

CONFORMED COPY

DCS PARTICIPATION AGREEMENT

Between

FASTER PAYMENTS SCHEME LIMITED

and

ATOM BANK PLC
BARCLAYS BANK PLC
BFC BANK LIMITED
CITIBANK N.A.
CLEARBANK LIMITED
CLYDESDALE BANK PLC
HSBC BANK PLC
LLOYDS BANK PLC
METRO BANK PLC
MONZO BANK LIMITED
NATIONAL WESTMINSTER BANK PLC
NATIONWIDE BUILDING SOCIETY
NORTHERN BANK LIMITED
SANTANDER UK PLC
STARLING BANK LIMITED
THE CO-OPERATIVE BANK PLC
TSB BANK PLC
TURKISH BANK (UK) LIMITED

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THIS AGREEMENT is dated 21 September 2015 as amended on 9 March 2018

BETWEEN

- (1) FASTER PAYMENTS SCHEME LIMITED, whose registered office is at 2 Thomas More Square, London E1W 1YN and whose registered number is 07751778 (the "**System Operator**"); and
- (2) ATOM BANK PLC, whose registered office is at The Rivergreen Centre, Aykley Heads, Durham DH1 5TS and whose registered number is 08632552;

BARCLAYS BANK PLC, whose registered office is at One Churchill Place, London E14 5HP and whose registered number is 1026167;

BFC BANK LIMITED, whose registered office is at 9th Floor South Quay Plaza; 189 Marsh Wall, London E14 9SH, with company number 04797759;

CITIBANK NA, whose registered office is at 399 Park Avenue New York, New York 10043 USA and whose registered number is FC001835 with registered UK branch at Citigroup Centre, Canada Square, Canary Wharf, London E14 5LB;

CLEARBANK LIMITED, whose register office is at Level 29, The Gherkin, 30 St Mary Axe, London, England, EC3A 8EP, and whose registered number is 09736376;

CLYDESDALE BANK PLC, whose registered office is at 30 St. Vincent Place, Glasgow G1 2HL and whose registered number is SC001111;

HSBC BANK PLC whose registered office is at 8 Canada Square, London E14 5HQ and whose registered number is 14259;

LLOYDS BANK PLC whose registered office is at 25 Gresham Street, London EC2V 7HN and whose registered number is 2065;

METRO BANK PLC, whose registered office is at One Southampton Row, London, WC1B 5HA and whose registered number is 06419578;

MONZO Bank LTD, whose registered office is at 230 City Road, London, England, EC1V 2QY and whose registered number is 09446231;

NATIONAL WESTMINSTER BANK PLC whose registered office is at 135 Bishopsgate, London EC2M 3UR and whose registered number is 00929027;

NATIONWIDE BUILDING SOCIETY whose principal office is at Pipers Way, Swindon SN38 1NW;

NORTHERN BANK LIMITED whose registered office is at Donegall Square West, Belfast, BT1 6JS and whose registered number is R568;

SANTANDER UK PLC whose registered office is at 2 Triton Square, Regent's Place, London NW1 3AN and whose registered number is 02294747;

STARLING BANK LTD, whose registered office is at Norfolk House, 31 St James's Square, London SW1Y 4JR and whose registered number is 09092149;

THE CO-OPERATIVE BANK PLC whose registered office is at PO Box 101, 1 Balloon Street, Manchester M60 4EP and whose registered number is 990937; and

TSB BANK PLC whose registered office is at Henry Duncan House, 120 George Street, Edinburgh EH2 4LH and whose registered number is SC95237;

TURKISH BANK (UK) LIMITED, whose registered office is at 84-86 Borough High Street, London SE1 1LN, with company number 02643004,

(together the "**DCS Participants**").

BACKGROUND

- (A) The DCS Participants, by this agreement, confirm their present intention to participate as DCS Participants of the system relating to the clearing and settlement of FPS payment obligations between DCS Participants (the "**System**"), subject to the terms of this agreement.
- (B) By signing this agreement, the DCS Participants and the System Operator agree with effect from the date of this agreement that any previous membership agreement in respect of the System is terminated and replaced by this agreement, and that the System Operator will manage the System for the benefit of the DCS Participants, in accordance with the terms of this agreement and the Reference Documents.
- (C) Each DCS Participant agrees with effect from the date of this agreement (and each DCS Participant who accedes to this agreement agrees with effect from the date of its accession) to assume certain rights and obligations regarding its conduct in relation to the System and a number of matters ancillary to the System.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

Acceding DCS Participant means a DCS Participant which joins the System Operator;

Accession Agreement means an accession agreement to this DCS Participation Agreement in the form set out in Schedule 1;

Admission Process means the process for admission of a person to Participation of the System as set out in the FPS Rules;

Appeals Process has the meaning given to it in the FPS Rules;

Bank of England means the Governor and Company of the Bank of England, of Threadneedle Street London EC2R 8AH;

Bank PSP has the meaning given to it in the FPS Rules;

Board means the board of directors of the System Operator;

CAA means the Collateralisation Account Agreement between, inter alia, the System Operator, the Bank of England in its separate capacities as security trustee and settlement

service provider and the DCS Participants, dated 21 September 2015 and as amended from time to time;

Central Infrastructure means the central systems and networks as developed and operated by the Supplier and that together enable the Faster Payment Service;

Data Breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, DCS Participant Data transmitted, stored or otherwise processed by the System Operator;

Data Protection Legislation means (i) as at the date of this letter and until the General Data Protection Regulation ((EU) 2016/679) (GDPR) is applicable in the UK, the Data Protection Act 1998; (ii) as of the date the GDPR becomes directly applicable in the UK and unless and until the GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time in the UK; and (iii) any successor legislation to the GDPR or the Data Protection Act 1998;

DCS Participant means a Bank PSP or a Non-Bank PSP which has entered into (as an Original DCS Participant) or which has acceded to (by executing a delivering to the System Operator an Accession Agreement) this agreement and thereby agreed to participate in the System as a DCS Participant upon and subject to the terms of this agreement and "Participation" shall be construed accordingly;

DCS Participation Criteria means the criteria for eligibility to become and remain a DCS Participant as set out in the FPS Rules;

DCS Participation Fees means the fees to be charged to the DCS Participants or any of them in respect of their or its participation in the System, as set out in the FPS Rules;

Deed of Charge means the deed of charge entered into or to be entered into by the DCS Participants and the Bank of England as security trustee, pursuant to the CAA, as amended from time to time;

Exclusion Time has the meaning given to it in the FPS Rules;

Exclusion Event has the meaning given to it in the FPS Rules;

