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Freedom of Information Act 2000

Following the recent decision notice from the Information Commissioner's Office (ICO) for the above referenced case, we are now releasing the information as specified in the ICO's decision notice. Please find this information at the bottom of this letter in Annex A.

The complete Asset Purchase Facility deed of indemnity consists of the amended and restated 2016 deed and the supplemental deed of 2019. In line with the ICO's ruling, redacted versions of these documents have both been provided in Annex A. The deed was signed in duplicate. We have provided a single copy of it, and consolidated the signature pages from the duplicate copies.

As stated in the ICO's decision notice, certain sections of the deed of indemnity have been redacted as release would reveal operationally sensitive information related to government cash management practices, and therefore, on balance, the ICO ruled full release of the document would fall outside the public interest of the UK. Personal data has been redacted under section 40(2) of the FOI Act.

If you have any queries about this letter, please contact us. Please quote the reference number above in any future communications.

Yours sincerely

Information Rights Unit

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THIS AMENDED AND RESTATED DEED of INDEMNITY is made on 25 August 2016

BETWEEN:

- (1) THE COMMISSIONERS OF HER MAJESTY'S TREASURY of 1 Horse Guards Road, London, SW1A 2HQ (HMT);
- (2) THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND, of Threadneedle Street, London, EC2R 8AH (the *Bank*); and
- (3) BANK OF ENGLAND ASSET PURCHASE FACILITY FUND LIMITED of 8 Lothbury, London EC2R 7HH (*BEAPFF*),

(each a Party and together the Parties).

WHEREAS:

- (A) The Chancellor of the Exchequer authorised the Bank to establish an asset purchase facility (the *APF*) for the purchase of high quality private sector assets from eligible participants subject to certain terms and conditions.
- (B) The facility also provides a framework for the Monetary Policy Committee of the Bank of England (the *MPC*) to use asset purchases for monetary policy purposes where the MPC concludes that this would be an additional useful tool for meeting the inflation target and the Chancellor of the Exchequer agrees for the facility to be financed by central bank money.
- (C) BEAPFF has been established as a subsidiary of the Bank for the purpose of implementing the APF.
- (D) The Bank and BEAPFF have entered into a loan agreement under which the Bank will lend to BEAPFF for the purpose of BEAPFF entering into transactions pursuant to the APF.
- (E) The Bank and HMT have agreed a risk framework in relation to the operation of the APF.
- (F) The Parties entered into a deed of indemnity which took effect on 2 February 2009 (the *Original Deed of Indemnity*) under which the Parties agreed that, in consideration of a fee payable by BEAPFF, HMT shall on the terms of that Original Deed of Indemnity indemnify BEAPFF and the Bank for any losses that each of them may incur in connection with the APF.
- (G) The Parties agreed to amend and restate the Original Deed of Indemnity on 29 November 2012 (the 2012 Deed of Indemnity) to provide that, in consideration of BEAPFF agreeing to pay the Cash Excess Amount and Accumulated Cash Transfer Amount (as defined in the 2012 Deed of Indemnity), HMT would on the terms of the 2012 Deed of Indemnity agree to pay BEAPFF any Cash Shortfall Amount. The arrangements in relation to the payment of such amounts are intended to facilitate the ultimate settlement of the Parties' obligations in respect of the Asset Shortfall

and the Fee as the payment of (i) an Accumulated Cash Transfer Amount (when previously relevant) or a Cash Excess Amount and (ii) a Cash Shortfall Amount, has the effect of reducing or effecting the part payment of the amounts payable in respect of the Fee and Asset Shortfall, respectively. Notwithstanding this, such arrangements are without prejudice to, and do not limit or affect, the right of BEAPFF and HMT to make a demand for payment in respect of the Indemnity in clauses 2.1 and 2.2 of this Deed and the Fee in clause 4.1 of this Deed, respectively.

