

EXHIBIT 4

EXECUTION COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RICHARD DENNIS, SONTERRA CAPITAL MASTER FUND, LTD., FRONTPOINT FINANCIAL SERVICES FUND, L.P., FRONTPOINT ASIAN EVENT DRIVEN FUND, L.P., AND FRONTPOINT FINANCIAL HORIZONS FUND, L.P., on behalf of themselves and all others similarly situated,

Plaintiffs,

-against-

JPMORGAN CHASE & CO., JPMORGAN CHASE BANK, N.A., JPMORGAN CHASE BANK, N.A. AUSTRALIA BRANCH, BNP PARIBAS, S.A., BNP PARIBAS, AUSTRALIA BRANCH, THE ROYAL BANK OF SCOTLAND GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC, RBS N.V., RBS GROUP (AUSTRALIA) PTY LIMITED, UBS AG, UBS AG, AUSTRALIA BRANCH, AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD., COMMONWEALTH BANK OF AUSTRALIA, NATIONAL AUSTRALIA BANK LIMITED, WESTPAC BANKING CORPORATION, DEUTSCHE BANK AG, DEUTSCHE BANK AG, AUSTRALIA BRANCH, HSBC HOLDINGS PLC, HSBC BANK AUSTRALIA LIMITED, LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, LLOYDS TSB BANK PLC, AUSTRALIA, MACQUARIE GROUP LTD., MACQUARIE BANK LTD., ROYAL BANK OF CANADA, RBC CAPITAL MARKETS LLC, ROYAL BANK OF CANADA, AUSTRALIA BRANCH, MORGAN STANLEY, MORGAN STANLEY AUSTRALIA LIMITED, CREDIT SUISSE GROUP AG, CREDIT SUISSE AG, ICAP PLC, ICAP AUSTRALIA PTY LTD., TULLETT PREBON PLC, TULLETT PREBON (AUSTRALIA) PTY LTD., AND JOHN DOES NOS. 1-50.

Defendants.

Docket No. 16-cv-06496 (LAK)

STIPULATION AND
AGREEMENT OF SETTLEMENT
AS TO DEFENDANT MORGAN
STANLEY

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EXECUTION COPY

STIPULATION AND AGREEMENT OF SETTLEMENT
AS TO DEFENDANT MORGAN STANLEY

THIS STIPULATION AND AGREEMENT OF SETTLEMENT (the “Settlement Agreement”) is made and entered into on October 1, 2021. This Settlement Agreement is entered into by and on behalf of Richard Dennis, Orange County Employees Retirement System (“OCERS”), and any subsequently named plaintiff(s) (collectively, the “Representative Plaintiffs”, as defined in Section 1(NN) herein), and the Settlement Class (as defined in Section 1(RR) herein), by and through Plaintiffs’ Counsel (as defined in Section 1(GG) herein), and on behalf of Defendant Morgan Stanley and Morgan Stanley Australia Limited (collectively, “Morgan Stanley”), by and through Morgan Stanley’s Counsel (as defined in Section 1(W) herein).

WHEREAS, Representative Plaintiffs have filed a civil class action captioned *Richard Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.), currently pending in the United States District Court for the Southern District of New York, and have alleged, among other things, that Defendants (as defined in Section 1(L) herein), including Morgan Stanley, from January 1, 2003, through at least August 16, 2016, acted in a manner that violated several U.S. statutes by allegedly, *inter alia*, manipulating, aiding and abetting the manipulation of, and conspiring, colluding or engaging in racketeering activities to manipulate, the Bank Bill Swap Rate (“BBSW”) and the prices of BBSW-Based Derivatives (as defined in Sections 1(E) and 1(G) respectively herein), in violation of the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968, and the common law;

WHEREAS, Representative Plaintiffs further contend that they and the Settlement Class suffered monetary damages as a result of Morgan Stanley’s conduct;

WHEREAS, Morgan Stanley denies each and all of the claims and allegations of wrongdoing in Representative Plaintiffs' pleadings, has not conceded or admitted any liability, disclaims any and all wrongdoing or liability whatsoever, expressly incorporates its responsive pleadings, as applicable, and maintains that it has good and meritorious defenses to all of the claims of liability and damages made by Representative Plaintiffs;

WHEREAS, arm's-length settlement negotiations have taken place between Representative Plaintiffs, Plaintiffs' Counsel, Morgan Stanley and Morgan Stanley's Counsel and it is the intent of the Parties (as defined in Section 1(E) herein) to fully and finally resolve the Action as it relates to Morgan Stanley and any claims that arise out of, are based upon or relate in any way to the purchase, other acquisition or sale of BBSW-Based Derivatives by the Settlement Class during the Settlement Class Period (as defined in Section 1(TT) herein) as they relate to, or are asserted against, Morgan Stanley;

WHEREAS, on February 19, 2021, the Parties entered into a term sheet ("Term Sheet") recording their agreement in principle to settle this Action (as defined in Section 1(A) herein) as against Morgan Stanley, including by executing this Settlement Agreement;

WHEREAS, this Settlement Agreement (together with the exhibits hereto and the Supplemental Agreement described in Section 23 herein) is the product of arm's-length negotiations between Representative Plaintiffs and Morgan Stanley and reflects the final and binding agreement between the Parties subject to final approval of the Court;

WHEREAS, Plaintiffs' Counsel, having conducted an investigation of the facts and the law regarding the Action, consider the Settlement (as defined in Section 1(OO) herein) set forth herein to be fair, reasonable, adequate and in the best interests of Representative Plaintiffs and the Settlement Class, and having determined that it is in the best interests of the Settlement Class to

enter into this Settlement Agreement in order to avoid the uncertainties of complex litigation and to assure a benefit to the Settlement Class;

WHEREAS, Morgan Stanley, while continuing to deny that it is liable for any of the claims asserted against it in the Action and maintaining that it has good and meritorious defenses thereto, has nevertheless agreed to enter into this Agreement solely to avoid the continuing cost and burden, further expense, inconvenience, business interruption and distraction of burdensome and protracted litigation, thereby putting this controversy to rest and avoiding the risks inherent in complex litigation and to obtain complete dismissal of the Action as to Morgan Stanley and a release of claims as set forth herein;

WHEREAS, Representative Plaintiffs, for themselves individually and on behalf of each Settling Class Member (as defined in Section 1(VV) herein), and Morgan Stanley agree that neither this Settlement Agreement nor any statement made in negotiation thereof shall be deemed or construed to be an admission or evidence of any violation of any statute or law or of any fault, liability or wrongdoing whatsoever by Morgan Stanley, the truth of any of the claims or allegations or any infirmity in the defenses that Morgan Stanley has, or could have, asserted in the Action;

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, Representative Plaintiffs, on behalf of themselves and the Settlement Class by and through Plaintiffs' Counsel, and Morgan Stanley, by and through Morgan Stanley's Counsel, agree that the Action and Released Claims (as defined in Section 1(KK) herein) be settled, compromised, and dismissed on the merits and with prejudice as to Morgan Stanley and without costs as to Representative Plaintiffs, the Settlement Class, or Morgan Stanley, subject to the approval of the Court, on the following terms and conditions:

1. Terms Used In This Agreement

The words and terms used in this Settlement Agreement, which are expressly defined below, shall have the meaning ascribed to them.

(A) “**Action**” means the action captioned *Richard Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) currently pending in the United States District Court for the Southern District of New York and any actions that may be consolidated thereunder in the future.

(B) “**Agreement**” or “**Settlement Agreement**” means this Stipulation and Agreement of Settlement, together with any exhibits attached hereto, which are incorporated herein by reference.

(C) “**Any**” means one or more.

(D) “**Authorized Claimant**” means any Settlement Class Member who, in accordance with the terms of this Agreement, is entitled to a distribution from the Net Settlement Fund (as defined in Section 1(Z) herein) pursuant to any Distribution Plan (as defined in Section 1(M) herein) or order of the Court.

(E) “**BBSW**” means the Bank Bill Swap Rate.

(F) “**BBSW-Based Deposits or Loans**” means BBSW-based deposits or loans, including floating rate notes, deposit-taking facilities, and commercial loans that are priced or call for payments due, in whole or in part, based on BBSW, including Australian dollar deposits and loans.

(G) “**BBSW-Based Derivatives**” means any financial derivative instrument that is based or priced in whole or in part in any way on BBSW or in any way includes BBSW as a component of price (whether priced, benchmarked and/or settled by BBSW), entered into

by a U.S. Person, or by a person from or through a location within the U.S., including, but not limited to: (i) Australian dollar foreign exchange (“FX”) derivatives, including Australian dollar FX forwards (also known as “outright forwards” or “outrights”), Australian dollar FX swaps (also known as “currency swaps”), Australian dollar currency options, Australian dollar futures contracts (such as the Chicago Mercantile Exchange (“CME”) Australian dollar futures contract) and options on such futures contracts; (ii) BBSW-based interest rate derivatives, including interest rate swaps, swaptions, forward rate agreements (“FRAs”), exchange-traded deliverable swap futures and options on those futures, 90-day bank accepted bill (“BAB”) futures and options on those futures, and other over-the-counter (“OTC”) contracts or publicly traded vehicles that reference BBSW; (iii) Australian dollar cross-currency swaps; and (iv) any other financial derivative instrument or transaction based in whole or in part on BBSW, or that in any way incorporates BBSW as a component of price, or is alleged by Representative Plaintiffs in this Action to be based in whole or in part on BBSW, or to in any way incorporate BBSW as a component of price. For the avoidance of doubt, BBSW-Based Derivatives do not include: (i) any BBSW-Based Deposits or Loans; or (ii) any Prime Bank Bills or Prime Bank eligible securities.

(H) “**Business Days**” means any days from Monday through Friday, inclusive, that are not federal holidays in the United States. For the avoidance of doubt, Business Days shall be defined with reference to the Eastern Standard Time (EST).

(I) “**Class Notice**” means the form of notice of the proposed Settlement to be distributed to the Settlement Class as provided in this Agreement.

(J) “**Conditional Certification Order**” means an order by the Court, the form of which shall be mutually agreed upon by the Parties and submitted to the Court substantially

in the form attached hereto as Exhibit A, issued in response to the Motion for Conditional Certification, conditionally certifying the Settlement Class for purposes only of the Settlement, in accordance with Section 14 herein, pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure and staying all proceedings in the Action as against Morgan Stanley until the Final Approval Order and the Final Judgment (including the order of dismissal of the Action fully, finally and with prejudice as to Morgan Stanley and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees of Morgan Stanley or the other Released Parties)) have become Final and unappealable or the Court otherwise enters a final decision regarding approval of the Settlement and dismissal of all claims in the Action fully, finally and with prejudice as to Morgan Stanley and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees of Morgan Stanley or the other Released Parties).

(K) “**Court**” means the United States District Court for the Southern District of New York.

(L) “**Defendants**” means any defendants currently or formerly named in the Action and any parties that may be added to the Action as defendants through amended or supplemental pleadings.

(M) “**Distribution Plan**” means the plan of allocation of the Net Settlement Fund developed by Representative Plaintiffs and Plaintiffs’ Counsel and submitted to the Court for approval, whereby the Net Settlement Fund shall in the future be distributed to Authorized Claimants.

(N) “**Effective Date**” means the date when this Settlement Agreement becomes effective and Final as set forth in Section 19 of this Settlement Agreement.

(O) “**Escrow Agent**” means any Person designated by Plaintiffs’ Counsel with the consent of Morgan Stanley and approved by the Court to act as escrow agent for the Settlement Fund (as defined in Section 1(UU) herein), which Plaintiffs’ Counsel anticipates will be Citibank N.A.