FIM-only agency has the meaning given to it in the FPS Rules;

FPS or Faster Payments Service has the meaning given to it in the FPS Rules;

FPS Rules means the rules for DCS Participants of the Faster Payments Service, as amended in accordance with such rules from time to time;

Governance Document means any agreement, including the Articles of Association of the System Operator, which governs the constitutional affairs of the System Operator;

Group Company means, in relation to a party, any Holding Company or Subsidiary or Holding Company of that party, or any Subsidiary of that party's Holding Company and "Group Companies" shall be construed accordingly;

Holding Company has the meaning given under section 1159 of the Companies Act 2006;

Legal Documents has the meaning given to it in the FPS Rules

Non-Bank PSP has the meaning given to it in the FPS Rules;

Operator Supplier Agreement means an agreement between a person and the System Operator under which that person undertakes to the System Operator to provide services in connection with the operation of the System for the benefit of the System Operator and the DCS Participants or any of them and which may include the Supplier Agreement;

Operator Supplier means a provider of services pursuant to an Operator Supplier Agreement and includes any agent, contractor or subcontractor of the Operator Supplier;

Personal Data has the meaning given to that term in the Data Protection Legislation and includes Personal Data in respect of data subjects who are customers of the DCS Participants;

Reference Documents means the FPS Rules and each of the documents (as amended from time to time) listed in Schedule 2 of the FPS Rules and any other document designated by the Board to be a Reference Document from time to time;

Relevant Decision shall include the decisions within the definition of Relevant Decision in the FPS Rules and for the purposes of this agreement shall also include a resolution of the Board (pursuant to clause 4.2(b) of this agreement) that a DCS Participant is in material breach of this agreement;

Relevant Third Party has the meaning given to it in the FPS Rules;

Settlement Service Provider means the Bank of England or such other person as may be appointed to provide settlement services to the System Operator and/or the DCS Participants for the purpose of enabling the DCS Participants to settle amounts and make payments due in respect of the System;

Settlement Service Provider Agreement means the settlement service provider agreement between the Bank of England and the System Operator or any other agreement entered into by the System Operator with any other Settlement Service Provider for the provision of settlement services, as amended from time to time;

Subsidiary has the meaning given to it under section 1159 of the Companies Act 2006;

Supplier Agreement means the agreement relating to the provision of managed services from time-to-time in respect of the provision of the System;

Supplier means the supplier of the Central Infrastructure from time to time, being, as at the date of this agreement, VocaLink Limited;

System has the meaning given to it in Background statement (A);

Third Party Beneficiary has the meaning given to it in the FPS Rules;

VocaLink means VocaLink Limited (company number 06119048), a company incorporated in England, whose registered office is at Drake House, Three Rivers Court, Homestead Road, Rickmansworth, Hertfordshire WD3 1FX;

Withdrawal Time has the meaning given to it in the FPS Rules; and

Year means 1 January to 31 December (inclusive) of any calendar year

- 1.2 In this agreement, any references to statutory provisions or enactments shall include references to any amendment, modification, extension, consolidation, replacement or re-enactment of any such provision or enactment (whether before or after the date of this agreement), to any previous statutory provision or enactment which has been replaced or amended and to any regulation, instrument or order or other subordinate legislation made under such statutory provision or enactment, except where expressly stated to the contrary.
- 1.3 In this agreement:
- (a) references to "this agreement" include its Schedules;
 - (b) references to a person include an individual, a body corporate, an unincorporated association and partnership, in each case whether or not having a separate legal personality;
 - (c) references to a party to this agreement include references to the successors or permitted assigns (immediate or otherwise) of that party;
 - (d) references to the words "include" or "including" (or any similar term) are not to be construed as implying any limitation and general words introduced by the word "other" (or any similar term) shall not be given a restrictive meaning by reason of the fact that they are preceded or followed by words indicating a particular class of acts, matters or things;
 - (e) each reference to a document is a reference to that document as amended from time to time and, in the case of documents which have not, as at the date of this agreement, been adopted, shall mean such documents following their adoption; and
 - (f) references to the parties, the Schedules, clauses and paragraphs are references respectively to the parties, the Schedules to, clauses of and paragraphs of the relevant Schedules to this agreement.
- 1.4 Clauses 1.1 to 1.3 apply unless the contrary intention appears.
- 1.5 The clause, paragraph and Schedule headings and the table of contents used in this agreement are inserted for ease of reference only and shall not affect construction or interpretation.
- 1.6 In the event of any inconsistency between this agreement and the FPS Rules, the FPS Rules shall prevail notwithstanding the fact that the FPS Rules may be amended by the System Operator in accordance with such Rules.
- 1.7 In the event of any inconsistency between this agreement and the CAA or the Deed of Charge, the CAA or the Deed of Charge as appropriate shall prevail.

2. THE SYSTEM OPERATOR

- 2.1 The DCS Participants and each of them:-

- (a) requests the System Operator to manage the System with effect from the date of this agreement in accordance with this agreement, the Governance Documents and the Reference Documents including, inter alia, the DCS Participation Criteria and Admission Process and management of the DCS Participation Fees; and
- (b) without prejudice to clause 2.1(a), authorises the System Operator, as System Operator, to:-
 - (i) subject to clause 2.1(b)(ii), determine from time to time and to maintain and amend the Reference Documents;
 - (ii) maintain, and propose amendments to, the FPS Rules in accordance with their provisions from time to time; and
 - (iii) from time to time to enter into Operator Supplier Agreements.

2.2 The System Operator accepts its role as the manager of the System, with effect from the date of this agreement, on the terms of the Governance Documents and the Reference Documents, and undertakes to the DCS Participants to manage the System and to use its reasonable endeavours to provide to the DCS Participants a secure, reliable and predictable system for the clearing and settlement of FPS payments and to preserve and protect the integrity of the System and, in particular:

- (a) to comply with its obligations under the FPS Rules and the other Reference Documents;
- (b) from time to time:
 - (i) subject to clause 2.2(b)(ii) to determine, amend and/or to maintain the Reference Documents in accordance with their provisions including, inter alia, the DCS Participation Criteria and Admission Process and management of the DCS Participation Fees and to comply with its obligations thereunder;
 - (ii) maintain, and propose amendments to, the FPS Rules in accordance with their provisions from time to time;
 - (iii) to enter into Operator Supplier Agreements, when it considers such Operator Supplier Agreements to be in the best interests of the System and/or the DCS Participants or any of them, and to comply with its obligations thereunder.

