

# Terms and Conditions for Participation in the Bank of England's Alternative Liquidity Facility

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## **ELIGIBILITY CRITERIA FOR PARTICIPATION IN THE BANK OF ENGLAND'S ALTERNATIVE LIQUIDITY FACILITY**

The criteria for an institution to be eligible to participate in the Alternative Liquidity Facility are set out below in clause 1.1. BEALF may, in its absolute discretion, waive, add to or vary any or all of the criteria in relation to any institution or institutions.

Any capitalised term used in the Eligibility Criteria or in the Terms and Conditions and not otherwise separately defined herein, shall bear the same meaning as set out in the glossary to the Terms and Conditions.

### **1. ELIGIBILITY CRITERIA**

1.1 The following Eligibility Criteria shall govern participation in the Alternative Liquidity Facility:

- (a) If an institution is:
  - (i) an authorised person as defined in the Financial Services and Markets Act 2000; and
  - (ii) an eligible institution (as defined in paragraph 1 of Schedule 2 to the Bank of England Act 1998); and
  - (iii) due to it facing formal restrictions from engaging in interest-bearing activities, unable to access the Sterling Monetary Framework;
- (b) and based on such information and documentation as BEALF may request from the institution, BEALF is satisfied that the institution is restricted from engaging in interest bearing activities;
- (c) and if in BEALF's opinion:
  - (i) an institution has the operational capability to participate in the Alternative Liquidity Facility;
  - (ii) an institution acts in a way that is consistent with the Bank's objective of achieving competitive and fair sterling markets;
  - (iii) an institution has provided to the Bank such liquidity and risk management information as the Bank may require for at least six months prior to the date of its admission to the Alternative Liquidity Facility, and, thereafter regularly provides to the Bank such liquidity and risk management information as the Bank may require, where such information is not already provided to the Bank;
  - (iv) an institution contributes to the Bank's market intelligence work in support of its functions as a monetary authority;
  - (v) an institution is incorporated in the United Kingdom;
  - (vi) none of the events set out in clause 16 of the Terms and Conditions has occurred in relation to an institution; and
  - (vii) no objection to an institution's participation in the Alternative Liquidity Facility has been made by the Prudential Regulation Authority, the Financial Conduct Authority or by any other relevant UK or overseas regulatory body,

then, subject to the BEALF's standards of prudence and risk and to clauses 1.2 to 1.4, the institution will be eligible to participate in the Alternative Liquidity Facility.

1.2 Only one institution in a Group may apply for access to the Alternative Liquidity Facility.

1.3 Without prejudice to the provisions of clause 1.1 and 1.2, BEALF may vary or waive any Eligibility Criteria with respect to any Participant or prospective Participant from time to time.

1.4 Notwithstanding any provision of clause 1.1, 1.2 or 1.3 above, BEALF shall have an absolute right to refuse or rescind access to the Alternative Liquidity Facility to any Participant or prospective Participant.

## TERMS AND CONDITIONS FOR PARTICIPATION IN THE ALTERNATIVE LIQUIDITY FACILITY

### 1. INTRODUCTION, SCOPE AND APPLICATION

- 1.1 These Terms and Conditions together with the Operating Procedures:
  - (a) set out the terms and conditions for participation in the Alternative Liquidity Facility; and
  - (b) govern Deposits accepted by BEALF under the Alternative Liquidity Facility.
- 1.2 These Terms and Conditions and the Operating Procedures (including any amendments made from time to time in accordance with clause 11 (*Amendments*)) will be published on the Bank's website at [www.bankofengland.co.uk](http://www.bankofengland.co.uk).
- 1.3 These Terms and Conditions apply where BEALF has admitted an institution as a Participant in the Alternative Liquidity Facility.
- 1.4 In order to facilitate the operation of the Alternative Liquidity Facility, the Bank will act as co-depositor in the Alternative Liquidity Facility and shall maintain a Deposit equal to the portion of the Alternative Liquidity Facility which is unutilised by other Participants from time to time. In its capacity as a Participant, the Bank shall not be required meet the Eligibility Criteria. In addition, clauses 2, 4, 16 and 17 shall not apply to the Bank.
- 1.5 It is acknowledged by the Participants that under the terms of the Investment Management Agreement, the Bank acts as BEALF's investment manager, and has the authority to act in its name and as its agent for the purposes of managing the Alternative Liquidity Facility and in respect of the Documentation to which BEALF is a party.

## 2. CONDITIONS PRECEDENT TO ACCEPTANCE OF DEPOSITS

2.1 As conditions precedent to the acceptance of a Deposit by BEALF from a Participant, the Participant shall supply to BEALF on request and in a form and substance satisfactory to BEALF:

- (a) copies of its constitutional documents including its articles of association, certificate of incorporation, together with (if applicable) evidence of its good-standing;
- (b) copies of any corporate resolutions or other authorities authorising the Participant to enter into, and perform its obligations under, the Documentation to which it is or will become a party;
- (c) a copy of its Authorised Persons List authorised in accordance with clause 7.2; and
- (d) such other information and documentation as BEALF may request.

BEALF will inform the Participant which of the above it is required to provide.

## 3. PARTICIPANT'S AUTHORITY TO BEALF

3.1 Subject to these Terms and Conditions, the Participant hereby authorises BEALF:

- (a) to hold the Deposit in such non-interest bearing account as BEALF deems appropriate including, without limitation, any omnibus account maintained with the Bank in the name of BEALF and to transfer and retransfer such amounts to such other non-interest bearing account or accounts as it deems appropriate;
- (b) to use the Deposit or any portion thereof to purchase, acquire or otherwise make investments in any Eligible Assets;
- (c) to sell, redeem, retain, exchange or otherwise manage or deal with Eligible Assets at such times and in such manner as it deems appropriate and to reinvest or otherwise deal with proceeds, profit or other income from such Eligible Assets in its discretion;
- (d) to hold any Eligible Assets in such account or accounts as it determines appropriate;
- (e) to enter into any agreements including, without limitation, Hedging Arrangements as it deems necessary in respect of any Eligible Assets;
- (f) to pay any and all fees costs and expenses arising from or ancillary to the exercise of any powers, authorities or discretions in this clause 3.1;
- (g) otherwise do all things ancillary or incidental to the forgoing; and
- (h) to delegate or sub-delegate any or all of its rights, powers, authorities or discretions in this clause 3.1 to any person as it deems appropriate including, without limitation, to the Bank under the Investment Management Agreement.

3.2 Subject to these Terms and Conditions, the Participant hereby authorises and requests BEALF:

- (a) **SWIFT Instructions:** Provided BEALF has agreed to permit the Participant to give instructions via authenticated SWIFT message, to act upon instructions which are received by authenticated SWIFT message, including, but not limited to, instructions to transfer funds in respect of a Withdrawal.
- (b) **E-mail Instructions:** Provided BEALF has agreed to permit the Participant to give instructions via e-mail, and subject to clause 7 (Communications) below and any conditions in the Operating Procedures, to act upon E-mail Instructions which are received by BEALF, including, but not limited to, E-mail Instructions to transfer funds in respect of a Withdrawal.
- (c) **Written Instructions:** To act upon Written Instructions received by BEALF including, but not limited to, Written Instructions to transfer funds in respect of a Withdrawal.