(P) “**Execution Date**” means the date on which this Agreement is executed by the last Party required to do so.

(Q) “**Fairness Hearing**” means a hearing scheduled by the Court following the issuance of the Conditional Certification Order (as defined in Section 1(J) herein), to consider the fairness, adequacy and reasonableness of the proposed Settlement and Settlement Agreement.

(R) “**Final**” means, with respect to any court order, including, without limitation, the Final Approval Order and Final Judgment, that such order represents a final and binding determination of all issues within its scope and is not subject to further review on appeal or otherwise. An order becomes “Final” when: (i) no appeal has been filed and the prescribed time for commencing any appeal has expired; or (ii) an appeal has been filed and either (a) the appeal has been dismissed and the prescribed time, if any, for commencing any further appeal has expired, or (b) the order has been affirmed in its entirety and the prescribed time, if any, for commencing any further appeal has expired. However, any appeal or other proceeding pertaining solely to any order adopting or approving the Distribution Plan, and/or any order issued in respect of any Fee and Expense Application (as defined in Section 6(D) herein) pursuant to Sections 6 and 7 below, shall

not in any way delay or prevent the Final Judgment and Final Approval Order from becoming Final.

(S) “**Final Approval Order**” means an order from the Court, the form of which shall be mutually agreed upon by the Parties and submitted to the Court substantially in the form attached hereto as Exhibit B, approving of the Settlement following: (i) submission of the Motion for Conditional Certification and issuance of the Conditional Certification Order, (ii) the issuance of the Class Notice pursuant to the Conditional Certification Order or any other related order, and (iii) the Fairness Hearing.

(T) “**Final Judgment**” means the order of judgment and dismissal of the Action fully, finally and with prejudice as to Morgan Stanley and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees of Morgan Stanley or the other Released Parties), the form of which shall be mutually agreed upon by the Parties and submitted to the Court substantially in the form attached hereto as Exhibit C.

(U) “**Incentive Award**” means any award by the Court to Representative Plaintiffs as described in Section 6(B).

(V) “**Investment Vehicles**” means any investment company, separately managed account or pooled investment fund, including, but not limited to: (i) mutual fund families, exchange-traded funds, fund of funds and hedge funds; and (ii) employee benefit plans.

(W) “**Morgan Stanley Affiliates**,” solely for purposes of Section 5 herein (“Morgan Stanley’s Cooperation”), means Morgan Stanley & Co., Morgan Stanley Capital Services, Morgan Stanley & Co. International plc, and Morgan Stanley Australia Ltd.

(X) “**Morgan Stanley’s Counsel**” means Morgan Stanley’s undersigned counsel of record in this Action.

(Y) “**Motion for Conditional Certification**” means an application seeking conditional certification of the Settlement Class for purposes only of the Settlement in accordance with Section 14 herein, pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure and a stay of all proceedings in the Action as against Morgan Stanley until the Final Approval Order and the Final Judgment (including the order of dismissal of the Action fully, finally and with prejudice as to Morgan Stanley and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees of Morgan Stanley or the other Released Parties)) have become Final and unappealable or the Court otherwise enters a Final decision regarding approval of the Settlement and dismissal of all claims in the Action fully, finally and with prejudice as to Morgan Stanley and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees of Morgan Stanley or the other Released Parties).

(Z) “**Net Settlement Fund**” means the Settlement Fund less Court-approved disbursements, including: (i) notice, claims administration and escrow costs; (ii) any attorneys’ fees and/or expenses awarded by the Court; (iii) any Incentive Award(s) awarded by the Court; and (iv) all other expenses, costs, taxes and other charges approved by the Court.

(AA) “**Opt-Outs**” means the Settlement Class Members that timely exercise their rights to be excluded from the Settlement Class.

(BB) “**Opt-Out Information**” refers to the information to be sought from and provided by Opt-Outs as part of their election to opt out of the Settlement Class, as specified in Section 14(B) (subject to Court approval).

(CC) “**Other Settlement**” means any settlement Representative Plaintiffs reach with any other Defendant involving the Action. For the avoidance of doubt, Other Settlement does not include the settlements previously entered into between the (i) Representative Plaintiffs and JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. on or about November 20, 2018 and (ii) Representative Plaintiffs and Westpac Banking Corporation on or about March 1, 2021.

(DD) “**Panel Banks**” means the banks on the Australian Financial Markets Association (the “AFMA”) “BBSW Panel” during the Settlement Class Period. Panel Banks include Australia and New Zealand Banking Group Limited, BNP Paribas S.A., Commonwealth Bank of Australia, Deutsche Bank AG, HSBC Bank Australia Limited, JPMorgan Chase Bank NA, Lloyds TSB Bank plc, Macquarie Bank Limited, National Australia Bank Limited, Royal Bank of Canada, RBS Group (Australia) Pty Limited, UBS AG, Westpac Banking Corporation, and Citibank NA.

(EE) “**Parties**” means Morgan Stanley and Representative Plaintiffs collectively, and “**Party**” applies to each individually.

(FF) “**Person**” means a natural person, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint-stock company, estate, legal representative, trust, unincorporated association, proprietorship, municipality, state, state agency, entity that is a creature of any state, any government, governmental or quasi-governmental body or political subdivision,

authority, office, bureau, agency or instrumentality of the government, any business or legal entity, or any other entity or organization; and any spouses, heirs, predecessors, successors, representatives or assigns of any of the foregoing.

(GG) “**Plaintiffs’ Counsel**” means Lowey Dannenberg, P.C. and Lovell Stewart Halebian Jacobson LLP. “**Additional Plaintiffs’ Counsel**” means Berman Tabacco.

(HH) “**Prime Banks**” means the banks designated by AFMA as prime banks during the Settlement Class Period. Prime Banks include Australia and New Zealand Banking Group Limited, Commonwealth Bank of Australia, National Australia Bank Limited and Westpac Banking Corporation. Prime Banks also include JPMorgan Chase Bank NA (from early 2009 through November 2011), BNP Paribas S.A. (from 2005 through February 24, 2012), Deutsche Bank AG (from May 1, 2007 through December 23, 2008), HBOS Treasury Services plc (from May 1, 2007 through September 29, 2010) and Citibank NA (from 2005 through December 23, 2008).

(II) “**Prime Bank Bills**” means negotiable certificates of deposit (“NCDs”) and BABs issued and accepted by Prime Banks.

(JJ) “**Proof of Claim and Release**” means the form to be provided to Settlement Class Members, upon further order(s) of the Court, by which any Settlement Class Member may make a claim against the Net Settlement Fund.

(KK) “**Released Claims**” means those claims described in Section 13 of this Settlement Agreement.

(LL) “**Released Parties**” means Morgan Stanley, its predecessors, successors and assigns, its past, present, and future direct and indirect parents, subsidiaries, divisions, related entities, associates and affiliates, and each of Morgan Stanley’s and each of the

foregoing's respective current, former and future officers, directors, advisors, representatives, employees, principals, managers, members, partners, participants, agents (in their capacity as agents of Morgan Stanley), shareholders (in their capacity as shareholders of Morgan Stanley), representatives, fiduciaries, beneficiaries, consultants, attorneys, accountants, auditors, insurers, or legal representatives, and the predecessors, successors, heirs, executors, administrators, trustees and assigns of each of the foregoing and any John Doe Defendants named or subsequently named in this Action (to the extent they are current or former employees of any of the foregoing but solely in that capacity). As used in this provision, "affiliates" means entities controlling, controlled by, or under common control with a Released Party. For the avoidance of doubt, for purposes of this Settlement, "Released Parties" shall not include any named Defendants other than Morgan Stanley and Morgan Stanley Australia Limited.

(MM) "**Releasing Parties**" means each and every Representative Plaintiff and each and every Settling Class Member on their own behalf and on behalf of their respective predecessors, successors and assigns, direct and indirect parents, subsidiaries, divisions, related entities, associates and affiliates, and on behalf of their current and former officers, directors, advisors, representatives, employees, agents, principals, managers, members, trustees, participants, representatives, fiduciaries, beneficiaries, consultants, attorneys, accountants, auditors, insurers or legal representatives in their capacity as such, and the predecessors, successors, heirs, executors, administrators and assigns of each of the foregoing in their capacity as such, whether or not they object to the Settlement or make a claim for payment from the settlement fund. Notwithstanding that the U.S. Government is excluded from the Settlement Class, with respect to any Settling Class Member that is a

government entity, Releasing Parties include any and every Settling Class Member as to which the government entity has the legal right to release such claims. As used in this provision, “affiliates” means entities controlling, controlled by, or under common control with a Releasing Party. For the avoidance of doubt, the “Releasing Parties” include all Persons (including both natural persons and entities) entitled to bring or release claims on behalf of Settling Class Members relating to the Released Claims, including, but not limited to, the Settling Class Members’ transactions, interests or positions in, or ownership of, BBSW-Based Derivatives or any similar financial instruments priced, benchmarked, or settled to BBSW held by Representative Plaintiffs or Settling Class Members (to the extent such similar financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.).

(NN) “**Representative Plaintiffs**” means Richard Dennis and OCERS and any subsequently named plaintiff(s) that may be added to this Action through amended or supplemental pleadings. This Settlement Agreement is entered into with each and every Representative Plaintiff. In the event that one or more Representative Plaintiff(s) fails to secure Court approval to act as a Representative Plaintiff, the validity of the Settlement Agreement as to the remaining Representative Plaintiffs, the Settlement Class, and Plaintiffs’ Counsel shall be unaffected.

(OO) “**Settlement**” means the settlement of the Released Claims set forth herein.

(PP) “**Settlement Administrator**” means any Person that the Court approves to perform the tasks necessary to provide Class Notice to the Settlement Class and to otherwise administer the Settlement Fund, as described further herein. Representative Plaintiffs intend to propose A.B. Data, Ltd. as the Settlement Administrator.

(QQ) “**Settlement Amount**” means seven million U.S. dollars (U.S. \$7,000,000.00).

(RR) “**Settlement Class**” means all Persons (including both natural persons and entities) who purchased, acquired, sold, held, traded, or otherwise had any interest in, BBSW-Based Derivatives during the Settlement Class Period, provided that, if Representative Plaintiffs expand the putative or certified class in this Action in or through any subsequent amended complaint, class motion, or Other Settlement, the defined Settlement Class in this Settlement Agreement shall be expanded so as to be coterminous with such expansion. Excluded from the Settlement Class are the Defendants and any parent, subsidiary, affiliate or agent of any Defendant or any co-conspirator whether or not named as a Defendant, and the United States Government.

(SS) “**Settlement Class Member**” means a Person who is a member of the Settlement Class.

(TT) “**Settlement Class Period**” means the period from January 1, 2003 through August 16, 2016 (inclusive).

(UU) “**Settlement Fund**” means the Settlement Amount plus any interest that may accrue thereon once paid in accordance with this Agreement.

(VV) “**Settling Class Members**” means Representative Plaintiffs and other members of the Settlement Class who do not timely and validly exclude themselves from the Settlement pursuant to Federal Rule of Civil Procedure 23(c) and in accordance with the procedure and timetable to be established by the Court.

(WW) “**Stipulation and Protective Order**” means the Stipulation and Order Establishing a Protocol for the Production of Documents and Electronically Stored information (ECF No. 370) entered by the Court.

(XX) “**U.S. Person**” means a citizen, resident, or domiciliary of the United States or its territories; a corporation, including a limited liability company, either incorporated or headquartered in the United States or its territories; a partnership created or resident in the United States or its territories; any other Person or entity created and/or formed under the laws of the United States, including any state or territory thereof; or any other Person or entity residing or domiciled in the United States or its territories.