- (H) BEAPFF will from time to time draw up balance sheets, profit and loss accounts and other statements of value or account of BEAPFF's assets and liabilities on the basis of accounting policies to be applied for its statutory accounts or on such other basis as BEAPFF considers appropriate (*Accounts*), including management accounts in relation to each Quarter (the *Quarterly Accounts*) on the basis of which the Cash Excess Amount and Cash Shortfall Amount shall be calculated. A *Quarter* shall be a quarterly period in respect of a financial year ending on 31 March.
- (I) The Parties have agreed that the APF shall be used to make asset purchases under the Corporate Bond Purchase Scheme (*CBPS*) which was approved by the MPC and announced in an initial market notice on 4 August 2016. References to the APF in this Deed may therefore, where relevant, include references to the CBPS.
- (J) The Parties have agreed that the APF shall be capable of being used for a broader scope of monetary policy purposes and not only for asset purchases as originally contemplated. In particular, the Parties agree that the Term Funding Scheme (*TFS*) which was approved by the MPC and announced in an initial market notice on 4 August 2016 is to be regarded as a facility offered under the APF framework notwithstanding that it does not involve asset purchases. References to the APF in this Deed may therefore, where relevant, include references to the TFS.
- (K) The Parties further agree that HMT will indemnify BEAPFF, the Bank and their respective officers and directors for purchases and loan advances made under the CBPS and TFS on the same terms as for asset purchases made under the APF generally as previously provided for under the Original Deed of Indemnity and the 2012 Deed of Indemnity.
- (L) In consideration of the changes contemplated in recitals (I), (J) and (K) above, the Parties have agreed to amend and restate the 2012 Deed of Indemnity as set out in this Deed.

THE PARTIES AGREE as follows:

1. RESTATEMENT AND EFFECTIVE DATE

With effect from the date of this Deed, the 2012 Deed of Indemnity shall be amended and restated so that it shall be read and construed for all purposes as set out in this Deed.

2. INDEMNITY

- 2.1 Subject to clause 5, HMT hereby agrees on demand by BEAPFF:
- (a) if at any time Accounts show that the value of BEAPFF's assets is less than the amount of its liabilities, to pay to BEAPFF an amount sufficient to eliminate such

- deficit (including any amount required to gross-up such payment on account of tax) (the *Assets Shortfall*), save to the extent that such deficit arises from BEAPFF's own wilful default or reckless disregard of its obligations; and
- (b) save in respect of any Assets Shortfall or Cash Shortfall Amount, to indemnify and keep indemnified BEAPFF, its officers and directors and hold BEAPFF, its officers and directors harmless against any and all claims, losses, damages, liabilities, costs, charges and expenses (including reasonable legal expenses (whether in connection with litigation or otherwise), other professional expenses, interest expenses (whether actual or notional) and tax) together with any value added tax thereon (Losses) suffered or incurred by BEAPFF, its officers or directors as a result of, arising out of, in connection with, or which are attributable to BEAPFF carrying on any activities pursuant to or in connection with the APF (including in connection with the CBPS or TFS) (BEAPFF Losses), save to the extent that such BEAPFF Losses arise from BEAPFF's own wilful default or reckless disregard of its obligations and provided that any Losses shall not be treated as BEAPFF Losses to the extent that they are included in the determination of the Assets Shortfall or Cash Shortfall Amount or constitute Bank Losses in respect of which the Bank has claimed under this Deed.
- 2.2 Subject to clause 5, HMT hereby agrees on demand by the Bank to indemnify and keep indemnified the Bank, its officers and directors and hold the Bank, its officers and directors harmless against any and all Losses (including in respect of all amounts payable to the Bank by BEAPFF) suffered or incurred by the Bank, its officers or directors as a result of, arising out of, in connection with, or which are attributable to the APF (including in connection with the CBPS or TFS) (*Bank Losses*), save to the extent that such Bank Losses arise from the Bank's own wilful default or reckless disregard of its obligations and provided that any Losses shall not be treated as Bank Losses to the extent that they are included in the determination of the Assets Shortfall or Cash Shortfall Amount or constitute BEAPFF Losses in respect of which BEAPFF has claimed under this Deed (the indemnity in this clause 2.2 and clause 2.1 together being the *Indemnity*).
- 2.3 The Assets Shortfall, Cash Shortfall Amount, BEAPFF Losses and the Bank Losses (together the *Indemnified Losses*) will be calculated by BEAPFF or, as the case may be, the Bank. BEAPFF Losses and Bank Losses shall be set out in one or more certificates signed by BEAPFF or the Bank giving reasonable details of the calculation of the amounts claimed (a *Loss Certificate*).
- 2.4 The obligations of HMT under the Indemnity shall be continuing obligations of HMT and may be waived only by agreement in writing between the Parties.
- 2.5 HMT's liability under the Indemnity shall remain in full force and effect notwithstanding any act, omission, neglect, event or matter whatsoever (whether or not known to the HMT, BEAPFF, the Bank or their respective officers or directors).
- 2.6 Any waiver, release, compromise or discharge of the obligations of HMT by BEAPFF, the Bank or any of their respective officers or directors shall be deemed to be made subject to the condition that it will be void if any payment, performance or security which may be or has been received by BEAPFF, the Bank or any of their respective officers or directors, is set aside, refunded or reduced or proves invalid for whatever reason. If such condition is satisfied, BEAPFF, the Bank and their respective officers and directors shall be

entitled to recover the value of such security or performance, or the amount of such payment, from HMT pursuant to the Indemnity as if such waiver, release, compromise or discharge had not been effected.