- (d) **Telephone Instructions:** In the event that regular channels are unavailable, and provided BEALF has agreed to permit the Participant to give instructions via telephone in these circumstances, and subject to clause 7 (Communications) below, to act upon Telephone Instructions which are received by BEALF, including, but not limited to, Telephone Instructions to transfer funds in respect of a Withdrawal.
- (e) **Audit Information:** To release information concerning the Deposit for audit purposes to such person or persons as the Participant may notify in writing to BEALF. Such instructions must appear to BEALF to be signed by an Authorised Person or Authorised Persons.
- (f) **Authorised Persons:** To accept changes to the Authorised Persons List, authorised in accordance with clause 7.2 below.

#### 4. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS; CONDITIONS PRECEDENT

4.1 The Participant represents and warrants to BEALF that:

- (a) it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation and has full power and authority to enter into the Documentation to which it is a party and to make the Deposit and to take any other actions and comply with any obligations contemplated hereby;
- (b) it complies with the Eligibility Criteria;
- (c) the person entering into the Documentation to which it is a party and making any Deposit on its behalf or taking any actions in respect thereof is or will be at the relevant time, duly authorised so to act;
- (d) it has obtained all authorisations of any governmental authority or regulatory body and taken all other steps required by it in connection with the Documentation to which it is a party, the making of a Deposit, the participation in the Alternative Liquidity Facility and such authorisations remain in full force and effect;
- (e) all the obligations of the Participant under the Documentation to which it is a party are valid, binding and enforceable and the execution, delivery and performance of the Documentation to which it is a party, the making of a Deposit and the taking of any action under or in respect thereto, will not violate any law, regulation, by-law or rule applicable to the Participant;
- (f) it is entering into, and will duly perform its obligations under, the Documentation to which it is a party and will take any actions under and with respect thereto as principal;
- (g) all information provided by it to BEALF under or in connection with the Documentation to which it is a party is, or will be when provided, true, up to date, accurate and not misleading;
- (h) all Deposits by the Participant with BEALF shall be free and clear at all times of any lien, claim, charge or encumbrance;
- (i) where appropriate, it has made its own investigation into and satisfied itself that the Alternative Liquidity Facility and the provisions of the Documentation do not contravene the principles of Shari'ah and that it has not relied, directly or indirectly on BEALF or the Bank or any declaration, opinion or document prepared by BEALF or the Bank or any of their agents, employees, directors or advisors for the purposes of a determination or confirmation that the Alternative Liquidity Facility or the Documentation are Shari'ah compliant. The Participant confirms, that it shall not raise any objections as to matters of Shari'ah compliance in respect of, or otherwise in relation to, the Alternative Liquidity Facility, or the provisions of any Documentation or the transactions contemplated thereby.

4.2 All representations and warranties made and given under these Terms and Conditions shall be deemed to be made upon the signature and return to BEALF by the Participant of its copy of the Scheme Letter and repeated at the beginning of each Profit Period, and on each occasion on which the Participant takes any actions under the Documentation to which it is a party or in relation to a Deposit.

4.3 The Participant undertakes to BEALF that:

- (a) it will, to the extent permitted by applicable law, inform BEALF in advance of any proposed major organisational and business change relating to it, including but not limited to major changes of control or ownership, and it will inform BEALF without delay of any material changes to the information provided by the Participant prior to entering into the Documentation to which it is a party;
- (b) it will comply with the provisions of the Documentation to which it is a party;
- (c) it will promptly take all such steps and execute all such documents (and in such form as BEALF may require) required to give effect to any provision of the Documentation to which it is a party;
- (d) it will comply in all respects with all laws and regulations to which it may be subject, if failure so to comply would impair its ability to perform its obligations under the Documentation to which it is a party;
- (e) (without prejudice to (d) above) it will comply at all times with and perform any measures, directions or other requirements (including any variations or waivers) imposed on it by or agreed by it with the Bank or the Financial Conduct Authority under FSMA or otherwise, and any similar measures, directions or other requirements imposed on it by any regulatory or supervisory authority whether in the United Kingdom or elsewhere where any failure to comply could reasonably be expected to have a material adverse effect on the business of the Participant or on its ability to comply with its obligations under the Documentation to which it is a party;
- (f) it will notify BEALF in writing immediately upon becoming aware that it no longer meets the Eligibility Criteria; and
- (g) on request from BEALF, it will promptly provide any and all information that may help BEALF to assess the ability of the Participant to fulfil its obligations under the Documentation to which it is a party.

4.4 BEALF's obligation to make any payment in respect of a Deposit or otherwise under the Documentation to which it is a party shall be subject to the conditions precedent that no Event of Default or Potential Event of Default shall have occurred and be continuing and no obligation owed by the Participant to BEALF under the Documentation to which it is a party is outstanding.

4.5 Without prejudice to clause 4.4, if any condition precedent in clause 4.4 is not satisfied with respect to the Participant when an obligation of BEALF to make a payment of any Profit to a Participant would (but for those conditions precedent not being satisfied) become due and payable to the Participant then BEALF's obligation to pay such Profit will not be extinguished and will become due or payable if:

- (a) the conditions precedent in clause 4.4 are subsequently satisfied with respect to the Participant;
- (b) the Participant shall have delivered notice in writing of that fact to BEALF setting out in reasonable detail such evidence of the satisfaction of those conditions precedent as BEALF may require;
- (c) no Default Notice has been served; and
- (d) no breach of any other applicable condition precedent has occurred and is continuing.

In such event, BEALF's obligation to make a payment of any such Profit shall become due and payable on the date falling five Business Days after the date on which the confirmation from the Participant in clause 4.5(b) is effective in accordance with clause 8.

## 5. NO WAIVERS

No waiver, indulgence or concession by BEALF or the Bank of any right under the Documentation in any instance (including, without limitation, the acceptance of any Deposit, the payment of any Profit or the repayment of all or any portion of a Deposit or any other business at any time when an Event of Default or Potential Event of Default has occurred and is continuing) shall operate as a waiver or variation in any other instance or of any other rights. No omission or delay on the part of BEALF or the Bank in exercising any right, power or privilege under the Documentation (including a right of termination or to serve a Default Notice whether or not BEALF or the Bank have, after such right arises, continued to perform their obligations or accept performance by the Participant of its

obligations hereunder) shall act as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of BEALF and the Bank provided in these Terms and Conditions and the remainder of the Documentation are cumulative with, and not exclusive of any rights, of lien, sale, set-off or retention or other rights or remedies which BEALF or the Bank may have at common law, by statute or otherwise howsoever.