2. No Admission of Liability

No Party admits any factual or legal assertion that has been advanced in the Action, and the Settlement Agreement (whether or not consummated), including the exhibits hereto and the Supplemental Agreement, as well as the negotiations leading to the execution of this Agreement and any proceedings in connection with this Settlement Agreement or approval of the Settlement, shall not constitute or be deemed an admission, presumption or concession by any Party with respect to any factual or legal assertion, or allegation, or claim, that has been advanced in the Action, or the validity of any defenses that could be or have been asserted by Morgan Stanley; provided, however, that if this Settlement Agreement is approved by the Court, the Parties and their respective counsel may refer to it to effectuate the protections from liability granted hereunder or otherwise to enforce the terms of the Settlement.

Morgan Stanley is entering into this Settlement Agreement in order to avoid the continuing cost and burden of, and business interruption associated with, the Action. In entering into this Settlement Agreement, Morgan Stanley does not admit any of the allegations or claims asserted by Representative Plaintiffs in the Action, and Morgan Stanley will continue to deny that it has violated, in any way and to any degree, *inter alia*, the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, the Racketeer Influenced and Corrupt

Organizations Act, 18 U.S.C. §§ 1961-1968, or is liable or potentially liable for any claim available under U.S. common law and will maintain that it has meritorious defenses to all of the claims alleged in the Action, including, but not limited to, jurisdictional defenses.

3. Settlement Class

As soon as reasonably practicable after the Execution Date, Representative Plaintiffs will file a Motion for Conditional Certification. Notwithstanding the sentence in Section 1(RR) above that “[e]xcluded from the Settlement Class are the Defendants and any parent, subsidiary, affiliate or agent of any Defendant or any co-conspirator whether or not named as a Defendant, and the United States Government,” and solely for purposes of this Settlement and this Settlement Class, the Parties agree that Investment Vehicles are not excluded from the Settlement Class solely on the basis of being deemed to be Defendants or affiliates, subsidiaries, parents or agents of Defendants or controlled by Defendants or affiliates, subsidiaries, parents or agents of Defendants. However, to the extent that any Defendant or any entity that might be deemed to be an affiliate, subsidiary, parent or agent thereof (i) managed or advised, and (ii) directly or indirectly held a beneficial interest in, said Investment Vehicle during the Class Period, that beneficial interest in the Investment Vehicle is excluded from the Settlement Class.

The Parties’ agreement as to certification of the Settlement Class is solely for the purposes of effectuating the Settlement and for no other purpose. Morgan Stanley retains all of its objections, arguments, and defenses with respect to class certification, and reserves all rights to contest class certification, if the Settlement does not receive the Court’s Final approval, if the Court’s approval is reversed or vacated on appeal, if the Settlement is terminated pursuant to Section 22 herein, or if the Settlement otherwise fails to become effective. The Parties acknowledge that there has been no stipulation to any classes or certification of any classes for any

purpose other than effectuating the Settlement, and that if the Settlement does not receive the Court's Final approval, if the Court's approval of the Settlement is reversed or vacated on appeal, if this Settlement Agreement is terminated pursuant to Section 22 herein, or if the Settlement otherwise fails to become effective, this agreement as to certification of the Settlement Class becomes null and void *ab initio*, and this Settlement Agreement, and/or any other settlement-related statement, documentation or communications may not be cited in any way relating to certification of the Settlement Class, or in support of an argument for certifying any class for any purpose related to this Action or any other proceeding. The Parties further recognize and acknowledge that the Court previously issued an Order Granting Conditional Class Certification for Purposes of Class Action Settlement with JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A., dated November 27, 2018 (ECF No. 229) and may issue a conditional class certification order in connection with the settlement with Westpac Banking Corporation (the "Prior Conditional Certification Order(s)"), and that the Conditional Certification Order contemplated by this Settlement Agreement may either be issued as a new stand-alone order, or may amend or supersede the Prior Conditional Certification Order(s). Notwithstanding the foregoing, the Parties recognize and agree that entry of the Conditional Certification Order referenced and specified herein is necessary to and a material term of this Settlement, and that the Parties shall cooperate as needed to ensure it is issued as specified herein.

4. Settlement Payment

In settlement of the Action, Morgan Stanley shall pay the Settlement Amount as set forth in this Section. Within seven (7) Business Days following issuance of the Conditional Certification Order, Morgan Stanley shall deposit or cause the deposit of one million five hundred thousand U.S. dollars (U.S. \$1,500,000.00) of the Settlement Amount by wire transfer into an

escrow account designated by the Escrow Agent. Morgan Stanley shall pay the balance of the Settlement Amount (namely, the sum of five million five hundred thousand U.S. dollars (U.S. \$5,500,000.00)) by wire transfer within seven (7) Business Days after entry of the Final Approval Order and Final Judgment. Before any wire transfer takes place, and no less than seven (7) Business Days before payment is due, Plaintiffs' Counsel shall provide Morgan Stanley's Counsel with information necessary to complete the wire transfer.

Other than the payment of the Settlement Amount as set forth in this Section, Morgan Stanley shall have no responsibility or liability for any interest, costs, or any other monetary payment of any kind or amount, including, but not limited to any attorneys' fees and expenses, taxes, or costs of notice or claims administration.

5. Morgan Stanley's Cooperation

(A) Morgan Stanley has agreed to provide Representative Plaintiffs with cooperation materials as enumerated below ("Cooperation Materials"). Any dispute concerning whether Morgan Stanley has performed its obligations to provide Representative Plaintiffs with such Cooperation Materials that the Parties cannot themselves resolve by meeting and conferring shall be decided in accordance with the alternative dispute resolution process set forth in Section 42 below.

(B) Morgan Stanley shall provide reasonable cooperation in the Action, including discovery cooperation requested by Plaintiffs' Counsel to benefit the Settlement Class, as provided herein. All cooperation shall be coordinated in such a manner so that unnecessary duplication, burden and expense is avoided and will be subject to agreement as to appropriate parameters pursuant to good faith meet and confer among the Parties. Plaintiffs' Counsel shall tailor its requests for the production of documents with a view toward minimizing unnecessary burdens and

costs to Morgan Stanley in connection with collecting, reviewing and producing materials that have not already been collected in the course of the Action, related settlements, reports and/or investigations by governmental authorities.

(C) Notwithstanding any other provision in this Agreement, Morgan Stanley shall have no obligation to produce any document or provide any information that is privileged under the attorney-client privilege, work-product doctrine, joint-defense privilege, common-interest doctrine, bank examination privilege, and/or other applicable privilege or immunity from disclosure. None of the cooperation provisions set forth herein are intended to, nor do they waive any such privileges or immunities. Morgan Stanley agrees that its counsel will meet with Plaintiffs' Counsel as is reasonably necessary to discuss any applicable privilege. Any disputes regarding privilege that cannot be resolved amongst the Parties shall be reserved for resolution pursuant to the alternative dispute resolution procedures set forth in Section 42 below. At a reasonable time to be negotiated in good faith, Morgan Stanley agrees to provide Representative Plaintiffs, through Plaintiffs' Counsel, with (a) privilege logs for any relevant documents reasonably requested by Representative Plaintiffs as cooperation discovery in accordance with this Settlement Agreement that Morgan Stanley withholds on the basis of any privilege, doctrine, immunity or regulatory objection, if and to the extent such privilege logs are reasonably necessary to establish the basis for Morgan Stanley's withholding of the documents; and (b) any existing privilege logs for documents that Morgan Stanley withheld from governmental authorities, as applicable, as part of any investigation into Morgan Stanley's alleged manipulation of BBSW, to the extent such privilege logs relate to documents reasonably requested by Representative Plaintiffs as Cooperation Materials herein if and to the extent such privilege logs are reasonably necessary. Morgan Stanley's production of existing privilege logs, if any, will be made in such a

way so as not to identify the governmental authority or authorities to which Morgan Stanley provided the logged documents. The Parties agree that their counsel shall meet and confer with each other regarding any dispute as to the privileges and protections described in this Section. To the extent the Parties cannot resolve any such disputes, they shall be reserved for resolution pursuant to the alternative dispute resolution procedures set forth in Section 42 below. If any document protected by the attorney-client privilege, work-product doctrine, the common interest doctrine, the joint defense privilege, the bank examination privilege, and/or any other applicable privilege or protection is accidentally or inadvertently produced, Representative Plaintiffs shall, upon notice from Morgan Stanley, promptly cease reviewing the document and shall return the document and all copies of it to Morgan Stanley's counsel within five (5) business days. Representative Plaintiffs and Plaintiffs' Counsel shall also delete or destroy the portions of any other documents or work product which refer to or summarize the document. The document shall not be used or referred to in any way by Representative Plaintiffs or Plaintiffs' Counsel, and its production shall in no way be construed to have waived any privilege, protection or restriction attached to such document or information.

(D) Notwithstanding any other provision in this Agreement, Morgan Stanley shall have no obligation to produce any document or provide any information that is restricted from disclosure under any applicable domestic or foreign data privacy, bank secrecy, state secrets, or other law. In the event that Plaintiffs' Counsel reasonably request documents or information otherwise within the scope of the Cooperation Materials to be provided under this Section that Morgan Stanley reasonably believes in good faith to be restricted from disclosure under any applicable domestic or foreign data privacy, bank secrecy, state secret, or other law and the restriction can be avoided without undue burden to Morgan Stanley through a reasonable

workaround, such as by removing or anonymizing identifying information, Morgan Stanley shall cooperate in good faith with Representative Plaintiffs to implement such a workaround.

(E) Notwithstanding any other provision of this Agreement, in the event that Morgan Stanley believes that Plaintiffs' Counsel has requested cooperation of a kind or to an extent that is not reasonable or not within the scope of Morgan Stanley's obligations as set forth herein, Morgan Stanley's counsel and Plaintiffs' Counsel agree to meet and confer with each other regarding such disagreement and, if necessary, to seek resolution pursuant to the alternative dispute resolution procedures set forth in Section 42 below.

(F) Plaintiffs' Counsel agree to use any and all of the information and documents obtained from Morgan Stanley only for the purpose of the Action and agree to be bound by the terms of the Stipulated Protective Order (ECF No. 371) entered in the Action.

(G) **Document Production.** Subject to the restrictions set forth above, Morgan Stanley will provide cooperation to Representative Plaintiffs by producing to Plaintiffs' Counsel the following categories of documents, to the extent that any such documents exist and are reasonably available, in an equivalent format to that in which they were produced to governmental authorities, including any metadata included in such production or, with respect to any documents not previously produced to governmental authorities, in a format consistent with the ESI protocol entered in the Action (ECF No. 366), to the extent that such documents are reasonably available and accessible to, and within the possession, custody and control of, Morgan Stanley Affiliates and have not already been produced to Representative Plaintiffs in the Action. Unless otherwise indicated, the time period of the documents subject to production shall be January 1, 2003 – August 16, 2016 (inclusive).

