility Agent (as well as expenses of its legal counsel in connection with the execution of this Agreement) shall be paid by the Borrower to one or more Original Lenders in accordance with the terms of the Fee Letter, for onward transmission by the relevant Original Lender to the Facility Agent.

### 11.3 **Commitment fee**

- (a) The Borrower shall pay to the Original Lenders (for the account of the Lenders) a fee in dollars computed at the rate of 30 per cent. of the Margin per annum on that Lender's Available Commitment under the Facility for the Availability Period.
- (b) The accrued commitment fee is payable on the earlier of:
  - (i) the second Utilization Date; and
  - (ii) the last day of the Availability Period,

*provided that* in connection with the second Utilization of the Facility, it is a condition to such Utilization that the commitment fee (accrued up to the second Utilization Date) is received by the Original Lenders at least 2 (two) Business Days prior to the second Utilization Date.

**SECTION 6**  
**ADDITIONAL PAYMENT OBLIGATIONS**

**12. TAX GROSS UP AND INDEMNITIES**

**12.1 Definitions**

In this Agreement:

**"Protected Party"** means a Finance Party that is or will be subject to any liability, or required to make any payment, for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

**"Tax Credit"** means a credit against, relief or remission for, or repayment of any Tax.

**"Tax Deduction"** means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

**"Tax Payment"** means either the increase in a payment made by the Borrower to a Finance Party under Clause 12.2 (*Tax gross-up*) or a payment under Clause 12.3 (*Tax indemnity*).

Unless a contrary indication appears, in this Clause 12 a reference to **"determines"** or **"determined"** means a determination made in the absolute discretion of the person making the determination.

**12.2 Tax gross-up**

- (a) The Borrower shall make all payments to be made by it without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) The Borrower shall promptly upon becoming aware that the Borrower must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent, in writing, accordingly. Similarly, a Lender shall notify the Facility Agent, in writing, on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the Borrower.
- (c) If a Tax Deduction is required by law to be made by the Borrower, the amount of the payment due from the Borrower shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) If the Borrower is required to make a Tax Deduction, the Borrower shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (e) Within thirty (30) days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower shall deliver to the Facility Agent, for the Finance Party entitled to the payment, evidence reasonably

satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

- (f) Upon request and if applicable, any Finance Party shall take reasonably requested actions to co-operate with the Borrower, at the Borrower's sole cost and expense in completing any procedural formalities necessary for the Borrower to obtain authorization to make that payment without a Tax Deduction.

### 12.3 Tax indemnity

- (a) Except as provided below, the Borrower shall (within three (3) Business Days of demand by the Facility Agent (acting at the written direction of the Protected Party)) pay to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a payment received or receivable (or any payment deemed to be received or receivable) under a Finance Document.
- (b) Paragraph (a) above shall not apply:
  - (i) with respect to any Tax assessed on a Finance Party:
    - (A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or
    - (B) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,  
  
if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or
  - (ii) to the extent a loss, liability or cost:
    - (A) is compensated for by an increased payment under Clause 12.2 (*Tax gross-up*); or
    - (B) relates to a FATCA Deduction required to be made by a Party.
- (c) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Facility Agent in writing of the event which will give, or has given, rise to the claim, following which the Facility Agent shall notify the Borrower.
- (d) A Protected Party shall, on receiving a payment from the Borrower under this Clause 12.3, notify the Facility Agent in writing.

## 12.4 Tax Credit

If the Borrower makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Finance Party has obtained and utilized that Tax Credit,

the Finance Party shall pay an amount to the Borrower which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been required to be made by the Borrower.

## 12.5 Stamp taxes

The Borrower shall pay and, within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration or other similar Taxes payable in respect of any Finance Document, except in connection with entering into an Assignment and Assumption (other than an Assignment and Assumption entered into pursuant to Clause 7.2 (*Right of replacement or repayment in relation to a single Lender*), Clause 15.1 (*Mitigation*) or a Default).

## 12.6 VAT

- (a) All amounts expressed to be payable under a Finance Document by any Party to a Finance Party which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply and, accordingly, subject to paragraph (b) below, if VAT is or becomes chargeable on any supply made by any Finance Party to any Party under a Finance Document and such Finance Party is required to account to the relevant tax authority for the VAT, that Party must pay to such Finance Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT (and such Finance Party must promptly provide an appropriate VAT invoice to that Party).
- (b) If VAT is or becomes chargeable on any supply made by any Finance Party (the "**Supplier**") to any other Finance Party (the "**Recipient**") under a Finance Document, and any Party other than the Recipient (the "**Relevant Party**") is required by the terms of any Finance Document to pay an amount equal to the consideration for that supply to the Supplier (rather than being required to reimburse or indemnify the Recipient in respect of that consideration):
  - (i) (where the Supplier is the person required to account to the relevant tax authority for the VAT) the Relevant Party must also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient must (where this paragraph (i) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the

Recipient reasonably determines relates to the VAT chargeable on that supply; and

- (ii) (where the Recipient is the person required to account to the relevant tax authority for the VAT) the Relevant Party must promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient reasonably determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.
- (c) Where a Finance Document requires any Party to reimburse or indemnify a Finance Party for any cost or expense, that Party shall reimburse or indemnify (as the case may be) such Finance Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Finance Party reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.
- (d) Any reference in this Clause 12.6 to any Party shall, at any time when such Party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) or any other similar provision in any jurisdiction which is not a member state of the European Union) so that a reference to a Party shall be construed as a reference to that Party or the relevant group or unity (or fiscal unity) of which that Party is a member for VAT purposes at the relevant time or the relevant representative member (or head) of that group or unity (or fiscal unity) at the relevant time (as the case may be).
- (e) In relation to any supply made by a Finance Party to any Party under a Finance Document, if reasonably requested by such Finance Party, that Party must promptly provide such Finance Party with details of that Party's VAT registration and such other information as is reasonably requested in connection with such Finance Party's VAT reporting requirements in relation to such supply.

## 12.7 **FATCA information**

- (a) Subject to paragraph (c) below, each Party shall, within ten (10) Business Days of a reasonable request by another Party:
  - (i) confirm to that other Party whether it is:
    - (A) a FATCA Exempt Party; or
    - (B) not a FATCA Exempt Party;

- (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and
  - (iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.
- (b) If a Party confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.
- (c) Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:
  - (i) any law or regulation;
  - (ii) any fiduciary duty; or
  - (iii) any duty of confidentiality.
- (d) If a Party fails to confirm whether or not it is a FATCA Exempt Party or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents (and payments under them) as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

## 12.8 **FATCA Deduction**

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction (and, in the case of the Facility Agent, for which it shall have no liability), and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Borrower and the Facility Agent, in writing, and the Facility Agent shall notify the other Finance Parties.

## 13. INCREASED COSTS

### 13.1 Increased costs

- (a) Subject to Clause 13.3 (*Exceptions*), the Borrower shall, within three (3) Business Days of a demand by the Facility Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party as a result of:
- (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation;
  - (ii) compliance with any law or regulation made after the date of this Agreement; or
  - (iii) the implementation or application of, or compliance with, Basel III or CRD IV or any law or regulation that implements or applies Basel III or CRD IV.

- (b) In this Agreement

**"Increased Costs"** means:

- (i) a reduction in the rate of return from the Facility or on a Finance Party's overall capital;
- (ii) an additional or increased cost; or
- (iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party to the extent that it is attributable to that Finance Party funding or performing its obligations under any Finance Document.

**"Basel III"** means:

- (i) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;
- (ii) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement – Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and
- (iii) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III."

"**CRD IV**" means EU CRD IV and UK CRD IV.

"**EU CRD IV**" means:

- (i) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms; and
- (ii) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

"**UK CRD IV**" means:

- (i) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms as it forms part of domestic law of the United Kingdom by virtue of the European Union (Withdrawal) Act 2018 (the "**Withdrawal Act**");
- (ii) the law of the United Kingdom or any part of it, which immediately before IP completion day (as defined in the European Union Withdrawal Agreement Act 2020) implemented Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC and its implementing measures; and
- (iii) direct EU legislation (as defined in the Withdrawal Act), which immediately before IP completion day (as defined in the European Union Withdrawal Agreement Act 2020) implemented EU CRD IV as it forms part of domestic law of the United Kingdom by virtue of the Withdrawal Act.

### 13.2 **Increased cost claims**

- (a) A Finance Party intending to make a claim pursuant to Clause 13.1 (*Increased costs*) shall notify the Facility Agent, in writing, of the event giving rise to the claim, following which the Facility Agent shall promptly provide such notification to the Borrower.
- (b) Each Finance Party shall, as soon as practicable after the Facility Agent provided notice to the Borrower under paragraph (a) above, provide a certificate confirming the amount of its Increased Costs to the Facility Agent and the Borrower.

### 13.3 **Exceptions**

- (a) Clause 13.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

- (i) attributable to a Tax Deduction required by law to be made by the Borrower compensated by Clause 12.2 (*Tax gross-up*);
- (ii) attributable to a FATCA Deduction required to be made by a Party;
- (iii) compensated for by Clause 12.3 (*Tax indemnity*) (or would have been compensated for under Clause 12.3 (*Tax indemnity*) but was not so compensated solely because any of the exclusions in paragraph (b) of Clause 12.3 (*Tax indemnity*) applied); or
- (iv) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation (including wilful breach by the relevant Finance Party or any of its Affiliates to make a timely filing with the competent authority).

## 14. OTHER INDEMNITIES

### 14.1 Currency indemnity

- (a) If any sum due from the Borrower under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:
  - (i) making or filing a claim or proof against the Borrower; or
  - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Borrower shall as an independent obligation, within three (3) Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

- (b) To the extent permitted by law, the Borrower undertakes not to invoke any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

### 14.2 Other indemnities

The Borrower shall, within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

- (a) the occurrence of any Event of Default;
- (b) a failure by the Borrower to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 24 (*Sharing among the Finance Parties*);

- (c) funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilization Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
- (d) a Loan not being prepaid in accordance with a notice of prepayment given by the Borrower.
- (e) without prejudice to the Borrower's obligations under Clause 11.2 (*Agency fee*), any payment made by a Finance Party to the Facility Agent in respect of the fees, expenses (including expense of counsel) and charges of the Facility Agent as contemplated in Clause 11.2 (*Agency fee*) (that has not already been compensated by the Borrower to such Finance Party).

### 14.3 **Indemnity to the Facility Agent**

The Borrower shall promptly indemnify the Facility Agent and its agents engaged pursuant to Clause 22.7(c) (*Rights of the Facility Agent*) against any claim, damage, cost, loss, expense or liability (including, but not limited to attorneys' fees and expenses) reasonably incurred by the Facility Agent arising out of, in connection with, or as a result of:

- (a) any action it may take or refrain from taking in connection with a Default or in the administration of the Agreement or any other Finance Document;
- (b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorized; or
- (c) any other cost, loss, expense or liability reasonably incurred by the Facility Agent (including duly documented attorney's fees and expenses) in connection with the services provided by the Facility Agent hereunder or under the Finance Documents (including any expense in enforcing its indemnity rights hereunder),

in each case except for any cost, loss, expense or liability that results from the gross negligence or wilful misconduct of the Facility Agent.

This Clause 14.3 (*Indemnity to the Facility Agent*) shall survive notwithstanding any termination of this Agreement or any other Finance Document to which the Facility Agent is a party or the resignation or replacement of the Facility Agent.

## 15. **MITIGATION BY THE LENDERS**

### 15.1 **Mitigation**

- (a) Each Lender shall in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to any of Clause 7.1 (*Illegality*), Clause 12 (*Tax gross-up and indemnities*) or Clause 13 (*Increased costs*) including assigning its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

- (b) Paragraph (a) above does not in any way limit the obligations of the Borrower under the Finance Documents and in each case, so long as the IADB Guarantee remains in full force and effect, any such assignment will be subject to the consent of IADB to the extent required in accordance with Clause 21.2 (*Assignments by Lenders*),

## 15.2 **Limitation of liability**

- (a) The Borrower shall promptly indemnify each Lender for all costs and expenses reasonably incurred by that Lender as a result of steps taken by it under Clause 15.1 (*Mitigation*).
- (b) A Lender is not obliged to take any steps under Clause 15.1 (*Mitigation*) if, in the opinion of that Lender (acting reasonably), to do so might be prejudicial to it.

## 16. **COSTS AND EXPENSES**

### 16.1 **Transaction expenses**

The Borrower shall promptly on demand pay the Facility Agent and the Original Lenders the amount of all costs and expenses (including legal fees and expenses in relation to U.S., international and Ecuadorian legal counsel) reasonably incurred by any of them in connection with the negotiation, preparation, printing, and execution of this Agreement and any other documents referred to in this Agreement.

### 16.2 **Amendment costs**

If (a) the Borrower requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 25.10 (*Change of currency*), the Borrower shall, within ten (10) Business Days of demand, reimburse the Facility Agent for the amount of all documented costs and expenses (including legal fees and expenses) reasonably incurred by each Finance Party in responding to, evaluating, negotiating or complying with that request or requirement.

### 16.3 **Enforcement costs**

The Borrower shall, within ten (10) Business Days of demand, pay to each Finance Party the amount of all documented costs and expenses reasonably incurred (including legal fees and expenses) by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

**SECTION 7**  
**REPRESENTATIONS, UNDERTAKINGS AND EVENTS OF DEFAULT**

**17. REPRESENTATIONS**

The Borrower makes the representations and warranties set out in this Clause 17 to each Finance Party on the dates set out in Clause 17.21 (*Times for making representations*).

**17.1 Status**

It is a sovereign state and is not (and cannot be) subject to any insolvency procedure under the laws of Ecuador.

**17.2 Binding obligations**

The obligations expressed to be assumed by it in each Finance Document to which it is a party are legal and valid obligations of Ecuador, binding on it and enforceable in accordance with the terms thereof.

**17.3 Execution of this Agreement**

- (a) Its negotiation, execution and delivery of this Agreement with the Finance Parties and its exercise of its rights and performance of its obligations under the Finance Documents to which it is a party do not and will not conflict with:
  - (i) any law or regulation applicable to it including the Constitution of Ecuador, the Public Planning and Finance Code and its internal regulations; or
  - (ii) any agreement, bond or other instrument or treaty to which it is a party or which is binding upon it or any of its assets.
- (b) It has the power to negotiate, enter into and perform, and has taken all necessary action to authorize its negotiation and entry into with the Finance Parties, and performance of, the Finance Documents to which it is a party and the transactions contemplated by the Finance Documents to which it is a party (including the payment of all amounts payable by it thereunder, such as any principal, interest and fees).

**17.4 Validity and admissibility in evidence**

All Authorizations required under the laws of Ecuador:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;
- (b) to make the Finance Documents to which it is a party admissible in evidence in the courts of Ecuador; and
- (c) to waive sovereign immunity to the extent waived herein,

have been obtained and are in full force and effect.

#### 17.5 **Governing law, arbitral awards and scope of immunity**

- (a) In any proceedings taken in Ecuador in relation to this Agreement, the choice of New York law as the governing law of this Agreement and the choice of English law as the governing law of Clause 38.1 (*Arbitration*), will be recognized and enforced in Ecuador, and any arbitral award obtained in accordance with Clause 38.1 (*Arbitration*) will be recognized and enforced in Ecuador in accordance with the New York Convention.
- (b) The scope of immunity by the Borrower contained in this Agreement, the appointment of any Interim Process Agent, Permanent Process Agent or Replacement Agent referred to in Clause 40 (*Service of process*), the consent by the Borrower to submission of Disputes to the LCIA as specified in Clause 38.1 (*Arbitration*), the provision that the laws of New York govern this Agreement as specified in Clause 37 (*Governing Law*) and the provision that English law shall be the governing law of Clause 38.1 (*Arbitration*) are irrevocably binding on the Borrower.

#### 17.6 **No deductions or withholding**

As at the date of this Agreement, it is not required to make any deduction or withholding for or on account of Tax from any payment it may make under the Finance Documents to which it is a party.

#### 17.7 **No filing or stamp taxes**

Other than registration of this Agreement with the Public Debt Registry of the Ministry of Economy and Finance, as at the date of this Agreement, under the laws of Ecuador, it is not necessary that the Finance Documents to which the Borrower is a party (other than an Assignment and Assumption) be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents to which the Borrower is a party (other than an Assignment and Assumption) or the transactions contemplated by the Finance Documents to which the Borrower is a party (other than an Assignment and Assumption).

#### 17.8 **No material defaults**

- (a) It is not in default of External Indebtedness (other than Excluded Indebtedness) in excess of USD50,000,000 (or its equivalent in any other currency or currencies).
- (b) It is not in breach of or in default under any agreement to which it is a party or which is binding on it or any of its assets to an extent or in a manner which could reasonably be expected to have a Material Adverse Effect.

## 17.9 ***Pari passu***

Under the laws of Ecuador in force at the date of this Agreement, the Borrower's obligations under the Finance Documents to which it is a party are general, direct, unsecured, unsubordinated and unconditional obligations of the Borrower which are backed by the full faith and credit of the Borrower, and the claims of the Finance Parties against it under the Finance Documents to which it is a party rank equally in terms of priority with the Borrower's External Indebtedness (other than Excluded Indebtedness), ***provided that***, such ranking is in terms of priority only and does not require that the Borrower make ratable payments under the Finance Documents to which it is a party with payments made on its other External Indebtedness.