2.3 The DCS Participants agree that:

- (a) the System Operator shall discharge its obligations as operator of the System as set out in the FPS Rules; and
- (b) the System Operator shall be entitled to receive the benefit of the limitations of liability applicable to the System Operator set out in clause 5.5 and Schedule 2.

2.4 The System Operator acknowledges that its obligations under this agreement are in addition to its obligations under the FPS Rules and the other Reference Documents.

- 2.5 The System Operator undertakes to maintain and make available to all DCS Participants and prospective DCS Participants a list of the Legal Documents and the Reference Documents and a list of the Governance Documents and to provide each such list to any DCS Participant or prospective DCS Participant promptly following receipt of a written request from that DCS Participant or prospective DCS Participant as the case may be.
- 2.6 Schedule 2 sets out certain powers and functions of the System Operator in relation to the operation of the System.

3. THE DCS PARTICIPANTS

- 3.1 Without prejudice to its other obligations under this agreement, as a continuing condition of being a DCS Participant, each DCS Participant undertakes, with effect from the date of this agreement or the date of accession to this agreement as appropriate, to the System Operator and the other DCS Participants:
- (a) to comply with the FPS Rules and the other Reference Documents; and
 - (b) to execute or accede to the CAA and the Deed of Charge.
- 3.2 In consideration of the other DCS Participants entering into this agreement, each DCS Participant represents on the date of entering into or acceding to this agreement, to the other DCS Participants (and to the System Operator) that it satisfies the DCS Participation Criteria applicable to it in all respects.
- 3.3 Each DCS Participant agrees and acknowledges that it accepts responsibilities and liabilities under this agreement as between itself and the System Operator, and as between itself and the other DCS Participants, as principal and not as agent for any other party.
- 3.4 The obligations of each DCS Participant under this agreement are several, and no DCS Participant shall be liable for the obligations of any other DCS Participant under this agreement.
- 3.5 The DCS Participants and each of them acknowledge that its obligations under this agreement are without prejudice to, and in addition to, its settlement obligations under the FPS Rules and the CAA.
- 3.6 The benefit of each DCS Participant's representations and covenants in this clause 3 are also given to, and may be enforced by, any other person which is a DCS Participant from time to time, under the Contracts (Rights of Third Parties) Act 1999.

3A. DATA PROTECTION

- 3A.1 The System Operator and each DCS Participant will, at all times, comply with their respective obligations under all applicable Data Protection Legislation in relation to all Personal Data that is processed by it in the course of performing its obligations under the FPS Rules and the Reference Documents and the System Operator acts as data processor with respect to Personal Data. The DCS Participants are solely responsible for determining the purposes for which, the manner in which and the FPS Rules under which Personal Data are to be processed. The DCS Participants warrant that the provision to the System Operator of all Personal Data to be processed by the System Operator and the other DCS Participants in accordance with the FPS Rules (and all actions taken to prepare for the provision of this Personal Data including the collection and any processing of this

Personal Data by a DCS Participant before providing it to the System Operator) shall at all times comply with Data Protection Legislation.

- 3A.2 Details of Processing. The details of the processing services provided by the System Operator to a DCS Participant as a data processor are specified in Schedule 3.
- 3A.3 Purpose and Instructions. The System Operator will only undertake processing of Personal Data in accordance with this Agreement and the Reference Documents.
- 3A.4 Transfers. The System Operator shall not, and shall procure that its subcontractors shall not, and will not transfer or process, including remote access, any Personal Data to any country or territory outside of the European Economic Area without the prior written permission and instruction of that DCS Participant. Where that permission is given it may be conditional on any export being done on the terms of a binding agreement incorporating the EU standard clauses entered into between a DCS Participant and the System Operator. The System Operator agrees to accept any modifications to such standard clauses which are necessary to comply with laws applicable to such data transfer. Such binding agreement shall be without prejudice to the rights of a DCS Participant under this Agreement.
- 3A.5 Security. The System Operator will implement and maintain appropriate technical and organisational measures consistent with Good Industry Practice to protect Personal Data at all times against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure, access or processing of each DCS Participant's Personal Data and take these measures having regard to the state of technological development and cost of implementing the measures, so as to ensure the level of security appropriate to (i) the harm that may result from breach of such measures and (ii) the nature of the Personal Data (but in any event will comply with the Security Code of Conduct and the FPS Security Policy to the extent applicable).
- 3A.6 Access. The System Operator will restrict access to Personal Data as follows:
- (i) to Supplier personnel who need to access the Personal Data to provide the Faster Payments Service to a DCS Participant; and
 - (ii) to a DCS Participant's personnel who need to access the Personal Data to use the Faster Payments Service.
- 3A.7 The System Operator will ensure that any System Operator personnel and Supplier personnel who process Personal Data, and a DCS Participant shall ensure that any DCS Participant personnel who process Personal Data: (i) are bound by appropriate contractual confidentiality, data protection, and data security obligations, which are at least as restrictive as this Agreement and (ii) will only process Personal Data in accordance with the FPS Rules unless required to do otherwise by law.
- 3A.8 Disclosure. The System Operator will not disclose Personal Data to any government authority or other third party except as necessary for the performance of the Faster Payments Service, to comply with applicable law or with a DCS Participant's prior written consent. To the extent permitted by law, the System Operator will immediately notify a DCS Participant if the System Operator receives a request to disclose Personal Data. Where possible, the notice will (a) attach a copy of the request, and (b) if not covered by (a), specify (i) the identity of the requester, (ii) the scope and purposes of the request and (iii) the date of the request and any deadline for a response.