(i) All documents and data produced by Morgan Stanley to any governmental

authorities in connection with any investigation by such entities of conduct related to BBSW, together with information sufficient to show the search parameters that were utilized in connection with such productions (*e.g.*, custodians, time frames, and search terms), as well as information sufficient to identify Morgan Stanley personnel who worked on the relevant trading and treasury desks. Morgan Stanley also agrees to consider, in good faith, requests from Plaintiffs' Counsel to identify additional Morgan Stanley personnel whom Plaintiffs' Counsel believe may have relevant information concerning the Action;

- (ii) Data and details (including, without limitation, dates and times) pertaining to Morgan Stanley Affiliates' and other market participants' bids, offers, purchases, sales, repurchases, issues or acceptances in BBSW-Based Derivatives, and Prime Bank Bills for the years 2003 through 2016, pursuant to the data parameters agreed upon Morgan Stanley and Plaintiffs' Counsel;
- (iii) Documents or information, including audiotapes, reflecting relevant communications one hour before, during, and one hour after, the BBSW fixing window pursuant to parameters as to scope, number of custodians, and trading dates agreed upon by Morgan Stanley and Plaintiffs' Counsel;
- (iv) Contact information for counterparties to BBSW-Based Derivatives transacted with Morgan Stanley during the Settlement Class Period, to the extent not prevented from doing so by any court order or any law, regulation, policy, or other rule of any regulatory agency or governmental body restricting disclosure of such information;

- (v) Documents or data reflecting pricing, including intraday and/or minute-by-minute pricing for BAB futures;
- (vi) To the extent not already produced in the Action, documents sufficient to show BBSW submissions made by Morgan Stanley;
- (vii) Documents reflecting substantially the same information as that reflected in Morgan Stanley's submissions to the Federal Reserve Bank of New York, Bank of International Settlements, and OTC Derivatives Supervisors Group relating to their surveys on turnover in foreign exchange and interest rate derivatives markets for BBSW-Based Derivatives, to the extent such information exists and is reasonably available and accessible, and to the extent such disclosure is permitted by relevant authorities and under applicable banking or other laws and regulations, for the years 2004, 2007, 2010, and 2013;
- (viii) Non-privileged declarations, affidavits, or other sworn or unsworn written statements of former and/or current Morgan Stanley directors, officers or employees concerning the allegations set forth in the Action with respect to BBSW and BBSW-Based Derivatives to the extent such documents exist, are reasonably available and accessible to Morgan Stanley, and may be disclosed under applicable confidentiality or regulatory restrictions; and
- (ix) To the extent not included in the any of the other categories in this Section 5, and to the extent that such documents and data are within the parameters previously agreed to by the Parties in connection with discovery in this Action, or subsequently agreed to by the Parties, non-privileged documents and data responsive to Plaintiffs' requests for the production of documents served on

Morgan Stanley and its affiliates in connection with the Action on or about March 31, 2020, July 29, 2020 and October 23, 2020, respectively, subject to Morgan Stanley's and Morgan Stanley Affiliates' responses and objections to Plaintiffs' requests for the production of documents dated on or about May 14, 2020 and November 25, 2020 and further subject to Plaintiffs' positions in response to such objections and responses. Subject to Section 42 below, the Parties agree to negotiate the terms of Morgan Stanley's production in this subsection in good faith.

(H) Subject to Section 5(E) above, and subject to Section 42 of this Settlement Agreement, Representative Plaintiffs may request as Cooperation Materials such further documents and information as Plaintiffs' Counsel may reasonably request and that are relevant to the claims or defenses in the Action and are reasonably available and accessible to, and within the possession, custody and control of, Morgan Stanley Affiliates and not unduly burdensome to locate and produce. Morgan Stanley will consider such requests in good faith, but Morgan Stanley need not agree to any such requests. In the event that Morgan Stanley believes Plaintiffs' Counsel has unreasonably requested cooperation, or Plaintiffs' Counsel believes Morgan Stanley has unreasonably withheld cooperation, Morgan Stanley and Plaintiffs' Counsel agree to meet and confer regarding such disagreement and seek resolution if necessary pursuant to the alternative dispute resolution procedures set forth in Section 42 below. If such alternative dispute resolution is sought, the disputed aspect of cooperation shall be held in abeyance until such resolution by the procedures set forth in Section 42, and such abeyance shall not constitute a breach of the Settlement Agreement.

(I) **Other Information.** Morgan Stanley will cooperate to provide reasonably available information necessary for Representative Plaintiffs to authenticate or otherwise make usable at trial the aforementioned documents or other documents as Representative Plaintiffs may request or have received from Morgan Stanley. Morgan Stanley also will provide Representative Plaintiffs with an attorney proffer concerning Morgan Stanley's knowledge of the BBSW-related conduct alleged in Representative Plaintiffs' complaints. Morgan Stanley will also provide Representative Plaintiffs with a description of the data fields included in any trade data produced by Morgan Stanley in connection with this Settlement or the Action to the extent reasonably requested by Representative Plaintiffs.

(J) **Witnesses.** Morgan Stanley shall designate witness(es) to serve as Morgan Stanley corporate representative pursuant to the framework of Rule 30(b)(6) of the Federal Rules of Civil Procedure in connection with any depositions, hearing or trial in the Action without issuance of a subpoena, provided that Morgan Stanley is given reasonable advance notice of the proposed time and place of any such proceedings. Morgan Stanley will work in good faith with Representative Plaintiffs to designate such witness(es) to the extent reasonably necessary and only to the extent that the information sought by Representative Plaintiffs cannot be otherwise obtained, such as through written statements. With respect to any production of documents arising from Morgan Stanley obligations under this settlement or the Action, Morgan Stanley will cooperate in providing declarations to authenticate documents Plaintiffs may seek to introduce as evidence at proceedings in this Action, to the extent reasonably necessary.

(K) **Timing of Production.** Morgan Stanley agrees to begin a rolling production of documents and data pursuant to this Section 5 by the later of (i) ten (10) Business Days after entry of the Conditional Certification Order (or by separate order of the Court requiring Morgan Stanley

to produce documents consistent with its obligations under this Section 5) or (ii) fifteen (15) Business Days after execution of this Stipulation and Agreement of Settlement.

(L) Continuation, Scope, and Termination of Morgan Stanley's Obligation.

Morgan Stanley's obligations to cooperate are continuing until and shall terminate upon the earlier of: (i) the date when final judgment has been rendered, with no remaining rights of appeal, in the Action against all Defendants; or (ii) four (4) years after the Court enters the Conditional Certification Order.

6. Payment of Attorneys' Fees and Reimbursement of Expenses, and Application for Incentive Award

(A) Subject to Court approval, Representative Plaintiffs, Plaintiffs' Counsel, and Additional Plaintiffs' Counsel shall be reimbursed and paid solely out of the Settlement Fund for all fees and expenses including, but not limited to, attorneys' fees, and past, current or future litigation expenses, and any Incentive Award approved by the Court. Morgan Stanley shall have no responsibility for any costs, fees, or expenses incurred for or by Representative Plaintiffs' or Settlement Class Members' respective attorneys, experts, advisors, agents, or representatives. Nothing in this provision shall expedite the date(s) for Morgan Stanley's payment as set forth in Section 4.

(B) Plaintiffs' Counsel, on behalf of themselves and Additional Plaintiffs' Counsel, may apply to the Court for an award from the Settlement Fund of attorneys' fees, plus interest. Plaintiffs' Counsel, on behalf of themselves and Additional Plaintiffs' Counsel, also may apply to the Court for reimbursement from the Settlement Fund of litigation expenses, plus interest. Morgan Stanley shall have no responsibility to take a position with respect to Plaintiffs' Counsel's motion for attorneys' fees and expenses. Representative Plaintiffs may make an application to the

Court for an award in connection with their representation of the Settlement Class in this litigation, which amount constitutes the Incentive Award.

(C) The Released Parties shall have no responsibility for, and no liability with respect to, the attorneys' fees, litigation expenses, or Incentive Award that the Court may award in the Action.

(D) The procedures for, and the allowance or disallowance by the Court of, any application for approval of fees, expenses and costs or an Incentive Award (collectively, "Fee and Expense Application") are not part of the Settlement set forth in this Agreement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Agreement. Any order or proceeding relating to a Fee and Expense Application, or the reversal or modification thereof, shall not operate to terminate or cancel this Agreement, or affect or delay the finality of the Final Judgment and the Settlement of the Action as set forth herein. No order of the Court or modification or reversal on appeal of any order of the Court concerning any Fee and Expense Application or the Distribution Plan shall constitute grounds for termination of this Agreement.

(E) Prior to the Fairness Hearing, Plaintiffs' Counsel and Representative Plaintiffs shall file any motions seeking awards from the Settlement Fund for payment of attorneys' fees and reimbursement of costs and expenses, and for the payment of an Incentive Award as follows:

- (i) Plaintiffs' Counsel shall seek attorneys' fees of no more than one-third of the Settlement Fund;
- (ii) Plaintiffs' Counsel shall seek reimbursement for costs and expenses incurred as of the date the Motion for Final Approval and Entry of Final Judgment is filed pursuant to Section 17; and

(iii) Representative Plaintiffs may make an application to the Court for an award in connection with their representation of the Settlement Class in this litigation, which amount constitutes the Incentive Award.

(F) Upon the Court's approval of an award of attorneys' fees, costs and expenses and Incentive Award, such approved amount from Subsections (E)(i)-(E)(iii), above, shall be paid from the Settlement Fund within ten (10) Business Days after their approval by the Court. If an event occurs that will cause the Settlement Agreement not to become Final pursuant to Section 19 or if Representative Plaintiffs or Morgan Stanley terminates the Settlement Agreement pursuant to Sections 22 through 24, then within ten (10) Business Days after receiving written notice of such an event from Morgan Stanley's Counsel or from a court of appropriate jurisdiction, Plaintiffs' Counsel and Additional Plaintiffs' Counsel shall refund to the Settlement Fund any attorneys' fees, costs and expenses and Incentive Award (not including any non-refundable expenses as described in Section 10) that were withdrawn plus interest thereon at the same rate at which interest is accruing for the Settlement Fund. In the event the Settlement is terminated, any Plaintiffs' Counsel and Additional Plaintiffs' Counsel that have drawn upon the Settlement Fund for the payment of attorneys' fees or expenses shall be jointly and severally liable for the return to Morgan Stanley of any sums paid as attorneys' fees, costs and expenses and Incentive Award.

7. Application for Approval of Fees, Expenses, and Costs of Settlement Fund Administration

Plaintiffs' Counsel may apply to the Court, at the time of any application for distribution to Authorized Claimants, for an award from the Settlement Fund of attorneys' fees for services performed and reimbursement of expenses incurred in connection with the administration of the Settlement Fund after the date of the Fairness Hearing. Plaintiffs' Counsel reserves the right to

make additional applications to the Court for payment from the Settlement Fund for attorneys' fees for services performed and reimbursement of expenses incurred. Any such applications are subject to Court approval. Morgan Stanley shall take no position with respect to Plaintiffs' Counsel's request for an award of attorneys' fees and reimbursement of expenses.

8. No Liability for Fees and Expenses of Plaintiffs' Counsel

Other than Morgan Stanley's obligation to fund the Settlement Amount as provided for in Section 4 above, the Released Parties shall have no liability or responsibility whatsoever for any of Representative Plaintiffs' or any Settlement Class Members' attorneys' fees or costs (including out-of-pocket costs). Morgan Stanley shall have no liability or responsibility whatsoever for any fees or costs associated with the pursuit of this litigation by Representative Plaintiffs and/or the Settlement Class, including but not limited to any fees or costs relating to the notifications relating to the Settlement or the administration of the Settlement Fund created to distribute the Settlement Amount. Any attorneys' fees and expenses awarded to Plaintiffs' Counsel by the Court shall be paid to Plaintiffs' Counsel from the fund created in whole or in part by Morgan Stanley's payment of the Settlement Amount following the Court's approval of an award, as set forth in Section 6(F), notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Plaintiffs' Counsel's several obligation to make appropriate refunds or repayments to the Settlement Fund plus the interest earned thereon if, and when, as a result of any appeal and/or further proceedings on

remand, or successful collateral attack, the fee or expense award is lowered or the Settlement is disapproved by a Final order.