2.7 Any amounts payable under the Indemnity shall be paid in full without any deduction or withholding whatsoever (whether in respect of set-off, counterclaim, duties, charges, taxes or otherwise) unless such deduction or withholding is required by law, in which event HMT shall pay an additional amount so that the net amount received by BEAPFF, the Bank or their respective officers or directors will equal the full amount which BEAPFF, the Bank or their respective officers or directors would have received had no such deduction or withholding been made.

3. CLAIMS BY THE BANK AND BEAPFF

The Bank (on behalf of itself and its officers and directors) and BEAPFF (on behalf of itself and its officers and directors) may at any time claim payment under the Indemnity in respect of any Indemnified Losses incurred.

4. FEES AND PAYMENTS

The Fee

- 4.1 Subject to clause 5.2, BEAPFF shall pay to HMT if at any time the Accounts show that the value of BEAPFF's assets exceeds the amount of its liabilities, an amount equal to such excess (excluding any amount required to ensure that any tax liability can be met) (the *Fee*).
- 4.2 The Fee shall be payable on demand by HMT following approval on behalf of BEAPFF of the relevant Accounts.





Realisation of collateral under the TFS

4.6 Following the occurrence of an event of default in respect of a participant in the TFS as defined in the Terms and Conditions for the Term Funding Scheme, the Bank will, as soon as reasonably practicable, inform HMT of the action the Bank (on behalf of BEAPFF) proposes to take in relation to collateral provided by the participant. For the avoidance of doubt, the Bank (on behalf of BEAPFF) may retain, sell or otherwise dispose of or otherwise realise any such collateral at such times and in such manner as the Bank considers, acting reasonably, appropriate having regard to such factors as it considers appropriate including, without limitation, prevailing market conditions and the effect that any sale or disposal would have on the price of or the market in securities that comprise collateral received under the TFS.

Miscellaneous

- 4.7 BEAPFF shall be under no obligation to pay the Cash Excess Amount in respect of a particular Quarter to the extent that:
- (a) such Cash Excess Amount is included in the determination of the Fee in respect of which HMT has made a demand for payment under this Deed;
- (b) the payment of such Cash Excess Amount would, in the opinion of BEAPFF, cause BEAPFF to become insolvent in the manner contemplated in section 123(1) or (2) of the Insolvency Act 1986; or
- (c) doing so would, in the opinion of BEAPFF, be inconsistent with the operation of the APF in implementing any decision of the MPC regarding the operation of the APF for the purposes set out in recitals (B), (I) and (J) of this Deed.
- 4.8 HMT shall be under no obligation to pay the Cash Shortfall Amount in respect of a particular Quarter to the extent that such Cash Shortfall Amount is included in the determination of the Assets Shortfall in respect of which BEAPFF has made a demand for payment under this Deed.
- 4.9 BEAPFF shall:

- 4.10 For the purpose of this clause 4:
- (a) the *Effective Date* shall be 30 June 2013;
- (b) a reference to a *business day* is to a day on which the banks in London are generally open for business;
- (c) Cash Inflows, Deductions and Specified Expenses shall have the meanings given in Schedule 1 to this Deed.

5. AMOUNTS PAYABLE

- 5.1 The amount payable by HMT under the Indemnity in respect of each Loss Certificate shall be the amount of the Indemnified Losses certified by BEAPFF or, as the case may be, the Bank in that Loss Certificate.
- Any amount payable by HMT pursuant to clause 2.1(a) and any amount payable by BEAPFF pursuant to clause 4.1, in either case to the extent still due and payable and to the extent unpaid, shall be taken into account in determining the amount payable in respect of any subsequent deficit or excess, as the case may be, pursuant to either of those clauses.
- 5.3 If BEAPFF or the Bank is entitled to claim under this Indemnity pursuant to clauses 2.1 and 2.2 in circumstances in which a payment is expected by BEAPFF or by the Bank to be due from HMT, BEAPFF or the Bank, as the case may be, will consult HMT about the timing of any application for funds which HMT will need to make through the parliamentary supply procedure in order for HMT to pay the amount to be claimed.