- 3A.9 Assistance. The System Operator will provide any cooperation or assistance requested by a DCS Participant in connection with steps that such DCS Participant takes to comply with the Data Protection Legislation insofar as they relate to the Faster Payments Service. This includes (without limitation) assisting that DCS Participant with: (i) responding to requests from individuals or authorities, (ii) notifying data breaches to affected individuals or authorities; (iii) carrying out data protection impact assessments and (iv) prior consultations with the authorities.
- 3A.10 Information and Audit. The System Operator will make available to a DCS Participant all information requested by that DCS Participant to demonstrate the System Operator's compliance with the obligations set out in this Agreement. The System Operator will allow for and contribute to audits, including inspections, by DCS Participants in relation to the processing of the Personal Data by the System Operator in accordance with the procedures set out in the Reference Documents.
- 3A.11 Data Breaches. The System Operator will notify a DCS Participant of any Data Breach immediately (and in any event within 24 hours) upon becoming aware of it. Such notice will:
- (a) to the extent possible at the time of the notice, describe:
 - (i) the nature of the Data Breach (including the categories and number of individuals concerned and the categories and number of records involved);
 - (ii) the likely consequences of the Data Breach; and
 - (iii) any steps the System Operator has taken or proposes to take to address and / or mitigate the Data Breach;
- and
- (b) specify a point of contact at the System Operator who the DCS Participant can contact about the Data Breach.
- 3A.12 The System Operator must ensure that descriptions in the notice are detailed enough to allow a DCS Participant to understand the impact of the Data Breach. If it is not possible for the System Operator to provide any of the information required by this clause at the time of the notice, the System Operator will provide such information to that DCS Participant as soon as possible thereafter. The System Operator will take all reasonable steps to mitigate the effects and to minimise any damage resulting from the Data Breach. The System Operator will promptly comply with any reasonable instructions provided by and cooperate with a DCS Participant in relation to the Data Breach.
- 3A.13 Records. The System Operator will maintain an accurate, up to date written log of all processing of Personal Data performed on a DCS Participant's behalf. The written log shall include the following information: (i) categories of recipients to whom the Personal Data have been or will be disclosed; (ii) to the extent that Personal Data is transferred to a third party outside the EEA, a list of such transfers (including the name of the relevant non-EEA country and organisation) and documentation of the suitable safeguards in place for such transfers; and (iii) a general description of the technical and organisational security measures referred to in this Agreement. The System Operator will provide a DCS Participant a copy of such log upon that DCS Participant's request.
- 3A.14 The DCS Participants hereby provide their consent for the System Operator to engage VocaLink as a subcontractor to process Personal Data on behalf of the System Operator.

The System Operator will ensure that VocaLink is bound by the same data protection obligations as set out in this Agreement. To the extent that the System Operator wishes to appoint any other Supplier to process Personal Data, the System Operator will obtain the DCS Participants' prior, specific, written consent in accordance with the FPS Rules before engaging such Supplier to process Personal Data on the DCS Participants' behalf.

4. TERMINATION

4.1 This agreement shall remain in force unless and until terminated by operation of law or agreement of all of the parties and may not be terminated by any party on notice to any of the others, except as provided for in this clause 4.

4.2 If a DCS Participant (the "**Defaulting DCS Participant**", which expression shall include for the avoidance of doubt a DCS Participant withdrawing from the System as referred to in Clauses 4.3 and 4.4 below although such DCS Participant may not be in default in any way):

- (a) has been excluded from the System pursuant to an Exclusion Event and the Defaulting DCS Participant's rights to appeal under the Appeal Process have been exhausted or foregone by the Defaulting DCS Participant; or
- (b) is, as determined by resolution of the Board (acting reasonably and in good faith), in material breach of this agreement (being a single event or series of events which are together a material breach and, for the avoidance of doubt, each of non-payment of operating costs, non-payment of supplier costs and non-payment of any call made on DCS Participants by the Board acting reasonably and in good faith, pursuant to the FPS Rules, shall automatically be a material breach of clause 3.1(b) of this agreement) and either such breach is not capable of remedy or, if the breach is capable of remedy, the Defaulting DCS Participant has failed to remedy the breach within 30 days after receiving written notice from the System Operator (or any other person designated by it) requiring it to do so and the Defaulting DCS Participant's rights to appeal under the Appeal Process, which shall be provided to a Defaulting DCS Participant in respect of a resolution of the Board of the kind described in this clause, have been exhausted or foregone by the Defaulting DCS Participant; or
- (c) gives notice of withdrawal or is deemed to have given notice of withdrawal specifying a Withdrawal Time,

the System Operator may at any time thereafter, for itself and on behalf of the other DCS Participants, without prejudice to its and the other DCS Participants' other rights or remedies, by notice to the Defaulting DCS Participant terminate, in the case of an event or circumstance set out in paragraphs (a) or (b) of this sub-clause, with effect from such date as the System Operator may specify (provided any relevant Appeal Process has been exhausted or forgone), and, in the case of an event or circumstance set out in paragraph (c) of this sub-clause, with effect from the relevant Withdrawal Time:

- i. such Defaulting DCS Participant's rights and obligations under the Reference Documents;
- ii. this agreement in respect of that Defaulting DCS Participant; and

subject to this clause 4 and subject to any rights and obligations of the Defaulting DCS Participant under this agreement, and the Reference Documents (subject to the terms thereof), accrued at the time of termination.

- 4.3 The DCS Participants and each of them acknowledges that the FPS Rules set out the terms upon which DCS Participants may withdraw from the System and no DCS Participant may withdraw from the System in any other manner. Accordingly, if withdrawal takes place from the System the provisions of this clause 4 and the relevant provisions of the FPS Rules shall apply.
- 4.4 The FPS Rules specify that a DCS Participant should give notice of withdrawal. The provisions of clause 8 of this agreement shall apply to such notice.
- 4.5 Any termination of this agreement, or of the rights and obligations of a DCS Participant under this agreement by the System Operator as regards one DCS Participant, shall not affect any accrued rights or liabilities of any party which shall remain in full force and effect under the Reference Documents (subject to the terms thereof) nor shall it affect the coming into force or continuation in force of any other clauses and provisions of this agreement which are expressly or by implication intended to come into force or continue in force on or after such termination.
- 4.6 On termination of this agreement in respect of a DCS Participant (the "**Outgoing DCS Participant**") for any reason (including under this clause 4), the Outgoing DCS Participant shall cease to be a party to this agreement and shall cease to be a DCS Participant.
- 4.7 The System Operator has the right to terminate this agreement without cause upon giving DCS Participants 12 months' advance written notice.
- 4.8 Subject to the System Operator's right to retain any Personal Data as required by law or for the purposes of enforcing or defending any of its rights, following (i) the termination of this agreement in respect of a DCS Participant or (ii) otherwise on a DCS Participant's written instructions, the System Operator must promptly return or destroy (at the DCS Participant's option) all Personal Data processed by the System Operator on the DCS Participant's behalf in connection with this Agreement.
- 4.9 In the event that, in accordance with clause 4.8 the System Operator retains any Personal Data provided by a DCS Participant following termination of this agreement in respect of that DCS Participant, then the following clauses of this agreement will survive termination and will continue to apply in respect of that retained data: clauses 3A and 13.