9. Distribution of and/or Disbursements from Settlement Fund

The Settlement Administrator, subject to such supervision and direction by the Court and/or Plaintiffs' Counsel as may be necessary, shall administer the Proof of Claim and Release forms submitted by the Settling Class Members and shall oversee the distribution of the Settlement Fund pursuant to the Distribution Plan. Upon the Effective Date (or earlier if provided in Section 6 herein), the Settlement Fund shall be applied in the order and as follows:

- (i) to pay costs and expenses associated with the distribution of the Class Notice and administration of the Settlement Fund as provided in this Section and Section 10, including all costs and expenses reasonably and actually incurred in assisting Settling Class Members with the filing and processing of claims against the Net Settlement Fund at any time after Morgan Stanley makes payments described in Section 4;
- (ii) to pay Escrow Agent costs;
- (iii) to pay taxes assessed on the Settlement Fund, and tax preparation fees in connection with such taxes;
- (iv) to pay any attorneys' fees, costs and expenses approved by the Court upon submission of a Fee and Expense Application, as provided in Section 6;
- (v) to pay the amount of any Incentive Award for Representative Plaintiffs, as provided in Section 6; and
- (vi) to pay the Net Settlement Fund to Authorized Claimants as allowed by the Agreement, any Distribution Plan, or order of the Court.

10. Disbursements Prior to Effective Date

(A) Except as provided in Subsection (B) herein or by Court order, no distribution to any Settling Class Member or disbursement of fees, costs and expenses of any kind may be made from the Settlement Fund until the Effective Date. As of the Effective Date, all fees, costs and expenses and Incentive Awards as approved by the Court may be paid out of the Settlement Fund.

(B) Upon written notice to the Escrow Agent by Plaintiffs' Counsel with a copy to Morgan Stanley, the following may be disbursed prior to the Effective Date: (i) reasonable costs of Class Notice and administration of the Settlement Fund may be paid from the Settlement Fund as they become due (up to a maximum of U.S. \$500,000.00); (ii) reasonable costs of the Escrow Agent may be paid from the Settlement Fund as they become due; (iii) taxes and tax expenses may be paid from the Settlement Fund as they become due; and (iv) Plaintiffs' Counsel's attorneys' fees and costs and expenses as approved by the Court (in accordance with Section 6).

(C) In the event the Settlement is terminated or does not attain Final approval for any reason, the Settlement Amount, and all interest earned on the Settlement Fund related in any way to the Settlement Amount will be refunded, reimbursed, and repaid to Morgan Stanley, less any taxes due and less any costs of administration and notice reasonably incurred and paid or payable by the Escrow Agent, within ten (10) Business Days thereafter. Notice and administration costs up to a maximum of U.S. \$500,000.00 reasonably and actually incurred and paid or payable will not be refundable to Morgan Stanley in the event the Settlement is not approved. The Escrow Agent or its designee shall apply for any tax refund owed to the Settlement Fund and pay the proceeds to Morgan Stanley, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund.

(D) Plaintiffs' Counsel will attempt in good faith to minimize the costs of the Escrow Agent, Class Notice and administration of the Settlement Fund.

11. Distribution of Balances Remaining in Net Settlement Fund to Authorized Claimants

The Net Settlement Fund shall be distributed to Authorized Claimants and, except as provided in Section 10(C), there shall be no reversion to Morgan Stanley. The distribution to Authorized Claimants shall be in accordance with the Distribution Plan that is to be approved by the Court upon such notice to the Settlement Class as may be required. Plaintiffs' Counsel will develop the Distribution Plan that will be submitted to the Court. Morgan Stanley shall take no position with respect to the Distribution Plan or any revisions to the Distribution Plan. The Distribution Plan is not a part of this Agreement. No funds from the Net Settlement Fund shall be distributed to Authorized Claimants until the later of (i) the Effective Date; or (ii) the date by which the Distribution Plan has received Final Court approval. Should there be any balance remaining in the Net Settlement Fund after an initial distribution to Authorized Claimants (whether by reason of tax refunds, uncashed checks, or otherwise), Plaintiffs' Counsel shall submit an additional distribution plan to the Court for its approval.

The Conditional Certification Order shall provide that all funds held by the Escrow Agent shall be deemed and considered to be *in custodia legis*, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Settlement Agreement, returned to Morgan Stanley pursuant to the Settlement Agreement and/or pursuant to other order(s) of the Court.

12. Administration/Maintenance of Settlement Fund

The Settlement Fund shall be maintained by the Escrow Agent under supervision of the Court and shall be distributed solely at such times, in such manner, and to such Persons as shall be

directed by subsequent orders of the Court (except as provided for in this Agreement) consistent with the terms of this Settlement Agreement.

The Parties intend that the Settlement Fund be treated as a “qualified settlement fund” within the meaning of Treasury Regulation § 1.468B-1. The Escrow Agent shall ensure that the Settlement Fund at all times complies with Treasury Regulation § 1.468B-1 in order to maintain its treatment as a qualified settlement fund. To this end, the Parties shall ensure that the Settlement Fund is approved by the Court as a qualified settlement fund. Any Escrow Agent, Settlement Administrator or other administrator of the Settlement Fund must comply with all requirements of Treasury Regulation § 1.468B-2. Any failure to ensure that the Settlement Fund complies with Treasury Regulation § 1.468B-2, and the consequences thereof, shall be the sole responsibility of the Escrow Agent, and Morgan Stanley and Morgan Stanley’s counsel shall have no responsibility or liability for any act, omission, or determination of the Escrow Agent or the payment or withholding of any taxes, expenses, or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns.

The Settlement Fund shall be invested exclusively in accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund and bank accounts that are either: (a) fully insured by the Federal Deposit Insurance Corporation (“FDIC”); or (b) secured by instruments backed by the full faith and credit of the United States Government. The proceeds of these accounts shall be reinvested in similar instruments at their then-current market rates as they mature. All risks related to the investment of the Settlement Fund in accordance with the investment guidelines set forth in this paragraph shall be borne by the Settlement Fund. Neither Morgan Stanley nor the Released

Parties shall have any role in or responsibility for the management or investment of all or any part of the Settlement Fund.

Any Settling Class Member who does not submit a valid Proof of Claim and Release form will not be entitled to receive any of the proceeds from the Net Settlement Fund, but will otherwise be bound by all of the terms of this Settlement Agreement and the Settlement, including the terms of the Final Approval Order and the Final Judgment (including the order of dismissal of the Action fully, finally and with prejudice as to Morgan Stanley and any John Doe Defendants named or subsequently named in this Action (solely in their capacity as current or former employees of Morgan Stanley or the other Released Parties)) to be entered in the Action and the releases provided for herein, and will be barred from bringing any action or proceeding against the Released Parties concerning the Released Claims.

Neither Morgan Stanley nor the Released Parties shall have any role or interest in, or responsibility or liability to any Person for, the administration or allocation of any part of the Settlement Fund, including the solicitation, review, or evaluation of Proofs of Claim and Release by Representative Plaintiffs, Plaintiffs' Counsel, or their designated representatives or agents, or any other part of the claims administration process. Neither the Parties nor their counsel shall have any responsibility for or liability whatsoever with respect to: (i) any act, omission, or determination of the Escrow Agent or any other Person, or any of their respective designees or agents, in connection with the administration of the Settlement Fund or otherwise; (ii) any Plan of Distribution; (iii) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (iv) any losses suffered by, or fluctuations in the value of, the Settlement Fund; or (v) the payment or withholding of any taxes and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns.

All proceedings with respect to the administration, processing, and determination of claims and Proofs of Claim and Release by Settling Class Members and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of claims, shall be subject to the jurisdiction of the Court.

13. Release and Covenant Not To Sue

(A) Upon the Effective Date, the Action shall be dismissed fully, finally and in its entirety against Morgan Stanley and any John Doe Defendants to the extent they are current or former Morgan Stanley employees (solely in that capacity) with prejudice.

(B) The Releasing Parties fully, finally and forever release and forever discharge and covenant not to sue the Released Parties for any and all manner of claims, including unknown claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, set-offs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class, derivative, or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys' fees, and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, which Settling Class Members or any of them ever had, now has, or hereafter can, shall or may have, representatively, derivatively or in any other capacity, against the Released Parties arising from or relating in any way to the claims, allegations or conduct alleged in the Action, or which could have been alleged in the Action against the Released Parties, concerning any:

- (i) BBSW-Based Derivatives;

- (ii) BBSW-Based Deposits or Loans (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.);
- (iii) Prime Bank Bills or Prime Bank eligible securities purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.); or
- (iv) any similar financial instruments priced, benchmarked, or settled to BBSW purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.), including additional financial instruments or claims subsequently alleged in the Action, or in which any of the foregoing otherwise had any interest;

including, but not limited to, any alleged manipulation of BBSW under any statute, regulation, or common law, or any purported conspiracy, collusion, racketeering activity, or of other improper conduct relating to BBSW (including, but not limited to, all claims under Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968, and any other federal or state statute, regulation, or the common law).

(C) The following claims shall not be released by this Settlement: (i) any claims against former Morgan Stanley employees arising solely from those former employees' conduct or alleged

conduct that occurred while not employed by Morgan Stanley; (ii) any claims against the named Defendants in this Action other than Morgan Stanley and any John Doe Defendants to the extent they are current or former employees of Morgan Stanley (solely in their capacity as employees of Morgan Stanley); or (iii) any claims against any Defendant not affiliated with Morgan Stanley who may be subsequently added in this Action.

(D) Although the foregoing release is not a general release, the foregoing release constitutes a waiver by the Parties and each Settling Class Member of any and all rights and provisions under Section 1542 of the California Civil Code (to the extent it applies to the Action), which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

This release also constitutes a waiver of any and all provisions, rights, and benefits of any federal, state or foreign law, rule, regulation, or principle of law or equity that is similar, comparable, equivalent to, or which has the effect of, Section 1542 of the California Civil Code. Releasing Parties and Settling Class Members shall be deemed to acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject matter of the Settlement Agreement, but that it is their intention to release fully, finally, and forever all of the Released Claims, and in furtherance of such intention, the release shall be irrevocable and remain in effect notwithstanding the discovery or existence of any such additional or different facts. In entering and making this

Settlement Agreement, the Parties assume the risk of any mistake of fact or law and the release shall be irrevocable and remain in effect notwithstanding any mistake of fact or law.

(E) Upon the Effective Date, each of the Releasing Parties shall forever be enjoined from prosecuting in any forum any Released Claim against any of the Released Parties and agrees and covenants not to sue any of the Released Parties on the basis of any Released Claims or to assist any third party in prosecuting any Released Claims against any Released Party.

14. Motion for Conditional Certification

(A) As soon as reasonably practicable after the Execution Date, Plaintiffs' Counsel shall submit this Settlement Agreement to the Court and shall file the Motion for Conditional Certification. Morgan Stanley shall be provided with drafts of the proposed filings and Representative Plaintiffs shall inform Morgan Stanley of the date upon which they intend to file the Motion for Conditional Certification at least five (5) Business Days in advance of filing.