## 6. **SINGLE AGREEMENT; ENTIRE AGREEMENT; ASSIGNMENT**

6.1 The Documentation sets out the entire terms and conditions and understanding between the Parties in respect of the subject matter thereof. It is agreed that:

- (a) the Participant has not entered into the Documentation or taken any action in respect thereof or pursuant thereto in reliance upon any representation, warranty or undertaking of BEALF or the Bank or any of their respective affiliates, employees, agents or representatives which is not expressly set out or referred to in the Documentation;
- (b) the Participant shall not have any remedy in respect of any misrepresentation or untrue statement made by BEALF or the Bank which is not contained in the Documentation nor for any breach of warranty which is not contained in the Documentation; and
- (c) this clause shall not exclude any liability for, or remedy in respect of, fraudulent misrepresentation.

6.2 The provisions of the Documentation shall be binding upon, and inure to the benefit of, the Parties thereto and their respective successors in title and permitted assigns.

6.3 The rights and obligations of the Parties under the Documentation shall not be capable of transfer by the Parties thereto without the prior written consent of the other Parties thereto.

## 7. **COMMUNICATIONS**

7.1 Communications shall be made by any method that BEALF or the Bank may specify, through the Operating Procedures or otherwise.

7.2 On or before the making of a Deposit, the Participant shall provide to BEALF a copy of its Authorised Persons List, authorised in a manner acceptable to BEALF. If there is any amendment to the Authorised Persons List, or any replacement of the Authorised Persons List, the Participant shall provide to BEALF a copy of the amended or replacement list, authorised in a manner acceptable to BEALF. BEALF shall be entitled to rely upon any Authorised Persons List until such time as it is amended or replaced in accordance with this clause. The Participant undertakes to notify BEALF immediately of any changes to its Authorised Persons, and to notify BEALF in writing as soon as practicable of any such changes which are expected or likely to occur.

7.3 BEALF and the Bank shall be entitled without further enquiry to accept and act on any request, instruction or other communication or purported request, instruction or other communication received by BEALF or the Bank notwithstanding that it may afterwards be discovered that that request, instruction or other communication was made in error, was not genuine or was not authorised by the Participant or (if sent electronically) was not initiated through the terminal and associated equipment from which it was purported to have been sent. Any such request, instruction or other communication on which BEALF or the Bank so acts shall for all purposes of the Documentation be treated as effective and binding on the Participant in accordance with its terms.

7.4 The Participant understands that neither telephone or e-mail (whether encrypted or unencrypted) are secure methods of communication and that instructions given and messages delivered using these means may be intercepted, lost, destroyed, corrupted or delayed in transmission.

7.5 The Participant hereby agrees that:

- (a) neither BEALF or the Bank, nor any of their representatives or agents shall incur any liability or be responsible for any Loss, that may arise in connection with BEALF or the Bank sending, receiving or acting upon any e-mail (encrypted or unencrypted) (including any E-mail Instructions), or acting upon Telephone Instructions except to the extent that such Loss is shown to be attributable to wilful default or reckless disregard of BEALF's or the Bank's obligations on the part of BEALF or the Bank or any of their employees, representatives or agents; and



- (b) it shall on demand indemnify BEALF and the Bank and keep each of BEALF and the Bank indemnified against any Loss suffered or incurred by BEALF or the Bank as a result of any e-mail (encrypted or unencrypted) which is intercepted, lost, destroyed, corrupted or delayed or otherwise distorted or altered during the course of transmission or as a result of BEALF or the Bank acting on any E-mail Instructions or Telephone Instructions except to the extent that such Loss is shown to be attributable to wilful default or reckless disregard of BEALF's or the Bank's obligations on the part of BEALF or the Bank or any of their employees, representatives or agents.

7.6 The Participant undertakes at all times:

- (a) to procure that all requests, instructions and other communications are made or given by Authorised Persons who are duly authorised to make or give them on its behalf and are within the scope of the authority of the person making or giving them;
- (b) to comply with any procedures set out in the Operating Procedures or otherwise agreed between the Participant and BEALF and the Bank with respect to the identification, confirmation or authentication of requests, instructions or other communications by the Participant or with the maintenance of security with respect to or in connection with such requests, instructions or other communications;
- (c) to be responsible for the maintenance of the SWIFT Equipment acquired or used by the Participant for the purposes of sending and receiving SWIFT messages to and from BEALF or the Bank in relation to its participation in the Alternative Liquidity Facility; and
- (d) to keep its SWIFT Keys secure and protect them against loss, damage, modification and unauthorised use.

## 8. NOTICES

8.1 Subject to clause 8.4, any notice required to be given under the Documentation shall be deemed to be given if:

- (a) in the case of a notice to BEALF, sent in accordance with the Operating Procedures or, in the case of a notice to the Bank, sent in accordance with the Guarantee, or to such other address as BEALF or the Bank may notify to the Participant in writing from time to time; and
- (b) in the case of a notice to the Participant, left at the address or sent to the e-mail address notified by the Participant to BEALF in writing from time to time.

8.2 Any such notice shall be deemed to be duly served:

- (a) if by way of letter and if left at the address of the Party to be served, at the time when it is so left;
- (b) if sent by post, on the second Business Day following the day of posting.

8.3 In proving the giving of a notice under clause 8.2 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).

8.4 The Operating Procedures may 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.

8.5 Any notice given or received after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following Business Day.

### 8.6 Electronic communication

8.7 Subject to clause 7 (Communications) above and any conditions in the Operating Procedures, any Written Instruction to be made or delivered by one Party to another under or in connection with the Documentation may be sent by electronic mail.

8.8 Any such electronic communication as specified in clause 8.7 above sent by one Party to another will be effective only when actually received (or made available) in readable form and in the case of any electronic communication

sent by the Participant to the Bank or BEALF only if it is addressed in such a manner as the Bank or BEALF shall specify for this purpose.

8.9 Any electronic communication sent or received after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent has its address for the purpose of these Terms and Conditions shall be deemed only to become effective on the following Business Day.

## 9. FEES, COSTS AND EXPENSES

9.1 The Participant agrees to pay and bear its own costs and expenses incurred in connection with the preparation and execution of the Documentation and its participation in the Alternative Liquidity Facility.

9.2 The Participant agrees to pay or reimburse to BEALF all of its costs and expenses (including legal expenses) together with any value added tax thereon, incurred in connection with the enforcement of any of its rights under the Documentation.

9.3 The Participant agrees on demand to pay BEALF's charges and to reimburse BEALF on demand for all fees, costs, charges and other expenses (including without limitation, the Participation Fee) incurred by BEALF with respect to its participation in the Alternative Liquidity Facility, and as may be more particularly set out in the Operating Procedures.

### 9.4 Additional Charges

9.5 BEALF may impose such additional charges (each an "Additional Charge") on the Participant as it deems reasonable or necessary:

- (a) arising from or associated with BEALF's investment in and holding of the Assets including as the result of any additional costs incurred by BEALF with respect to the holding of such Assets or a decline in the returns generated by such Assets;
- (b) otherwise arising from or associated with the operation of the ALF from time to time; or
- (c) to ensure the proper functioning of the ALF within the framework of the Bank's wider monetary policy and financial stability objectives and associated operations taking into account such information as BEALF deems relevant including, but not limited to, general money market and monetary conditions and relevant rates.

BEALF may make a determination to impose an Additional Charge at any time.