5. LIABILITY

- 5.1 Subject to clauses 5.2 and **Error! Reference source not found.**, no DCS Participant limits its liability to the System Operator for matters arising out of or in relation to this agreement or its Participation.
- 5.2 The maximum aggregate liability of each DCS Participant to the System Operator for all acts and omissions in each Year, for which it is liable to the System Operator (whether in tort (including negligence) contract or otherwise) in connection with FPS, as a result of a liability of the System Operator to a third party, shall not exceed £2 million, except:
 - (a) in relation to the obligations of the DCS Participant under this agreement or the FPS Rules to make payments in respect of the System Operator's liabilities under the Supplier Agreement; and

- (b) where the System Operator's loss is the result of the act or omission of a third party in such Year and the DCS Participant makes recovery against the third party in respect of that party's act or omission, in which case the DCS Participant's maximum aggregate liability in such Year shall be increased to the amount, if greater than £2 million, of such recovery (with any right of appeal having been exhausted or foregone) less the reasonable costs thereof.

5.3 No DCS Participant shall be liable to the System Operator, nor shall any DCS Participant be liable to any other DCS Participant for:

- (a) any indirect or consequential loss;
- (b) any loss of profit, business or revenue, whether direct or indirect,

arising out of or in connection with this agreement or its Participation, provided that, for the avoidance of doubt, such exclusion shall not be interpreted to apply to sums paid or payable by the claiming party in satisfaction of a liability to a third party.

5.4 Subject to clause 5.5, the liability of the System Operator to the DCS Participants arising out of or in relation to this agreement, including without limitation in its capacity as trustee and agent under clauses 5.10 to 5.12, shall be governed by the terms of Schedule 2.

5.5 None of the parties limits its liability for fraud or for death or personal injury caused by its negligence or that of its employees, agents, or third party service providers.

5.6 None of the limitations or exclusions set out or referred to in this agreement relating to the liability of any party shall have any effect on the liability of that party or any other party in respect of settlement under the FPS Rules.

5.7 The parties agree that all of the limitations on and exclusions of liability set out or referred to in this agreement are fair and reasonable in the circumstances including, but without limitation, having regard to their resources and the availability of insurance.

5.8 Each DCS Participant shall be liable for the acts of third parties which it sponsors, in the manner set out in the FPS Rules.

5.9 Where appropriate, the System Operator shall hold its rights and remedies against the Supplier arising out of or in connection with the Supplier Agreement on trust for the DCS Participants.

5.10 Each DCS Participant appoints the System Operator as its agent for the purposes of recovery of any losses which it may suffer as a result of any breach of the Supplier Agreement by the Supplier or any negligent act or omission by the Supplier in relation to that Supplier Agreement.

5.11 Each DCS Participant irrevocably authorises the System Operator to pursue such claims as the System Operator sees fit including without limitation for the System Operator to make any decision to pursue, not to pursue or to compromise any such claim, including the manner of pursuing any such claim or the terms of any compromise, provided that the System Operator shall at all times act reasonably when exercising or declining to exercise such authority.

6. ASSIGNMENT AND TRANSFER

- 6.1 No DCS Participant may assign or transfer any of its rights nor delegate or transfer any of its obligations under this agreement.
- 6.2 Nothing in this agreement shall prevent or restrict the System Operator from delegating any of its obligations under this agreement to a third party to which it delegates management of certain aspects of management of the System including, for this purpose, an Operator Supplier, provided that such delegation shall not diminish the liability of the System Operator under the provisions of this agreement in respect of the matters so delegated.
- 6.3 Subject to Clause 3A.14 the System Operator shall be entitled to transfer its rights and/or obligations under this agreement by entering into a novation agreement with a counterparty and the DCS Participants, and each DCS Participant hereby appoints the System Operator as its agent for the purposes of executing that novation agreement.
- 6.4 Save as provided in 6.2 and 6.3 the System Operator may not assign or transfer any of the rights or obligations under this agreement.

7. EXTERNAL INTERVENING EVENT

- 7.1 No party shall be liable to any other party for any delay or non-performance of its obligations under this agreement arising from any cause or causes beyond its reasonable control which could not reasonably be planned for or avoided subject to:
 - (a) the affected party promptly notifying the other parties in writing of the cause of the delay or non-performance and, if known, the likely duration of the delay or non-performance; and
 - (b) the affected party using its reasonable endeavours to limit the effect of that delay or non-performance on the other party and, where the affected party is a DCS Participant, using its reasonable endeavours to comply with any directions of the System Operator reasonably necessary or desirable to ensure the continued operation of the System,

and the performance of the affected party's obligations under this agreement, to the extent affected by the cause, shall be suspended during the period that the cause persists.

8. NOTICES

- 8.1 (a) Any formal communication in connection with this agreement must be in writing and, for this purpose, electronic mail, will be treated as being in writing.
- (b) Any consent, decision or agreement required under this agreement must be given in writing.
- (c) Any communication in connection with this agreement will be deemed to be given as follows:
 - (i) if delivered in person, at the time of delivery;
 - (ii) if by electronic mail, when received by the intended recipient; or
 - (iii) if by post or by airmail, on the second calendar day (in each case excluding Saturdays, Sundays and bank holidays) after the day of posting.

- 8.2 (a) On a continuing basis, each DCS Participant's address for notice (either postal address or email address) shall be that most recently notified by it to the System Operator in writing.
- (b) Subject to clause 8.2(a) above, the postal address of each Original DCS Participant set out at the beginning of this agreement shall be its postal address for notice as at the date of this agreement.
- (c) Subject to clause 8.2(a) above, the postal and email address of each DCS Participant that accedes to this agreement is as set out in the Accession Agreement.
- (d) The System Operator's address for notice is as stated on page one of this agreement and its email address is as follows:

companysecretary@fasterpayments.org.uk

or such other details as the System Operator may notify to the other parties by not less than five calendar days' notice.

9. WHOLE AGREEMENT

- 9.1 The Legal Documents and the Reference Documents contain the whole agreement between the parties relating to each DCS Participant's participation in the System and supersede all previous agreements between the parties relating to that participation.
- 9.2 Subject to clause ~~9.3~~ 9.3, each party acknowledges that in entering into this agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out in this agreement and the documents referred to in it and any other entered into on the date of this agreement between the parties) made by or on behalf of any other party before the date of this agreement. Each party waives all rights and remedies which, but for this clause 9, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
- 9.3 Nothing in this agreement limits or excludes any liability for fraud.

10. DISPUTES

- 10.1 Any dispute concerning a Relevant Decision between parties (which, for the avoidance of doubt, may include a dispute between a DCS Participant and the System Operator) arising under this agreement shall be referred for resolution according to the Appeals Process specified in the FPS Rules.