(B) The Motion for Conditional Certification shall request that the Court enter the Conditional Certification Order, which specifies that the following information be sought from and provided by Opt-Outs as part of their election to opt out of the Settlement (collectively, the "Opt-Out Information"):

- i. the number and extent of the transactions in BBSW-Based Derivatives which the Opt-Out purchased, acquired, sold, held, traded, or otherwise had any interest in during the Settlement Class Period;
- ii. the notional value or amount of each of the aforementioned transactions; and
- iii. the effective and maturity dates and/or trade and value dates for each of the aforementioned transactions.

15. Class Notice

(A) Plaintiffs' Counsel shall be responsible for selecting a Settlement Administrator to be approved by the Court, and Morgan Stanley shall not object to Plaintiffs' Counsel's selection. Subject to approval by the Court, in accordance with Federal Rule of Civil Procedure 23(e), the Settlement Administrator shall provide Class Notice to the Settlement Class Members whose identities can be determined after reasonable efforts, with reasonable notice of the date of the Fairness Hearing.

(B) The Class Notice may be sent solely for this Settlement or combined with notice of Other Settlements, including Other Settlements that may be reached after entry of the Conditional Certification Order. The Class Notice shall explain the general terms of the Settlement Agreement (excluding, for the avoidance of any doubt, any particular terms of the Supplemental Agreement), the general terms of the Fee and Expense Application, that the Distribution Plan will be posted on the Settlement website after it is presented to the Court, and a description of Settlement Class Members' rights to object to the Settlement, request exclusion from the Settlement Class and appear at the Fairness Hearing. The text of the Class Notice shall be agreed upon by the Parties before its submission to the Court for approval thereof. The cost of providing the Class Notice to Settlement Class Members in the manner set forth above shall be paid out of the Settlement Fund, and the Settlement Administrator shall administer dissemination of the Class Notice. To the extent the Motion for Conditional Certification does not seek approval for the timing, plan, and forms of Class Notice to the Settlement Class and the date for the Fairness Hearing, then after the Court enters the Conditional Certification Order, Plaintiffs' Counsel and Morgan Stanley shall meet and confer as to the timing, to be mutually agreed by Morgan Stanley and Plaintiffs' Counsel, as to

when Plaintiffs' Counsel shall move for an order approving the timing, plan, and forms of Class Notice to the Settlement Class and the date for the Fairness Hearing.

(C) Any Person seeking exclusion from the Settlement Class must file a timely written request for exclusion ("Request for Exclusion") in accordance with the procedures set forth in the Class Notice, as approved by the Court. Any Person who files such a request shall be excluded from the Settlement Class, shall have no rights with respect to this Agreement, shall receive no payment from the sums provided for in this Agreement and shall be deemed to have excluded itself from the Action as against Morgan Stanley, including but not limited to any and all future prosecution of the Action against Morgan Stanley. Unless the Court orders otherwise, a Request for Exclusion must:

- (i) be in writing, signed by the Person or his, her, or its authorized representative;
- (ii) state the name, address, and phone number of that Person;
- (iii) include a signed statement that "I/we hereby request that I/we be excluded from the proposed Settlement Class in *Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) for the Settlement with Morgan Stanley"; and
- (iv) contain, provide or annex the Opt-Out Information.

To be valid, the request must be mailed to the address provided in the Class Notice and postmarked not less than sixty (60) days prior to the Fairness Hearing, or any other date set by the Court, in accordance with the procedures and deadlines set forth in the Class Notice, as approved by the Court. Unless otherwise accepted by the Court, a Request for Exclusion that does not include all of the foregoing information, including the Opt-Out Information, that does not contain the proper signature, that is sent to an address other than the one designated in the Class Notice, or that is not

sent within the time specified, shall be invalid, and the Person(s) filing such an invalid request shall be a Settling Class Member and shall be bound by the Settlement set forth in this Agreement, if approved.

(D) Any Person who has not requested exclusion from the Settlement Class and who objects to the Settlement set forth in this Agreement may appear in person or through counsel, at that Person's own expense, at the Fairness Hearing to present any evidence or argument that the Court deems proper and relevant, subject to further order by the Court. However, no such Person shall be heard, and no papers, briefs, pleadings, or other documents submitted by any such Person shall be received and considered by the Court, unless such Person properly submits a written objection that includes: (i) a notice of intention to appear; (ii) proof of membership in the Settlement Class; and (iii) the specific grounds for the objection and any reasons why such Person desires to appear and be heard, as well as all documents or writings that such Person desires the Court to consider. Such a written objection must be both filed with the Court and mailed to Plaintiffs' Counsel and Morgan Stanley's Counsel not less than sixty (60) days prior to the Fairness Hearing, or any other date set by the Court, in accordance with the procedures and deadlines set forth in the Class Notice. Any Person who fails to timely object in the manner prescribed herein shall be deemed to have waived his or her objections and will forever be barred from making any such objections in the Action, unless otherwise excused for good cause shown, as determined by the Court. Plaintiffs' Counsel and Morgan Stanley's Counsel shall file any papers in response to any such objection or otherwise in further support of the Settlement within seven (7) days of the Fairness Hearing.

(E) As provided for in Section 5(G)(iv), Morgan Stanley agrees to provide Plaintiffs' Counsel with reasonably available contact information for counterparties to BBSW-Based

Derivatives Morgan Stanley Affiliates transacted with during the Settlement Class Period, to the extent not prevented from doing so by any court order or any law, regulation, policy, or other rule of any regulatory agency or governmental body restricting disclosure of such information. If necessary, as a result of data protection, privacy, or bank secrecy law requirements or any other law, rule, or regulation, Representative Plaintiffs agree that Morgan Stanley may, at its sole discretion, opt to provide, or have a third-party agent provide, the Class Notice to any counterparties to BBSW-Based Derivatives Morgan Stanley Affiliates transacted with during the Settlement Class Period who cannot be included in the general class-wide notice process. Alternatively, Morgan Stanley may, at its sole discretion, directly provide counterparty information only to the Settlement Administrator for purposes of distributing the Class Notice, to the extent that Morgan Stanley reasonably concludes in good faith that such steps are required or advisable based on such counterparty information being subject to any applicable domestic or foreign data protection, privacy, or bank secrecy law requirements, or any other law, rule, or regulation. If Morgan Stanley exercises its discretion to provide counterparty information to the Settlement Administrator pursuant to this Section, Morgan Stanley shall do so such that Class Notice may be completed no later than the date set by the Court.

(F) In the event that the Settlement is not approved, Representative Plaintiffs will not be required to return to Morgan Stanley any sums reasonably incurred and paid or payable from the Settlement Fund for the reasonable costs of Class Notice, up to a maximum of U.S. \$500,000.00.

16. Publication

Plaintiffs' Counsel will direct and the Settlement Administrator shall cause to be published a summary in accord with the Class Notice submitted to the Court by the Parties and approved by

the Court. Morgan Stanley shall have no responsibility for providing publication or distribution of the Settlement or any notice of the Settlement to Settlement Class Members or for paying for the cost of providing notice of the Settlement to Settlement Class Members except as provided for in Section 10(C). The Parties shall mutually agree on any content relating to Morgan Stanley that will be used by Plaintiffs' Counsel and/or the Settlement Administrator in any Settlement-related press release or other media publication, including on websites.

17. Motion for Final Approval and Entry of Final Judgment

(A) After Class Notice is issued, and prior to the Fairness Hearing, Plaintiffs' Counsel shall move for entry of a Final Approval Order and Final Judgment:

- (i) finally certifying solely for settlement purposes the Settlement Class;
- (ii) finding that the Class Notice constituted the best notice practicable under the circumstances and complied in all respects with the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process;
- (iii) finally approving this Settlement Agreement and its terms as being a fair, reasonable and adequate settlement of the Settlement Class' claims under Rule 23 of the Federal Rules of Civil Procedure;
- (iv) directing that, as to the Released Parties, the Action be dismissed with prejudice and without costs as against the Settling Class Members;
- (v) discharging and releasing the Released Claims as to the Released Parties;
- (vi) barring claims by any Person against the Released Parties for contribution, indemnification, or similar claims (however denominated) for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment, or otherwise;

- (vii) determining pursuant to Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the judgment of dismissal shall be final and appealable;
- (viii) reserving the Court's continuing and exclusive jurisdiction over the Settlement and this Agreement, including the administration and consummation of this Agreement; and
- (ix) containing such other and further provisions consistent with the terms of this Agreement to which Morgan Stanley and Representative Plaintiffs expressly consent in writing.

(B) Before the Fairness Hearing, as provided in Section 6, Plaintiffs' Counsel will timely request by separate motion that the Court approve its Fee and Expense Application. The Fee and Expense Application and the Distribution Plan are matters separate and apart from the Settlement between the Parties. If the Fee and Expense Application or the Distribution Plan are not approved, in whole or in part, it will have no effect on the finality of the Final Approval Order approving the Settlement and the Final Judgment dismissing the Action with prejudice as to Morgan Stanley.

18. Best Efforts to Effectuate This Settlement

The Parties agree to cooperate with one another in good faith to the extent reasonably necessary to effectuate and implement the terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the terms and conditions of this Agreement.

19. Effective Date

Unless terminated earlier as provided in this Settlement Agreement, this Settlement Agreement shall become effective and final as of the first Business Day upon which all of the following conditions have been satisfied:

(A) The Settlement Agreement has been fully executed by Morgan Stanley and Representative Plaintiffs through their counsel;

(B) The Court has certified a Settlement Class, and entered the Conditional Certification Order in substantially the form agreed to in Exhibit A, and approved the program and form for the Class Notice;

(C) Class Notice has been issued as ordered by the Court;

(D) The Court has entered the Final Approval Order finally approving the Settlement Agreement in all respects as required by Rule 23(e) of the Federal Rules of Civil Procedure; however, this required approval does not include the approval of the Fee and Expense Application and the Distribution Plan;

(E) The Court has entered its Final Judgment of dismissal with prejudice as to the Released Parties with respect to Representative Plaintiffs and Settling Class Members; and

(F) Upon the occurrence of the later of the following: (i) the resolution of any and all appeals regarding the Settlement (subject to Section 22 below) or (ii) the time to appeal or seek permission to appeal from the approval of the Settlement has expired.

20. Occurrence of Effective Date

Upon occurrence of the Effective Date pursuant to Section 19 above, any and all remaining interest or right of Morgan Stanley in or to the Settlement Fund, if any, shall be absolutely and

forever extinguished, and the Net Settlement Fund may be transferred from the Escrow Agent to the Settlement Administrator at the written direction of Plaintiffs' Counsel.

21. Failure of Effective Date to Occur

If any of the conditions specified in Section 19 are not satisfied, then this Agreement shall be terminated, subject to and in accordance with Section 22, unless the Parties mutually agree in writing to continue with it for a specified period of time.

22. Termination

(A) Morgan Stanley shall have the right, but not the obligation, in its sole discretion, to terminate this Settlement Agreement by providing written notice to Plaintiffs' Counsel within twenty-five (25) Business Days of any of the following events:

- (i) the Court enters an order declining to enter the Conditional Certification Order or the Final Approval Order in any material respect;
- (ii) the Court enters an order refusing to approve the Settlement Agreement or any material part of it;
- (iii) the Court enters an order declining to enter the Final Judgment or a separate order dismissing the Action fully, finally and with prejudice as to Morgan Stanley in any material respect;
- (iv) the Court enters an alternative judgment;
- (v) the Final Judgment or a separate order dismissing the Action fully, finally and with prejudice as to Morgan Stanley is modified or reversed by a court of appeal or any higher court in any material respect; or
- (vi) an alternative judgment is modified or reversed by a court of appeal or any higher court in any material respect.