9.6 If an Additional Charge is payable in accordance with clause 9.5, BEALF may:

- (a) serve a Demand Notice to the Participant, and the Participant agrees to pay BEALF all amounts demanded under the Demand Notice as soon as reasonably practicable, and in any event, within one Business Day; or
- (b) on the Profit Payment Date in respect of the Profit Period to which the Additional Charge relates, deduct from the Participant's Deposit held in the Alternative Liquidity Facility an amount equal to the Additional Charge and provide written notice thereof to the Participant as soon as reasonably practicable thereafter.

For the purposes of clause 9.6(b), the Deposit of a Participant shall be deemed to be immediately reduced by an amount equal to the Additional Charge and such amount shall cease to be part of the Deposit from the date BEALF makes a determination to impose that Additional Charge notwithstanding that the Additional Charge is not deducted from the Participant's Deposit until the Profit Payment Date in respect of the Profit Period to which the Additional Charge relates.

## 10. OPERATING PROCEDURES

10.1 These Terms and Conditions are supplemented by Operating Procedures which set out further terms governing Deposits and explain the operational procedures involved which may be amended or supplemented by BEALF from time to time.

10.2 In the event of any conflict between the terms of these Terms and Conditions and the terms of the Operating Procedures, these Terms and Conditions shall prevail.

## 11. **AMENDMENTS**

BEALF or the Bank on its behalf may amend these Terms and Conditions and any other part of the Documentation either generally or in particular circumstances, from time to time. Any such amendment shall apply with effect from such time as may be specified by BEALF or the Bank and shall, unless otherwise specified, apply to any Deposit which is held by BEALF at the time at which such amendment is made. BEALF or the Bank on its behalf will endeavour to give reasonable notice of any amendment, but reserves the right to introduce any amendment with immediate effect, if BEALF or the Bank considers it necessary to do so.

## 12. **COMMENCEMENT, SUSPENSION AND TERMINATION**

12.1 These Terms and Conditions commence on the date notified to the Participant by BEALF, in accordance with the Scheme Letter.

12.2 Subject to clause 16, a Participant may terminate its access to the Alternative Liquidity Facility at any time by giving to BEALF not less than ten Business Days' prior notice in writing (such termination becoming effective upon expiry of such notice).

12.3 Without prejudice to the BEALF's rights under clause 16, BEALF may suspend for such period as BEALF thinks fit, or terminate, a Participant's access to the Alternative Liquidity Facility at any time.

12.4 Following a termination or suspension under clause 12.2 or clause 12.3, the Participant shall enter into a letter of termination or a letter of suspension as the case may be with BEALF acknowledging the termination or suspension of such Participant's access to the Alternative Liquidity Facility and thereafter BEALF shall repay to such Participant its outstanding Deposit together with any Profit due in respect thereof. For the avoidance of doubt, where a Participant's access to the Alternative Liquidity Facility is terminated pursuant to clause 12.2, its Deposit shall cease to earn Profit on the expiry of the notice period specified in clause 12.2, and where a Participant's access is terminated or suspended pursuant to clause 12.3, its Deposit shall cease to earn Profit on the date of such termination or suspension as determined by BEALF and notified to the Participant.

## 13. **DEPOSITS**

13.1 The Participant may make a Deposit at such times, in such manner and on such terms as may be prescribed in the Operating Procedures from time to time.

13.2 Without prejudice to clause 13.4 and subject to clause 13.7, each Deposit placed by a Participant will be a term Deposit with the term applicable to each Deposit being equal to the current Profit Period. Upon the expiry of the applicable Profit Period, the Deposit shall mature and be repaid to the Participant in accordance with the Operating Procedures, save where the Participant has placed a new Deposit in accordance with the terms of, and as more fully described in, the Operating Procedures.

13.3 Where an Event of Default or Potential Event of Default has occurred and is continuing, BEALF may refuse to accept any further Deposits.

13.4 The Participant may make a Withdrawal of all or any portion of a Deposit at any time except on a Profit Payment Date, by following the procedure prescribed in the Operating Procedures from time to time.

13.5 Upon the occurrence of an Event of Default in relation to the Participant, BEALF may by notice to the Participant in accordance with clause 17, declare the Deposit to be repayable.

13.6 The amount of the Participant's Deposit from time to time is guaranteed under the terms of the Guarantee. For the avoidance of doubt, no Profit, returns or other amounts are guaranteed by the Bank under the terms of the Guarantee or otherwise.

13.7 Notwithstanding any other provision of the Documentation, BEALF may at any time and in its sole and absolute discretion and without prior notice, elect to repay to a Participant all or any portion of its Deposit whereupon such amounts shall immediately cease to be Deposits.

## 14. RETURNS

- 14.1 Profit paid to the Participant on each Profit Payment Date occurring during an Expected Profit Rate Period will be paid to such Participant out of the Net Eligible Asset Returns generated from Eligible Assets..
- 14.2 Deposits are expected, but not guaranteed, to generate returns from Eligible Assets invested in by BEALF at the Expected Profit Rate. BEALF will determine the Expected Profit Rate applicable to Deposits for each Profit Period occurring within an Expected Profit Rate Period on the Expected Profit Rate Determination Date immediately prior to the commencement of each Expected Profit Rate Period and will communicate the Expected Profit Rate to the Participant prior to the commencement of such Expected Profit Rate Period in the manner prescribed in the Operating Procedures from time to time.
- 14.3 Subject to the provisions of clause 14.4, on each Profit Payment Date, BEALF will pay to the Participant the Profit Amount in respect of such Participant's Deposit for the Profit Period (which, for the avoidance of any doubt, may be higher or lower than the Expected Profit Rate). The Profit Amount shall be paid to the Participant in the manner prescribed in the Operating Procedures from time to time. Where a Profit Payment Date is not a Business Day, the applicable Profit Amount will be paid on the immediately succeeding Business Day and the Participant shall be entitled to any additional profit in respect of such period. It is also acknowledged by the Parties that, in respect of any Profit Period, the Additional Charges payable by Participants in accordance with the provisions of clause 9 of these Terms and Conditions may be equal to or exceed any return generated by the Eligible Assets in respect of such Profit Period.
- 14.4 Notwithstanding the provisions of clause 14.3 and subject to clause 9.5 and 9.6 above, if on or prior to any Profit Payment Date, BEALF determines that an Impairment Event has occurred, BEALF will pay to the Participant the Adjusted Profit Amount in respect of such Participant's Deposit for the Profit Period and each subsequent Profit Period in the then current Expected Profit Rate Period as BEALF determines is necessary to account for the Impairment Event and the Participant shall not be entitled to any further Profit Amounts in respect of such Profit Period(s).
- 14.5 Following the occurrence of an Event of Default, a Deposit shall cease to be eligible to receive Profit from the date a Default Notice is served pursuant to clause 16.
- 14.6 The portion of any Deposit subject to a Withdrawal by a Participant shall cease to be eligible to receive Profit on the date such Withdrawal is made.

## 15. PAYMENTS

All payments made under the Alternative Liquidity Facility shall be made in the manner specified in the Operating Procedures.

