

***PRIVILEGED & CONFIDENTIAL***

**SCHEDULE**

**to the**

**Master Agreement**

**dated as of \_\_\_\_, 200**

**between**

\_\_\_\_\_  
**("Party A")**

**and**

\_\_\_\_\_  
**BANK**

**("Party B")**

**Part 1. Termination Provisions.**

- (a) **"Specified Entity"** means in relation to Party A: Not Applicable, and in relation to Party B: Not Applicable
- (b) **"Specified Transaction"** will have the meaning specified in Section 14.
- (c) The **"Default under Specified Transaction"** provisions of Section 5(a)(v) will not apply to Party A or to Party B.
- (d) The **"Cross Default"** provisions of Section 5(a)(vi) will not apply to Party A or Party B.
- (e) The **"Credit Event Upon Merger"** provisions of Section 5(b)(iv) of this Agreement will not apply to Party A and will apply to Party B.

- (f) The "**Automatic Early Termination**" provisions of Section 6(a) will not apply to Party A or to Party B.
- (g) **Payments on Early Termination.** For the purposes of Section 6(e) of this Agreement:
  - (i) Market Quotation will apply.
  - (ii) The Second Method will apply.
- (h) "**Termination Currency**" means a freely available currency selected by the party which is not the Defaulting Party or the Affected Party, as the case may be, or, where there is more than one Affected Party, a currency agreed upon by both parties; provided, that the Termination Currency shall be one of the currencies in which payments are required to be made in respect of Transactions, and provided, further, that where there are two Affected Parties and the parties are unable to agree on a Termination Currency, the Termination Currency shall be United States Dollars.
- (i) **Events of Default:**
  - (i) **Bankruptcy.** Section 5(a) (vii) is hereby amended by adding in clauses (1) and (5) thereof after the word "amalgamation" the words "transfer, reorganization, incorporation, reincorporation, reconstitution."
  - (ii) **Merger Without Assumption.** Section 5(a)(viii) of this Agreement will not apply to Party A and will apply to Party B, except that the introductory paragraph of such section is hereby deleted in its entirety and replaced by the following:

"The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, or reorganizes, incorporates, reincorporates, or reconstitutes into or as, another entity and, at the time of such consolidation, amalgamation, merger, transfer, reorganization, incorporation, reincorporation, or reconstitution:".
- (j) "Additional Termination Event" (i) A downgrade below the Minimum Credit Quality in the long term Credit Rating of Party B, or a downgrade below the Minimum Credit Quality of a resulting or surviving entity due to any event including, but not limited to, reorganization, incorporation, reincorporation, reconstitution, consolidation, amalgamation or merger or (ii) a Relevant Rating Agency ceases to assign a Credit Rating to Party B.

"Credit Rating" means, with respect to Party B:

- (i) if each Relevant Rating Agency has assigned a counterparty, financial program or similar rating to such person or rates such person's long-term senior unsecured, uninsured debt or such person's medium-term notes, or, in the case of a bank, such

person's bank notes, the lowest most recent such rating announced by any Relevant Rating Agency, whether or not such rating is under review with positive or negative implications.

"Minimum Credit Quality" means, in the case of Moody's, a Credit Rating of at least A3; in the case of S&P, a Credit Rating of at least A- ; and in the case of any other Relevant Rating Agency, a Credit Rating of at least similar quality.

"Moody's" means Moody's Investors Service, Inc.

"S&P" means Standard & Poor's Ratings Services, a Division of The McGraw-Hill Company, Inc.

"Relevant Rating Agencies" means Moody's and S&P or any other internationally recognized rating agency then rating Party B, whether at Party A's request or otherwise (each such agency, a "Relevant Rating Agency").