11. GENERAL

- 11.1 Each party represents and warrants to the others that:
- (a) it has obtained all consents and approvals necessary to perform its obligations under this agreement;
- (b) it has full capacity and authority to enter into and to perform this agreement;
- (c) this agreement is executed by a duly authorised representative of that party;

- (d) there are no actions, suits or proceedings or regulatory investigations pending or, to that party's knowledge, threatened against or affecting that party before any court or administrative body or arbitration tribunal that might affect the ability of that party to meet and carry out its obligations under this agreement; and
 - (e) once duly executed this agreement shall constitute its legal, valid and binding obligations.
- 11.2 Nothing in this agreement shall be deemed to constitute a partnership between the parties, nor (with the exception of clause 12) constitute any party the agent of another party for any purpose.
- 11.3 This agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement, and any party may enter into this agreement by executing a counterpart.
- 11.4 The rights of each party under this agreement:
- (a) may be exercised as often as necessary;
 - (b) are cumulative and not exclusive of rights or remedies provided by law; and
 - (c) may be waived only in writing and specifically.
- Delay in exercising or non-exercise of any such right is not a waiver of that right.
- 11.5 Any amendment of this agreement shall not be binding on the parties unless set out in writing, expressed to amend this agreement and signed by authorised representatives of each of the parties.
- 11.6 If any term of this agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:
- (a) the legality, validity or enforceability in that jurisdiction of any other term of this agreement; or
 - (b) the legality, validity or enforceability in other jurisdictions of that or any other provision of this agreement,
- and the parties will meet and use good faith endeavours to agree upon a replacement term which is as close as is legally permissible to the illegal, invalid or unenforceable term.
- 11.7 Each party undertakes, at the request and cost of the other party, to sign all documents and to do all other acts, which may be necessary to give full effect to this agreement.
- 11.8 Subject to clause 3.6 and paragraph 5 of Schedule 2, a person who is not a party to this agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 11.9 The consent of any person who is not a party to this agreement shall not be required for any amendment, variation (including any release or compromise in whole or part of any liability) or termination of this agreement.

- 11.10 In exercising its rights and fulfilling its obligations under this agreement, each party undertakes that it will comply with all applicable laws and regulations including, but not limited to, competition laws.
- 11.11 The System Operator may at any time assign, transfer or deal in any other manner with any or all of its rights and obligations under this agreement.

12. ACCESSION

- 12.1 An Acceding DCS Participant shall become a DCS Participant in the System for the purposes of this agreement upon execution of the Accession Agreement. The System Operator shall notify each DCS Participant of an Acceding DCS Participant and such notice shall specify the accession date for the Acceding DCS Participant. The Acceding DCS Participant shall become a DCS Participant for the purposes of this agreement on the date of the Accession Agreement.
- 12.2 The Acceding DCS Participant agrees to be bound by the terms of this agreement and undertakes to perform its obligations as a DCS Participant under this agreement with effect from the date of the Accession Agreement.
- 12.3 Each DCS Participant hereby irrevocably authorises the System Operator to agree to, and execute as an agreement, any duly completed Accession Agreement and any other accession agreement or equivalent document relating to a Legal Document including the CAA and the Deed of Charge as agent for and on behalf of such DCS Participant.

13. GOVERNING LAW AND JURISDICTION

- 13.1 This agreement shall be governed by and construed in accordance with the laws of England and Wales.
- 13.2 Any disputes in connection with this agreement other than disputes to be resolved by the Appeals Process specified in the FPS Rules ("**Disputes**") shall be resolved in accordance with clauses 13.3 to 13.5.
- 13.3 This clause 13.3 is for the benefit of each DCS Participant and the System Operator. Subject as provided in clause 13.4 below, each DCS Participant and the System Operator agree that the courts of England and Wales have exclusive jurisdiction to settle any Disputes and submit to the exclusive jurisdiction of the courts of England and Wales and waive any objection to the English courts on grounds that they are an inconvenient or inappropriate forum to settle any such dispute.
- 13.4 Nothing in this agreement will limit the right of any DCS Participant or the System Operator to bring proceedings in connection with any Disputes against any DCS Participant which is not incorporated in the United Kingdom (a) in the courts of any other Relevant Jurisdiction or (b) concurrently in the courts of England and Wales and/or one or more Relevant Jurisdictions. For the purposes of this clause 13.4, "**Relevant Jurisdiction**" means the country or territory where such DCS Participant is incorporated or in any other country or territory where the court has jurisdiction.
- 13.5 Each DCS Participant agrees not to bring or join the System Operator in any proceedings in any court other than the courts of England and Wales.

Schedule 1

DCS PARTICIPATION AGREEMENT ACCESSION AGREEMENT

THIS AGREEMENT is made on [20xx]

BETWEEN

- (1) [] (the "**Acceding Party**");
- (2) THE COMPANIES LISTED IN SCHEDULE 1 to this Accession Agreement (together the "**Existing DCS Participants**"); and
- (3) FASTER PAYMENTS SCHEME LIMITED as the "**System Operator**".

BACKGROUND

This agreement is supplemental to the DCS Participation Agreement (the "**DCS Participation Agreement**") dated 21 September 2015 as amended and replaced from time to time and made between, amongst others, the System Operator and the DCS Participants originally named in the DCS Participation Agreement and the Acceding DCS Participants (as defined in the DCS Participation Agreement).

IT IS AGREED as follows:

1 INTERPRETATION

- 1.1 Unless the context otherwise requires, words and expressions defined in the DCS Participation Agreement shall apply mutatis mutandis to this agreement as if the same were set out in full in this agreement.
- 1.2 The principles of construction set out in clauses 1.2 to 7 of the DCS Participation Agreement shall apply mutatis mutandis to this agreement as if the same were set out in full in this agreement.

2 ACCESSION OF ACCEDING PARTY

- 2.1 By its execution of this agreement, the Acceding Party unconditionally and irrevocably undertakes to and agrees with each of the other parties to this agreement to observe and be bound by the terms and provisions of the DCS Participation Agreement as a DCS Participant with effect from the date of this agreement.
- 2.2 Pursuant to clause 12 (*Accession*) of the Participation Agreement, the System Operator, as agent for the Existing DCS Participants, hereby consents to the accession of the Acceding Party to the DCS Participation Agreement on the terms set out in this agreement and agrees that the DCS Participation Agreement shall hereafter be read and construed as if the Acceding Party had been named in the Participation Agreement as a DCS Participant.
- 2.3 Save as amended by this agreement, all terms and conditions of the DCS Participation Agreement shall continue in full force and effect with effect from the date of this agreement.

3 DCS PARTICIPATION AGREEMENT

This agreement shall hereafter be read as one with the DCS Participation Agreement so that all references in the DCS Participation Agreement to "this agreement" and similar expressions shall include references to this agreement.