(B) Plaintiffs' Counsel, acting on behalf of the Representative Plaintiffs, shall also have the right, but not the obligation, in their sole discretion, to terminate this Settlement Agreement by providing written notice to Morgan Stanley's Counsel within twenty-five (25) Business Days of any of the following events:

- (i) the Court enters an order declining to grant Representative Plaintiffs' Motion for Conditional Certification pursuant to Section 14 or the Motion for Final Approval pursuant to Section 17 in any material respect;
- (ii) the Court enters an order refusing to approve the Settlement Agreement or any material part of it;
- (iii) the Court enters an order declining to enter the Final Judgment or a separate order dismissing the Action fully, finally and with prejudice as to Morgan Stanley in any material respect;
- (iv) the Court enters an alternative judgment;
- (v) the Final Judgment or a separate order dismissing the Action fully, finally and with prejudice as to Morgan Stanley is modified or reversed by a court of appeal or any higher court in any material respect;
- (vi) an alternative judgment is modified or reversed by a court of appeal or any higher court in any material respect; or
- (vii) Morgan Stanley fails to comply with its payment obligations under Section 4 and fails to cure any default pursuant to subsection (C).

(C) In the event that Morgan Stanley, for any reason, fails to comply with Section 4, then on ten (10) Business Days' written notice to Morgan Stanley's Counsel, during which ten Business Day period Morgan Stanley shall have the opportunity to cure the default without penalty,

Representative Plaintiffs, by and through Plaintiffs' Counsel, may terminate this Settlement Agreement or elect to enforce it as provided by the Federal Rules of Civil Procedure and applicable law.

(D) The Parties shall not be able to terminate the Settlement if any court disapproves of or modifies the Plan of Distribution or any Application for Fees and Expenses. The Parties shall not be able to terminate the Settlement if the Court declines to approve Representative Plaintiffs' Motion for Conditional Certification because the motion did not include a plan for providing Class Notice to the Settlement Class or a proposed Plan of Distribution. Plaintiffs' Counsel will have the right to file another Motion for Conditional Certification or other appropriate motion that incorporates a plan for providing Class Notice and/or a proposed Plan of Distribution.

(E) Should either Party exercise its right to terminate the Settlement, then the Settlement Agreement and Term Sheet shall be void *ab initio*, and the Parties shall be returned to the posture of this Action as of the date immediately prior to the execution of the Term Sheet, without waiving any defenses as against the asserted claims. Within ten (10) Business Days after written notification of such event is sent by Morgan Stanley's Counsel or Plaintiffs' Counsel to all Parties and the Escrow Agent, the Settlement Amount, and all interest earned on the Settlement Fund will be refunded, reimbursed, and repaid to Morgan Stanley, less any taxes due and costs of administration and notice reasonably incurred and paid or payable by the Escrow Agent, in accordance with Section 10(C) herein. Also in accordance with Section 10(C) herein, the Escrow Agent or its designee shall apply for any tax refund owed to the Settlement Fund and pay the proceeds to Morgan Stanley, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund.

23. Supplemental Agreement and Morgan Stanley's Optional Termination Right

(A) Morgan Stanley and Representative Plaintiffs will be provided access to any Opt-Out Information as it becomes available and, in all events, shall be provided access to all Opt-Out Information that has been submitted by Opt-Outs within two (2) Business Days after the deadline to request exclusion from the Settlement Class.

(B) In the event an Opt-Out does not provide the requested Opt-Out Information (or in the event the Court does not require and approve the provision of the above identified information from Opt-Outs in connection with the procedure for requesting exclusion from the Settlement Class), Morgan Stanley shall have the right, but not the obligation, to request leave of the Court to seek discovery from any Opt-Out for the Opt-Out Information, and such request shall not be objected to by Representative Plaintiffs. Representative Plaintiffs shall consent to a reasonable adjournment of the Fairness Hearing to allow time for that process to be completed.

(C) Morgan Stanley shall have the unilateral right, but not the obligation, in its sole discretion, to terminate this Agreement pursuant and subject to the terms of the Supplemental Agreement as to Morgan Stanley (the "Supplemental Agreement") to be executed by the Parties contemporaneously with the execution of this Agreement (the "Optional Termination Right"). The Supplemental Agreement shall not be submitted to the Court and its terms shall not be disclosed in any other manner (other than the statements herein and in the Class Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement) unless and until the Court otherwise directs or in the event a dispute arises between Representative Plaintiffs and Morgan Stanley concerning the Supplemental Agreement's interpretation or application, in which case the

Parties shall submit the Supplemental Agreement to the Court *in camera* and request that the Court afford it confidential treatment.

24. Effect of Termination

Unless otherwise ordered by the Court, in the event that the Effective Date does not occur or this Agreement should terminate or be cancelled, or otherwise fail to become effective for any reason, including, without limitation, in the event that the Settlement as described herein is not finally approved by the Court or the Final Judgment is reversed or vacated following any appeal, then:

(A) Within ten (10) Business Days after written notification of such event is sent by counsel for Morgan Stanley or Plaintiffs' Counsel to all Parties and the Escrow Agent, the Settlement Amount, and all interest earned in the Settlement Fund will be refunded, reimbursed, and repaid by the Escrow Agent to Morgan Stanley, except as provided in Section 10(C).

(B) The Escrow Agent or its designee shall apply for any tax refund owed to the Settlement Fund and pay the proceeds to Morgan Stanley, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund;

(C) The Parties shall be returned, to the maximum extent possible, to their respective positions in the Action as of immediately prior to the execution of the Term Sheet, with all of their respective legal claims and defenses preserved as they existed at that time; and

(D) Upon termination of this Settlement Agreement, then:

- (i) this Agreement shall be null and void and of no further effect, and none of Morgan Stanley, the Representative Plaintiffs, or members of the Settlement Class shall be bound by any of its terms;
- (ii) any and all releases shall be of no further force and effect;

- (iii) the Parties shall be restored to their respective positions in the Action immediately prior to the execution of the Term Sheet, with all of their respective legal claims and defenses preserved as they existed on that date; and
- (iv) any judgment or order entered by the Court in accordance with the terms of this Settlement Agreement shall be treated as vacated, *nunc pro tunc*.

(E) Unless the Settlement is terminated, Morgan Stanley shall take no position with respect to any motion for class certification that Representative Plaintiffs anticipate filing and/or file in connection with their claims against other Defendants in the Action. Nothing in this Settlement Agreement shall preclude Morgan Stanley from opposing motions for class certification or from taking positions in actions other than the Action.

25. Impact of Any Other Settlement

(A) If any Other Settlement is reached prior to the Fairness Hearing, the “Settlement Class” definition as well as the terms contained within the “Release and Covenant Not to Sue” and “Termination” provisions (excluding the Optional Termination Right granting Morgan Stanley a unilateral discretionary termination right, as set forth in the Supplemental Agreement referenced in Section 23 herein) in the Settlement Agreement and any accompanying supplemental agreement(s) shall be no less favorable to Morgan Stanley than the corresponding terms or provisions applicable to any Other Settlement.

(B) Notwithstanding Section 42 below, if Morgan Stanley believes one or more terms or provisions referenced in subsection (A) is less favorable than a corresponding term or provision in any Other Settlement reached prior to the Fairness Hearing, Morgan Stanley will provide written notice of such belief to Plaintiffs’ Counsel as prescribed in this Settlement Agreement within ten (10) Business Days of the filing of such Other Settlement with the Court or, in the case of the

Optional Termination Right, within ten (10) Business Days of Morgan Stanley's receipt (if any) of the terms of the provision. Following receipt of the written notice, Morgan Stanley and Plaintiffs' Counsel will confer as to whether the relevant term or provision in this Settlement Agreement is less favorable as compared to the Other Settlement reached before the Fairness Hearing. If there is agreement between Morgan Stanley and Plaintiffs' Counsel that the provision at issue is less favorable, Morgan Stanley and Plaintiffs' Counsel will execute an amendment to the Settlement Agreement, adopting and incorporating the provision as drafted in the Other Settlement into the Settlement Agreement, and will submit the amendment to the Court for its approval. If Morgan Stanley and Plaintiffs' Counsel are unable to reach an agreement on the relevant provision, Morgan Stanley or Plaintiffs' Counsel may move the Court to resolve the dispute. To the extent feasible, but without prejudice to Morgan Stanley's rights hereunder, the Parties shall endeavor to execute and submit for Court approval any amendments under this provision at least ten (10) Business Days prior to the Fairness Hearing. Under no circumstances shall Morgan Stanley have less than ten (10) Business Days from the time any Other Settlement is filed or, in the case of the Optional Termination right, ten (10) Business Days of Morgan Stanley's receipt (if any) of the terms of the provision to provide notice under this Section. Should it be necessary in order to ensure that Morgan Stanley's rights under this Section are preserved, the Parties will agree to seek a deferment of the Fairness Hearing.

26. Confidentiality Protection

Representative Plaintiffs, Plaintiffs' Counsel, and Morgan Stanley agree to keep private and confidential the terms of this Settlement Agreement and the Supplemental Agreement which shall not be disclosed to any third party (excluding any Party's counsel, advisors, auditors or insurers in the U.S. and Australia), except for disclosure at the Court's direction or disclosure *in*

camera to the Court, until this document is filed with the Court, provided, however, that nothing in this Section shall prevent Morgan Stanley from making any disclosures it deems necessary to comply with any relevant laws, including U.S. or Australian law, subpoena or other form of judicial process. Nothing in this provision shall preclude Morgan Stanley from disclosing, without notice to Plaintiffs' Counsel, the fact, amount, or terms of the Settlement or the Supplemental Agreement as a result of a good faith determination that such disclosure is required or advisable pursuant to bank regulatory requirements, SEC requirements, or other legal or regulatory requirements, or from disclosing the fact, amount, or terms of the Settlement or the Supplemental Agreement to its counsel, advisors, auditors, regulators, insurers, or external auditors.

27. Non-Disparagement

In no event shall Representative Plaintiffs or Plaintiffs' Counsel on the one hand, or Morgan Stanley and Morgan Stanley's Counsel on the other hand, make any public statement that disparages the business or reputation of the other (including without limitation their officers, directors, management and employees).

28. Binding Effect

(A) The Parties intend this Settlement Agreement to be binding upon, and inure to the benefit of, the successors and assigns of Morgan Stanley, the Released Parties, the Representative Plaintiffs, and Settling Class Members to the fullest extent allowable under law. The Parties enter into this Settlement Agreement with full knowledge that adverse or favorable court decisions and/or other events, including those pertaining to any of the Representative Plaintiffs' capacity to serve as litigants or class representatives, may take place in the future that might affect the positions of either or both parties, including prior to Final approval of the Settlement. The Parties

intend to be bound by this Settlement Agreement notwithstanding the possibility or occurrence of any such future events or changes in position.

(B) The waiver by any Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

29. Amendment

This Settlement Agreement, the Supplemental Agreement described in Section 23 herein and any other agreements referenced herein, may be modified or amended only by a writing executed by Plaintiffs' Counsel, on behalf of Representative Plaintiffs and the Settlement Class, and Morgan Stanley's Counsel on behalf of Morgan Stanley.

30. Integrated Agreement

This Settlement Agreement, including any exhibits hereto, the Supplemental Agreement described in Section 23 herein and any other agreements referenced herein, contains the entire, complete, and integrated statement of each and every term and provision agreed to by and among the Parties and is not subject to any condition not provided for or referenced herein. This Settlement Agreement, including any exhibits hereto, the Supplemental Agreement described in Section 23 herein and any other agreements referenced herein, supersede all prior or contemporaneous discussions, agreements, and understandings among the Parties to this Settlement Agreement with respect hereto, including the Term Sheet.