## 17.10 **No material proceedings**

Except as disclosed to the Original Lenders prior to the date of this Agreement, no action or administrative proceeding of or before any court or agency which could reasonably be expected to have a Material Adverse Effect has (to the best of its knowledge and belief having made due enquiry) been started or threatened against it.

## 17.11 **Acts of commercial public credit**

The execution of the Finance Documents to which it is a party by the Borrower constitutes, and the exercise of its rights and performance of its obligations under the Finance Documents to which it is a party will constitute, acts of commercial public credit under the laws of Ecuador.

## 17.12 **Anti-Bribery and anti-corruption laws**

- (a) None of the Borrower, nor any Relevant Entity, or to the knowledge of the Borrower, any representative, public officer, public servant, employee or agent (where such employee or agent is acting in an official capacity) of the Borrower or Relevant Entity:
  - (i) is aware of or has taken any action, directly or indirectly, that could result in a violation by such persons of any applicable provision of any anti-money laundering or anti-corruption law (including, but not limited to, the Foreign Corrupt Practices Act of 1977, as amended, the rules and regulations thereunder or the UK Bribery Act 2010, in each case, whether in connection with or arising from the OECD Convention Combating Bribery of Foreign Public Officials in International Business Transactions or otherwise); and neither the Borrower nor any of its affiliated entities was, to the knowledge of the Borrower, or any representative, public officer, public servant, agent or employee is aware of or has taken any action, directly or indirectly that could result in a sanction for violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, the rules and regulations thereunder or the UK Bribery Act 2010; and prohibition of non-compliance with any applicable provisions of any anti-corruption law is covered by the codes of conduct or other procedures instituted and maintained by the Borrower and its affiliated entities;

- (ii) has made, offered to make, promised to make or authorized the payment or giving of, directly or indirectly, any bribe, rebate, payoff, influence payment, kickback or other payment or gift of money or anything of value (including meals or entertainment) to any officer, employee or ceremonial office holder of any government or instrumentality thereof, any political party or supra-national organization (such as the United Nations), any political candidate, any royal family member or any other person who is connected or associated personally with any of the foregoing that is prohibited under any applicable law or otherwise for the purpose of influencing any act or decision of such payee in their official capacity, inducing such payee to do or omit to do any act in violation of their lawful duty, securing any improper advantage or inducing such payee to use their influence with a government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality ("**Prohibited Payments**"); or
  - (iii) has been subject to any written claim, action, proceeding, investigation, notice or demand with regard to any actual or alleged Prohibited Payment or other breach of paragraphs (i) or (ii) above.
- (b) The Borrower, and the Relevant Entities, have policies and procedures in place to ensure compliance with anti-money laundering and anti-corruption laws.

#### 17.13 **Sanctioned Person**

- (a) Neither the Borrower nor, to the knowledge of the Borrower, any representative, public officer, public servant, agent, employee or affiliated entity of the Borrower or, when acting in connection with this Agreement, the Finance Documents to which the Borrower is a party, and/or the transactions contemplated thereby, any official representatives of the Borrower, is a Sanctioned Person.
- (b) The Facility will not be used, contributed or made available, directly or indirectly,
  - (i) to fund any activities, business, trade or transactions (A) involving or for the benefit of a Sanctioned Person or Sanctioned Jurisdictions, (B) in a country or territory that is a Sanctioned Territory, or (C) that could result in any person being in breach of Sanctions or becoming a Sanctioned Person; or
  - (ii) in a manner that would, directly or indirectly, result in acting in a manner prohibited by any Sanctions Programs.

#### 17.14 **Other requirements**

Without prejudice to Clauses 17.12 (*Anti-bribery and anti-corruption laws*) and 17.13 (*Sanctioned Person*), to the knowledge of the Borrower, no investigation, action, suit, proceeding or other inquiry by or before any national or international court, governmental agency, authority or body or any arbitrator involving senior public officials (persons being currently entrusted with a prominent public function, including members of government and members of legislative bodies) of the Borrower with respect to the anti-money

laundrying laws and regulations of Ecuador, or any other jurisdiction is currently pending or threatened.

#### 17.15 **Outstanding External Indebtedness**

In the last twelve (12) months prior to the date of this Agreement, no outstanding External Indebtedness of the Borrower, other than Excluded Indebtedness, has become repayable before its stated maturity by reason of default, nor has any security in respect of such External Indebtedness become enforceable by reason of default by the Borrower and no event has occurred or is, so far as the Borrower is aware, impending which (with the lapse of time or the making of any determination or the giving of notice or the compliance with any other formality) will be expected to result in any such External Indebtedness becoming so repayable or any such security becoming enforceable by reason of default and no person to whom any such External Indebtedness of the Borrower is owed, has demanded or threatened to demand repayment of, or to take any steps to enforce any security for, the same.

#### 17.16 **No license or qualification**

It is not necessary under the laws of Ecuador:

- (a) in order to enable any Finance Party to enforce its rights under any Finance Document to which the Borrower is a party; or
- (b) by reason of the execution of any Finance Document to which the Borrower is a party or the performance by it of its obligations under any Finance Document to which the Borrower is a party,

that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in Ecuador.

#### 17.17 **Choice of law**

The choice of New York law in this Agreement is a valid choice of law under the laws of Ecuador and, accordingly, would be recognized and applied by the courts of Ecuador if this Agreement or any claim hereunder is brought before any such court; **provided that** in any proceedings in Ecuador for the enforcement of this Agreement, a court in Ecuador would apply the procedural law of Ecuador.

#### 17.18 **Anti-Terrorism; Anti-Money laundering**

- (a) Ecuador is not designated by the Secretary of State of the United States as a State Sponsor of Terrorism pursuant to section 104(c) of the Export Control Reform Act (50 U.S.C. § 4813(c)), section 40 of the Arms Export Control Act (22 U.S.C. § 2780), or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. § 2371).
- (b) Ecuador has implemented, through measures adapted to its particular circumstances, the necessary laws, regulations, and regulatory and enforcement structures to implement the framework of measures recommended by the Financial

Action Task Force ("**FATF**") in order to combat money laundering and terrorist financing, as well as the financing of proliferation of weapons of mass destruction as set forth in the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation as promulgated by the FATF (the "**Anti-Money Laundering Framework**") and has not been identified by the FATF as a jurisdiction with strategic deficiencies in its Anti-Money Laundering Framework.

#### 17.19 **Change in law**

- (a) To the best of its knowledge and belief having made due enquiry, there is no pending amendment to the laws, regulations, statuses or treaties of the Republic, nor any (a) of the foregoing proposed in writing by or to any Governmental Authority or (b) pending legislation in the jurisdiction, that, if it were to become effective, could reasonably be expected to have a material adverse effect on the validity or enforceability of this Agreement, the ability of the Borrower to make payments, or cause payments to be made, under this Agreement in such currency as required herein.
- (b) There are no laws, decrees or regulations in Ecuador that effectively deprive any Finance Party of its rights as a creditor against the Borrower under the Finance Documents.

#### 17.20 **Material information provided to the Original Lenders**

All information supplied by the Borrower to the Original Lenders relating to it (other than information comprised of projections, forward-looking statements, estimates or information provided to the Borrower by a third party) in connection with the entrance by and Original Lenders into the Finance Documents was, to the Borrower's reasonable knowledge, true and accurate in all material respects when provided or as at the date (if any) at which it is stated.

#### 17.21 **Times for making representations**

- (a) Each of the representations and warranties set out in this Clause 17 are made by the Borrower on the date of this Agreement, the date of each Utilization Request and each Utilization Date.
- (b) The Repeating Representations are deemed to be made by the Borrower by reference to the facts and circumstances then existing on the first day of each Interest Period.

### 18. **INFORMATION UNDERTAKINGS**

The undertakings in this Clause 18 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents to which the Borrower is a party or any Commitment is in force.

## 18.1 Financial information

- (a) The Borrower must promptly supply the following financial information to the Facility Agent as soon as it becomes available:
  - (i) the annual financial information issued by the Central Bank for each calendar year;
  - (ii) data on the international balance of payments on an annual basis; and
  - (iii) each quarterly report issued by the Central Bank.
- (b) The Borrower must promptly supply to the Facility Agent such information in relation to the economy of Ecuador and the financial condition or operations of the Borrower as the Facility Agent (acting at the written request of any Lender) may reasonably request **provided that** such information is of a type that is provided by the Borrower from time to time to the general public and/or its creditors generally.
- (c) The Borrower must promptly inform the Facility Agent, in writing, of:
  - (i) the imposition of any law, decree or regulation materially and adversely affecting the Borrower's ability to perform its obligations under the Finance Documents to which it is a party; or
  - (ii) the occurrence of any situation or event which would prevent or materially and adversely interfere with the performance by the Borrower of its obligations under the Finance Documents to which it is a party.

## 18.2 Other information

The Borrower shall, from time to time upon written request of the Facility Agent (acting at the written direction of the Lenders) furnish the Facility Agent with such other financial, statistical and general information about the Borrower and its agencies as the Lenders may reasonably require, **provided that** such information (i) is not subject to disclosure restrictions under applicable law, (ii) has already been produced or made available by the Borrower and (iii) is not required to be provided to the Facility Agent in any language other than the language in which it is available.

## 18.3 Notification of material events

- (a) The Borrower shall notify the Facility Agent, in writing, of:
  - (i) any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence;
  - (ii) any failure to pay, or material non-compliance which qualifies as an event of default under the terms of any External Indebtedness of the Borrower (except to the extent such information is in the public domain); and

- (iii) filing or commencement of any action, suit or proceeding by or before any arbitrator, governmental or quasi-governmental body, agency, authority, court, tribunal, or other entity exercising executive, legislature, judicial, taxing, regulatory or administrative power or functions against or affecting the Borrower or its properties or assets relating to any External Indebtedness and involving actions or claims in excess of USD50,000,000 (except to the extent such information is in the public domain).
- (b) Each notice delivered pursuant to paragraph (a) of this Clause 18.3 shall be accompanied by a certificate signed by the Undersecretary of Public Finance of the Ministry of Economy and Finance of Ecuador, on its behalf, setting forth the details of the event or development requiring such notice under this Clause 18.3.
- (c) The Facility Agent must promptly forward to each Finance Party all information and notifications by the Borrower under paragraph (b) of this Clause 18.3.

#### 18.4 **"Know your customer" checks**

- (a) The Borrower must promptly on the request of any Finance Party supply to that Finance Party any documentation or other evidence which is reasonably requested by that Finance Party (whether for itself, on behalf of any Finance Party or any prospective new Lender) to enable a Finance Party or prospective new Lender to carry out and be satisfied with the results of any "know your customer" checks or other similar checks required under any applicable law or regulation.
- (b) Each Lender must promptly upon the request of the Facility Agent supply to, or procure the supply of, such documentation or other evidence as is reasonably requested by the Facility Agent (for itself) in order for the Facility Agent to carry out and be satisfied it has complied with all necessary "know your customer" checks or other similar checks under any applicable law or regulation pursuant to the transactions contemplated in the Finance Documents.

### 19. **GENERAL UNDERTAKINGS**

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents to which the Borrower is a party or any Commitment is in force.

#### 19.1 **Maintenance of legal validity**

The Borrower shall obtain, comply with the terms of and do all that is necessary to maintain in full force and effect all authorizations, approvals, licenses and consents required in or by the laws of Ecuador to enable it lawfully to enter into and perform its obligations under the Finance Documents to which it is a party and to ensure the legality, validity, enforceability or admissibility in evidence in Ecuador of the Finance Documents to which it is a party.

#### 19.2 **Use of Facility**

The Borrower shall use the Facility solely for the purposes set out in Clause 3.1 (*Purpose*).

### 19.3 Compliance with laws

The Borrower shall comply with all laws to which it is subject, if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents to which it is a party.

### 19.4 Negative pledge

The Borrower shall not create or suffer to exist, or permit the Central Bank to create or suffer to exist, any Security upon any of its present or future assets or revenues to secure or otherwise provide for the payment of any External Indebtedness of the Borrower or the Central Bank unless, on or prior to the date such Security is created or comes into existence, the obligations of the Borrower under this Agreement are secured equally and rateably with such External Indebtedness.

The Borrower may, however, create or permit to subsist the following Security ("**Permitted Security**"):

- (a) any Security on property to secure External Indebtedness arising in the ordinary course of business to finance export, import or other trade transactions, which matures (after giving effect to renewals and refinancings) no more than one year after it was originally incurred;
- (b) any Security upon property to secure the purchase price of such property or to secure any External Indebtedness incurred solely for the purpose of financing the acquisition of such property;
- (c) any Security on property arising by operation of law (or pursuant to any agreement establishing a Security equivalent to one which would otherwise exist under relevant local law), including any right of set-off with respect to demand or time deposits with financial institutions and bankers' liens with respect to property held by financial institutions (in each case deposited with or delivered to such financial institutions in the ordinary course of the depositor's activities);
- (d) any Security existing on such property at the time of its acquisition;
- (e) any Security in existence as of the date of this Agreement;
- (f) any Security securing External Indebtedness issued upon surrender or cancellation of the principal amount of any of the Excluded Indebtedness, to the extent the Security is created to secure that External Indebtedness;
- (g) any Security created in connection with any Project Financing, **provided that** the properties to which any such Security applies are solely with respect to (A) properties which are the subject of such Project Financing or (B) revenues or claims which arise from the operation, failure to meet specifications, failure to complete, exploitation, sale or loss of, or damage to, such properties;

- (h) additional Security created in any calendar year upon assets, revenues or receivables of the Borrower having, when encumbered, a fair market value not exceeding an aggregate amount equal to USD50,000,000 (or its equivalent in other currency or currencies) to collateralize, or to purchase collateral, guarantees or other credit support in respect of, new borrowings by the Borrower, **provided that**, to the extent that in any calendar year USD50,000,000 (or its equivalent in other currency or currencies) exceeds such aggregate fair market value of the assets, revenues or receivables so encumbered during that year, the aggregate fair market value of assets, revenues and receivables which may be encumbered in subsequent calendar years shall be increased by the amount of such excess; **provided, however, that** the fair market value of the assets, revenues or receivables so encumbered in any calendar year will in no event exceed USD150,000,000 (or its equivalent in other currency or currencies); and
- (i) any renewal or extension of any of the Security described above; **provided that** no renewal or extension of any permitted Security shall (A) extend to or cover any property other than the property then subject to the Security being extended or renewed or (B) increase the amount of financing secured by that Security.

## 19.5 Sanctions

The Borrower shall (and shall procure that any representative, public officer, public servant, agent, employee or affiliated entity of the Borrower shall):

- (a) not directly or indirectly use or permit to be used all or any part of the Facility, or lend, contribute or otherwise make available all or any part of the Facility directly or indirectly to any person or entity (whether or not related to any representative, public officer, public servant, agent, employee or affiliated entity of the Borrower) for the purpose or with the effect of breaching any applicable anti-bribery or anti-corruption laws or involving, for the benefit of, or financing the activities of any person or entity which is subject to Sanctions or located in a Sanctioned Jurisdiction or Sanctioned Territory to the extent prohibited by applicable Sanctions or in any manner that would contribute to a violation of applicable Sanctions by any Finance Party or any other person;
- (b) not fund all or part of any payment under the Facility out of proceeds directly or indirectly derived from transactions which would be prohibited by applicable Sanctions or would otherwise cause any Finance Party to be in breach of any Sanctions;
- (c) not become a Sanctioned Person; and
- (d) to the extent permitted by law, promptly upon becoming aware thereof, supply to the Finance Parties details of any claim, action, suit, proceedings or investigation against it with respect to applicable Sanctions by any Sanctions Authority.

## 19.6 Improper payment

- (a) The Borrower and its Relevant Entities shall act in compliance with, and conduct their business in accordance with applicable anti-bribery, anti-money laundering and anti-corruption laws, and maintain policies and procedures designed to promote and achieve compliance with such laws and regulations.
- (b) The Borrower shall not offer, give, insist on, receive or solicit any illegal payment or improper advantage to influence the action of any person with respect to any transaction contemplated by the Finance Documents and the Borrower will ensure that any representative, public officer, public servant, agent, employee or affiliated entity of the Borrower comply with the foregoing.

## 19.7 Claims *pari passu*

The Borrower shall ensure that at all times its obligations under the Finance Documents to which it is a party are general, direct, unsecured, unsubordinated and unconditional obligations of the Borrower and will be backed by the full faith and credit of the Borrower and ensure that the Finance Documents to which it is a party will rank equally in terms of priority with the Borrower's External Indebtedness (other than Excluded Indebtedness), **provided that**, such ranking is in terms of priority only and does not require that the Borrower make ratable payments under the Finance Documents to which it is a party with payments made on its other External Indebtedness.