- (k) **Early Termination.** Notwithstanding the terms of Sections 5 and 6 of this Agreement, if at any time and so long as one of the parties to this Agreement ("X") shall have satisfied in full all of its payment obligations under Section 2(a)(i) of this Agreement and shall at the time have no future payment obligations, whether absolute or contingent, under such Section, then unless the other party ("Y") is required pursuant to appropriate proceedings to return to X or otherwise returns to X upon demand of X any portion of any payment theretofore made by or on behalf of X to Y, (i) the occurrence of an event described in Section 5(a) of this Agreement with respect to X or any Specified Entity of X shall not constitute an Event of Default or a Potential Event of Default with respect to X as the Defaulting Party and (ii) Y shall be entitled to designate an Early Termination Date pursuant to Section 6 of this Agreement only as a result of a Termination Event set forth in (A) either Section 5(b)(i) or 5(b)(ii) of this Agreement with respect to Y as the Affected Party or (B) Section 5(b)(iii) of this Agreement with respect to Y as the Burdened Party.

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

- (i) **Transfer to Avoid Termination Event.** Section 6(b)(ii) of this Agreement will not apply to Party A and will apply to Party B.
- (ii) **Right to Terminate.** Section 6(b)(iv) of this Agreement is amended by inserting, immediately after the words "Section 6(b)(ii)" in the first line of clause (1) thereof, the phrase ", with respect to Party B only,".

## **Part 2. Tax Representations.**

- (a) **Payer Tax Representations.** For the purpose of Section 3(e), each of Party A and Party B makes the following representation:

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

- (b) **Payee Tax Representations.** For the purpose of Section 3(f), Party B makes the representation(s) specified below:

- (i) Each payment received or to be received by it in connection with this Agreement either directly or by any of its branches or Affiliates, will be effectively connected with its conduct of a trade or business or with the conduct of a trade or business of its branches or Affiliates, in a country other than Colombia; and
- (ii) Neither such party, nor any of its branches or Affiliates who will receive payments in connection with this Agreement are residents or domiciliaries of Colombia.

### Part 3. Agreement to Deliver Documents.

<b>Party required to deliver document</b>	<b>Form/Document/Certificate</b>	<b>Date by which to be delivered</b>	<b>Covered by Section 3(d) representation</b>
Party B	Any form, document or certificate reasonably requested by the other party to be able to make payments hereunder without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate.	Promptly upon reasonable demand by Party A;	No
Party A (for U.S. Counterparties and Non-U.S. counterparties acting Through a U.S. Office)	An executed United States Internal Revenue Service Form W-8EXP (or any successor thereto)	(i) Upon execution of this Agreement; (ii) promptly upon reasonable demand by Party B; and (iii) promptly upon learning that any Form W-8EXP (or any successor thereto) previously provided by Party A has become obsolete or incorrect.	No
Party A and Party B	Incumbency Certificate with respect to such party	Upon execution of this Agreement.	Yes
Party B	Audited Annual Financial Statements and Quarterly Financial Statements.	Promptly following demand by the other party.	Yes
Party B	Certified copies of the charter and by-laws of such party, and of the resolutions of the board of directors of such party authorizing the execution and delivery of this Agreement and each Confirmation by such party.	Promptly following demand by the other party.	Yes
Party A and Party B	Evidence of the acceptance of any Process Agent designated by such party of such designation.	Execution of this Agreement.	Yes

#### Part 4. Miscellaneous

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

(i) Address for notices or communications to Party A:

Attention (other than for payments)

Attention (for payments)

Address:

Facsimile N°

Telephone N°

(ii) Address for notices or communications to Party B:

Attention (other than for payments)

Attention (for payments)

Address:

Facsimile N°

Telephone N°

(b) **Process Agent.** For the purposes of Section 13(c) of this Agreement:

(i) Party A appoints as its Process Agent in the Borough of Manhattan, City, County and State of New York:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(ii) Party B appoints as its Process Agent in the Borough of Manhattan, City, County and State of New York:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) **Offices.** The provisions of Section 10(a) will apply to this Agreement only with respect to Party B.

(d) **Multibranch Party.** For the purpose of Section 10(c):

Party A is not a Multibranch Party.

Party B is *{not}* a Multibranch Party {and may act through the following Offices:  
\_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_}.

(e) **Calculation Agent.** The Calculation Agent will be Party B, unless an Event of Default or Potential Event of Default has occurred with respect to Party B, in which case, at the option of Party A, Party A shall, in its sole discretion, select the Calculation Agent.