4 NOTICES

The address of the Acceding Party for notices and demands under the DCS Participation Agreement are as follows:

Postal Address: []

e-mail address: []

Attention: []

5 COUNTERPARTS

This agreement may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same agreement and any party may enter into this agreement by executing a counterpart.

6 THIRD PARTY RIGHTS

Subject to clause 3.6, clause 2.3(b) and paragraph 5 of Schedule 2 of the DCS Participation Agreement, a person who is not a party to this agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This paragraph does not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to such legislation.

7 GOVERNING LAW AND JURISDICTION

The provisions of clause 13 of the DCS Participation Agreement shall apply mutatis mutandis to this agreement as if the same were set out in full in this agreement.

IN WITNESS whereof this agreement is entered into by the parties on the date at the beginning of this agreement.

SIGNED BY:

..... (Signature)

..... (Print name)

ON BEHALF OF FASTER PAYMENTS SCHEME LIMITED
as the System Operator

SIGNED BY:

..... (Signature)

..... (Print name)

ON BEHALF OF FASTER PAYMENTS SCHEME LIMITED

as agent for the Existing DCS Participants

SIGNED BY:

..... (Signature)

..... (Print name)
ON BEHALF OF [ACCEDING PARTY]

SCHEDULE 1

(TO THE ACCESSION AGREEMENT)

The Existing DCS Participants

ATOM BANK PLC, whose registered office is at The Rivergreen Centre, Aykley Heads, Durham DH1 5TS and whose registered number is 08632552;

BARCLAYS BANK PLC, whose registered office is at One Churchill Place, London E14 5HP and whose registered number is 1026167;

BFC BANK LIMITED, whose registered office is at 9th Floor South Quay Plaza; 189 Marsh Wall, London E14 9SH, with company number 04797759;

CITIBANK NA, whose registered office is at 399 Park Avenue New York, New York 10043 USA and whose registered number is FC001835 with registered UK branch at Citigroup Centre, Canada Square, Canary Wharf, London E14 5LB;

CLEARBANK LIMITED, whose register office is at Level 29, The Gherkin, 30 St Mary Axe, London, England, EC3A 8EP, and whose registered number is 09736376;

CLYDESDALE BANK PLC, whose registered office is at 30 St. Vincent Place, Glasgow G1 2HL and whose registered number is SC001111;

HSBC BANK PLC whose registered office is at 8 Canada Square, London E14 5HQ and whose registered number is 14259;

LLOYDS BANK PLC whose registered office is at 25 Gresham Street, London EC2V 7HN and whose registered number is 2065;

METRO BANK PLC, whose registered office is at One Southampton Row, London, WC1B 5HA and whose registered number is 06419578;

MONZO Bank LTD, whose registered office is at 230 City Road, London, England, EC1V 2QY and whose registered number is 09446231;

NATIONAL WESTMINSTER BANK PLC whose registered office is at 135 Bishopsgate, London EC2M 3UR and whose registered number is 00929027;

NATIONWIDE BUILDING SOCIETY whose principal office is at Pipers Way, Swindon SN38 1NW;

NORTHERN BANK LIMITED whose registered office is at Donegall Square West, Belfast, BT1 6JS and whose registered number is R568;

SANTANDER UK PLC whose registered office is at 2 Triton Square, Regent's Place, London NW1 3AN and whose registered number is 02294747;

STARLING BANK LTD, whose registered office is at Norfolk House, 31 St James's Square, London SW1Y 4JR and whose registered number is 09092149;

THE CO-OPERATIVE BANK PLC whose registered office is at PO Box 101, 1 Balloon Street, Manchester M60 4EP and whose registered number is 990937;

TSB BANK PLC whose registered office is at Henry Duncan House, 120 George Street, Edinburgh EH2 4LH and whose registered number is SC95237;

TURKISH BANK (UK) LIMITED, whose registered office is at 84-86 Borough High Street, London SE1 1LN, with company number 02643004.

Schedule 2

LIABILITY AND POWERS OF THE SYSTEM OPERATOR

1 Definitions

1.1 In this Schedule:

- “Liability”** means, in relation to a person, any liability, damage, loss, cost, claim or expense of any kind suffered or incurred by that person as a result of:
- (a) the System or services provided by the System Operator under the Legal Documents, Reference Documents or any other document specified in this agreement or the manner in which the System or such services operate; and/or
 - (b) the System Operator performing (or not performing) any obligations under, or exercising (or not exercising) any right or discretion under, or taking (or not taking) any action in accordance with this agreement or the Reference Documents and any other document specified in this agreement.

2 Limitations of Liability

2.1 Notwithstanding any other provision of this agreement:

- (a) the System Operator shall not be liable to any DCS Participant (whether in contract, tort or otherwise including where caused by negligence); and
- (b) no DCS Participant shall bring a claim whether in contract, tort (including negligence) or otherwise, against the System Operator,

for any Liability suffered or incurred by such DCS Participant in respect of FPS save:

- (i) where the Liability is the result of the System Operator’s fraud and/or wilful default and/or gross negligence or
- (ii) to the extent the Liability is the result of the act or omission of a third party, including but not limited to an Operator Supplier, and the System Operator makes recovery (with any right of appeal having been exhausted or foregone) against such third party in respect of that act or omission,

provided that where the Liability suffered or incurred by such DCS Participant is the result of the System Operator's wilful default or gross negligence, the System Operator's Liability shall be limited in accordance with paragraph 6.1, and in the case of (ii) above, the System Operator’s Liability shall be limited in accordance with paragraph 6.3.

2.2 The System Operator shall not be liable to any DCS Participant (whether in contract, tort (including negligence) or otherwise) in respect of FPS for:

- (a) any indirect or consequential loss; or
- (b) any loss of profit, revenue or business, whether direct or indirect,

arising out of or in connection with this agreement or its participation provided that, for the avoidance of doubt, such exclusions shall not be interpreted to apply to sums paid by the DCS Participant:

- (c) in satisfaction of a liability to a third party; or
- (d) pursuant to specific provisions of the Reference Documents in respect of errors or defaults of the System Operator,

in both cases subject always to paragraph 2.1.