## 19.8 Treatment of Loan amounts claim in connection with restructuring under an IMF Program

The Borrower shall, in connection with any discussions that it has with the Finance Parties to amend the Finance Documents to reschedule or restructure any of the economic terms of the Loans, calculate any aggregate claim of the Finance Parties based on the outstanding principal amount of the Loans (together with accrued interest and any other amounts outstanding under the Finance Documents) at such time. The Borrower shall not, for the avoidance of doubt, be entitled to take account of any amounts that may be claimed by the Finance Parties under the IADB Guarantee following the closing of such rescheduled or restructured transaction (the "**Restructuring Effective Date**") so as to reduce the size of the aggregate claim of the Finance Parties for the purpose of such rescheduling or restructuring discussions; **provided that**, such calculations in connection with any such discussions shall (i) take into account any Guarantee Payments already made by IADB under the IADB Guarantee, (ii) take into account any Guarantee Payments in respect of which a valid Guarantee Demand Notice has been submitted by the Facility Agent (acting at the direction of the relevant Lender) to IADB under the IADB Guarantee and (iii) not take into account any amounts deposited by IADB into an IADB Escrow Account as a result of the occurrence of an Early Disbursement Event in accordance with Section 2.10 (*Early Disbursement*) of the IADB Guarantee (unless such amounts have been paid out to the Facility Agent from such IADB Escrow Account or been demanded pursuant to a valid Escrow Demand Notice submitted by the Facility Agent (acting at the direction of the relevant Lender) under the relevant IADB Escrow Arrangements), in each case prior to the Restructuring Effective Date; **provided, further, that** the foregoing shall be without

prejudice to any rights of subrogation of other rights that IADB has under the IADB Guarantee in respect of Guarantee Payments that it has made thereunder.

#### 19.9 **Social Loan Principles and Green Loan Principles**

- (a) Subject to the Borrower's alignment with the Social Loan Principles and the Green Loan Principles, as applicable, as demonstrated by compliance with the terms and provisions set forth in this Clause 19.9 (*Social Loan Principles and Green Loan Principles*), the Borrower shall ensure that at all times the Loans shall be considered affordable and resilient housing loans as described in the Sovereign Financing Framework for Affordable and Resilient Housing and in compliance with the Operating Regulations established by the Ministry of Economy and Finance (an "**Affordable and Resilient Housing Loan**").
- (b) The Borrower shall ensure that the proceeds of the Loans shall be applied in accordance with Clause 3.1 (*Purpose*), to finance, in whole or in part, costs related to the Eligible Social Projects and/or the Eligible Green Projects. In addition, the Borrower shall ensure that some of the goods and services used in connection with the Eligible Social Projects and Eligible Green Projects financed out of the proceeds of the Loans are sourced from outside of the Republic.
- (c) The Borrower shall ensure that the Eligible Social Projects and the Eligible Green Projects are aligned with the Borrower's social and environmental policy set forth in the Sovereign Financing Framework for Affordable and Resilient Housing.
- (d) The Borrower shall ensure that it has and maintains internal processes to ensure continued alignment with the Social Loan Principles and the Green Loan Principles and to identify, assess and mitigate environmental and social risks, and the Borrower shall utilize these processes with regards to the Eligible Social Projects and the Eligible Green Projects, as applicable.
- (e) The Borrower shall track and manage the proceeds of the Affordable and Resilient Housing Loans on an aggregated basis. Pending the full allocation of the Affordable and Resilient Housing Loans proceeds of the Loans to the Eligible Social Projects and/or the Eligible Green Projects, the Borrower shall hold and/or invest the balance of proceeds not yet allocated according to the following criteria:
  - (i) up to a third of proceeds can be invested in instruments authorized by the Borrower, such as:
    - Short-term bonds or securities issued by the Republic of Ecuador;
    - Certificates of Deposit issued by public financial institutions; or
    - Once the foregoing investments mature, the proceeds shall be reinvested in instruments with maturities of up to six (6) months;
  - (ii) an amount necessary to cover the portfolio placement projections of the participating financial entities during the next six (6) months will be kept in

- the "RESOURCE MANAGEMENT TRUST" account at the Central Bank of Ecuador;
- (iii) the remaining balance may be invested in instruments authorized by the Borrower with terms of up to six (6) months, including:
- short-term bonds or securities issued by the Republic of Ecuador; and
  - certificates of Deposit from public financial institutions;
- (iv) all investments must guarantee sufficient liquidity to promptly meet the requirements of financial institutions within the Public Housing Investment Program; and
- (v) under no circumstances will investment be permitted in instruments linked to activities that are intensive in greenhouse gas emissions or in activities considered environmentally controversial, in accordance with the sustainability principles of the Sovereign Financing Framework for Affordable and Resilient Housing.
- (f) Notwithstanding anything to the contrary in this Agreement or any other Finance Document, a failure to align with the Social Loan Principles and/or the Green Loan Principles or breach of the Sovereign Financing Framework for Affordable and Resilient Housing, shall in no event (i) constitute a Default or an Event of Default hereunder or under any other Finance Document, (ii) operate in any matter to limit, restrict or otherwise affect the use of proceeds of the Loans pursuant to the terms of this Agreement or (iii) otherwise affect any Party's right or ability to take any actions otherwise permitted under this Agreement or any other Finance Document.
- (g) Upon written notice by the Borrower or any Lender to the Facility Agent and the Sustainability Coordinator of any material and ongoing non-compliance with the terms of this Clause 19.9 (*Social Loan Principles and Green Loan Principles*) or the Sovereign Financing Framework for Affordable and Resilient Housing as applicable, if capable of being remedied, the Borrower shall remedy such non-compliance within a period of thirty (30) days. If after such thirty (30) day period such non-compliance has not been remediated, the Facility Agent (acting at the written direction of the Majority Lenders) and the Sustainability Coordinator shall notify the Borrower, and the Parties shall cease representing in all internal and external communications, marketing or publications that the Loans are Affordable and Resilient Housing Loans. For the avoidance of doubt, the reporting requirements of the Borrower in paragraph (h) shall continue in full force and effect, notwithstanding any of the events in this paragraph (g).
- (h) The Borrower shall, on a continuing basis, comply with its reporting obligations under the Sovereign Financing Framework for Affordable and Sustainable Housing and, whenever the Borrower delivers any such information to IADB, it shall either (i) provide such information to the Facility Agent and the Sustainability Coordinator at

the same time or (ii) make such information publicly available and notify the Facility Agent and Sustainability Coordinator as such.

- (i) For the avoidance of doubt, any non-compliance by the Borrower with the provisions of the Clause 19.9 shall in no event constitute a Default or an Event of Default hereunder or under any other Finance Document.

#### 19.10 **Administration Trust Auditor**

The Borrower shall procure that the auditor appointed to audit the annual financial statements of the Administration Trust, to be delivered by the Borrower pursuant to Clause 19.9(h), at all times meets the definition of Independent Auditor.

### 20. **EVENTS OF DEFAULT**

Each of the events or circumstances set out in this Clause 20 is an Event of Default (save for Clause 20.17 (*Acceleration*)).

#### 20.1 **Failure to pay**

The Borrower fails to pay any amount due and payable by it under the Finance Documents to which it is a party (including any principal pursuant to Clause 6 (*Repayment*) and interest pursuant to Clause 8 (*Interest*)), on the date and in the currency and in the manner specified therein unless such failure to pay is remedied within five (5) Business Days after the due date.

#### 20.2 **Misrepresentation**

Any representation, warranty or statement made or deemed to be made by the Borrower in the Finance Documents to which it is a party or in any notice or other document, certificate or statement delivered by it pursuant thereto or in connection therewith is or proves to have been incorrect or misleading in any material respect when made or deemed to be made unless the circumstances giving rise to the misrepresentation or breach of warranty are:

- (a) capable of remedy (except that the Finance Parties acknowledge that the representations and warranties in Clauses 17.12 (*Anti-Bribery and anti-corruption laws*) 17.13 (*Sanctioned Person*), 17.14 (*Other requirements*) and 17.18 (*Anti-Terrorism; Anti-Money Laundering*) shall not be capable of remedy); and
- (b) remedied within ten (10) Business Days of the earlier of:
  - (i) the Facility Agent (acting at the written direction of the Majority Lenders) giving notice of the misrepresentation or breach of warranty to the Borrower; and
  - (ii) the Borrower becoming aware of the misrepresentation or breach of warranty.

### 20.3 **Other obligations**

The Borrower fails to perform or comply with any other obligation (including any undertaking), other than the obligations set forth in Clause 20.1 (*Failure to pay*) and the undertakings set forth in Clause 19.9 (*Social Loan Principles and Green Loan Principles*), expressed to be assumed by it in the Finance Documents to which it is a party and such failure, if capable of remedy, is not remedied within thirty (30) days (except in relation to Clause 18.1 (*Financial information*), where the period for remedy shall be ninety (90) days, and Clauses 19.5 (*Sanctions*) and 19.6 (*Improper payment*), which shall not be capable of remedy)) after the Facility Agent (acting at the written direction of the Majority Lenders) has given notice thereof to the Borrower.

### 20.4 **Cross default**

- (a) Any External Indebtedness (other than Excluded Indebtedness) of the Borrower is not paid when due nor within any originally applicable grace period.
- (b) Any External Indebtedness (other than Excluded Indebtedness) of the Borrower is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (c) Any commitment for any External Indebtedness (other than Excluded Indebtedness) of the Borrower is cancelled or suspended by a creditor of the Borrower as a result of an event of default (however described).
- (d) No Event of Default will occur under this Clause 20.4 if the aggregate amount of External Indebtedness of the Borrower or commitment for External Indebtedness of the Borrower falling within paragraphs (a) to (c) above is less than USD50,000,000 (or its equivalent in any other currency or currencies).

### 20.5 **Moratorium**

Ecuador and/or a court of proper jurisdiction, declares a formal and official suspension of payments or a moratorium with respect to payments on Ecuador's External Indebtedness (other than Excluded Indebtedness).

### 20.6 **Insolvency**

Ecuador is unable or admits an inability to pay its External Indebtedness (other than Excluded Indebtedness) as such indebtedness falls due or, by reason of actual or anticipated financial difficulties, suspends or announces its intention to suspend making payments on any of its External Indebtedness (other than Excluded Indebtedness).

### 20.7 **Restructuring**

By reason of financial difficulties of the Borrower, the Borrower is mandated or otherwise required as a condition to its financing, by the IMF or any other international financial institution that Ecuador is a member of, to enter into negotiations with any one or more creditors, in respect of External Indebtedness of the Borrower (other than Excluded

Indebtedness) in an aggregate principal amount in excess of USD50,000,000 (or its equivalent in any other currency or currencies), with a view to the re-profiling, rescheduling, reorganization and/or conversion of such External Indebtedness or similar actions; **provided that**, for the avoidance of doubt, the following shall not be considered re-profiling, rescheduling, reorganization and/or conversion of External Indebtedness subject to this Clause 20.7:

- (a) the refinancing of existing External Indebtedness on a voluntary basis with the proceeds of newly incurred External Indebtedness; and
- (b) any re-profiling, rescheduling, reorganization and/or conversion of External Indebtedness undertaken in the course of prudent fiscal management to improve the financial condition of the Borrower.

## 20.8 **Judgment**

There shall have been entered against Ecuador or the Central Bank in a matter related to External Indebtedness (other than Excluded Indebtedness) a final judgment, decree or order by a court of competent jurisdiction from which no appeal may be made, or is made within the time limit for doing so, for the payment of money in excess of USD50,000,000 (or its equivalent in any other currency or currencies) and one hundred twenty (120) days shall have passed since the entry of any such order without Ecuador having satisfied the judgment.

## 20.9 **Arbitral award**

There shall be made against Ecuador or the Central Bank in a matter related to External Indebtedness (other than Excluded Indebtedness) an arbitral award by a tribunal of competent jurisdiction from which no appeal or application to set aside may be made, or is made within the time limit for doing so, for the payment of money in excess of USD50,000,000 (or its equivalent in any other currency or currencies) and one hundred twenty (120) days shall have passed since the making of any such award without Ecuador having satisfied the award.

## 20.10 **IMF and IADB**

The Borrower ceases to be a member in good standing of the IMF and/or the IADB or becomes ineligible to use the resources of the IMF. Without prejudice to the foregoing, for the avoidance of doubt, this Clause 20.10 does not in any way restrict the rights of Ecuador to freely undertake sovereign decisions.

## 20.11 **Repudiation**

The Borrower disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the legal validity of any Finance Documents to which it is a party or any other financial instrument which constitutes any External Indebtedness of the Borrower, in each case in a formal administrative, legislative, judicial or arbitral proceeding.

## 20.12 **Illegality**

- (a) At any time it is or becomes unlawful for the Borrower to perform or comply with any or all of its obligations under this Agreement or any other Finance Document to which it is a party.
- (b) Any of the obligations of the Borrower under this Agreement or any other Finance Document to which it is a party are not or cease to be legal, valid, binding and enforceable.

## 20.13 **Validity and enforceability**

Any Authorization required by the Borrower for the validity or enforceability of the Finance Documents to which it is a party or for the performance by the Borrower of its obligations under the Finance Documents to which it is a party, or for the admissibility in evidence of the Finance Documents to which it is a party, is revoked, or is not issued or timely renewed, or ceases to be in full force and effect.

## 20.14 **Changes in law**

Ecuador, or any authority asserting or exercising governmental powers in Ecuador, enacts any foreign exchange law or order which:

- (a) introduces any new restriction which prohibits or precludes the ability of the Borrower to make payments in USD to any Finance Party under this Agreement or any other Finance Document to which the Borrower is a party;
- (b) introduces any new restriction which prohibits or precludes the ability of the Borrower, the Facility Agent, or the Lender, as applicable, from freely transmitting the USD amounts paid under this Agreement in or out of Ecuador; or
- (c) seeks to amend the currency of any amount payable by the Borrower under this Agreement.

## 20.15 **Terrorism**

The Borrower or the government of Ecuador is designated by the Secretary of State of the United States as a State Sponsor of Terrorism.

## 20.16 **Material Adverse Effect**

Any event or circumstance occurs which has a Material Adverse Effect and is continuing, based on objectively verifiable information, provided that there shall not be an Event of Default under this Clause 20.16 arising from any event or misrepresentation if that event or misrepresentation has resulted in an Event of Default under another clause or other

clauses of Clause 20 (in which case the provisions of such other clause or other clauses will apply).

#### 20.17 **Acceleration**

- (a) Without prejudice to the rights of any instructing Lender under paragraph (b), if an Event of Default is continuing, the Facility Agent may, and shall if so instructed in writing by the Majority Lenders, by notice to the Borrower:
  - (i) cancel each Available Commitment or part of the Total Commitments whereupon they shall immediately be cancelled and the Facility shall immediately cease to be available for further Utilization;
  - (ii) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents. be immediately due and payable, whereupon they shall become immediately due and payable; and/or
  - (iii) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents in respect of the Loan, shall immediately become payable on demand by the Facility Agent (acting at the written direction of the Majority Lenders).
- (b) If an Event of Default under Clause 20.1 (*Failure to pay*) has occurred and continues for a period of more than 30 days following the expiration of any applicable cure period, then any individual Lender may direct the Facility Agent to, by notice to the Borrower, declare that such Lender's participation in the Loans, together with accrued interest thereon, and all other related amounts accrued or outstanding under the Finance Documents in relation thereto, be immediately due and payable, whereupon such Lender's participation in the Loans together with such amounts shall become immediately due and payable and that Lender's Available Commitment shall immediately cease to be available for further Utilization under the Facility.

**SECTION 8  
CHANGES TO PARTIES**

**21. SUCCESSORS AND ASSIGNS**

**21.1 Successors and assigns generally**

- (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns permitted hereby.
- (b) The Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Facility Agent (acting at the written direction of the Lenders) and each Lender.
- (c) No Lender may assign or otherwise transfer any of its rights or obligations hereunder except:
  - (i) to an assignee in accordance with the provisions of Clause 21.2 (*Assignments by Lenders*);
  - (ii) by way of participation in accordance with the provisions of Clause 21.4 (*Participations*); or
  - (iii) by way of pledge, grant or assignment of a security interest subject to the restrictions of Clause 21.5 (*Certain pledges*).
- (d) Any attempted assignment or transfer by any Party hereto that does not comply with the requirements of, or is otherwise in breach of, this Clause 21 (*Successors and Assigns*) shall be null and void.
- (e) Nothing in this Agreement, expressed or implied, shall be construed to confer upon any person (other than the Parties hereto, their respective successors and assigns permitted hereby, and the Participants to the extent provided in Clause 21.4 (*Participations*)) any legal or equitable right, remedy or claim under or by reason of this Agreement.

**21.2 Assignments by Lenders**

- (a) A Lender may at any time assign all or a portion of the Loans (including all or a portion of its rights and obligations under this Agreement in connection therewith) to:
  - (i) any other Lender;
  - (ii) an Affiliate of any Lender; or
  - (iii) a bank, insurer, reinsurer, or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets.