## 16. EVENTS OF DEFAULT

- 16.1 For the purposes of these Terms and Conditions, each of the following shall constitute an "**Event of Default**" if BEALF serves a Default Notice:
- (a) any representation or warranty made or deemed to be made or repeated by the Participant under the Documentation was or is incorrect in any material respect when made or deemed to be made;
  - (b) the Participant defaults in the due and punctual performance of any other of its obligations under the Documentation and (if capable of remedy) fails to remedy such default within three Business Days after receipt of notice from BEALF requiring such default to be remedied;
  - (c) the Participant admits to BEALF its inability to, or its intention not to, perform any of its obligations under the Documentation;
  - (d) the Participant:
    - (i) has any permission under Part 4A of FSMA varied or cancelled; or
    - (ii) has its authorisation as a credit institution (as defined in Regulation (EU) No 575/2013, as it forms part of retained EU law) or as an investment firm (as defined in Directive 2004/39/EC, as it has

effect in EU law) or any licence or authorisation which is required to perform any of its obligations under the Documentation suspended or revoked; or

- (iii) is declared in default or suspended or expelled from membership of or participation in any payment system, securities exchange or association or other self-regulating organisation; or
- (iv) is suspended or prohibited from dealing in securities by any government or regulatory agency or authority, or any of its assets or the assets of investors held by it or to its order shall be transferred or ordered to be transferred to a trustee or any other person, or its powers of management are suspended, removed or otherwise divested, or any of its obligations under the Documentation are altered, suspended or extinguished in any way (other than pursuant to the Documentation) by any government or regulatory agency or authority;
- (e) the Participant ceases or threatens to cease to carry on its business or any material part thereof (including if all or a part of its business is transferred to another entity) or compounds, or makes a general assignment for the benefit of, or enters into any reorganisation or other special arrangement with, its creditors or any class thereof or becomes insolvent or becomes unable to pay its debts within the meaning of section 123(1) of the Insolvency Act 1986 or fails or admits in writing its inability generally to pay its debts as they become due;
- (f) a secured party takes possession of, or carries out other enforcement measures in relation to, all or substantially all assets of the Participant, provided the relevant process is not dismissed, discharged, stayed or restrained within 15 days;
- (g) the court makes a winding-up order in respect of the Participant under Chapter VI of Part IV or Part V of the Insolvency Act 1986;
- (h) a liquidator, receiver, trustee, conservator, custodian or administrator (whether out of court or otherwise) is appointed in respect of the Participant or over all or any material part of the Participant's property;
- (i) a petition or application is filed or presented or made or any other proceeding is commenced in respect of the Participant (other than by BEALF in respect of any obligation under the Documentation) in any court or before any agency or out of court or otherwise for the bankruptcy, winding-up or other insolvency of the Participant or seeking any reorganisation, arrangement, moratorium, composition, readjustment, administration, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such petition, application or proceeding not having been stayed or dismissed within 15 days of its filing or commencement (provided that no such 15 day period shall apply in respect of a petition, application or proceeding for the winding up of the Participant or the appointment of an administrator, whether out of court or otherwise in relation to the Participant or any analogous proceeding);
- (j) notice is given of a proposal to appoint, or any step is taken with a view to appointing, or there is appointed a receiver, trustee, conservator, custodian or administrator (whether out of court or otherwise) or analogous officer in respect of the Participant or over all or any material part of the Participant's property;
- (k) there is convened any meeting of creditors of the Participant for the purpose of considering a voluntary arrangement as referred to in section 3 of the Insolvency Act 1986;
- (l) the court makes a winding-up order in respect of any Subsidiary or Parent of the Participant under Chapter VI of Part IV or Part V of the Insolvency Act 1986;
- (m) a liquidator, receiver, trustee, conservator, custodian or administrator (whether out of court or otherwise) is appointed in respect of, where applicable, the Parent of the Participant, or over all or any material part of the property of, where applicable, the Parent of the Participant;
- (n) (otherwise than in the case of a members' voluntary winding up) a liquidator, receiver, trustee, conservator, custodian or administrator (whether out of court or otherwise) is appointed in respect of any Subsidiary of the Participant, or over all or any material part of the property, of any Subsidiary of the Participant;

- (o) any event analogous to any of the foregoing occurs in any jurisdiction in relation, where applicable, to the Participant or any Subsidiary or Parent of the Participant;
  - (p) the Participant ceases to meet the applicable Eligibility Criteria.
- 16.2 The Participant shall notify BEALF immediately if an Event of Default or a Potential Event of Default occurs.
- 17. **ACCELERATION FOLLOWING AN EVENT OF DEFAULT**
- 17.1 At any time following an Event of Default, BEALF may by issuance of an Acceleration Notice to the Participant declare that the Deposit of the Participant shall be accelerated whereupon BEALF shall repay the Deposit to the Participant in the manner specified in the Operating Procedures from time to time;
- 17.2 Following the occurrence of an Event of Default and the issuance of a Default Notice pursuant to clause 16, the Deposit of the Participant subject to the Default Notice shall cease to be eligible to receive Profits under clause 14 from the date of the Default Notice.
- 17.3 Without prejudice to clause 12, following the occurrence of an Event of Default, BEALF may issue a Termination Notice to the Participant whereupon the Participant's right to participate in the Alternative Liquidity Facility shall be terminated.
- 17.4 Notwithstanding the provisions of this clause 17, the Participant shall be entitled to payment of all Profit generated from any Deposit pursuant to clause 14 to the date of the Default Notice.
- 17.5 The Participant shall be liable to BEALF for the amount of all legal and other professional expenses incurred by BEALF, or the Bank in its capacity as investment manager, in connection with or as a consequence of an Event of Default.
- 18. **SET-OFF AND LIEN**
- 18.1 Without prejudice to any other rights, powers or remedies (whether provided by contract, law or otherwise), BEALF may without prior notice to the Participant and at any time or times set off any monies due and payable (but not paid) from the Participant and any other obligation against any obligation owed by BEALF to the Participant (whether at such time or in the future or upon the occurrence of a contingency, whether liquidated or unliquidated and whether or not arising under the Documentation), regardless of the place of payment, booking office or currency of either obligation.
- 18.2 For the purposes of clause 18.1, where a liability or an obligation is unascertained, or is an obligation other than an obligation to pay money, BEALF may in good faith estimate the value of that liability or obligation and set off in respect of the estimate.
- 18.3 In addition to any general lien or other rights to which BEALF may be entitled under any applicable law, and to the greatest extent permitted by applicable law and regulation, BEALF shall have a general lien on and right to retain, and (without notice to the Participant) a right to realise and apply (irrespective of maturity or currency of denomination, place of payment or booking office) or otherwise to sell or dispose of, any assets of the Participant held with BEALF in satisfaction of all liabilities and obligations (whether at such time or in the future or upon the occurrence of a contingency and in whatever currency) of the Participant to BEALF under or in connection with the Documentation or any other transaction or dealing or arrangement from time to time entered into or concluded between BEALF and the Participant.
- 18.4 For the purposes of this clause 18, if any obligation is denominated in a currency other than Sterling, BEALF may convert that obligation into Sterling at the Spot Rate.
- 19. **CONFIDENTIALITY**
- 19.1 Each Party (the "**Recipient**") undertakes to keep confidential all information given to it by another Party (the "**Disclosing Party**") or otherwise in the possession of the Recipient relating to or otherwise concerning the Disclosing Party or the Alternative Liquidity Facility (which shall include, without limitation, access to and participation in the Alternative Liquidity Facility).
- 19.2 The undertakings in clause 19.1 will not apply to information which:

- (a) is disclosed with the prior written consent of the Disclosing Party;
  - (b) at the time of supply is in the public domain;
  - (c) subsequently comes into the public domain, except through breach of the undertakings set out in clause 19.1;
  - (d) is already in the lawful possession of the Recipient;
  - (e) subsequently comes lawfully into the possession of the Recipient from a third party who does not owe the Disclosing Party an obligation of confidence in relation to it;
  - (f) is disclosed in confidence to the Recipient's professional advisers or auditors where such disclosure is considered necessary by the Recipient, acting reasonably, and provided that, where reasonably practicable, where the Participant proposes to make such disclosure it shall have notified BEALF in advance of the proposed form, timing, nature and purpose of the disclosure;
  - (g) is disclosed in confidence to a member of the same Group as the Recipient and provided that, where reasonably practicable, the Recipient making such disclosure has notified the Disclosing Party in advance of the proposed form, timing, nature and purpose of the disclosure; or
  - (h) is required to be disclosed by law, regulation or any governmental or competent regulatory or resolution authority, whether in the United Kingdom or elsewhere, provided that, save in the case of a disclosure made by BEALF or the Bank which falls within clause 19.3, the Recipient making such disclosure has promptly notified the Disclosing Party in advance of the proposed form, timing, nature and purpose of the disclosure.
- 19.3 Nothing in clause 19.1 shall preclude the disclosure of information in any case in which disclosure is made by BEALF or the Bank or any of their officers or employees:
- (a) in the course of general disclosure relating to the Alternative Liquidity Facility; provided that such general disclosure does not identify or name the Participant;
  - (b) to HM Treasury, the Prudential Regulation Authority, the Financial Conduct Authority, HM Revenue & Customs or any other governmental body, monetary authority, competent regulatory or resolution authority or the operator of any deposit guarantee or investor protection scheme, whether in the United Kingdom or elsewhere;
  - (c) for the purposes of any criminal investigation whatever which is being or may be carried out or of any criminal proceedings whatever which have been or may be initiated, in either case whether in the United Kingdom or elsewhere; or
  - (d) for the purpose of enabling or assisting the Bank to discharge its functions as a monetary authority.
- 19.4 The Parties agree that damages may not be an adequate remedy for any breach of this clause 19 by any of the Parties or any of their directors, officers, employees, agents, sub-contractors, affiliates, professional advisers or auditors and the Parties shall be entitled to seek any legal or equitable relief, including injunction, in the event of any breach of the provisions of this clause 19.
20. **TIME OF THE ESSENCE**
- Time shall be of the essence of the Documentation.
21. **LEGAL RELATIONSHIP**
- No provision of the Documentation shall be deemed to create or evidence a partnership between any of the Parties or make any Party the agent of another Party for any purpose.
22. **LIMITATION OF LIABILITY; POSITION OF BEALF AND THE BANK**
- 22.1 Without prejudice to any other provision of the Documentation, neither BEALF or the Bank or any of their directors, officers, employees, representatives or agents (“**Associated Persons**”) shall be liable, save in the case of wilful

default or reckless disregard of their obligations, for any Loss suffered by the Participant or any other person in the course of BEALF or the Bank or any of their Associated Persons carrying out their functions under the Documentation and in no event shall BEALF or the Bank or any of their Associated Persons be liable for any loss of profits or consequential or special loss or damages, howsoever arising, whether or not BEALF or the Bank or any of their Associated Persons knew or ought to have known that such loss of profits or consequential or special loss or damages would be likely to be suffered or incurred.

22.2 Neither BEALF or the Bank or any of their Associated Persons shall be liable for any Loss resulting from any event of force majeure or other event beyond BEALF or the Bank's or their Associated Persons' reasonable control, including but not limited to nationalisation, expropriation, currency restrictions, acts of state, acts of war, terrorist attacks, labour disturbances among staff of BEALF or the Bank or of their nominees or agents (or of any third parties instructed by or through their or any such nominees or agents), pandemics, power failures or breakdowns in communications linked to equipment of BEALF or the Bank or of their nominees or agents (or of any third parties as aforesaid), or the failure or disruption of any relevant stock exchange, clearing house, settlement system or market.

22.3 The Participant shall indemnify and keep indemnified each of BEALF and the Bank and their Associated Persons against all Loss arising from any action or omission of the Participant or the Participant's representatives and agents (whether or not authorised by the Participant) and any failure of the Participant to comply with the Documentation. The Participant agrees that this indemnity shall survive any termination of the Participant's participation in the Alternative Liquidity Facility.

22.4 Subject to the express terms thereof, any liberty or power which may be exercised or any determination which may be made under the Documentation by BEALF or the Bank (including without limitation, any act, matter or thing as agreed, specified, determined, decided or notified by BEALF or the Bank to the Participant) may be exercised or made generally or in relation to one or more Participants and in the absolute and unfettered discretion of BEALF or the Bank from time to time, who shall not be under any obligation to give reasons therefor.

## 23. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

A person who is not a party to the Documentation shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms save that any Associated Person shall have the right to enforce the limitation of liability and indemnity provisions contained in clause 22 against any Participant.

## 24. **GOVERNING LAW**

The Documentation and each Deposit and any non-contractual obligations arising out of or in relation to the Documentation and any Deposit shall, unless stated otherwise, be governed by and construed in accordance with English law.

## 25. **JURISDICTION**

25.1 The English courts shall have exclusive jurisdiction in relation to all disputes (including claims for set-off and counterclaims) arising out of or in connection with (i) the creation, validity, effect, interpretation, performance or non-performance of, or the legal relationships established by the Documentation; and (ii) any non-contractual obligations arising out of or in connection with the Documentation. For such purposes each of BEALF, the Bank and the Participant irrevocably submit to the jurisdiction of the English courts and waive any objection to the exercise of such jurisdiction.

25.2 The Participant irrevocably agrees that a judgment or order of the English courts in connection with the Documentation is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

## 26. **INTEREST**

No interest will be payable or receivable under or in connection with the Documentation, and in the event that as a result of any arbitral or judicial award or by operation of any applicable law or otherwise it is determined that any interest is payable in connection with the Documentation, each Party agrees to waive any rights it may have to claim or receive such interest and agrees that if any such interest is actually received by it in connection with the Documentation, it shall donate the same to a registered, or otherwise officially recognised, charitable organisation selected by it and whose name shall be disclosed by it to any other relevant Party if requested to do so.