6. THIRD PARTY CLAIMS

- Upon the Bank or BEAPFF becoming aware of any claim by a third party which may give rise to a Loss for which the Bank, BEAPFF or their respective officers or directors may wish to make a claim under the Indemnity, the Bank or BEAPFF, as the case may be, shall, as soon as reasonably practicable, give written notice of that matter to HMT, stating in reasonable detail the nature of the matter and, if practicable, the amount that might be claimed under the Indemnity in respect of that Loss. The Bank and BEAPFF shall consult with and provide such further information to HMT as it may reasonably require with respect to that claim. BEAPFF or, as the case may be, the Bank shall take such action and institute such proceedings (other than in relation to the Bank and BEAPFF), and give such information and assistance, as HMT may reasonably require to dispute, resist, appeal, compromise, defend, remedy or mitigate such claim, or to enforce against any person the rights of BEAPFF or the Bank in relation to that claim. The costs of taking such action or instituting such proceedings shall constitute a Loss to which the Indemnity shall apply.
- 6.2 The actions which HMT may reasonably request under clause 6.1 shall include, without limitation, the Bank or BEAPFF allowing HMT to take on or take over the conduct of all or any proceedings of whatsoever nature arising in connection with any third party

claim which may or does give rise to any Loss. If HMT takes on or takes over the conduct of such proceedings:

- (a) HMT will consult with the Bank and BEAPFF regarding the conduct of such proceedings; and
- (b) the Bank and BEAPFF shall, at HMT's expense, provide such information and assistance as HMT may reasonably require in connection with the preparation for and conduct of those proceedings.
- 6.3 If HMT elects to have conduct of such proceedings in accordance with clause 6.2, HMT shall keep the Bank and BEAPFF informed of all material matters pertaining thereto and all steps proposed to be taken by HMT and the Bank and BEAPFF shall be entitled to receive copies of all material correspondence in connection with the proceedings in question.

7. Notices

- 7.1 Any certificate or notice required to be given under this Deed shall be deemed to be duly served if left at or sent by registered or recorded delivery post or by electronic mail or facsimile transmission to:
- (a) BEAPFF at Threadneedle Street, London EC2R 8AH, to such address, fax number or email address as BEAPFF may notify the other Parties in writing;
- (b) the Bank at Bank of England, Threadneedle Street, London EC2R 8AH, to such address, fax number or email address as the Bank may notify the other Parties in writing; and
- (c) HMT at HM Treasury, 1 Horse Guards Road, London SW1A 2HQ, or to such address, fax number or email address as HMT may notify the other Parties in writing.
- 7.2 Any such notice shall be deemed to be duly served:
- (a) if left at the address of the party to be served, at the time when it is so left (or, if it is left on a day that is not a business day, on the next following business day);
- (b) if sent by post, on the second business day following the day of posting;
- (c) if sent by electronic mail, when the message is received; and
- (d) if sent by facsimile transmission, when confirmation of receipt is received.
- 7.3 In proving the giving of a notice under this clause it shall be sufficient to prove that the notice was delivered at the address for service or that the envelope containing such notice was properly addressed and posted (as the case may be). The Parties may, unless this Deed specifically provides for a notice to be delivered in writing, provide for any notice to be given orally, including by telephone; any such notice shall be deemed to be served when it is actually given.

7.4 For the purposes of this clause 7, a reference to a *business day* is to a day on which the banks in London are generally open for business.

8. MISCELLANEOUS

- 8.1 A failure to exercise or delay in exercising a right or remedy provided by this Deed or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Deed or by law prevents further exercise of the right or remedy or the exercise of another right or remedy. The rights and remedies contained in this Deed are cumulative and not exclusive of rights or remedies provided by law.
- 8.2 An amendment to this Deed is valid only if it is in writing and signed by or on behalf of each Party.
- 8.3 A Party may not assign or transfer any right or obligation under this Deed without having first obtained the other Parties' written consent.
- 8.4 This Deed constitutes the entire agreement and understanding between the Parties relating to the subject matter of this Deed.
- 8.5 No person who is not a Party to this Deed has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.
- 8.6 This Deed and all matters arising from or connected with it shall be governed by English law. The Parties submit to the jurisdiction of the English courts.
- 8.7 This Deed may be executed in any number of counterparts, each of which is an original and all of which together evidence the same Deed.

IN WITNESS WHEREOF this Deed has been executed and delivered as a Deed on behalf of the Parties the day and year first above written.

EXECUTED as a deed by THE COMMISSIONERS OF HER MAJESTY'S TREASURY in the presence of:



Two of the Commissioners of Her Majesty's Treasury



7.4 For the purposes of this clause 7, a reference to a *business day* is to a day on which the banks in London are generally open for business.