- (b) Any assignment under paragraph (a) shall be subject to the following conditions:
- (i) *Required IADB consent:* For so long as the IADB Guarantee remains in full force and effect, in accordance with the terms of the IADB Guarantee (and with the terms of the IADB Guarantee to prevail in the event of any conflict with this provision), the prior written consent of IADB shall be required for any assignment (such consent not to be unreasonably withheld and, unless denied, to be deemed given by IADB after ten (10) Business Days of such written consent being sought in accordance with the terms of the IADB Guarantee), other than where IADB's consent is otherwise specified as not being required in accordance with the IADB Guarantee.
  - (ii) *Assignment and Assumption:* The parties to each assignment shall execute and deliver to the Facility Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500.00. The assignee, if it is not a Lender, shall deliver to the Facility Agent an administrative questionnaire and applicable tax forms. The Facility Agent shall execute (as evidence of its acknowledgment thereof) at the direction of the assigning Lender an otherwise duly completed Assignment and Assumption delivered to it by the parties thereto, appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement. In so acknowledging such Assignment and Assumption the Facility Agent is entitled to rely on confirmation from the assigning Lender that such Assignment and Assumption and related documents comply with the terms of this Agreement, that all covenants and conditions precedent under this Agreement for its effectiveness have been complied with and that such Assignment and Assumption is authorized or permitted by the Finance Documents. The parties to each assignment (other than the Facility Agent) shall be responsible for the filing, recording or enrolment of such Assignment and Assumption with any court or other authority as required (if any) and payment of any related stamp, registration or similar tax, if applicable.
  - (iii) *No Assignment to Certain Persons:* No such assignment shall be made to the Borrower or any of the Borrower's ministries or agencies.
  - (iv) *No Assignment to Natural Persons:* No such assignment shall be made to a natural person (or a Holding Company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person).
  - (v) *No Required Borrower Consent:* The consent of the Borrower to any assignment that otherwise complies with paragraph (a) shall not be required.
- (c) Subject to acceptance and recording thereof in the Register by the Facility Agent pursuant to Clause 21.3 (*Register*), from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement. The

assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Clauses 12 (*Tax Gross Up and Indemnities*), 14 (*Other Indemnities*) and 16 (*Costs and Expenses*) with respect to facts and circumstances occurring prior to the effective date of such assignment.

- (d) Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Clause 21.2 (*Assignments by Lenders*) shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Clause 21.4 (*Participations*).
- (e) No Assignee shall be entitled to receive any greater payment under Clauses 12 (*Tax Gross Up and Indemnities*) and 13 (*Increased Costs*) than the relevant assigning Lender would have been entitled to receive, except to the extent that such entitlement to receive a greater payment results from a change in any law or regulation that occurs after the effective date specified in the relevant Assignment and Assumption.

### 21.3 Register

- (a) The Facility Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). For the avoidance of doubt, neither the Borrower nor the Facility Agent shall maintain the Register in the United Kingdom.
- (b) The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Facility Agent and the Lenders shall treat each person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement.
- (c) The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior written notice.

### 21.4 Participations

- (a) Any Lender may at any time, without the consent of, or notice to, the Borrower or the Facility Agent, sell participations to any person (other than a natural person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person, or the Borrower or any of the Borrower's Affiliates) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement; **provided that:**

- (i) such Lender's obligations under this Agreement shall remain unchanged;
  - (ii) such Lender shall remain solely responsible to the other Parties hereto for the performance of such obligations; and
  - (iii) the Borrower, the Facility Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnities under Clauses 14.2(b) (*Other indemnities*) and 21.2 (*Assignments by Lenders*) with respect to any payments made by such Lender to its Participant(s).
- (b) Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement (other than upon enforcement of any security interest granted by such Lender) and to approve any amendment, modification or waiver of any provision of this Agreement; **provided that**, such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that affects such Participant.
- (c) The Borrower agrees that each Participant shall be entitled to the benefits of Clauses 12 (*Tax Gross Up and Indemnities*) and 13 (*Increased Costs*) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to this Clause 21; **provided that**, such Participant:
- (i) agrees to be subject to the provisions of Clause 24 (*Sharing among the Finance Parties*) as if it were an assignee under this Clause 21; and
  - (ii) shall not be entitled to receive any greater payment under Clauses 12 (*Tax Gross Up and Indemnities*) and 13 (*Increased Costs*), with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a change in any law or regulation that occurs after the Participant acquired the applicable participation.
- (d) Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of this Clause 21 with respect to any Participant.
- (e) To the extent permitted by law, each Participant also shall be entitled to the benefits of Clause 26 (*Set-Off*) as though it were a Lender; **provided that**, such Participant agrees to be subject to Clause 24 (*Sharing among the Finance Parties*) as though it were a Lender.
- (f) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Finance Documents (the "**Participant Register**"); **provided that**, no Lender shall have any obligation to

disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans or its other obligations under any Finance Document) to any person except to the extent that such disclosure is necessary to establish that such commitment, loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations.

- (g) The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.
- (h) For the avoidance of doubt, the Facility Agent (in its capacity as agent) shall have no responsibility for maintaining a Participant Register.

## 21.5 Certain pledges

Any Lender may at any time pledge or grant a security interest in all or any portion of its rights under any Finance Document to any person or any entity extending funding to the Lender in respect of transactions contemplated herein (and/or any Representative thereof) to secure obligations of such Lender, including any pledge, assignment or the security interest to secure obligations to (i) a federal reserve or central bank and (ii) any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by a Lender as security for those obligations or securities, **provided that** no such pledge, assignment or other security interest shall release the Lender from any of its obligations thereunder or substitute any such pledgee or assignee or beneficiary of the security interest for the Lender as a party thereto. For the avoidance of doubt, no consent of (or consultation with) the Borrower or IADB shall be required for any such pledge, assignment or security interest, **provided further that** IADB's prior written consent (such consent not to be unreasonably withheld and, unless denied, to be deemed given by IADB after ten (10) Business Days of such written consent being sought in accordance with the terms of the IADB Guarantee) may be required (in accordance with the terms of the IADB Guarantee, which shall prevail in the event of any inconsistency with this provision) for any pledge, charge or the creation of any other security interest by a Lender to the extent required under the IADB Guarantee.

**SECTION 9**  
**THE FINANCE PARTIES**

**22. ROLE OF THE FACILITY AGENT**

**22.1 Appointment of the Facility Agent**

- (a) Each of the Lenders appoints the Facility Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the Lenders authorizes the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions thereto.

**22.2 Instructions**

- (a) The Facility Agent shall:
  - (i) unless a contrary indication appears in a Finance Document, exercise or refrain from exercising any right, power, authority or discretion vested in it as Facility Agent in accordance with any instructions given to it by the Majority Lenders; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Facility Agent shall be entitled to request instructions, or clarification of any instruction, regarding any action it may take or refrain from taking, from the Majority Lenders (or, if the relevant Finance Document stipulates the matter is a decision for any other Lender, from that Lender) as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion. The Facility Agent may refrain from acting unless and until it receives any such instructions or clarification that it has requested, and shall not incur liability to any person by reason of so refraining.
- (c) Save in the case of decisions stipulated to be a matter for any other Lender under the relevant Finance Document and unless a contrary indication appears in a Finance Document, any instructions given to the Facility Agent by the Majority Lenders shall override any conflicting instructions given by any other Parties and will be binding on all Finance Parties.
- (d) The Facility Agent may refrain from acting in accordance with any instructions of any Lender or any other Party until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions.

- (e) In the absence of instructions from the applicable Lender, the Facility Agent may act (or refrain from acting) as it may determine in its absolute discretion.
- (f) The Facility Agent is not authorized to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.
- (g) The Facility Agent shall not be required to take any action that, in its judgment or the judgment of its counsel, may expose the Facility Agent to liability or that is contrary to any Finance Document or applicable law.

### 22.3 Duties of the Facility Agent

- (a) Subject to paragraph (b) below, the Facility Agent shall promptly forward to a Party a copy of any document which is delivered to the Facility Agent for that Party by any other Party.
- (b) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it receives or forwards to another Party.
- (c) If a Responsible Officer of the Facility Agent receives written notice in accordance with the terms hereof from a Party referring to this Agreement, describing an Event of Default or a Default and stating the circumstance described is an Event of Default or a Default, it shall promptly notify the other Finance Parties.
- (d) If the Facility Agent is aware of the non-payment of any principal or interest, (which is an Event of Default) or receives written notice of non-payment of any fee payable to a Finance Party (other than the Facility Agent) under this Agreement it shall promptly notify the applicable Finance Parties.
- (e) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

### 22.4 Duties of the Facility Agent in connection with the IADB Guarantee

- (a) The Facility Agent (acting at the written direction of the Majority Lenders) shall notify IADB as required under the IADB Guarantee, including notifying IADB promptly upon:
  - (i) any failure of the Borrower to make any scheduled payment of principal pursuant to Clause 6 (*Repayment*) or interest pursuant to Clause 8 (*Interest*) under this Agreement;
  - (ii) any receipt by the Facility Agent of notice from the Borrower that any payment due under this Agreement will not be timely paid;
  - (iii) any notice submitted by the Facility Agent to the Borrower under this Agreement demanding payment or accelerating any Loans;

- (iv) any demand made of the Borrower by the Facility Agent in relation to any amount unpaid under this Agreement;
  - (v) the repayment in full of, or a prepayment being made on, any Loans; and
  - (vi) the acceleration of any Loans.
- (b) In the event that a Lender wishes to direct the Facility Agent to submit a Guarantee Demand Notice under the IADB Guarantee (or, if applicable, an Escrow Demand Notice under any relevant IADB Escrow Arrangements), it shall so direct the Facility Agent, in writing, who shall immediately notify the other Lenders with the details of such direction. Following such notification, each other Lender shall have 2 Business Days to notify the Facility Agent, in writing, as to whether the relevant Guarantee Demand Notice (or, if applicable, Escrow Demand Notice) is also submitted by the Facility Agent on behalf of such Lender at such time. On the first Business Day following such 2 Business Day period:
- (i) the Facility Agent shall submit a Guarantee Demand Notice under the IADB Guarantee (or, if applicable, an Escrow Demand Notice under any relevant IADB Escrow Arrangements) on behalf of the Lender(s) that has (or have) directed it in respect of its (or their) pro rata share thereof, with such Guarantee Demand Notice (or, if applicable, Escrow Demand Notice) submitted on behalf of such individual Lender or group of individual Lenders only, **provided that** each Lender shall only be entitled to direct the Facility Agent to submit demands in respect of such Lender's pro rata share of the IADB Guarantee (or relevant IADB Escrow Arrangements), taking into account any previous demands made by such Lender; and
  - (ii) any amounts received by the Facility Agent under the IADB Guarantee (or, if applicable, any relevant IADB Escrow Arrangements) that relate to a Guarantee Demand Notice (or Escrow Demand Notice) submitted on behalf of some Lenders only shall be applied by the Facility Agent towards the relevant amounts due to such Lenders only.

For the avoidance of doubt, each Lender shall have full discretion as to whether or not the Facility Agent submits a Guarantee Demand Notice (or Escrow Demand Notice) on its behalf at any time (including the discretion to direct the Facility Agent to submit any Guarantee Demand Notice (or Escrow Demand Notice) at a separate time to any other Lender(s)).

- (c) If the Facility Agent fails to submit a Guarantee Demand Notice (or, if applicable, an Escrow Demand Notice) having been directed to do so in accordance with paragraph (b) above, then any Lender may submit a Guarantee Demand Notice (or, if applicable, an Escrow Demand Notice) directly to IADB under the IADB Guarantee, *provided that* such Lender shall demand the same amounts as the Facility Agent was due to demand in accordance with paragraph (b) above, and shall notify the other

Finance Parties and the Borrower that it is submitting such Guarantee Demand Notice (or, if applicable, Escrow Demand Notice).

- (d) If a Guarantee Demand Notice is submitted but, prior to payment being made by IADB in connection therewith, the Borrower makes payment of an amount under this Agreement that corresponds to an amount demanded in such Guarantee Demand Notice, then the Facility Agent (acting at the written direction of the Majority Lenders) or the relevant Lender (as applicable) shall notify IADB and the Lenders and direct (to the extent possible and if agreed to by the IADB pursuant to the IADB Guarantee) the cancellation of the demand of such amounts in such Guarantee Demand Notice that correspond to the amounts so paid by the Borrower.
- (e) If a Guarantee Demand Notice is submitted and IADB effects payment in connection therewith, then the Facility Agent shall notify the Lenders and the Borrower of receipt of such payment.
- (f) In connection with:
  - (i) any proposed amendment or waiver of any term of this Agreement; or
  - (ii) any proposed transfer or assignment of, or pledge, charge or creation of any other security interest over, all or any of a Lender's rights and obligations under this Agreement,

the Facility Agent (acting at the written direction of any Lender) shall, so long as the IADB Guarantee remains in full force and effect, promptly seek the prior written consent of IADB to the extent it is required in accordance with Clause 21.2 (*Assignments by Lenders*) or Clause 31.2(c) (*Exceptions*), as applicable, or the IADB Guarantee and shall not agree to such amendment, waiver, assignment, transfer, pledge, charge or creation of any other security interest if such prior written consent is required but not obtained.

## 22.5 **No fiduciary duties**

- (a) Nothing in this Agreement or any other Finance Documents constitutes the Facility Agent or any agent (or similarly engaged person) as a trustee or fiduciary of any other person or as having any other implied (or express) obligations arising under the agency doctrine of any applicable law to such other person.
- (b) The Facility Agent shall not be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

## 22.6 **Business with the Borrower**

The Facility Agent may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for, and generally engage in any kind of banking or other business with, the Borrower or any of its agencies as if such person were not the Facility Agent hereunder and without any duty to account therefor to the Lenders.

## 22.7 Rights of the Facility Agent

- (a) The Facility Agent may conclusively rely on:
  - (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorized; and
  - (ii) any statement made by a director, authorized signatory or employee of any person regarding any matters which may reasonably be assumed to be within their knowledge or within their power to verify.
- (b) The Facility Agent may assume (unless and until it has received written notice to the contrary, in its capacity as agent for the Lenders, from the Borrower or a Lender) that:
  - (i) no Default or Event of Default has occurred (unless it is a Default or Event of Default due to the failure of the Borrower to pay any amount due to the Facility Agent under Clause 6 (*Repayment*) or Clause 8 (*Interest*)); and
  - (ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised.
- (c) Without prejudice to Clause 16.3 (*Enforcement Costs*) or the Facility Agent's ability to exercise its rights or remedies upon a potential Default, Default, or Event of Default, the Facility Agent may engage legal counsel and agents of its selection in connection with the services provided by it hereunder at the expense of the Borrower.
- (d) The Facility Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Finance Document by or through any one or more agents or attorneys and shall not be liable for the negligence or misconduct of any such agents or attorneys appointed by it with due care. Each of the Facility Agent and any such agent may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates and Representatives.
- (e) Unless indicated to the contrary in any Finance Document, the Facility Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
- (f) The Facility Agent shall have the right to accept and act upon instructions, including funds transfer instructions ("**Instructions**") given pursuant to this Agreement and delivered using Electronic Means; **provided that** the Borrower and the Original Lenders (the "**Instructing Parties**") shall provide to the Facility Agent an incumbency certificate satisfactory to the Facility Agent listing persons with the authority to provide such instructions ("**Authorized Persons**") and containing specimen signatures of such Authorized Persons, which incumbency certificate shall be amended by the relevant Instructing Party whenever a person is to be added or deleted from the listing. If an Instructing Party elects to give the Facility Agent Instructions using Electronic Means and the Facility Agent in its discretion elects to

act upon such Instructions, the Facility Agent's understanding of such Instructions shall be deemed controlling. The Instructing Parties understand and agree that the Facility Agent cannot determine the identity of the actual sender of such Instructions and that the Facility Agent shall conclusively presume that directions that purport to have been sent by an Authorized Person listed on the incumbency certificate provided to the Facility Agent have been sent by such Authorized Person. The Instructing Parties shall be responsible for ensuring that only Authorized Persons transmit such Instructions to the Facility Agent and that the Instructing Parties and all Authorized Persons are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the applicable Instructing Party. The Facility Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Facility Agent's reliance upon and compliance with such instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Instructing Parties agree (i) to assume all risks arising out of the use of Electronic Means to submit instructions to the Facility Agent, including the risk of the Facility Agent acting on unauthorized instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Facility Agent and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Instructing Parties; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances and (iv) to notify the Facility Agent immediately upon learning of any compromise or unauthorized use of the security procedures.

In this paragraph (f), "**Electronic Means**" means the following communication methods: S.W.I.F.T., email, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Facility Agent, or another method or system specified by the Facility Agent as available for use in connection with its services hereunder.

- (g) Notwithstanding any other provision of any Finance Document to the contrary, the Facility Agent is not obliged to do or omit to do anything if it would or might in its opinion or the opinion of its counsel, constitute a breach of any law or regulation or a breach of a duty of confidentiality, or expose the Facility Agent to liability or that is contrary to any Finance Document.
- (h) Notwithstanding any provision of any Finance Document to the contrary, the Facility Agent is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.
- (i) Notwithstanding anything contained herein to the contrary, the Facility Agent undertakes to perform such duties and only such duties as are specifically set forth

in this Agreement and the other Finance Documents to which it is a party and no implied covenants or obligations shall be read into this Agreement against the Facility Agent (it being agreed that the permissive right of the Facility Agent to do things enumerated in this Agreement shall not be construed as a duty or obligation in accordance with Clause 22.10(m) (*Exclusion of liability*)). The Facility Agent has no obligations of any kind to any Party under or in connection with any Finance Document to which it is not a Party and no obligations of the Facility Agent are incorporated by reference herein in connection with any such Finance Documents.