27. **AGENT FOR SERVICE OF PROCESS**

If the Participant has no registered office or place of business in England, it shall appoint and maintain to act as its agent for service of process a person with an address for service in England and shall notify BEALF and the Bank in writing of the name and address of such person. If the agent at any time ceases to act as such, the Participant shall appoint a replacement agent having an address for service in England and shall notify BEALF and the Bank in writing of the name and address of the replacement agent. In the absence of such appointment and notification, BEALF and the Bank shall be entitled to appoint a replacement agent on the Participant's behalf and at the Participant's expense and shall, thereafter, notify the Participant of such appointment.

## GLOSSARY

1. In these Terms and Conditions and the Eligibility Criteria, the following words and expressions shall have the following meanings:

**"Acceleration Notice"** means a written notice from BEALF to the Participant following the occurrence of an Event of Default and the service of a Default Notice pursuant to which BEALF notifies the Participant that its Deposit is being accelerated pursuant to clause 17;

**"Actual Profit Rate"** means a rate expressed as a percentage rate per annum which is determined by BEALF in its sole discretion on each Profit Payment Date taking into account the Expected Profit Rate, the Net Eligible Asset Returns generated in the immediately preceding Expected Profit Rate Period as well as money market and monetary conditions more generally including the rate of return on other Bank facilities;

**"Additional Charge"** has the meaning given to it in clause 9.5;

**"Adjusted Profit Amount"** means an amount calculated by BEALF using the following formula with the result rounded to the nearest £0.01:

$$\frac{A \times B \times C}{365}$$

Where:

**"A"** means the balance of a Participant's Deposit held in the Alternative Liquidity Facility during the applicable Profit Period;

**"B"** means a rate per annum equal to the Adjusted Profit Rate; and

**"C"** means the number of days in the Profit Period for which the Participant maintained "A";

save that: (i) where a Participant has made a Withdrawal during any Profit Period, the formula shall be adjusted so that no profit is paid on the portion of the Deposit so withdrawn from the date of such Withdrawal; and (ii) where the Deposit of a Participant is reduced as a result of the deduction of an Additional Charge made or to be made pursuant to clause 9.6(b), the formula shall be adjusted so that no Profit is paid on the portion of the Deposit equal to such Additional Charge from the date BEALF elects to impose such Additional Charge notwithstanding that such Additional Charge is not deducted from the Deposit until the Profit Payment Date in respect of the relevant Profit Period;

**"Adjusted Profit Rate"** means the Profit Rate, as adjusted by BEALF in its absolute discretion, to reflect the impact of an Impairment Event on the returns generated or expected to be generated by the Eligible Assets in the Asset Pool and expressed as a percentage rate per annum;

**"Alternative Liquidity Facility"** means the Bank of England's Alternative Liquidity Facility as described in the Documentation;

**"Applicable Costs"** means any costs associated with Hedging Arrangements or the unwinding thereof incurred by BEALF in respect of the Alternative Liquidity Facility during any applicable Expected Profit Rate Period together with any other costs determined by BEALF including such other costs and charges as may be imposed pursuant to clause 9.1 to 9.3;

**"Asset Pool"** means all Eligible Assets held by BEALF in respect of the Alternative Liquidity Facility from time to time;

**"Associated Persons"** has the meaning set out in clause 22.1;

**"Authorised Person"** means a person authorised to give instructions for and on behalf of the Participant (as included in the Authorised Persons List);

**"Authorised Persons List"** means the list of signatories authorised to give instructions for and on behalf of the Participant, provided by the Participant to BEALF in accordance with clause 7;

**"Authorised Telephone Number"** means a telephone number which has been provided to BEALF and the Bank for the purposes of giving Telephone Instructions the use of which has been authorised for such purposes by the Participant;

**"Bank"** means The Governor and Company of the Bank of England and includes the Bank acting in its capacity as the Prudential Regulation Authority;

**"BEALF"** means the Bank of England Alternative Liquidity Facility Limited;

**"Business Day"** means a day (other than a Saturday or a Sunday) on which banks are open for business in London and, in respect of an obligation of BEALF or the Bank to make any payment, a day on which the relevant payment system is also open for business;

**"Default Notice"** means a written notice served by BEALF on the Participant under clause 16 stating that an event shall be treated as an Event of Default for the purposes of these Terms and Conditions;

**"Demand Notice"** means a written notice for payment in respect of any Additional Charge under clause 9.6(a);

**"Deposit"** means all amounts from time to time held on deposit with BEALF for a Participant under the Alternative Liquidity Facility and which shall exclude:

- (a) amounts in respect of any Additional Charges imposed under clause 9.5 and which:
  - (i) have been deducted from the Deposit of a Participant under clause 9.6(b); or
  - (ii) BEALF has determined shall be deducted from the Deposit of a Participant under clause 9.6(b) on the next Profit Payment Date and for such purposes, such amount shall cease to be part of the relevant Deposit from the date on which BEALF determines to impose such Additional Charge under clause 9.5; and
- (b) any Profit from time to time paid or due to a Participant in respect of such Deposit.

**"Disclosing Party"** has the meaning given in clause 19.1;

**"Documentation"** means these Terms and Conditions, the Operating Procedures, the Eligibility Criteria, the Scheme Letter, the Guarantee and any other documentation as BEALF or the Bank may from time to time determine in their absolute discretion;

**"Eligible Assets"** means assets in the form of sukuk securities or otherwise selected by the Investment Manager in its discretion which are expected to qualify as High Quality Liquid Assets for the purposes of Delegated Regulation (EU) 2015/61, as it forms part of retained EU law;

**"Eligibility Criteria"** means the criteria specified by BEALF from time to time for participation in the Alternative Liquidity Facility;

**"E-mail Instruction"** means an e-mail instruction given or appearing to have been given to BEALF or the Bank by an Authorised Person or Authorised Persons of the Participant;

**"Event of Default"** has the meaning given in clause 16;

**"Expected Net Eligible Asset Returns"** means the returns expected to be received by BEALF from the Eligible Assets held in the Asset Pool during any applicable Expected Profit Rate Period less expected Applicable Costs;

**"Expected Profit Rate"** means the expected profit rate expressed as a percentage rate per annum applicable to Deposits from time to time which shall be determined by BEALF on each Expected Profit Rate Determination Date based on a forecast of Expected Net Eligible Asset Returns in the next succeeding Expected Profit Rate Period and communicated to the Participant in accordance with the Operating Procedures;

**"Expected Profit Rate Period"** means each period beginning on (and including) the immediately preceding Expected Profit Rate Determination Date and ending on (but excluding) the next succeeding Expected Profit Rate Determination Date;

**"Expected Profit Rate Determination Date"** means the first working days of February, May, August, November in each year or such other dates as may be determined by BEALF from time to time and notified to the Participant;

**"FSMA"** means the Financial Services and Markets Act 2000;

**"Group"** means a group as defined in section 421 of FSMA (s421) provided that BEALF may determine from time to time:

- (a) whether or not a Participant and another person ("**P**") are members of the same group under s421; and
- (b) that the Participant and P are not in the same group notwithstanding that they may be persons who would otherwise be in the same group under s421;

**"Guarantee"** means the guarantee provided by the Bank in favour of Participants from time to time in the Alternative Liquidity Facility with respect to the obligation of BEALF to repay, when due in accordance with the Documentation, Participants' Deposits (which for the avoidance of doubt does not include any Profit or amounts equal to any Additional Charge) on demand;

**"Hedging Arrangements"** means any purchase, sale, entry into or maintenance of any position, contract instrument or arrangement (howsoever described) in order to hedge individually or on a portfolio basis any foreign exchange exposure of the BEALF obligations under the Alternative Liquidity Facility;

**"High Quality Liquid Assets (HQLA)"** refers to assets which, under Basel III rules are considered to be easily and immediately convertible into cash in private markets at little or no loss of value.