- 2.3 Without prejudice to paragraph 2.1 and paragraph 2.2, the System Operator will not be liable (whether in contract, tort (including negligence) or otherwise) for any Liability suffered or incurred by a DCS Participant unless written notice providing details of the basis and expected quantum of the claim for that Liability has been given to the System Operator by or on behalf of the DCS Participant on or before the date which is six months after the date on which such DCS Participant became aware or should reasonably have become aware of the circumstances giving rise to the claim.
- 2.4 Save in the case of fraud, the directors, officers, employees of (including, without limitation, employees of UK Payments Administration Limited and any third party seconded to, or who works or provides services for) the System Operator shall not be liable (whether in contract, tort (including negligence) or otherwise) to any DCS Participant, or third party for any Liabilities which may be suffered or incurred by it.
- 2.5 Save in the case of fraud, the directors, officers, employees of a DCS Participant shall not be liable (whether in contract, tort (including negligence) or otherwise) to the System Operator, any DCS Participant, or third party for any Liabilities which may be suffered or incurred by it.
- 2.6 Nothing in this agreement limits the System Operator's liability for fraud or for death or personal injury arising from its negligence or that of its employees, agents or sub-contractors.

3 Recovery

If the System Operator has paid to a DCS Participant an amount in respect of a claim under this agreement or otherwise and, after making such payment, the DCS Participant recovers from a third party a sum in respect of the cause of action giving rise to that claim, the DCS Participant shall apply the amount recovered (with any right of appeal having been exhausted or foregone, less the reasonable costs of recovery) as follows:

- (a) in satisfaction of any loss suffered by the DCS Participant which was not recovered from the System Operator as a result of the limitations in this Schedule; and
- (b) as a repayment to the System Operator of the portion of the amount recovered from the third party that does not exceed the sum paid by the System Operator to the DCS Participant.

4 DCS Participants and System Operator

The DCS Participants agree that the System Operator:

- (a) may perform or exercise any of its obligations or discretions under this agreement by or through its employees (including, without limitation, employees of UK Payments Administration Limited, and any third party seconded to, or who works or provides services for, the System Operator), delegates or agents, provided always that the use of any such employees, delegates or agents shall not diminish the liability of the System Operator under the provisions of this agreement in respect of the matters performed or exercise by or through any of such parties;
- (b) may refrain from doing anything which would or might in its reasonable opinion be contrary to any information, guidance or instruction received from any overseer or regulator, or any law, regulation or judgment of any court of any jurisdiction and may do anything which is in its reasonable opinion necessary to comply with any such law, regulation or judgement;
- (c) may rely upon any communication or document reasonably believed by it, having followed applicable procedures in the Reference Documents, to be genuine and correct and to have been communicated or signed by the person to whom it purports to be communicated or by whom it purports to be signed;
- (d) may obtain and pay for any legal or other expert advice or services which may seem necessary or desirable to it;
- (e) shall not be obliged to disclose to any of the DCS Participants any information, disclosure of which might, in the reasonable opinion of the System Operator, result in a breach of any law or regulation or be otherwise actionable at the suit of any person;
- (f) shall not be obliged to divulge any information received by it other than in its capacity as System Operator unless required by any applicable law or regulation; and
- (g) (save as expressly set out in the Reference Documents) shall not be responsible for making any investigation or appraisal as to the status and affairs of any DCS Participant for the purpose of its duties under this agreement on the basis that each DCS Participant shall be responsible for making its own independent investigation and appraisal as to the status and affairs of each other DCS Participant and shall not rely upon the System Operator for such purpose.

5 Rights of Third Parties

- 5.1 Subject to clause 11.9 and this paragraph 5, any director, officer, or employee of (including, without limitation, employees of UK Payments Administration Limited, and any third party seconded to, or who works or provides services for), the System Operator or of any DCS Participant shall have the benefit of paragraph 2.4 or 2.5 (as appropriate) of this Schedule 2 under the Contracts (Rights of Third Parties) Act 1999.
- 5.2 The Supplier shall have the benefit of the obligation of each DCS Participant under the FPS Rules to make an undisputed payment in respect of the System Operator's liabilities under the Supplier Agreement as that benefit is given in Schedule 1 to the FPS Rules. Such obligation is limited to those sums set out in paragraph 2 of the FPS Rules Schedule 1, and as stated in paragraph 3 of that Schedule DCS Participants' undertakings are not joint and several.

5.3 The Supplier shall have the benefit of the undertaking of each DCS Participant in Rule 8.7 not to bring any claims or proceedings against the Supplier in relation to breach or alleged breach of the Supplier Agreement.

6 Limit on Liability

6.1 Save as set out in paragraphs 2.6 and 6.3 of this Schedule, the System Operator's total aggregate Liability to all of the DCS Participants, shall not in respect of any Year exceed the sum of £10 million ("the **Annual Limit**").

6.2 If it is determined that the System Operator's Liability to DCS Participants would, but for paragraph 6.1 of this Schedule, exceed the Annual Limit, the System Operator's Liability to each DCS Participant for which it is determined to be liable in such Year shall be reduced so that the aggregate sum of its Liability to all DCS Participants equals the Annual Limit. The reduction shall be calculated by assigning to each claim for which Liability is determined ("**Determined Claim**") a percentage which represents the value of that Determined Claim (as such value is originally determined) as a proportion of the aggregate value of all Determined Claims (as such value is originally determined). Where a reduction applies in respect of a Determined Claim that has already been paid by the System Operator, the DCS Participant which received such payment shall promptly on request, accompanied by details of the above calculation, repay to the System Operator the amount of the reduction.

6.3 Where the System Operator's Liability to a DCS Participant is the result of the act or omission of a third party, including but not limited to an Operator Supplier, and the System Operator makes recovery against such third party in respect of that third party's act or omission, there shall be added to the Annual Limit in the Year in which it is recovered, the amount of such recovery (with any right of appeal having been exhausted or foregone) less: (a) the reasonable costs thereof; and (b) any amounts to which the System Operator's insurer exercising its rights of subrogation is entitled.

6.4 The parties to this agreement acknowledge that the provisions of this Schedule are without prejudice to the settlement obligations and liabilities of the parties pursuant to the Legal Documents and Reference Documents.

DETAILS OF PROCESSING

(a) Scope of processing by the System Operator

Nature: the provision of the Faster Payments Services to DCS Participants which will in turn provide this service to their customers.

Purpose of processing: The System Operator collects, processes and uses the Personal Data on behalf of the DCS Participants in order to provide the Faster Payments Service as more particularly described in the Agreement and the FPS Rules.

The Personal Data will be processed for the duration of the DCS Participants' participation in the Faster Payments Service.

(b) Types of Personal Data

The System Operator will process the Data Subject's sort code, account number and account name.

(c) Categories of Data Subject

The personal data processed concern individuals who are customers of the DCS Participants.

THIS AGREEMENT has been entered into on behalf of the parties by their duly authorised representatives on the date which appears first on page 1.

SIGNATORIES TO THE DCS PARTICIPATION AGREEMENT

[DELIBERATELY OMITTED]