8. MISCELLANEOUS

- 8.1 A failure to exercise or delay in exercising a right or remedy provided by this Deed or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Deed or by law prevents further exercise of the right or remedy or the exercise of another right or remedy. The rights and remedies contained in this Deed are cumulative and not exclusive of rights or remedies provided by law.
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IN WITNESS WHEREOF this Deed has been executed and delivered as a Deed on behalf of the Parties the day and year first above written.

EXECUTED as a deed by THE COMMISSIONERS OF HER MAJESTY'S TREASURY in the presence of:



Two of the Commissioners of Her Majesty's Treasury



THE COMMON SEAL of THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND

was hereunto affixed in the presence of:

EXECUTED as a deed by BANK OF ENGLAND ASSET PURCHASE FACILITY FUND LIMITED

SCHEDULE 1

Cash Inflows and Deductions

For the purpose of clause 4:

- 1 Cash Inflows means any cash amount received by BEAPFF in relation to the following:
 - (a) any coupon, interest, dividend or other distribution of any kind whatsoever with respect to any securities held by BEAPFF;
 - (b) any interest with respect to any deposits held with the Bank;
 - (c) any interest with respect to advances made to participants under the TFS;
 - (d) any repayment by a participant of an advance under the TFS whether a partial repayment or in full and complete satisfaction of the amount of such advance:
 - (e) any proceeds of the sale or redemption of any securities held by BEAPFF, including sales relating to any securities sold as part of a collateral realisation in relation to advances made under the TFS;
 - (f) any fee in relation to stock lending arrangements between BEAPFF and the UK Debt Management Office; and
 - (g) any other type of income but excluding
 - (i) any cash made available by a drawdown on any loan facility provided by the Bank to BEAPFF;
 - (ii) any Cash Shortfall Amount received from HMT; and
 - (iii) any cash amount received from HMT under the Indemnity pursuant to clauses 2.1 and 2.2.

2 **Deductions** means:

- (a) any cash amount paid by BEAPFF in relation to the following:
 - (i) any interest with respect to any loan advanced by the Bank to BEAPFF;
 - (ii) any management fee charged by the Bank;
 - (iii) the purchase of securities by BEAPFF to the extent financed by the proceeds of the sale or redemption of securities held previously by BEAPFF;
 - (iv) any amounts advanced as a loan to a participant in the TFS;

- (vi) the repayment of the principal of any loan advanced by the Bank to BEAPFF to the extent financed by proceeds of the sale or redemption of securities held previously by BEAPFF;
- (vii) tax liabilities;
- (viii) any Fee paid to HMT;
- (ix) any other liabilities excluding any Cash Excess Amount paid to HMT;
- (b) any Realised Shortfall on any sales or redemptions of securities (a *Realised Shortfall* shall be, where the amount of the proceeds from the sale or redemption of securities is less than the price at which BEAPFF purchased such securities, the amount of such shortfall); and
- (c) any Realised Collateral Shortfall on any sales of securities or other forms of eligible collateral (a *Realised Collateral Shortfall*) under the TFS, where the amount of the proceeds from the realisation and sale of collateral is less than the outstanding amount of any advance(s) made to relevant participants in the TFS.

3. **Specified Expenses** means:

- (a) any cash amount to be paid by BEAPFF in relation to the following:
 - (i) any interest with respect to any loan advanced by the Bank to BEAPFF;
 - (ii) any management fee charged by the Bank;
 - (iii) any of BEAPFF's operating costs;
 - (iv) any tax liabilities;
- (b) any Realised Redemption Shortfall on any redemptions of securities (a *Realised Redemption Shortfall* shall be, where the amount of the proceeds from the redemption of securities is less than the price at which BEAPFF purchased such securities, the amount of such shortfall); and
- (c) any Realised Collateral Shortfall under the TFS, where the amount of the proceeds from the realisation and sale of collateral is less than the outstanding amount of any advance(s) made to relevant participants in the TFS.

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THE COMMISSIONERS OF HER MAJESTY'S TREASURY

THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND

BANK OF ENGLAND ASSET PURCHASE FACILITY FUND LIMITED

AMENDED AND RESTATED DEED OF INDEMNITY

THIS SUPPLEMENTAL DEED is made on 9 January 20189

BETWEEN:

- (1) THE COMMISSIONERS OF HER MAJESTY'S TREASURY of 1 Horse Guards Road, London, SW1A 2HQ (*HMT*);
- (2) THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND, of Threadneedle Street, London, EC2R 8AH (the *Bank*); and
- (3) BANK OF ENGLAND ASSET PURCHASE FACILITY FUND LIMITED of 8 Lothbury, London EC2R 7HH (*BEAPFF*),

(each a Party and together the Parties).