## 22.8 **Majority Lenders' instructions**

- (a) Unless a contrary indication appears in a Finance Document, the Facility Agent shall (i) exercise any right, power, authority or discretion vested in it as Facility Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Facility Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) with the consent or in accordance with an instruction of the Majority Lenders.
- (b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders will be binding on all the Finance Parties.
- (c) The Facility Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received such security and/or indemnity as it may require for any and all cost, loss, expense or liability (together with any associated value-added tax) which it may incur in complying with the instructions.
- (d) In the absence of instructions from the Majority Lenders (or, if appropriate, the Lenders) the Facility Agent may act (or refrain from taking action).

## 22.9 **Responsibility for documentation**

The Facility Agent is not responsible or liable for:

- (a) the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Facility Agent, the Original Lenders, the Borrower or any other person given in or in connection with any Finance Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document;
- (c) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or in any Finance Document or the occurrence of any Default; or

- (d) any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

#### 22.10 Exclusion of liability

- (a) Without limiting paragraph (c) below (and without prejudice to the provisions of paragraph (e) of Clause 25.11 (*Disruption to Payment Systems etc.*)), the Facility Agent will not be liable (including for negligence or any other category of liability whatsoever) for any action taken by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct (as determined by a court of competent jurisdiction in a final, non-appealable judgment).
- (b) The Facility Agent will not be liable for exercising, or not exercising, any right, power, authority or discretion given to it by, or in connection with, any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Finance Document other than by reason of its gross negligence or wilful misconduct (as determined by a court of competent jurisdiction in a final, non-appealable judgment).
- (c) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Facility Agent may rely on this Clause 22.10.
- (d) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent if the Facility Agent has taken reasonable steps to comply with the regulations or operating procedures of any recognized clearing or settlement system used by the Facility Agent for that purpose.
- (e) Nothing in this Agreement shall oblige the Facility Agent or the Original Lenders to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Facility Agent that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent or the Original Lenders.
- (f) In the absence of bad faith or manifest error on its part, the Facility Agent may conclusively rely and shall be fully protected in relying, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Facility Agent and conforming to the requirements of this Agreement. However, in the case of any such certificates or opinions that, by any provisions hereof are specifically required to be furnished to the Facility Agent, the Facility Agent shall examine such certificates and opinions to determine whether or not on their face they conform to the requirements of this Agreement (but need

not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

- (g) Monies held in trust by the Facility Agent need not be segregated from other funds except to the extent required by applicable law.
- (h) Whether or not therein expressly so provided, every provision of this Agreement relating to the conduct or affecting the liability of or affording protection to the Facility Agent shall be subject to the provisions of this Clause 22.10.
- (i) Unless otherwise specifically provided in this Agreement, any demand, request, direction or notice from the Borrower (or any other person) shall be sufficient if signed by an officer of such person.
- (j) In the absence of gross negligence or wilful misconduct on the part of the Facility Agent, it may consult with legal counsel of its own choosing, at the expense of the Borrower, as to any matter relating to this Agreement, the Loan or any Finance Document, and the Facility Agent shall not incur any liability in acting in good faith in accordance with any advice from such counsel.
- (k) The Facility Agent shall not be required to qualify in any jurisdiction in which it is not presently qualified to perform its obligations as Facility Agent or to enforce any rights and remedies in any foreign jurisdiction. Notwithstanding anything in this Agreement or any Finance Document to the contrary and for the avoidance of doubt, the Facility Agent shall not have any duty to act outside of the United States in respect of any enforcement action under this Agreement or in connection with any enforcement of the Lenders' or Original Lenders' rights and remedies hereunder with respect to any collateral located in a jurisdiction other than the United States.
- (l) Notwithstanding anything contained herein to the contrary, the Facility Agent shall not be deemed to have notice or actual knowledge of any default, Default, Event of Default (unless it is a Default or Event of Default due to the failure of the Borrower to pay any amount due to the Facility Agent under Clause 6 (*Repayment*) or Clause 8 (*Interest*)) or if applicable, of any waiver of any of the foregoing, unless written notice of any event that is in fact such a default, Default, Event of Default, or if applicable, of any waiver thereof, is received (either in person or by email) by a Responsible Officer, at the corporate trust office of the Facility Agent and is delivered by or on behalf of the Borrower or Majority Lenders and such notice references the Loans and this Agreement, or any other Finance Document to which the Facility Agent is a party.
- (m) The permissive rights of the Facility Agent enumerated herein shall not be construed as duties or obligations.
- (n) In all cases where calculations are to be verified or confirmed to the Facility Agent by any other Party, in the event of any dispute or differences, the calculation provided by such Party to the Facility Agent shall prevail and be deemed final for all purposes.

- (o) In no event shall the Facility Agent be liable for interest on any money received or held by it. Unless otherwise explicitly agreed in writing by the Facility Agent, all money received by the Facility Agent will be held uninvested.
- (p) Without prejudice to paragraph (l), the delivery of reports, information and documents to the Facility Agent under this Agreement or any other Finance Documents is for informational purposes only and the Facility Agent's receipt of the foregoing will not constitute actual or constructive notice or knowledge of any information contained therein or determinable from information contained therein, including the Borrower's or any other person's compliance with any covenants under this Agreement, the certificates or any other related documents.
- (q) Should the Facility Agent deem the nature of any action required on its part to be unclear, the Facility Agent may require prior to such action that it be provided by the Lenders or the Borrower, as applicable, with reasonable further instructions, upon which instructions the Facility Agent may conclusively rely.
- (r) The Facility Agent may accept and in good faith conclusively rely on all accounting, records and work of any person believed by it to be genuine without audit or other examination thereof, and the Facility Agent shall have no liability for the acts or omissions of any such person, absent gross negligence or wilful misconduct of the Facility Agent.
- (s) In no event shall the Facility Agent be liable for any indirect, special, punitive or consequential loss or damage of any kind whatsoever, including lost profits, even if it has been advised of the likelihood of such loss or damage and regardless of the form of action.
- (t) In no event shall the Facility Agent be liable for any failure or delay in the performance of its obligations hereunder because of circumstances beyond its control, including acts of God, flood, war (whether declared or undeclared), terrorism, strikes, work stoppages, pandemics or epidemics, civil or military disturbances, nuclear or natural catastrophes, fire, riot, embargo, loss or malfunctions of utilities, communications or computer (software or hardware) services, or government action, including any Laws, ordinances, regulations, governmental action or the like that delay, restrict or prohibit the providing of the services by the Facility Agent.
- (u) The Facility Agent shall not be liable for any error of judgment made in good faith by any of its officers unless it is finally proved that the Facility Agent was grossly negligent in ascertaining the pertinent facts.
- (v) It is expressly understood and agreed by the Parties that this Agreement is executed and delivered by the Facility Agent, not individually or personally, but solely as Facility Agent in the exercise of the powers and authority conferred and vested in it. Notwithstanding anything contained herein to the contrary, unless directed in writing to do so by a Lender or the Borrower, as applicable, the Facility Agent shall not have any duty to take or exercise any discretionary actions, rights or powers (including deeming or making a determination that anything is satisfactory,

approved, acceptable, selected or should be requested). The Facility Agent shall not have any liability for any delay in acting or failure to exercise any such discretionary actions, rights or powers.

- (w) Neither the Facility Agent nor the Sustainability Coordinator nor any Original Lender (i) shall have any duty to ascertain, inquire into or otherwise independently verify any Green-Related Information or Social-Related Information or any other information or materials provided by the Borrower and used in connection with the sustainability provisions in this Agreement, including with respect to the Eligible Social Projects and Eligible Green Projects as applicable, nor (ii) shall they have any responsibility for (or liability in respect of) the completeness or accuracy of any such information.
- (x) Each Party hereby agrees that neither the Facility Agent nor the Sustainability Coordinator nor any Original Lender shall have any responsibility for (or liability in respect of) reviewing, auditing monitoring, verifying or otherwise evaluating any of the information set forth in any Affordable and Resilient Housing Loan Report (and the Facility Agent and the Sustainability Coordinator may rely conclusively on any such report or notice, without further inquiry), or the application of any sustainability loan criteria or calculation by the Borrower of any relevant metrics (or any data or computations that are part of or related to any such calculation).

#### 22.11 **Erroneous Payments**

- (a) If the Facility Agent pays an amount to another Finance Party and within ten (10) Business Days of the date of payment the Facility Agent notifies that Finance Party that such payment was an Erroneous Payment then the Finance Party to whom that amount was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.
- (b) Neither: (i) the obligations of any Finance Party to the Facility Agent; nor (ii) the remedies of the Facility Agent, (whether arising under this Clause 22.11 or otherwise) which relate to an Erroneous Payment will be affected by any act, omission, matter or thing which, but for this paragraph (b), would reduce, release or prejudice any such obligation or remedy (whether or not known by the Facility Agent or any other Finance Party).
- (c) All payments to be made by a Finance Party to the Facility Agent (whether made pursuant to this Clause 22.11 or otherwise) which relate to an Erroneous Payment shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.
- (d) For the avoidance of doubt, no Erroneous Payment (or any refund, repayment or indemnity obligation relating to an Erroneous Payment) shall give rise to any liability of the Borrower or require any additional payment by the Borrower under the Finance Documents. The Borrower shall have no responsibility for, and shall not be required to compensate any Finance Party for, any Erroneous Payment or the return

thereof, and all such obligations shall be solely between the Facility Agent and the relevant Finance Parties.

#### 22.12 **Lenders' indemnity to the Facility Agent**

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three (3) Business Days of demand, against any reasonable and documented cost, loss or liability (including for (i) negligence or any other category of liability whatsoever and (ii) any reasonable fees and expenses of its legal counsel) incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct (as determined by a court of competent jurisdiction in a final, non-appealable judgment)) in acting as Facility Agent under the Finance Documents (unless the Facility Agent has been reimbursed by the Borrower pursuant to a Finance Document). This Clause 22.12 shall survive notwithstanding any termination of this Agreement or any other Finance Document to which the Facility Agent is a party or the resignation or replacement of the Facility Agent or any Assignment and Assumption.

#### 22.13 **Resignation of the Facility Agent**

- (a) The Facility Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties, IADB and the Borrower.
- (b) Alternatively, the Facility Agent may resign by giving thirty (30) days' notice to the other Finance Parties, IADB and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Facility Agent.
- (c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within twenty (20) days after notice of resignation was given (the "**Specified Date**"), the retiring Facility Agent may (after consultation with the Borrower) in its discretion appoint a successor Facility Agent being a reputable and experienced institution customarily providing such services within twenty (20) days after the Specified Date or apply to a court of competent jurisdiction for the appointment of a new Facility Agent hereunder.
- (d) The retiring Facility Agent shall make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (e) The Facility Agent's resignation notice shall only take effect upon the earlier of the appointment of a successor or (if applicable) the date falling twenty (20) days after the Specified Date.
- (f) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (d)) but shall remain entitled to the benefit of this Clause 22.13. Any successor and each of the other Parties shall have the same rights

and obligations amongst themselves as they would have had if such successor had been an original Party.

- (g) The Facility Agent shall resign in accordance with paragraph (b) above if on or after the date which is three (3) months before the earliest FATCA Application Date relating to any payment to the Facility Agent under the Finance Documents, either:
- (i) the Facility Agent fails to respond to a request under Clause 12.7 (*FATCA Information*) and a Lender reasonably believes that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
  - (ii) the information supplied by the Facility Agent pursuant to Clause 12.7 (*FATCA Information*) indicates that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
  - (iii) the Facility Agent notifies the Borrower and the Lenders that the Facility Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;

and (in each case) a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Facility Agent were a FATCA Exempt Party, and that Lender, by notice to the Facility Agent, requires it to resign.

- (h) Any assignment by the Facility Agent of any of its rights and obligations under this Agreement or the IADB Guarantee may be subject to the prior written consent of IADB, *provided that*:
- (i) in accordance with the terms of the IADB Guarantee (and with the terms of the IADB Guarantee to prevail in the event of any conflict with this provision), such consent of IADB shall not be unreasonably withheld and, unless denied, shall be deemed given by IADB after ten (10) Business Days of such written consent being sought; and
  - (ii) no consent of IADB shall be required in connection with:
    - (A) any assignment by the Facility Agent to an Approved Assignee; and
    - (B) any assignment in connection with the appointment of any successor or replacement Facility Agent under this Agreement following the resignation or replacement of the Facility Agent in accordance with the terms of this Agreement,

*provided further that*, in any such case, IADB has received prior written notice of such assignment.

#### 22.14 Replacement of the Facility Agent

- (a) After consultation with the Borrower, the Majority Lenders may, by giving thirty (30) days' notice to the Facility Agent who shall notify IADB, replace the Facility Agent by appointing a successor Facility Agent.
- (b) The retiring Facility Agent shall make available to the successor Facility Agent, at the expense of the Borrower, such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.
- (c) The appointment of the successor Facility Agent shall take effect on the date it has succeeded to this Agreement. As from this date, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents (other than its obligations under paragraph (b)) but shall remain entitled to the benefit of this Clause 22.14.
- (d) Any successor Facility Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

#### 22.15 Confidentiality

- (a) In acting as agent for the Lenders, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.

#### 22.16 Relationship with the Lenders

- (a) The Facility Agent may treat the person shown in its records as Lender at the opening of business (in the place of the Facility Agent's principal office as notified to the Finance Parties from time to time) as the Lender acting through its Facility Office:
  - (i) entitled to or liable for any payment due and payable under any Finance Document on that day; and
  - (ii) entitled to receive and act upon any notice, request, document or communication or make any decision or determination under any Finance Document made or delivered on that day,

unless it has received not less than five (5) Business Days' prior written notice from that Lender to the contrary in accordance with the terms of this Agreement.

- (b) Any Lender may by notice to the Facility Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or dispatched to that Lender under the Finance Documents. Such notice shall contain the address and (where communication by electronic mail or other electronic means is permitted under Clause 27.5 (*Electronic communication*)) electronic mail address and/or any other information required to enable the transmission of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, electronic mail address, department and officer by that Lender for the purposes of Clause 27.2 (*Addresses*) and paragraph (a)(ii) of Clause 27.5 (*Electronic communication*) and the Facility Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

#### 22.17 **Credit appraisal by the Lenders**

Without affecting the responsibility of the Borrower for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Facility Agent that:

- (a) it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including:
- (i) the financial condition, creditworthiness, condition, affairs, status and nature of the Borrower;
  - (ii) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
  - (iii) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
  - (iv) the adequacy, accuracy and/or completeness of any information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.
- (b) it is acting for its own account, and it has made its own independent decisions to enter into the Finance Documents and as to whether the transactions contemplated

thereby are appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary;

- (c) it is not relying on any communication (written or oral) of the Facility Agent as investment advice or as a recommendation to enter into any Finance Document or the transactions contemplated by the Finance Documents; it being understood that information and explanations related to the terms and conditions of a Finance Document and/or the transactions contemplated by the Finance Documents shall not be considered investment advice or a recommendation to enter into that document or transaction and no communication (written or oral) received from the Facility Agent shall be deemed to be an assurance or guarantee as to the expected results of that Finance Document and/or the transactions contemplated by the Finance Documents; and
- (d) it is capable of assuming, and does hereby assume, the financial and other risks relating to the Finance Documents and that 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 the Finance Documents and/or the transactions contemplated by the Finance Documents.

#### 22.18 **Deduction from amounts payable by the Facility Agent**

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

#### 22.19 **Unitized voting**

- (a) Subject to paragraph (b) a Lender may give instructions to the Facility Agent on portions of its Commitment or participations in the Loans independently to other portions. The Facility Agent shall treat such instructions as separate for the purposes of determining whether the Majority Lenders have provided instructions to the Facility Agent or authorized action in respect of the Finance Documents notwithstanding that the relevant Lender is the only person holding that Commitment and/or participation in the Loans under this Agreement.
- (b) For the purpose of any vote or other determination by the Majority Lenders under the Finance Documents which is intended to be unitized in the manner contemplated by paragraph (a) above, each Lender:
  - (i) may notionally divide its Commitment into separate amounts to reflect arrangements to which it is a party, **provided that** no such notional division may result in its Commitment being divided into separate amounts of less than USD1;

- (ii) may make a vote or determination on one occasion only in relation to any proposition that is the subject of a vote or determination; and
- (iii) in relation to any vote or determination, shall make it clear to the Facility Agent:
  - (A) in relation to any vote or determination which is to be made in the positive or negative, the relevant percentage of its Commitment voting for, the relevant percentage of its Commitment voting against and the relevant percentage of its Commitment which is not voting; and
  - (B) in relation to any vote or determination which has a response other than a positive or negative response applicable thereto, the relevant percentage of its Commitment making each relevant vote or determination and the relevant percentage of its Commitment which is not voting or making a determination,

prior to the time, on the date, set by the Facility Agent as the time and date prior to which the Facility Agent must have received the Lender's response to such request.