**"Impairment Event"** means the occurrence of any default or event of default however described under the terms of an Eligible Asset held in the Asset Pool or any Hedging Arrangements or any other event or circumstance in respect of such Eligible Asset or otherwise which in the opinion of BEALF is likely to have a negative impact on the returns generated by such Eligible Asset;

**"Investment Manager"** means the Bank in its capacity as investment manager under the Investment Management Agreement;

**"Investment Management Agreement"** means the agreement between BEALF and the Investment Manager pursuant to which BEALF has appointed the Investment Manager to provide certain services with regards to the management and operation of the Alternative Liquidity Facility;

**"Loss"** means any liability, loss, damage, claim, cost, charge or expense of any nature whatsoever, whether direct or indirect;

**"Net Eligible Asset Returns"** means the actual returns received by BEALF from the Eligible Assets held in the Asset Pool during any applicable Expected Profit Rate Period less Applicable Costs;

**"Operating Procedures"** means the procedures published by the Bank relating to the Alternative Liquidity Facility;

**"Parent"** means a parent undertaking within the meaning of section 1162 of the Companies Act 2006;

**"Participant"** means an institution identified as such in the Scheme Letter;

**"Participation Fee"** means the fee payable by the Participant to BEALF as specified in respect of its participation in the Alternative Liquidity Facility and further detailed in the Operating Procedures;

**"Party"** means BEALF, the Bank or the Participant;

**"Potential Event of Default"** means any event or circumstance specified in clause 16 which would (with the expiry of a grace period, the giving of notice, the making of any determination or any combination of the foregoing) be an Event of Default;

**"Profit"** means, returns on Deposits generated from Eligible Assets calculated in accordance with clause 14;

"**Profit Amount**" means, the profit due to a Participant on a Profit Payment Date as calculated by BEALF using the following formula with the result rounded to the nearest £0.01:

$$\frac{A \times B \times C}{365}$$

Where:

"**A**" means the balance of a Participant's Deposit held in the Alternative Liquidity Facility during the applicable Profit Period;

"**B**" means a rate per annum equal to the Actual Profit Rate;

"**C**" means the number of days in the Profit Period for which the Participant maintained "A";

save that: (i) where a Participant has made a Withdrawal during any Profit Period, the formula shall be adjusted so that no profit is paid on the portion of the Deposit so withdrawn from the date of such Withdrawal; and (ii) where the Deposit of a Participant is reduced as a result of the deduction of an Additional Charge made or to be made pursuant to clause 9.6(b), the formula shall be adjusted so that no Profit is paid on the portion of the Deposit equal to such Additional Charge from the date BEALF elects to impose such Additional Charge notwithstanding that such Additional Charge is not deducted from the Deposit until the Profit Payment Date in respect of the relevant Profit Period

"**Profit Payment Date**" means each Thursday of every week or where that day is not a Business Day the immediately succeeding Business Day or such other dates as may be determined by BEALF from time to time and notified to the Participant;

"**Profit Period**" means each period beginning on (and including) the immediately preceding Profit Payment Date and ending on (but excluding) the next succeeding Profit Payment Date or such other periods as determined by BEALF;

"**Scheme Letter**" means the letter from BEALF signed by the Participant by which the Participant is admitted as a Participant in the Alternative Liquidity Facility;

"**Spot Rate**" means, where an amount in a currency other than Sterling is to be converted into Sterling at any time, the rate of exchange determined by or on behalf of BEALF;

"**Sterling**" means the lawful currency for the time being of the United Kingdom;

"**Subsidiary**" means a subsidiary within the meaning of section 1159 of the Companies Act 2006 and, in relation to financial statements of a Group, a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006 and, in relation to a building society, any undertaking which is an associated undertaking as defined in section 119(1) of the Building Societies Act 1986;

"**SWIFT Equipment**" means equipment and software used by a Participant for the purposes of sending and receiving SWIFT messages;

"**SWIFT Key**" means the secret cryptographic information which controls the operation of the SWIFT cryptographic algorithms, used by SWIFT Equipment for sending and receiving SWIFT messages;

"**Telephone Instructions**" means an instruction given or appearing to BEALF or the Bank to be given by an Authorised Person or Authorised Persons of the Participant which instruction BEALF or the Bank has confirmed by such Participant on a telephone call made by BEALF or the Bank to the Participant using the Authorised Telephone Number;

"**Terms and Conditions**" means these Terms and Conditions for participation in the Alternative Liquidity Facility;

"**Termination Notice**" means a notice from BEALF to a Participant pursuant to clause 17.3 notifying the Participant that its right to participate in the Alternative Liquidity Facility has been terminated;

"**Withdrawal**" means the withdrawal by a Participant at any time, except on a Profit Payment Date, of all or any portion of its Deposit by following the procedure prescribed in the Operating Procedures from time to time;

**"Written Instruction"** means a written instruction signed or appearing to BEALF or the Bank to have been signed by an Authorised Person or Authorised Persons of the Participant which is received in hard copy form or otherwise in accordance with these Terms and Conditions.

2. In these Terms and Conditions any reference to:

- (a) a liquidator or administrator includes a bank liquidator and a bank administrator appointed under the Banking Act 2009 and an investment bank special administrator appointed under the Investment Bank Special Administration Regulations 2011, as the context may require;
- (b) an enactment or statutory provision or a Council Directive or Regulation or international convention or any other legislative provision is a reference to it as it may have been, or may from time to time be, amended, modified, replaced, extended, consolidated or re-enacted, and any subordinate legislation made or other thing done under the statutory provision, whether before or after the date of the Scheme Letter in respect of any Participant;
- (c) any Council Directive or Regulation is to the provisions of that Council Directive or Regulation as such provisions are incorporated into UK law by virtue of the European Union (Withdrawal) Act 2018 or similar legislation and the term retained EU law has the meaning ascribed to it in and shall be interpreted in accordance with the provisions of the European Union (Withdrawal) Act 2018;
- (d) an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to what most nearly approximates in that jurisdiction to the English legal term;
- (e) these Terms and Conditions or any other document or agreement shall be construed as a reference to these Terms and Conditions or such other document or agreement as amended, varied, novated or supplemented from time to time;
- (f) a numbered clause preceded by a letter is to a clause in the relevant part of these Terms and Conditions;
- (g) the Documentation is a reference to it as it may from time to time be amended, supplemented or replaced;  
and
- (h) time is to London time.