WHEREAS:

- (A) The Chancellor of the Exchequer authorised the Bank to establish an asset purchase facility (the *APF*) for the purchase of high quality private sector assets from eligible participants subject to certain terms and conditions.
- (B) The Parties entered into a deed of indemnity which took effect on 2 February 2009 (the *Original Deed of Indemnity*) under which the Parties agreed that, in consideration of a fee payable by BEAPFF, HMT shall on the terms of that Original Deed of Indemnity indemnify BEAPFF and the Bank for any losses that each of them may incur in connection with the APF.
- (C) The Original Deed of Indemnity was amended and restated on 29 November 2012 (the 2012 Deed of Indemnity) to provide that, in consideration of BEAPFF agreeing to pay the Cash Excess Amount and Accumulated Cash Transfer Amount (as defined in the 2012 Deed of Indemnity), HMT would on the terms of the 2012 Deed of Indemnity agree to pay BEAPFF any Cash Shortfall Amount.
- (D) The 2012 Deed of Indemnity was amended and restated on 25 August 2016 (the 2016 Deed of Indemnity) to agree, among other things, that the APF shall be capable of being used for a broader scope of monetary policy purposes and not only for asset purchases as originally contemplated. In particular, Parties agreed that the Term Funding Scheme (TFS) which was approved by the Monetary Policy Committee (MPC) and announced in an initial market notice on 4 August 2016 is to be regarded as a facility offered under the APF framework notwithstanding that it does not involve asset purchases and that HMT will indemnify BEAPFF, the Bank and their respective officers and directors for purchases and loan advances made under the TFS on the terms of the 2016 Deed of Indemnity.
- (E) The Governor announced in his Mansion House speech on 21 June 2018 that the Bank and HMT had reached a new capital settlement. As part of this agreement, all loans made through the TFS, and the collateral backing them, would be transferred from the balance sheet of BEAPFF to the balance sheet of the Bank on a date to be notified to the market by the Bank (the *TFS Transfer Date*). As a consequence, the Parties have agreed that:
 - **a.** HMT will not indemnify BEAPFF and its officers and directors in respect of BEAPFF TFS Losses (as defined in Clause 3.1 below) incurred on or after the TFS Transfer Date;

- b. HMT will indemnify the Bank and its officers and directors in respect of Bank TFS Losses (as defined in Clause 3.2 below) incurred in the period from and including the TFS Transfer Date to, but excluding, the date on which the capital injection agreed as part of the new capital settlement has been made by HMT to the Bank (the Capital Injection Date); and
- c. HMT will not indemnify the Bank and its officers and directors in respect of Bank TFS Losses (as defined in Clause 3.2 below) incurred on or after the Capital Injection Date.
- (F) In consideration of the changes contemplated in recital (E) above, the Parties have agreed that the 2016 Deed of Indemnity shall be amended and supplemented on the terms set out in this Supplemental Deed.

THE PARTIES AGREE as follows:

1. AMENDMENT AND EFFECTIVE DATE

With effect from the TFS Transfer Date, the 2016 Deed of Indemnity shall be amended and supplemented as set out in this Supplemental Deed.

Except for any amendment to the 2016 Deed of Indemnity made pursuant to this Supplemental Deed, the indemnity provided pursuant to, and all terms and conditions of, the 2016 Deed of Indemnity will continue in full force and effect in accordance with its provisions on the TFS Transfer Date. With effect from the TFS Transfer Date, references to the 2016 Deed of Indemnity will be to the 2016 Deed of Indemnity as amended and supplemented by this Supplemental Deed.

2. INTERPRETATION

Terms and expressions used in this Supplemental Deed shall, unless otherwise defined herein, have the meaning given to them and shall be construed in accordance with the 2016 Deed of Indemnity.

3. AMENDMENTS TO THE 2016 DEED OF INDEMNITY

The 2016 Deed of Indemnity shall be amended as follows:

- 3.1 The Indemnity (as defined in the 2016 Deed of Indemnity) shall not apply to BEAPFF, its officers and directors in respect of Losses suffered or incurred by BEAPFF, its officers or directors, as a result of, arising out of, in connection with, or which are attributable to BEAPFF carrying on any activities pursuant to or in connection with the TFS (*BEAPFF TFS Losses*) on or after the TFS Transfer Date;
- 3.2 With effect from the TFS Transfer Date to, but excluding, the Capital Injection Date, subject to Clause 5 of the 2016 Deed of Indemnity, HMT hereby agrees on demand by the Bank to indemnify and keep indemnified the Bank, its officers and directors and hold the Bank, its officers and directors harmless against any and all Losses suffered or incurred by the Bank, its officers or directors, as a result of, arising out of, in connection with, or which are attributable to the Bank carrying on any activities pursuant to or in connection with the TFS (*Bank TFS Losses*) save to the extent that such Bank Losses arise from the Bank's own wilful default or reckless disregard of its obligations.
- 3.3 For the avoidance of doubt: (i) the Indemnity shall not apply in respect of Bank TFS Losses occurring on or after the Capital Injection Date, (ii) the amendments made to the Indemnity

pursuant to Clause 3.1 of this Supplemental Deed shall be without prejudice to HMT's agreement to indemnify BEAPPF, its officers and directors in respect of any BEAPFF TFS Losses incurred prior to the TFS Transfer Date, and (iii) the amendments made to the Indemnity pursuant to Clauses 3.2 and 3.3(i) of this Supplemental Deed shall be without prejudice to HMT's agreement to indemnify the Bank, its officers and directors in respect of any Bank TFS Losses incurred prior to the Capital Injection Date.

- 3.4 References to the term "Indemnity" and "Indemnified Losses" in the 2016 Deed of Indemnity shall be construed as amended by clauses 3.1, 3.2 and 3.3 of this Supplemental Deed and references to the term "Bank Losses" in the 2016 Deed of Indemnity shall, with effect from the TFS Transfer Date to, but excluding, the Capital Injection Date, include Bank TFS Losses.
- Parties agree that, where a BEAPFF TFS Loss or Bank TFS Loss arises pursuant to the occurrence of an event (the *Relevant Event*) which, upon the passage of time or giving of notice or both, constitutes or would constitute an Event of Default under the TFS Terms and Conditions, that BEAPFF TFS Loss or Bank TFS Loss shall be deemed to have occurred, or been suffered or incurred as at the point in time when the Relevant Event occurred, notwithstanding that the amount of the relevant BEAPFF TFS Loss or Bank TFS Loss was determined or crystallised as at a later date (the Crystallisation Date). Parties further agree that, if the relevant Loss were a BEAPFF Loss, but the related Crystallisation Date occurs after the TFS Transfer Date, HMT's obligations to indemnify BEAPFF under the Indemnity shall be satisfied by payment of the relevant amount to the Bank (in accordance with the terms of the 2016 Deed of Indemnity as amended by this Supplemental Deed).
- With effect from the TFS Transfer Date to, but excluding, the Capital Injection Date, Clause 3.6 4.6 (Realisation of collateral under the TFS) of the 2016 Deed of Indemnity shall be amended by deleting references to "(on behalf of BEAPFF)" wherever it appears in that section, and with effect from the Capital Injection Date, Clause 4.6 (Realisation of collateral under the TFS) of the 2016 Deed of Indemnity shall be deleted in its entirety and the remainder of the provisions of the indemnity shall be renumbered accordingly.
- 3.7 With effect from the TFS Transfer Date, Schedule 1 to the 2016 Deed of Indemnity shall be deleted in its entirety and shall be replaced by Schedule 1 to this Supplemental Deed.
- In accordance with the separate agreements between the Parties on timing of the Quarterly 3.8 Payment Date, with effect from the date of this Deed, Parties agree that:

4. MISCELLANEOUS

The provisions of Clause 7 (*Notices*) and Clause 8 (*Miscellaneous*) of the 2016 Deed of Indemnity shall apply *mutatis mutandis* to this Supplemental Deed and for this purpose, references therein to "this Deed" shall be deemed to be references to this Supplemental Deed.

SCHEDULE 1 CASH INFLOWS AND DEDUCTIONS

For the purposes of Clause 4:

- 1. Cash Inflows means any cash amount received by BEAPFF in relation to the following:
 - (a) any coupon, interest, dividend or other distribution of any kind whatsoever with respect to any securities held by BEAPFF;
 - (b) any interest with respect to any deposits held with the Bank;
 - (c) in relation to interest with respect to advances made to participants under the TFS, any such interest accrued prior to the TFS Transfer Date;
 - (d) any repayment by a participant of an advance under the TFS whether a partial repayment or in full and complete satisfaction of the amount of such advance, where such repayment is made prior to the TFS Transfer Date;
 - (e) any proceeds of the sale or redemption of any securities held by BEAPFF. This includes sales relating to any securities sold as part of a collateral realisation in relation to advances made under the TFS but only where the settlement of such sale occurred prior to the TFS Transfer Date;
 - (f) any fee in relation to stock lending arrangements between BEAPFF and the UK Debt Management Office; and
 - (g) any other type of income but excluding
 - (i) any cash made available by a drawdown on any loan facility provided by the Bank to BEAPFF;
 - (ii) any Cash Shortfall Amount received from HMT; and
 - (iii) any cash amount received from HMT under the Indemnity pursuant to clauses 2.1 and 2.2.