## 23. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

## 24. SHARING AMONG THE FINANCE PARTIES

### 24.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from the Borrower other than in accordance with Clause 25 (*Payment Mechanics*) (a "**Recovered Amount**") and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three (3) Business Days, notify details of the receipt or recovery to the Facility Agent;
- (b) the Recovering Finance Party shall instruct the Facility Agent to determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Facility Agent and distributed in accordance with Clause 25 (*Payment Mechanics*),

without taking account of any Tax which would be imposed on the Facility Agent in relation to the receipt, recovery or distribution; and

- (c) the Recovering Finance Party shall, within three (3) Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 25.6 (*Partial payments*).

#### 24.2 **Redistribution of payments**

The Facility Agent shall treat the Sharing Payment as if it had been paid by the Borrower and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with Clause 25.6 (*Partial payments*) towards the obligations of the Borrower to the Sharing Finance Parties.

#### 24.3 **Recovering Finance Party's rights**

On a distribution by the Facility Agent under Clause 24.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from the Borrower, as between the Borrower and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by the Borrower.

#### 24.4 **Reversal of redistribution**

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Facility Agent (acting upon written notice from the Recovering Finance Party), pay to the Facility Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the "**Redistributed Amount**"); and
- (b) as between the Borrower and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by the Borrower.

#### 24.5 **Exceptions**

- (a) This Clause 24 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause 24, have a valid and enforceable claim against the Borrower.

- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
  - (i) it notified that other Finance Party of the legal or arbitration proceedings;  
and
  - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

## **SECTION 10 ADMINISTRATION**

### **25. PAYMENT MECHANICS**

#### **25.1 Payments to the Facility Agent**

- (a) On each date on which the Borrower or a Lender is required to make a payment under a Finance Document, the Borrower or the Lender shall make the same available to the Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date by 11:00 a.m. New York time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payments by the Borrower to the Facility Agent shall be made to such account in the principal financial center of the country of that currency with such bank as the Facility Agent specifies by 11:00 a.m. New York time.
- (c) A payment by the Borrower to a Lender under a Finance Document shall only be deemed to have been made by the Borrower once it has been received by the relevant Lender, unless payment has been made by the Borrower to the Facility Agent in immediately available funds in a manner that can be readily distributed to the Lenders and the Facility Agent has failed to distribute such payment to the Lenders.
- (d) In the event the Facility Agent does not receive funds from the Borrower by 11:00 a.m. New York time on the date when such funds are due, funds shall be deemed paid on the following Business Day and shall include any additional interest required in connection therewith.

#### **25.2 Distributions by the Facility Agent**

Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 25.3 (*Distributions to the Borrower*) and Clause 25.4 (*Clawback and pre-funding*) be made available by the Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent by not less than five (5) Business Days' prior written notice with a bank in the principal financial center of the country of that currency.

#### **25.3 Distributions to the Borrower**

The Facility Agent may (with the consent of the Borrower or in accordance with Clause 26 (*Set-off*)) apply any amount received by it for the Borrower in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Borrower under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

## 25.4 Clawback and pre-funding

- (a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility Agent is not obliged to pay that sum to that other Party until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

## 25.5 Impaired Facility Agent

- (a) If, at any time, the Facility Agent becomes an Impaired Facility Agent, the Borrower (when it is) or a Lender which is required to make a payment under the Finance Documents to the Facility Agent in accordance with Clause 25.1 (*Payments to the Facility Agent*) may instead either:
  - (i) pay that amount direct to the required recipient(s); or
  - (ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Borrower or the Lender making the payment (the "**Paying Party**") and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the "**Recipient Party**" or "**Recipient Parties**").

In each case such payments must be made on the due date for payment under the Finance Documents.

- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties *pro rata* to their respective entitlements.
- (c) A Party which has made a payment in accordance with this Clause 25.5 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.
- (d) Promptly upon the appointment of a successor Facility Agent in accordance with Clauses 22.13 (*Resignation of the Facility Agent*) or 22.14 (*Replacement of the Facility Agent*), each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the

bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Facility Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with Clause 25.2 (*Distributions by the Facility Agent*).

- (e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:
  - (i) that it has not given an instruction pursuant to paragraph (d) above; and
  - (ii) that it has been provided with the necessary information by that Recipient Party,

give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

## 25.6 Partial payments

- (a) If the Facility Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower under the Finance Documents, the Facility Agent shall apply that payment towards the obligations of the Borrower under the Finance Documents in the following order:
  - (i) **first**, in or towards payment *pro rata* of any unpaid fees, costs and expenses (including, but not limited to, attorneys' fees and expenses) of the Facility Agent (including any indemnity obligations) under the Finance Documents;
  - (ii) **secondly**, in or towards payment *pro rata* of any unpaid fees, costs and expenses (including, but not limited to, attorneys' fees and expenses) of the Original Lenders (including any indemnity obligations) under the Finance Documents;
  - (iii) **thirdly**, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under this Agreement;
  - (iv) **fourthly**, in or towards payment *pro rata* of any principal due but unpaid under this Agreement; and
  - (v) **fifthly**, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.
- (b) The Facility Agent shall, if so directed in writing by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (v) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by the Borrower.

## 25.7 No set-off by the Borrower

All payments to be made by the Borrower under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

## 25.8 **Business Days**

- (a) Subject to (b) below, any payment under the Finance Documents which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) Any payment which is due to be made on the Maturity Date in respect of the Loans shall, if the Maturity Date is not a Business Day, be made on the preceding Business Day.

## 25.9 **Currency of account**

- (a) Subject to paragraphs (b) and (c) below, dollars is the currency of account and payment for any sum due from the Borrower under any Finance Document.
- (b) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.
- (c) Any amount expressed to be payable in a currency other than dollars shall be paid in that other currency.

## 25.10 **Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognized by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Facility Agent (acting at the written direction of the Majority Lenders having consulted with the Borrower); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognized by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Facility Agent (acting reasonably).
- (b) Notwithstanding paragraph (a) above, payment for any sum due from the Borrower under any Finance Document shall be made in dollars.

## 25.11 **Disruption to Payment Systems etc.**

If either the Facility Agent determines (acting at the written direction of the Majority Lenders) that a Disruption Event has occurred or the Facility Agent is notified by the Borrower, in writing, that a Disruption Event has occurred:

- (a) the Facility Agent and the Lenders may, and shall if requested to do so by the Borrower, consult with the Borrower with a view to agreeing with the Borrower such

changes to the operation or administration of the Facility as the Facility Agent may (acting at the written direction of the Majority Lenders) deem necessary in the circumstances;

- (b) the Facility Agent shall not be obliged to consult with the Borrower in relation to any changes mentioned in paragraph (a) if, in its opinion, it is not practicable to do so in the circumstances and, in any event, shall have no obligation to agree to such changes;
- (c) the Facility Agent may consult with the other Finance Parties in relation to any changes mentioned in paragraph (a) but shall not be obliged to do so if, in its opinion, it is not practicable to do so in the circumstances;
- (d) any such changes agreed upon by the Facility Agent (acting at the written direction of the Majority Lenders) and the Borrower shall (whether or not it is finally determined that a Disruption Event has occurred) be binding upon the Parties as an amendment to (or, as the case may be, waiver of) the terms of the Finance Documents notwithstanding the provisions of Clause 31 (*Amendments and Waivers*);
- (e) the Facility Agent shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever (including for negligence, gross negligence or any other category of liability whatsoever but not including any claim based on the fraud of the Facility Agent) arising as a result of its taking, or failing to take, any actions pursuant to or in connection with this Clause 25.11; and
- (f) the Facility Agent shall notify the other Finance Parties of all changes agreed pursuant to paragraph (d) above.

## 26. **SET-OFF**

A Finance Party may set off any matured obligation due from the Borrower under the Finance Documents to which it is a party (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Borrower, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## 27. **NOTICES**

### 27.1 **Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by letter.

### 27.2 **Addresses**

The address and the department or officer, if any, for whose attention the communication is to be made of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Borrower:

Ministerio de Economía y Finanzas  
República del Ecuador  
Av. Río Amazonas y José Villalengua  
Plataforma Gubernamental de Gestión Financiera, Piso 11  
Quito, Ecuador  
Código postal, 170506

Attention: Subsecretario de Financiamiento Público y Análisis de Riesgos  
Miguel Rodrigo Hernández Cobos  
Email: [mihernandez@finanzas.gob.ec](mailto:mihernandez@finanzas.gob.ec)

Attention: Directora Nacional de Negociación  
Vicky Alejandra Villacreses Arauz  
Email: [villacreses@finanzas.gob.ec](mailto:villacreses@finanzas.gob.ec)

(b) in the case of the Original Lenders, as applicable:

(i) BANCO SANTANDER S.A.  
PASEO DE PEREDA 9-12  
39004 SANTANDER

Attention: Ana Sanz Gomez  
Zlatina Georgieva Ilieva  
Email: [moexportfinance@gruposantander.com](mailto:moexportfinance@gruposantander.com)

(ii) Goldman Sachs International  
Plumtree Court  
25 Shoe Lane  
London EC4A 4AU

Attention: GS Servicing Team  
Email: [sfl-emea-servicing@ny.email.gs.com](mailto:sfl-emea-servicing@ny.email.gs.com)  
[gs-pfi-servicing@ny.email.gs.com](mailto:gs-pfi-servicing@ny.email.gs.com)

and in respect of any service pursuant to Clause 38.1 (*Arbitration*):

200 West Street, 15<sup>th</sup> Floor  
New York  
NY 10282

Attention: GS Legal

with a copy to:

Plumtree Court  
25 Shoe Lane

London EC4A 4AU

Attention: Legal

- (c) in the case of any other Lender, that notified in writing to the Facility Agent on or prior to the date on which it becomes a Party; and
- (d) in the case of the Facility Agent:

The Bank of New York Mellon  
601 Travis Street, Suite 1600  
Houston, TX 77002

Attention: Sheryl Anderson

Email: [tpadealclosingteam@bnymellon.com](mailto:tpadealclosingteam@bnymellon.com);  
[lpcoe-dallasagentsvcs@bnymellon.com](mailto:lpcoe-dallasagentsvcs@bnymellon.com)

with a copy to:

The Bank of New York Mellon  
240 Greenwich Street  
New York, NY 10286

Attention: Richard Jaronczyk

Email: [Structured-LATAM@bny.com](mailto:Structured-LATAM@bny.com)  
[gcs.specialty.glam.conv@bny.com](mailto:gcs.specialty.glam.conv@bny.com)

and in respect of any service pursuant to Clause 38.1 (*Arbitration*):

The Bank of New York Mellon  
160 Queen Victoria Street  
London  
United Kingdom  
EC4V 4LA

Attention: Graham Guinchard / Corporate Trust Global Client Services  
Email: [graham.guinchard@bny.com](mailto:graham.guinchard@bny.com)

or any substitute address or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five (5) Business Days' prior written notice.

### 27.3 **Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address and, if a particular department or officer is specified as part of its address details provided under Clause 27.2 (*Addresses*), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Facility Agent will be effective only when actually received by the Facility Agent and then only if it is expressly marked for the attention of the department or officer identified with the Facility Agent's signature below (or any substitute department or officer as the Facility Agent shall specify for this purpose).
- (c) All notices from or to the Borrower shall also be sent to or through the Facility Agent.
- (d) Any communication or document which becomes effective, in accordance with paragraph (b) above, after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

### 27.4 **Notification of address**

Promptly upon receipt of notification of an address or change of address number pursuant to Clause 27.2 (*Addresses*) or changing its own address, the Party making such change shall notify the other Parties.

### 27.5 **Electronic communication**

- (a) Any communication or document to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means, (including by way of posting to a secure website), and this is to be an accepted form of communication if those two Parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five (5) Business Days' prior written notice.
- (b) Any electronic communication made or delivered between those two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication or document made or delivered by a Party to the Facility Agent only if it is addressed in such a manner as the Facility Agent shall specify for this purpose.

- (c) Any electronic communication or document which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place in which the Party to whom the relevant communication or documents is sent or made available at its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (d) Any reference in this Agreement to a communication being sent or received or a document being delivered shall be construed to include that communication or document being made available in accordance with this Clause 27.5.

## 27.6 **English language**

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Facility Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

## 28. **CALCULATIONS AND CERTIFICATES**

### 28.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

### 28.2 **Certificates and determinations**

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### 28.3 **Day count convention**

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of three hundred sixty (360) days.

## 29. **PARTIAL INVALIDITY**

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of

such provision under the law of any other jurisdiction will in any way be affected or impaired.

### 30. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any of the Finance Documents on the part of any Finance Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

### 31. **AMENDMENTS AND WAIVERS**

#### 31.1 **Required consents**

- (a) Subject to Clause 31.2 (*Exceptions*), any term of any Finance Document may only be amended or waived with the consent of the applicable Majority Lenders and the Borrower, as appropriate, and any such amendment or waiver will be binding on all Parties.
- (b) The Facility Agent (acting at the written direction of the applicable Majority Lenders) may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 31.

#### 31.2 **Exceptions**

- (a) An amendment or waiver of any term of any Finance Document that has the effect of changing or which relates to:
  - (i) the definition of "Majority Lenders" in Clause 1.1 (*Definitions*);
  - (ii) an extension to the date of payment of any amount under the Finance Documents;
  - (iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest or any other amount payable under the Finance Documents;
  - (iv) a change in currency of payment of any amount under the Finance Documents;
  - (v) any provision which expressly requires the consent of all the Lenders;
  - (vi) an increase in or an extension of any Commitment; or
  - (vii) Clause 2.2 (*Finance Parties' rights and obligations*), Clause 21.2 (*Assignments by Lenders*), Clause 24 (*Sharing among the Finance Parties*) Clause 25.6

(*Partial Payments*), Clause 37 (*Governing Law*), Clause 38 (*Dispute Resolution*) or this Clause 31,

shall not be made without the prior consent of all the Lenders, the Borrower and, if required in accordance with paragraph (c), IADB.

- (b) An amendment or waiver which relates to the rights or obligations of the Facility Agent may not be effected without the consent of the Facility Agent.
- (c) An amendment or waiver of any term of this Agreement that adversely affects the rights or the obligations of IADB shall not be made without the prior written consent of IADB, **provided that** in accordance with the terms of the IADB Guarantee (and with the terms of the IADB Guarantee to prevail in the event of any conflict with this provision), such consent of IADB shall not be unreasonably withheld and, unless denied, shall be deemed given by IADB after ten (10) Business Days of such written consent being sought, **provided further that** the consent of IADB shall not be required to the extent (i) IADB confirms to the Facility Agent that its consent to the relevant amendment or waiver is not required or (ii) if the IADB Guarantee has been terminated. If any consent of IADB is required to an amendment or waiver in accordance with this paragraph but is not obtained, then such amendment or waiver shall be invalid.
- (d) Any amendment or waiver to the IADB Guarantee shall be made in accordance with its terms.

## 32. CONFIDENTIALITY

### 32.1 Confidential Information

Each Party agrees to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by Clause 32.2 (*Disclosure of Confidential Information*) and except for the disclosure of this Agreement in such form as is published on the website of the Ministry of Economy and Finance of the Republic of Ecuador, and as otherwise required under applicable Ecuadorian law, to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information; **provided that** (and notwithstanding anything contained herein to the contrary) the Facility Agent's standard of care and obligations with respect to Confidential Information will be met if it acts in accordance with applicable laws, regulations and all policies and procedures adopted by it in good faith to safeguard Confidential Information delivered to it.