Party A (and Party B if a third party has been selected by Party A as Calculation Agent in accordance with the provision set forth in the preceding paragraph) may challenge any calculation or determination made by the Calculation Agent, who shall, promptly upon request, make available to that party such information used by it to make any calculation or determination under this Transaction as may be reasonably necessary in order to enable that party to independently confirm the accuracy of such calculation or determination.

In case of any dispute, the parties agree to endeavor its best efforts and to work expeditiously and in good faith to resolve directly such dispute in a commercially reasonable manner. Notwithstanding the above, if Party A and Party B cannot come to an agreement with respect to any calculation or determination, the parties will designate a mutually accepted leading dealer in the relevant market to make such determination (“Substitute Calculation Agent”) which determination shall be binding absent manifest error. If the parties are unable to agree on a Substitute Calculation Agent, each of the parties shall elect an independent dealer and such two dealers shall agree on a third party, who shall be deemed to be the Substitute Calculation Agent. The cost of the Substitute Calculation Agent shall be borne equally by both parties.

(f) **Credit Support Documents.** Credit Support Documents means with respect to Party A: Not applicable. Credit Support Documents means with respect to Party B: \_\_\_\_\_.

(g) **Credit Support Provider.** Credit Support Provider means with respect to Party A: Not applicable. Credit Support Provider means with respect to Party B: \_\_\_\_\_.

- (h) **Governing Law.** Performance and enforcement of obligations evidenced hereby shall be governed by, and interpreted in accordance with, the laws of the State of New York; provided, that the due authorization and execution of this Agreement by Party A shall be governed by the laws of Colombia.
- (i) **Jurisdiction.** Section 13 is amended by (i) deleting in Section 13(b)(i) the word “non-exclusive” and replacing it with “exclusive” and (ii) deleting the final paragraph of Section 13 (b) in its entirety
- (j) **Netting of Payments.** Section 2(c) of this Agreement will not apply for all Transactions or groups of Transactions (in each case starting from the date of this Agreement).
- (k) **"Affiliate"** will have the meaning specified in Section 14 of this Agreement, provided that the term “Affiliate” shall not apply to Party A.

## **Part 5. Other Provisions.**

- (a) **Definitions.** This Agreement is subject to the 2000 ISDA Definitions (the "Definitions") as published by the International Swaps and Derivatives Association Inc. ("ISDA"), and will be governed in all respects by the provisions set forth in the Definitions, except that all references in the Definitions to a "Swap Transaction" shall be deemed to apply to each Transaction under this Agreement and all references in the Definitions to a "Business Day" shall be deemed references to a Local Business Day under this Agreement. The provisions of the Definitions are incorporated by reference in, and made part of, this Agreement and each Confirmation as if set forth in full in this Agreement and each Confirmation. In the event of any inconsistency between the provisions of this Agreement and the Definitions, this Agreement will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Agreement or the Definitions, such Confirmation will prevail for the purpose of the relevant Transaction.
- (b) **Financial Statements.** "Annual Financial Statements" means a copy of the annual report of Party B and any Credit Support Provider of Party B, containing audited consolidated financial statements for such party's or Credit Support Provider's most recent fiscal year, certified by independent certified public accountants and prepared in accordance with accounting principles that are generally accepted in the country in which such party or Credit Support Provider is organized and on a basis consistent with prior periods.

“Quarterly Financial Statements” means a copy of the quarterly report of Party B and any Credit Support Provider, containing unaudited financial statements for Party B’s and such Credit Support Provider’s most recent fiscal semi annual prepared in accordance with accounting principles that are generally accepted in the country in which Party B or its Credit Support Provider is organized, as applicable, and on a basis consistent with prior periods.



- (c) **Obligations.** Section 2(a)(iii) of this Agreement is hereby amended to read in its entirety as follows:

"(iii) Each obligation of each party under Section 2 (a) (i) is subject to (1) the condition precedent that no Event of Default, Potential Event of Default or Illegality with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement."