2. **Deductions** means:

- (a) any cash amount paid by BEAPFF in relation to the following:
 - (i) any interest with respect to any loan advanced by the Bank to BEAPFF;
 - (ii) any management fee charged by the Bank;
 - (iii) the purchase of securities by BEAPFF to the extent financed by the proceeds of the sale or redemption of securities held previously by BEAPFF;
 - (iv) any amounts advanced as a loan to a participant in the TFS prior to the TFS Transfer Date;
 - (vi) the repayment of the principal of any loan advanced by the Bank to BEAPFF to the extent financed by proceeds of the sale or redemption of securities held previously by BEAPFF;

- (vii) tax liabilities;
- (viii) any Fee paid to HMT;
- (ix) any other liabilities excluding any Cash Excess Amount paid to HMT;
- (b) any Realised Shortfall on any sales or redemptions of securities (a *Realised Shortfall* shall be, where the amount of the proceeds from the sale or redemption of securities is less than the price at which BEAPFF purchased such securities, the amount of such shortfall); and
- (c) any Realised Collateral Shortfall on any sales of securities or other forms of eligible collateral (a *Realised Collateral Shortfall*) under the TFS, where the amount of the proceeds from the realisation and sale of collateral is less than the outstanding amount of any advance(s) made to relevant participants in the TFS, provided that the relevant Realised Collateral Shortfall arose prior to the TFS Transfer Date.

3. Specified Expenses means:

- (a) any cash amount to be paid by BEAPFF in relation to the following:
 - (i) any interest with respect to any loan advanced by the Bank to BEAPFF;
 - (ii) any management fee charged by the Bank;
 - (iii) any of BEAPFF's operating costs;
 - (iv) any tax liabilities;
- (b) any Realised Redemption Shortfall on any redemptions of securities (a *Realised Redemption Shortfall* shall be, where the amount of the proceeds from the redemption of securities is less than the price at which BEAPFF purchased such securities, the amount of such shortfall); and
- (c) any Realised Collateral Shortfall under the TFS, where the amount of the proceeds from the realisation and sale of collateral is less than the outstanding amount of any advance(s) made to relevant participants in the TFS, provided that the relevant Realised Collateral Shortfall arose prior to the TFS Transfer Date.

IN WITNESS WHEREOF this Supplemental D behalf of the Parties the day and year first above		
EXECUTED as a deed by THE COMMISSIONERS OF HER MAJESTY'S TREASURY in the presence of:		
	Two Treas	of the Commissioners of Her Majesty's sury
THE COMMON SEAL of		
THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND was hereunto affixed in the presence of:)	
in the presence of.	,	Authorised Signatory
		Authorised Signatory
EXECUTED as a deed by BANK OF ENGLAND ASSET PURCHASE FACILITY FUND LIMITED)	Authorised Attorney
Witness:		
Name:		
Address:		

IN WITNESS WHEREOF this Supplemental Deed has been executed and delivered as a Deed on behalf of the Parties the day and year first above written.

EXECUTED as a deed by THE COMMISSIONERS OF HER MAJESTY'S TREASURY in the presence of:	
	Two of the Commissioners of Her Majesty's Treasury
Witness:	
Name:	
Address:	
THE COMMON SEAL of THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND was hereunto affixed in the presence of:	
EXECUTED as a deed by BANK OF ENGLAND ASSET PURCHASE FACILITY FUND LIMITED) Authorised Attorney)
Witness:	
Name:	
Address:	

IN WITNESS WHEREOF this Supplemental Deed has been executed and delivered as a Deed on behalf of the Parties the day and year first above written.

EXECUTED as a deed by	
THE COMMISSIONERS OF	
HER MAJESTY'S TREASURY	
in the presence of:	
in the presence of.	
	Two of the Commissioners of Her Majest
	Treasury
	Ticasary
Witness:	
Name:	
Address:	
THE COMMON SEAL of	
THE GOVERNOR AND COMPANY OF)
THE BANK OF ENGLAND)
was hereunto affixed	
in the presence of:	
	Authorised Signatory
	Authorised Signatory
	8
EXECUTED as a deed by	
BANK OF ENGLAND ASSET PURCHASE	
FACILITY FUND LIMITED	
A TOTAL CONTRACTOR OF THE PARTY	
100	