### 32.2 Disclosure of Confidential Information

Any Finance Party may disclose:

- (a) to any of its Affiliates, Related Funds and any of its or their officers, directors, employees, professional advisers (including legal advisers), auditors, partners and Representatives such Confidential Information as that Finance Party shall consider appropriate if any person to whom the Confidential Information is to be given

pursuant to this paragraph (a) is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

- (b) to any person:
- (i) to (or through) whom it assigns or transfers (or may potentially assign or transfer) all or any of its rights and/or obligations under one or more Finance Documents or which succeeds (or which may potentially succeed) it as Facility Agent and, in each case, to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (ii) with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any participation in relation to, or any other transaction under which payments are to be made or may be made by reference to, one or more Finance Documents and to any of that person's Affiliates, Related Funds, Representatives and professional advisers;
  - (iii) who is an actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations;
  - (iv) appointed by any Finance Party or by a person to whom paragraph (b)(i), (b)(ii) or (b)(iii) above applies to receive communications, notices, information or documents delivered pursuant to the Finance Documents on its behalf (including any person appointed under paragraph (b) of Clause 22.16 (*Relationship with the Lenders*));
  - (v) who invests in or otherwise finances (or may potentially invest in or otherwise finance), directly or indirectly, any transaction referred to in paragraph (b)(i), (b)(ii) or (b)(iii) above;
  - (vi) to whom information is required or requested to be disclosed by any court of competent jurisdiction or any governmental, banking, taxation or other regulatory authority or similar body (including in connection with any routine regulatory exams), the rules of any relevant stock exchange or pursuant to any applicable law or regulation;
  - (vii) to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
  - (viii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 21.5 (*Certain pledges*);
  - (ix) who is a Party;

- (x) with the consent of the Borrower; or
- (xi) that is an insurer or reinsurer (or broker in connection therewith) of such Finance Party;

in each case, such Confidential Information as that Finance Party shall consider appropriate if:

- (A) in relation to paragraphs (b)(i), (b)(ii), (b)(iii), and (b)(iv) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking except that there shall be no requirement for a Confidentiality Undertaking if the recipient is a professional adviser and is subject to professional obligations to maintain the confidentiality of the Confidential Information;
  - (B) in relation to paragraph (b)(v) above, the person to whom the Confidential Information is to be given has entered into a Confidentiality Undertaking or is otherwise bound by requirements of confidentiality in relation to the Confidential Information they receive and is informed that some or all of such Confidential Information may be price-sensitive information;
  - (C) in relation to paragraphs (b)(vi), (b)(vii) and (b)(viii) above, the person to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information except that there shall be no requirement to so inform if, in the opinion of that Finance Party, it is not practicable so to do in the circumstances;
- (c) to any person appointed by that Finance Party or by a person to whom paragraph (b)(i), (b)(ii) or (b)(iii) above applies to provide administration or settlement services in respect of one or more of the Finance Documents including in relation to the trading of participations in respect of the Finance Documents, such Confidential Information as may be required to be disclosed to enable such service provider to provide any of the services referred to in this paragraph (c) if the service provider to whom the Confidential Information is to be given has entered into a confidentiality agreement substantially in the form of a Confidentiality Undertaking or such other form of confidentiality undertaking agreed between the Borrower and the relevant Finance Party;
  - (d) to any rating agency (including its professional advisers) such Confidential Information as may be required to be disclosed to enable such rating agency to carry out its normal rating activities in relation to the Finance Documents and/or the Borrower if the rating agency to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information;
  - (e) and make available in the public domain (including in the Republic) in such manner as that Party sees fit, in its sole discretion, such Confidential Information as that

Party shall consider necessary or desirable including, without limitation, the role of that Party under a Finance Document, the purpose of the Facility, the amount of the Commitments, the Maturity Date and the identity of the Borrower;

- (f) to IADB, any Confidential Information;
- (g) to the International Monetary Fund, the World Bank Group (including the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation and the Multilateral Investment Guarantee Agency, as relevant) or any other similar multilateral financing institution or international organization such Confidential Information as that Party shall consider necessary or desirable;
- (h) to the Organisation for Economic Co-operation and Development as reporting host (or any replacement thereof) for the purposes of the Voluntary Debt Transparency Principles published by the Institute of International Finance on 10 June 2019 (as the same may be amended from time to time) such Confidential Information contemplated by those principles from time to time;
- (i) to the Equator Principles Association, such Confidential Information contemplated by those principles from time to time, *provided that* it is informed of the confidential nature of the information and that some or all of such Confidential Information may be price-sensitive information;
- (j) to any Sanctions Authority (or to any regulatory authority or similar body which has been given relevant authority by a Sanctions Authority) such Confidential Information as that Party shall consider necessary or desirable in order to obtain a license in relation to any Sanctions applicable to that Party's rights and obligations under any Finance Document;
- (k) to any information services or league table provider such Confidential Information as that Party shall consider necessary or desirable for the preparation of reports, rankings, or similar analyses and for no other purpose. If such service provider to whom the Confidential Information is to be given is informed of its confidential nature and that some or all of such Confidential Information may be price-sensitive information; and
- (l) publicly, if an Event of Default occurs and is continuing, the material details of, and any notices related to, such Event of Default.

Nothing in any Finance Document shall prevent disclosure of any Confidential Information or other matter to the extent that preventing that disclosure would otherwise cause any transaction contemplated by the Finance Documents or any transaction carried out in connection with any transaction contemplated by the Finance Documents to become an arrangement described in Part II A 1 of Annex IV of Directive 2011/16/EU.

### 32.3 **Inside information**

Each of the Finance Parties acknowledges that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and each of the Finance Parties undertakes not to use any Confidential Information for any unlawful purpose.

### 32.4 **Notification of disclosure**

Each of the Finance Parties agrees (to the extent permitted by law and regulation) to inform the Borrower:

- (a) of the circumstances of any disclosure of Confidential Information made pursuant to paragraph (b)(vi) of Clause 32.2 (*Disclosure of Confidential Information*) except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this Clause 32.

### 32.5 **Continuing obligations**

The obligations in this Clause 32 are continuing and, in particular, shall survive and remain binding on each Finance Party for a period of twelve (12) months from the earlier of:

- (a) the date on which all amounts payable by the Borrower under or in connection with this Agreement have been paid in full and all Commitments have been cancelled or otherwise cease to be available; and
- (b) the date on which such Finance Party otherwise ceases to be a Finance Party.

## 33. **COUNTERPARTS**

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement. Delivery of an executed counterpart of a signature page in this Agreement by any form of electronic communication (such as email) shall be deemed to have the same legal effect as delivery of a manually signed original counterpart of this Agreement.

## 34. **PATRIOT ACT**

The Facility Agent and each Lender subject to the PATRIOT Act hereby notifies the Borrower that, pursuant to the requirements of the PATRIOT Act, it may be required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Facility Agent and such Lenders to identify the Borrower in accordance with the PATRIOT Act.

## 35. **DATA PROTECTION**

In compliance with the provisions of the (EU) General Data Protection Regulation and the Organic Law 3/2018 of 5 December on the Protection of Personal Data and Guarantee of Digital Rights (Spain), Banco Santander S.A. in its capacity as Original Lender hereby informs the Borrower that its personal data included in this Agreement will be processed by it for the purpose of managing the contractual relationship, and of maintaining any relationship with the legal person, party to this agreement and to which the data subject represents. This processing is necessary and based on its legitimate interest and on compliance with legal obligations set forth in the General Data Protection Regulation and the Organic Law 3/2018 of 5 December on the Protection of Personal Data and Guarantee of Digital Rights (Spain). Such personal data will not be disclosed to third parties unless there is a legal obligation to do so and will be kept for as long as the contractual relationship remains in effect and thereafter until any liabilities arising therefrom have expired. The data subjects may contact the Data Protection Officer of Banco Santander S.A. at [privacidad@gruposantander.es](mailto:privacidad@gruposantander.es) and exercise their rights of access, rectification, erasure, blocking, data portability and restriction of processing (or any other recognized by law) by email to [scibprivacy@gruposantander.com](mailto:scibprivacy@gruposantander.com). Data subjects may also submit any claims or requests relating to the protection of personal data to the Spanish Data Protection Agency at [www.aepd.es](http://www.aepd.es).

## 36. **BAIL-IN**

### 36.1 **Contractual recognition of bail-in**

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

## 36.2 **Bail-In definitions**

In this Clause 36:

**"Article 55 BRRD"** means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

**"Bail-In Action"** means the exercise of any Write-down and Conversion Powers.

**"Bail-In Legislation"** means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time;
- (b) in relation to the United Kingdom, the UK Bail-In Legislation; and
- (c) in relation to any state other than such an EEA Member Country and the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

**"EEA Member Country"** means any member state of the European Union, Iceland, Liechtenstein and Norway.

**"EU Bail-In Legislation Schedule"** means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

**"Resolution Authority"** means any body which has authority to exercise any Write-down and Conversion Powers.

**"UK Bail-In Legislation"** means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

**"Write-down and Conversion Powers"** means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;
- (b) in relation to the UK Bail-In Legislation, any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect

as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and

- (c) in relation to any other applicable Bail-In Legislation:
  - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
  - (ii) any similar or analogous powers under that Bail-In Legislation.

**SECTION 11**  
**GOVERNING LAW AND DISPUTE RESOLUTION**

**37. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed within the State of New York without giving effect to conflict of laws provisions to the extent that the application of the laws of any other jurisdiction would be required thereby; except for Clause 38.1 (*Arbitration*) which shall be governed by English law, provided, the application of English law to Clause 38.1 (*Arbitration*) shall not be deemed to alter this Clause 37 and the arbitrators appointed pursuant to Clause 38.1 (*Arbitration*) shall apply New York law in interpreting every clause of this Agreement (other than Clause 38.1 (*Arbitration*)).

**38. DISPUTE RESOLUTION**

**38.1 Arbitration**

- (a) Any dispute, controversy or claim of any nature arising out of, relating to or having any connection with this Agreement or any of the Finance Documents, including any dispute as to the existence, validity, interpretation, performance, breach, termination or consequences of the nullity of this Agreement or any of the Finance Documents (a "**Dispute**") shall not be referred to a court of any jurisdiction and shall instead be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration ("**LCIA Rules**") as at present in force as modified by this Clause 38.1, which LCIA Rules are deemed to be incorporated by reference into this Clause 38.1. The provisions in the LCIA Rules regarding an Emergency Arbitrator shall not apply. Capitalized terms used in this Clause 38.1 which are not otherwise defined in this Agreement shall have the meaning given to them in the LCIA Rules. In particular:
- (i) Without prejudice to Clause 40 (*Service of Process*), the Parties' addresses for service of any documents in relation to any such arbitration (including any Request for arbitration) are as provided for in Clause 27.2 (*Addresses*).
  - (ii) At the same time as serving the Request for arbitration on the respondent(s), the claimant(s) in any such arbitration shall serve copies of that Request for arbitration on all Parties and all parties to each of the Finance Documents.
  - (iii) There shall be three (3) arbitrators.
  - (iv) Each arbitrator will be an English or New York qualified lawyer of at least fifteen (15) years' standing with experience as a lawyer in relation to international banking or capital markets disputes. At least one of those arbitrators shall be a lawyer qualified in New York.
  - (v) If there are two parties to the Dispute, each party shall be entitled to nominate one arbitrator. If there are multiple claimants and/or multiple respondents, all claimants and/or all respondents shall attempt to agree

upon their respective nomination(s) such that the claimants shall together be entitled to nominate one arbitrator and the respondents shall together be entitled to nominate one arbitrator. If any such party or multiple parties fail to nominate an arbitrator within thirty (30) days from and including the date of the relevant Request for arbitration, an arbitrator shall be appointed on their behalf by the London Court of International Arbitration ("**LCIA Court**") in accordance with the LCIA Rules and applying the criteria at paragraph (a)(iv) of this Clause 38.1. In such circumstances, any existing nomination or confirmation of the arbitrator chosen by the party or parties on the other side of the proposed arbitration shall be unaffected, and the remaining arbitrator(s) shall be appointed in accordance with the LCIA Rules.

- (vi) The third arbitrator and chair of the Arbitral Tribunal shall be appointed by the LCIA Court in accordance with the LCIA Rules and applying the criteria at paragraph (a)(iv) of this Clause 38.1.
- (b) The seat, or legal place, of arbitration shall be London, England.
- (c) The language to be used in the arbitration shall be English.
- (d) The governing law of this Clause 38.1 shall be English law.
- (e) Any award of the tribunal shall be binding from the day it is made, and the parties waive any right of application to determine a preliminary point of law or appeal on a point of law under Sections 45 and 69 of the Arbitration Act 1996. Judgement on the award rendered by the tribunal may be entered in any court having jurisdiction thereof.
- (f) The Borrower confirms it is party to the New York Convention and agrees that: (i) it is bound by the terms of the New York Convention, including as a treaty obligation and (ii) the New York Convention shall apply to any action to enforce an award issued pursuant to an arbitration conducted in accordance with this Agreement.

## 39. **IMMUNITY**

### 39.1 **Scope of immunity**

- (a) Without limitation to Clause 38 (*Dispute Resolution*), the execution and delivery of this Agreement by the Borrower constitutes, and the Borrower's performance of and compliance with its obligations will constitute, acts of commercial public credit as provided under the laws of Ecuador. To the extent permitted by law, the Borrower irrevocably and unconditionally agrees that:
  - (i) the Borrower submits to the jurisdiction of any Ecuadorian court and to any legal process in the Ecuadorian courts (other than attachment proceedings prior to recognition or enforcement of an arbitral award), in connection with the enforcement of an arbitral award obtained in accordance with Clause 38.1 (*Arbitration*), except with respect to the Immune Property, which will

be entitled to immunity from enforcement in accordance with mandatory provisions of the laws of Ecuador;

- (ii) the Borrower submits to the jurisdiction of any court outside Ecuador and to any legal process, orders or other measures in courts outside Ecuador, whether through service or notice, attachment in aid of execution, execution against property of any sort, actions *in rem* or the grant of injunctions or specific performance, in connection with the enforcement of an arbitral award obtained in accordance with Clause 38.1 (*Arbitration*), except with respect to the Immune Property, which will be immune to the fullest extent;
  - (iii) the Borrower undertakes not to invoke any defense on the basis of any kind of immunity, for itself and/or its assets which do not constitute Immune Property in respect of any of the foregoing legal actions or proceedings; and
  - (iv) the Borrower submits to the jurisdiction of the English courts in connection with any proceedings invoking the supervisory jurisdiction of those courts in relation to an arbitration conducted pursuant to Clause 38.1 (*Arbitration*).
- (b) The levy of execution on assets of the Borrower within the territory of Ecuador will be carried out in accordance with and under the laws of Ecuador.
  - (c) The Borrower irrevocably waives, to the fullest extent permitted by law, any requirement or provision of law that requires the posting of a bond or other security as a condition to the institution, prosecution or completion of any action or proceeding.
  - (d) For the avoidance of doubt, the liabilities of the Borrower under this Agreement are liabilities of Ecuador and the Borrower undertakes not to invoke any defense to recovery based on a claim that only assets of, or under the control of, the Ministry of Economy and Finance of Ecuador, can be utilized to satisfy claims against the Borrower.
  - (e) The provisions of this Clause 39.1 have been negotiated and agreed solely with respect to the transactions described in this Agreement. In no event shall the definition or scope of Immune Property described in this Agreement be relied upon, utilized, admitted as evidence in any proceeding or construed by any third party (including any court, arbitrator or arbitral tribunal) to interpret any analogous provisions of any other agreement or instrument unrelated to the transactions contemplated in this Agreement or relating to any other indebtedness of the Borrower.

#### 40. **SERVICE OF PROCESS**

- (a) Without prejudice to any other mode of service allowed by law, the Borrower:
  - (i) hereby appoints the Ecuadorian Ambassador to the Court of St James's at the Embassy of Ecuador in London which is situated at 3B, 3 Hans Crescent,

London SW1X 0LS, as its agent for the purpose of proceedings before the English courts; and the Ecuadorian Consul at the Consulate of Ecuador in the City of New York, State of New York, United States of America, which is situated at 800 2nd Ave, Floor 2, New York, NY 10017, United States of America, as its agent for the purpose of proceedings before the New York courts (each individually, an "**Interim Process Agent**"); and

- (ii) will, no later than one hundred eighty (180) days after the Utilization Date, irrevocably appoint each of Law Debenture Corporate Services Limited, the registered office of which is situated at 8th Floor, 100 Bishopsgate, London, United Kingdom, EC2N 4AG, as its agent for the purpose of proceedings before the English courts; and Law Debenture Corporate Services Limited, the registered office of which is situated at 801 2nd Ave Suite 403, New York, NY 10017, United States of America, as its agent for the purpose of proceedings before the New York courts (each individually, a "**Permanent Process Agent**") to replace the Interim Process Agent,

in each case, any process in relation to any proceedings in relation to any arbitration contemplated by Clause 38.1 (*Arbitration*) or in relation to the recognition or enforcement of any arbitral award obtained in accordance with that Clause may be served on the Borrower by service on its agents in the jurisdiction of the relevant proceedings.

- (b) Each Permanent Process Agent will replace the applicable Interim Process Agent on the date that the Facility Agent notifies the Borrower in writing that the Lenders have received the evidence of such appointment specified in paragraph (f) below.
- (c) If any person appointed as an Interim Process Agent or a Permanent Process Agent under this Clause 40 is unable for any reason so to act, the Borrower must immediately (and in any event within thirty (30) days of the event taking place) appoint another agent (a "**Replacement Agent**") on terms acceptable to the Lenders.
- (d) If the Borrower fails to appoint a Permanent Process Agent in accordance with paragraph (a) above or fails to appoint a Replacement Agent in accordance with paragraph (c) above, the Facility Agent may (acting at the written direction of the Majority Lenders) appoint another process agent for this purpose, **provided that** the Facility Agent's right to do so will not prejudice the Borrower's continuing obligation to appoint a Permanent Process Agent or Replacement Agent, as applicable, or any rights of the Finance Parties in connection with any Default that arises as a result of such failure.
- (e) The Borrower agrees that failure by an Interim Process Agent or, as applicable, a Permanent Process Agent or Replacement Agent, to notify the Borrower of the process will not invalidate the proceedings concerned.
- (f) The Borrower shall provide the Facility Agent with evidence that each Permanent Process Agent has accepted its appointment as a Permanent Process Agent and an acknowledgement of such acceptance from such Permanent Process Agent. If a

Replacement Agent is appointed pursuant to paragraph (c) above, the Borrower shall provide to the Facility Agent evidence that such Replacement Agent has accepted its appointment as an Interim Process Agent or Permanent Process Agent, as applicable, and an acknowledgement of such acceptance from such Replacement Agent. Upon receipt of any such evidence referred to in this paragraph (f), the Facility Agent shall forward such evidence to the Lenders.