- (d) **Procedures for Entering into Transactions.**

- (i) With respect to each Transaction entered into pursuant to this Agreement, Party A or Party B will, on or promptly after the Trade Date thereof, send the other party a Confirmation substantially in the form of the Confirmation utilized by Party A or Party B or in such other form as mutually agreed upon by the parties. The receiving party will promptly thereafter confirm in writing the accuracy of or request the correction of such Confirmation (in the latter case, indicating how it believes the terms of such Confirmation should be correctly stated and such other terms which should be added to or deleted from such Confirmation to make it correct). A Confirmation shall be effective only if it is executed by both Party A and Party B. Confirmations may be executed in counterparts.
- (ii) Each party hereto consents to the monitoring or recording, at any time and from time to time, by the other party of any and all communications between officers or employees of the parties, waives any further notice of such monitoring or recording, and agrees to notify (and, if required by law, obtain the consent of) its officers and employees with respect to such monitoring or recording.

- (e) **Representations.**

- (i) The introductory clause of Section 3 of this Agreement is hereby amended to read in its entirety as follows:

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

- (ii) Section 3 of this Agreement is hereby amended by adding the following subsections "(g)" and "(h)" thereto:

"(g) **Contracts with Party A.** In accordance with the requirements of the Republic of Colombia relating to contracts with Party A, Party B shall be deemed to have waived any right of petition for diplomatic claims to be asserted by its government against Party A, except in the case of denial of justice, with respect to the rights of Party B under this Agreement."

"(h) **Additional Acknowledgements, Agreements and Representations.** Each party represents and warrants to the other party (which representations will be deemed repeated on each date on which a Transaction is entered into) that:

- (i) It is an "eligible contract participant" (as defined in the U.S. Commodity Exchange Act, as amended);
- (ii) this Agreement and each Transaction hereunder is subject to individual negotiation by the parties; and
- (iii) neither this Agreement nor any Transaction has been executed or traded on a "trading facility" (as defined in the U.S. Commodity Exchange Act, as amended)."

- (f) **Tax Event Upon Merger.** Section 5(b)(iii) of this Agreement is hereby amended by deleting the word "Indemnifiable" the second time it appears therein and by adding, before the words "another entity" in the eighth line thereof, the words " , or reorganizing, incorporating, reincorporating, or reconstituting into or as,".

- (g) **Change of Account.** Section 2(b) of this Agreement is hereby amended by the addition of the following after the word "delivery" in the first line thereof:

"to another account in the same legal and tax jurisdiction as the original account".

- (h) **Obligations.** Section 2 of this Agreement is hereby amended by adding the following subsection (f) thereto, and Section 7 of this Agreement is hereby superseded to the extent inconsistent therewith, only for transfers by Party B:

"(f) Assignment. In the accordance with the legal requirements of the Republic of Colombia, Party B may not assign, sell, endorse or

transfer all or any part of its rights and obligations under this Agreement without the prior written consent of Party A.”

(k) **WAIVER OF JURY TRIAL.** EACH PARTY HEREBY IRREVOCABLY TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDINGS.

(l) **Set-off.** Section 6 of this Agreement is hereby amended by adding the following clause (f) thereto:

“(f) Any amount (the “Early Termination Amount”) payable to one party (the “Payee”) by the other party (the “Payer”) under Section 6(e), in circumstances where there is a Defaulting Party, or one Affected Party in the case where a Termination Event under Section 5(b)(iv) has occurred, will, to the extent permitted by applicable law, at the option of the party (“X”) other than the Defaulting Party or the Affected Party (and without prior notice to the Defaulting Party or the Affected Party), be reduced by its set-off against any amount(s) (the “Other Agreement Amount”) due and payable by the Payee to the Payer (irrespective of the currency, place of payment or booking office of the obligation) under any other agreement(s) between the Payee and the Payer related to any Transaction or instrument(s) or undertaking(s) issued or executed by one party to, or in favor of, the other party in respect to any Transaction (and the Other Agreement Amount will be discharged promptly and in all respects to the extent it is so set-off). X will give notice to the other party of any set-off effected under this Section 6(f).

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

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

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

IN WITNESS WHEREOF, the parties have executed and delivered this document as of the date specified on the first page of this document.

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

**{Party B}**

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