41. **WAIVER OF JURY TRIAL**

**EACH OF THE PARTIES TO THIS AGREEMENT AGREES TO WAIVE IRREVOCABLY ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE DOCUMENTS REFERRED TO IN THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED IN THIS AGREEMENT.** This waiver is intended to apply to all disputes. Each party acknowledges that (a) this waiver is a material inducement to enter into this Agreement, (b) it has already relied on this waiver in entering into this Agreement and (c) it will continue to rely on this waiver in future dealings. Each party represents that it has reviewed this waiver with its legal advisers and that it knowingly and voluntarily waives its jury trial rights after consultation with its legal advisers. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

42. **ENTIRE AGREEMENT**

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

43. **LIMITED RECOURSE AND NON-PETITION**

Notwithstanding any term to the contrary, the obligations of a Lender that has been established for the purpose of issuing securities under which payments are to be made or may be made by reference to one or more Finance Documents (a "**Repackaging Transaction Lender**") are limited recourse obligations of such Repackaging Transaction Lender and (i) are payable solely from the Available Property and (ii) shall not constitute obligations of, and there shall be no recourse against, any officer, manager, employee, securityholder or incorporator of such person or its successors or assigns. For these purposes, "**Available Property**" means the assets of the relevant Repackaging Transaction Lender held in connection with the Finance Documents that are not otherwise secured in favour of a trustee or other person. Each Party acknowledges and agrees that neither it nor any person acting on its behalf may, at any time, institute, or join with any other person in bringing, instituting or joining, legal, insolvency, administration, bankruptcy, winding-up, examinership or any other similar proceedings (whether court-based or otherwise) in relation to the Repackaging Transaction Lender or any of its officers, shareholders, members, incorporators, corporate service providers or managers or any of its assets. The provisions of this Clause 43 shall survive the termination or expiration of this Agreement,

for so long as any amounts remain outstanding under the Finance Documents or any obligation in respect thereof continues to exist.

**This Agreement has been entered into on the date stated at the beginning of this Agreement.**

**SCHEDULE 1  
THE ORIGINAL LENDERS**

<b>Name of Original Lender</b>	<b>Commitment</b>
Goldman Sachs International	USD250,000,000
Banco Santander S.A.	USD250,000,000
	<b>USD500,000,000</b>

**SCHEDULE 2**  
**CONDITIONS PRECEDENT**

**Conditions Precedent to Utilization**

**1. Finance Documents/the Borrower**

- (a) The Finance Documents have been duly executed and delivered by all parties thereto and have become fully effective.
- (b) A closing certificate of the Borrower has been delivered to the Facility Agent and the Original Lenders, which:
  - (i) confirms that the representations, warranties and covenants of the Borrower set out in this Agreement are true and correct in all material respects, and that there are no existing or ongoing events that would constitute an Event of Default under this Agreement, and that there has been no event which has had a Material Adverse Effect which is continuing based on objectively verifiable information, on and as of the date of the Utilization Request and the Utilization Date;
  - (ii) appends the authorization of the Debt and Finance Committee of Ecuador, authorizing the entry by the Borrower into this Agreement and any other related documents, and the performance by the Borrower of its obligations thereunder;
  - (iii) if and to the extent any such authorizations and consents apply, confirms that all other authorizations and consents necessary under the laws of Ecuador to authorize the entry by the Borrower into the Finance Documents to which it is a party and the performance by the Borrower of its obligations thereunder have been obtained, and appends any such further authorizations and consents;
  - (iv) appends the official communication (*Oficio*) from the Attorney General of the Republic (*Procuraduría General del Estado*) authorizing the Borrower to agree to the foreign governing laws and international arbitration clauses (and submission to the laws of England in respect thereof) contained in this Agreement, the Fee Letter and the Side Letter;
  - (v) appends the approval of the Minister of Economy and Finance of Ecuador or the General Legal Coordinator (*Coordinador General Jurídico*) of the Ministry of Economy and Finance of Ecuador, as delegated by the Minister of Economy and Finance of Ecuador, authorizing the Borrower to agree to the arbitration clause (and submission to the laws of England in respect thereof) contained in this Agreement, the Fee Letter and the Side Letter;
  - (vi) if applicable, appends the documentation evidencing the original delegation and ratification of delegation of powers related to public

indebtedness to the Undersecretary of Public Finance (*Subsecretario de Financiamiento Público*); and

- (vii) if applicable, appends a ministerial document confirming the scope of responsibilities of the General Legal Coordinator (*Coordinador General Jurídico*) of the Ministry of Economy and Finance of Ecuador.
- (c) If applicable, a certificate signed by the Minister of Economy and Finance of Ecuador authorizing the relevant signatory to execute the Finance Documents to which the Borrower is a party on the Borrower's behalf.

## 2. **IADB**

- (a) A secretary's certificate from IADB evidencing that the IADB board has approved the issuance of, and entrance by IADB into, the IADB Guarantee.
- (b) Evidence that the IADB Guarantee has been duly executed and is in full force and effect, and any conditions to effectiveness have been or will be satisfied, as of the Utilization Date.
- (c) Evidence that the Counter-Guarantee Agreement has been duly executed and is in full force and effect, and any conditions to effectiveness have been or will be satisfied, as of the Utilization Date.

## 3. **Legal opinions**

The following legal opinions in a form and substance satisfactory to the Facility Agent (acting at the direction of the Original Lenders):

- (a) A New York law legal opinion of Clifford Chance US LLP, international counsel to the Finance Parties, in respect of, *inter alia*, the enforceability of this Agreement, and substantially in the form distributed to the Facility Agent and the Original Lenders prior to signing this Agreement.
- (b) A New York law legal opinion of Hogan Lovells US LLP, international counsel to the Borrower, in respect of, *inter alia*, the enforceability of this Agreement, and substantially in the form distributed to the Facility Agent and the Original Lenders prior to signing this Agreement.
- (c) A New York law legal opinion of Norton Rose Fulbright US LLP, counsel to IADB, in respect of, *inter alia*, the enforceability of the IADB Guarantee, and substantially in the form distributed to Facility Agent and the Original Lenders prior to signing this Agreement.
- (d) An Ecuadorian law legal opinion of Bustamante Fabara, local counsel to the Finance Parties, in respect of this Agreement, and substantially in the form distributed to the Facility Agent and the Original Lenders prior to signing this Agreement.

- (e) A legal opinion of the General Legal Coordinator (*Coordinador General Jurídico*) of the Ministry of Economy and Finance of the Republic, in respect of this Agreement, and substantially in the form distributed to the Facility Agent and the Original Lenders prior to signing this Agreement.
- (f) A CRR Memorandum of Clifford Chance LLP, international counsel to the Finance Parties, and substantially in the form distributed to Banco Santander S.A as Original Lender prior to signing this Agreement.

**4. Other documents and evidence**

- (a) The Borrower participating in due diligence as necessary to the satisfaction of the Original Lenders.
- (b) Evidence that this Agreement has been registered with the Public Debt Registry of the Ministry of Economy and Finance of Ecuador.
- (c) Evidence that any Interim Process Agent referred to in Clause 40 (*Service of process*) has accepted its appointment.
- (d) A copy of any other Authorization or other document, opinion or assurance which the Original Lenders consider to be necessary (if it has notified the Borrower accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document to which the Borrower is a party or for the validity and enforceability of any such Finance Document.
- (e) Evidence that the fees, costs and expenses then due from the Borrower pursuant to Clause 11 (*Fees*) and Clause 16 (*Costs and Expenses*) have been paid or will be paid at least one Business Day prior to the first Utilization Date.

**SCHEDULE 3  
UTILIZATION REQUEST**

From: The Ministry of Economy and Finance acting for and on behalf of the Republic of Ecuador

To: The Bank of New York Mellon, as Facility Agent

Dated: [ ]

Dear Sirs

**Re: Facility Agreement dated 26 December 2025 by and among the Ministry of Economy and Finance acting for and on behalf of the Republic of Ecuador (as Borrower) and The Bank of New York Mellon (as Facility Agent) (the "Agreement")**

1. We refer to the Agreement. This is a Utilization Request. Terms defined in the Agreement have the same meaning in this Utilization Request unless given a different meaning in this Utilization Request.
2. We wish to borrow a Loan on the following terms:  
  
Utilization Date: [ ] (or if that is not a Business Day, the next Business Day)  
  
Currency of Loan: US Dollars  
  
Amount: USD [ ] or, if less, the Available Facility  
  
Interest Period: 3 months.
3. We confirm that (a) each condition specified in Clause 4.1 (*Initial conditions precedent*) of the Agreement is satisfied on the date of this Utilization Request, or will be satisfied no later than the date falling one Business Day prior to the proposed Utilization Date and (b) each condition specified in Clause 4.2 (*Further conditions precedent*) of the Agreement is satisfied on the date of this Utilization Request.
4. The proceeds of this Loan should be credited to [account].
5. This Utilization Request is irrevocable. [However, we acknowledge that in accordance with Clause 4.1 (*Initial conditions precedent*) of the Agreement, if the Facility Agent does not receive written notice from the Original Lenders confirming the satisfaction of the conditions precedent set forth in Schedule 2 (*Conditions precedent*) of the Agreement prior to 11:00 a.m. New York time on the date falling one Business Day prior to the proposed Utilization Date above, this Utilization Request shall be deemed null and void.]<sup>1</sup>

---

<sup>1</sup> To be included in first Utilization Request only.

Yours faithfully

.....

authorized signatory for

The Ministry of Economy and Finance

acting for and on behalf of the Republic of Ecuador

**SCHEDULE 4**  
**FORM OF ASSIGNMENT AND ASSUMPTION**

This Assignment and Assumption (the "**Assignment and Assumption**") is dated as of the Effective Date set forth below and is entered into by and between the Assignor identified in item 1 below (the "**Assignor**") and the Assignee identified in item 2 below (the "**Assignee**"). Capitalized terms used but not defined herein shall have the meanings given to them in the Facility Agreement identified below (as amended, the "**Facility Agreement**"), receipt of a copy of which is hereby acknowledged by [the][each] Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto (the "**Standard Terms and Conditions**") are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Facility Agreement, as of the Effective Date below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Facility Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any person, whether known or unknown, arising under or in connection with the Facility Agreement, any other documents or instruments delivered pursuant thereto or the Loans governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by the Assignor to the Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as the "**Assigned Interest**"). Each such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: \_\_\_\_\_  
\_\_\_\_\_

2. Assignee: \_\_\_\_\_  
\_\_\_\_\_

3. Borrower: The Ministry of Economy and Finance acting for and on behalf of the Republic of Ecuador

4. Facility Agent: The Bank of New York Mellon, as the Facility Agent under the Facility Agreement

5. Facility Agreement: The Facility Agreement dated as of 26 December 2025 by and among the Ministry of Economy and Finance acting for and on behalf of the Republic of Ecuador (as Borrower) and The Bank of New York Mellon (as Facility Agent).

6. Assigned Interest:

Assignor	Assignee	Amount of Commitment in the Loan Assigned
[ ]	[ ]	USD[ ]

Effective Date: \_\_\_\_\_, 20\_\_ [TO BE INSERTED BY FACILITY AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR]

The terms set forth in this Assignment and Assumption are hereby agreed to:

**[NAME OF ASSIGNOR]**, as Assignor

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

**ASSIGNEE**  
**[NAME OF ASSIGNEE]**, as Assignee

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

Acknowledged and Accepted:

**THE BANK OF NEW YORK MELLON**, as Facility Agent

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

**STANDARD TERMS AND CONDITIONS FOR  
ASSIGNMENT AND ASSUMPTION**

**REPRESENTATIONS AND WARRANTIES.**

**1.1 Assignor**

- (i) The Assignor represents and warrants that:
  - (A) it is the legal and beneficial owner of the Assigned Interest;
  - (B) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim;
  - (C) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and
  - (D) (i) this Assignment and Assumption and related documents comply with the terms of the Facility Agreement, (ii) all covenants and conditions precedent under the Facility Agreement for the effectiveness of this Assignment and Assumption have been complied with and (iii) this Assignment and Assumption is authorized or permitted by the Finance Documents.
- (ii) The Assignor assumes no responsibility with respect to:
  - (A) any statements, warranties or representations made in or in connection with the Facility Agreement or any other Finance Document;
  - (B) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Finance Documents;
  - (C) the financial condition of the Borrower, in respect of any Finance Document; or
  - (D) the performance or observance by the Borrower, of any of its obligations under any Finance Document.

**1.2 Assignee**

- (i) The Assignee represents and warrants that:
  - (A) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Facility Agreement;

- (B) from and after the Effective Date, it shall be bound by the provisions of the Facility Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder;
  - (C) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type;
  - (D) it has received a copy of the Facility Agreement and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest; and
  - (E) it has, independently and without reliance upon the Facility Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest.
- (ii) The Assignee agrees that:
- (A) it will, independently and without reliance on the Facility Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Finance Documents; and
  - (B) it will perform in accordance with their terms all of the obligations which by the terms of the Finance Documents are required to be performed by it as a Lender.

### 1.3 **Payments**

- (i) From and after the Effective Date, the Facility Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignee whether such amounts have accrued prior to, on or after the Effective Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by the Facility Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves.
- (ii) Notwithstanding the foregoing, the Facility Agent shall make all payments of interest, fees or other amounts paid from and after the Effective Date to the Assignee.

### 1.4 **General Provisions**

- (i) This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

- (ii) This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy or electronic mail shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption.
- (iii) This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

**SCHEDULE 5  
TIMETABLES**

Delivery of a duly completed Utilization Request (Clause 5.1 (*Delivery of a Utilization Request*))

No later than 9:30 AM New York time on the date one (1) Business Day before the Utilization Date

SOFR is fixed

Term SOFR Determination Day as of 11:00 AM New York time

**SCHEDULE 6**  
**QUITO PUBLIC HOLIDAYS**

Only Ecuador national and Quito mandatory holidays for public servants pursuant to the Fourth General Provision of the Ley Orgánica de Servicio Público (LOSEP) as amended by the amendment law published on Official Register Supplement of December 20, 2016, or as established by Presidential Decree of the President of Ecuador in each calendar year to be observed in Quito, will be considered "**Quito Public Holidays**".

The following is a list of Quito Public Holidays in 2026:

<b>Quito Public Holiday</b>	<b>Date</b>
New Year's Day (1)	January 1
Carnival Monday and Tuesday (1) (2)	February 16 February 17
Holy Friday (2)	April 3
Labor Day	May 1
Battle of Pichincha Day	May 24 (observed Monday May 25)
Independence Day	August 10
Guayaquil Independence Day	October 9
Day of the Departed (3)	November 2
Cuenca Independence Day (3)	November 3
Quito Establishment Day	December 6 (observed Monday December 7)
Christmas Day (1)	December 25

For each subsequent calendar year, each day listed as Quito Public Holiday in the table above will fall on the same date listed in the table above opposite that Quito Public Holiday except:

- (a) for a Quito Public Holiday that falls on Saturday, the holiday will be observed the previous Friday, and if it falls on Sunday it will be observed the following Monday;
- (b) for a Quito Public Holiday other than those marked (1) that falls on a Tuesday, it will be observed the previous Monday, and if it falls on Wednesday or Thursday, it will be moved to the following Friday, except when Quito Public Holidays are continuous as those marked (3), in which case special rules apply to ensure they remain continuous;
- (c) for a Quito Public Holiday marked (2):
  - (i) Carnival Monday and Tuesday and Holy (Good) Friday are determined by lunar calendar – Holy (Good) Friday falls two days before Easter, which is the first Sunday after the full moon on or after the spring equinox in the Northern Hemisphere and accordingly dates vary;

**provided that** no more than two consecutive weekdays will be treated as days which are not Quito Business Days.

**SIGNATURES**

**THE BORROWER**

**THE MINISTRY OF ECONOMY AND FINANCE ACTING FOR AND ON BEHALF OF THE REPUBLIC OF ECUADOR**

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

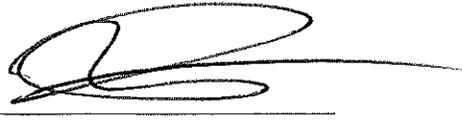
Name: *Miguel Hernandez*

Title: *Undersecretary of Public financing and Risk Analysis*

	
SUBSECRETARÍA DE FINANCIAMIENTO PÚBLICO	
REGISTRO:	<u>806</u>
FECHA:	<u>26 de diciembre de 2025</u>
PÁGINA:	<u>00000050</u>
<hr/>	
<b>REGISTRO DE LA DEUDA PÚBLICA</b>	

**THE FACILITY AGENT**

**THE BANK OF NEW YORK MELLON**

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

Name: Neelam Jan

Title: As Agent

**THE ORIGINAL LENDERS**

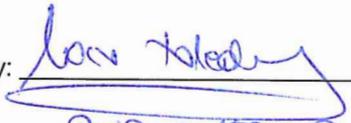
**GOLDMAN SACHS INTERNATIONAL**

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

Name: Eduardo Manzanera

Title: Managing Director

**BANCO SANTANDER S.A.**

By:   
Name: PABLO NARANJO  
Title: VP.

By:   
Name: NATALIA SAN MIGUEL  
Title: VP.