31. Conduct of Counsel and Parties

All Parties agree that all other Parties and their counsel have complied with Federal Rule of Civil Procedure 11 throughout the course of the Action and shall not make any applications for sanctions.

32. CAFA Notices

Within ten (10) Business Days of submission of this Settlement Agreement to the Court, Morgan Stanley shall at its expense serve notices of the Settlement on State and Federal authorities as required by the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 (“CAFA Notices”). Morgan Stanley will simultaneously serve copies of the CAFA Notices on Plaintiffs’ Counsel.

33. Headings

The headings set forth in this Settlement Agreement have been inserted for the convenience of reference only. Such headings shall not be considered a part of this Settlement Agreement, and neither shall they limit, modify, or affect in any way the meaning or interpretation of this Settlement Agreement.

34. No Party is the Drafter

None of the Parties shall be considered to be the drafter of this Settlement Agreement, any provision herein, or the Supplemental Agreement, for the purpose of any statute, case law, or rule of interpretation or construction that might cause any provision to be construed against the drafter.

35. Choice of Law

All terms within the Settlement Agreement, including any exhibits hereto and the Supplemental Agreement described in Section 23 herein, shall be governed by and interpreted according to the substantive laws of the State of New York, without regard to its choice of law or conflict of laws principles, including N.Y. General Obligations Law § 15-108.

36. Execution in Counterparts

This Settlement Agreement and the Supplemental Agreement may be executed in one or more counterparts. Facsimile and scanned/PDF signatures shall be considered valid signatures. All executed counterparts shall be deemed to be one and the same instrument. There shall be no

agreement until the fully signed counterparts have been exchanged and delivered on behalf of all Parties.

37. Submission to and Retention of Jurisdiction

The Parties, Released Parties, and the Settlement Class irrevocably submit, to the fullest extent permitted by law, to the exclusive jurisdiction of the United States District Court for the Southern District of New York for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement, any exhibits hereto or the Supplemental Agreement described in Section 23 herein. For the purpose of such suit, action, or proceeding, to the fullest extent permitted by law, the Parties, Released Parties and the Settlement Class irrevocably waive and agree not to assert, by way of motion, as a defense, or otherwise, any claim or objection that they are not subject to the jurisdiction of such Court, or that such Court is, in any way, an improper venue or an inconvenient forum or that the Court lacked power to approve this Settlement Agreement or enter any of the orders contemplated hereby. The Parties', Released Parties', and the Settlement Class' agreement as to submission to and retention of jurisdiction is solely for the purposes of effectuating the Settlement and for no other purpose. Morgan Stanley and the Released Parties retain all of their objections, arguments, and defenses with respect to jurisdiction, and reserve all rights to contest jurisdiction, if the Settlement does not receive the Court's Final approval, if the Court's approval is reversed or vacated on appeal, if the Settlement is terminated, or if the Settlement otherwise fails to become effective.

38. Contribution and Indemnification Bar

The Settlement is expressly intended to absolve the Released Parties against any claims for contribution, indemnification, or similar claims from other Defendants arising out of or related in any way to the Released Claims, in the manner and to the fullest extent permitted under the law of

New York or any other jurisdiction that might be construed or deemed to apply for claims of contribution, indemnification, or similar claims against any Released Party. Notwithstanding the foregoing, should any court determine that any Defendant is or was legally entitled to any kind of contribution or indemnification from Morgan Stanley arising out of or related to the Released Claims, the Releasing Parties agree that any money judgment subsequently obtained by the Releasing Parties against any Defendant shall be reduced to an amount such that, upon paying the entire amount, the Defendant would have no claim for contribution, indemnification, or similar claims against Morgan Stanley.

39. Reservation of Rights

This Settlement Agreement does not settle or compromise any claims by Representative Plaintiffs or any Settlement Class Member asserted against any Defendant or any potential defendant other than Morgan Stanley and the Released Parties. The rights of any Settlement Class Member against any other Person other than Morgan Stanley and the Released Parties are specifically reserved by Representative Plaintiffs and the Settlement Class Members.

40. Notices

All notices and other communications under this Settlement Agreement shall be sent to the Parties to this Settlement Agreement at their address set forth on the signature page herein, *viz*, if to Representative Plaintiffs, then to: Vincent Briganti & Geoffrey M. Horn, Lowey Dannenberg, P.C., 44 South Broadway, Suite 1100, White Plains, New York 10601, and Christopher Lovell, Lovell, Stewart, Halebian, Jacobson LLP, 500 Fifth Avenue, Suite 2440, New York, New York 10110; and if to Morgan Stanley, then to Jon R. Roellke, Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue, Washington, D.C. 20004, or such other address as each party may designate for itself, in writing, in accordance with this Settlement Agreement.

41. Authority

In executing this Settlement Agreement, Plaintiffs' Counsel represent and warrant that they have been fully authorized to execute this Settlement Agreement on behalf of the Representative Plaintiffs and the Settlement Class (subject to final approval by the Court after notice to all Settlement Class Members), and that all actions necessary for the execution of this Settlement Agreement have been taken. Morgan Stanley's Counsel represents and warrants that they have been fully authorized to execute this Settlement Agreement on behalf of Morgan Stanley, and that all actions necessary for the execution of this Settlement Agreement have been taken.

42. Disputes or Controversies

(A) Except as otherwise provided herein, any dispute or controversy arising out of or relating to the Settlement Agreement or Supplemental Agreement shall be decided first by discussion among counsel for the Parties and, failing that, by confidential mediation. The mediation shall be conducted by JAMS, Inc., formerly known as Judicial Arbitration and Mediation Services ("JAMS"), and the mediator shall be selected and agreed upon by the Parties. If the Parties are unable to agree on the mediator within thirty (30) calendar days from the date on which either party first notifies JAMS of its request for mediation, JAMS shall appoint the mediator. The seat of mediation shall be New York, New York. If mediation fails to resolve the dispute, it shall be decided by arbitration, in each case administered by a sole neutral arbitrator agreed upon by all Parties at JAMS, in accordance with its procedures and Comprehensive Arbitration Rules & Procedures then in effect ("Rules") and in accordance with the Expedited Procedures in those Rules (or such other alternative dispute resolution organization as all parties shall agree), except as modified herein. If the Parties are unable to agree on the sole arbitrator within thirty (30) calendar days from the date on which the arbitration is commenced, JAMS (or

any dispute resolution organization agreed upon by the Parties) shall appoint the sole arbitrator. The seat of arbitration shall be New York, New York. Any application challenging the results of the arbitration shall be heard by the United States District Court for the Southern District of New York or, if subject-matter jurisdiction is lacking, the Supreme Court of the State of New York located in New York County.

(B) Any such mediation and arbitration shall be conducted on a strictly confidential basis, and the Parties shall not disclose the existence or nature of any claim; any documents, correspondence, briefing, exhibits, or information exchanged or presented in connection with any claim; or any rulings, decisions, or results in the context of mediation or arbitration (collectively, “ADR Materials”) to any third party, except to the Parties’ respective legal counsel (who shall also be bound by these confidentiality terms), under seal in any judicial proceeding commenced in connection with this Section, or to the extent that such disclosure is required or advisable pursuant to bank regulatory requirements, SEC requirements, or other legal or regulatory requirements.

(C) Subject to any timely challenges under this Section, the arbitral decision shall be final and binding upon the parties hereto. Any arbitral award may be entered as a judgment or order in any court of competent jurisdiction. Except as the Rules may provide, the Parties shall share JAMS’s administrative fees and the mediator’s or arbitrator’s fees and expenses. Each Party shall be responsible for such Party’s attorneys’ fees and costs except as otherwise provided by any applicable statute or other law. Either Party may commence litigation in any state or federal court of competent jurisdiction located in New York County, New York to obtain injunctive relief in aid of arbitration, to compel arbitration, or to confirm or vacate an arbitrator’s award. The Parties agree to take all steps necessary to protect the confidentiality of the Arbitration Materials in connection with any such proceeding, agree to use their best efforts to file all confidential

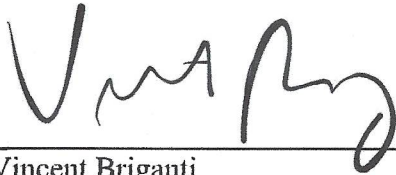
information (and documents containing confidential information) under seal, and agree to the entry of an appropriate protective order encompassing the confidentiality terms of any settlement agreement.

43. Stay

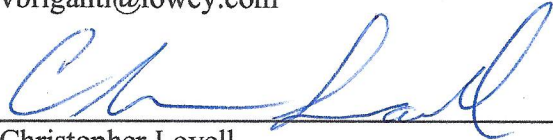
The Parties stipulate and agree that all proceedings and deadlines in the Action (including with respect to discovery, except with respect to Morgan Stanley's cooperation obligations as provided in Section 5 above) between Representative Plaintiffs and Morgan Stanley shall be stayed pending the Court's entry of the Conditional Certification Order. The stay will automatically be dissolved if (a) the Court does not enter the Conditional Certification Order, the Final Approval Order, or the Final Judgment, or (b) the Court enters the Final Approval Order and the Final Judgment and appellate review is sought and, on such review, the Final Approval Order or the Final Judgment is finally vacated, modified, or reversed, unless all Parties, in their sole discretion, within thirty (30) calendar days from the date of the mailing of such ruling to such Parties, provide written notice to all other Parties hereto of their intent to proceed with the Settlement under the terms of the Conditional Certification Order, the Final Approval Order, or the Final Judgment, as modified by the Court or on appeal. If the stay is dissolved, the Parties agree to work together in order to seek modification of the case schedule herein so that the Parties are returned to their respective litigation positions prior to the Settlement.

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Dated: October 1, 2021

By: 

Vincent Briganti
Geoffrey M. Horn
LOWEY DANNENBERG, P.C.
44 South Broadway
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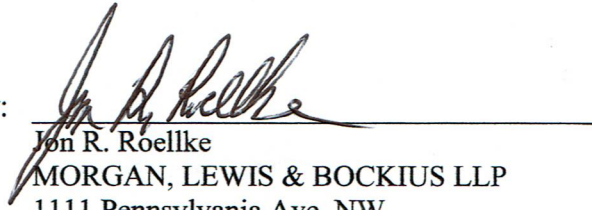
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*Additional Plaintiffs' Counsel for Orange
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Dated: October 1, 2021

By:



A handwritten signature in black ink, appearing to read 'Jon R. Roellke', is written over a horizontal line.

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EXECUTION COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RICHARD DENNIS, SONTERRA CAPITAL MASTER FUND, LTD., FRONTPOINT FINANCIAL SERVICES FUND, L.P., FRONTPOINT ASIAN EVENT DRIVEN FUND, L.P., AND FRONTPOINT FINANCIAL HORIZONS FUND, L.P., on behalf of themselves and all others similarly situated,

Docket No. 16-cv-06496 (LAK)

Plaintiffs,

-against-

JPMORGAN CHASE & CO., JPMORGAN CHASE BANK, N.A., JPMORGAN CHASE BANK, N.A. AUSTRALIA BRANCH, BNP PARIBAS, S.A., BNP PARIBAS, AUSTRALIA BRANCH, THE ROYAL BANK OF SCOTLAND GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC, RBS N.V., RBS GROUP (AUSTRALIA) PTY LIMITED, UBS AG, UBS AG, AUSTRALIA BRANCH, AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD., COMMONWEALTH BANK OF AUSTRALIA, NATIONAL AUSTRALIA BANK LIMITED, WESTPAC BANKING CORPORATION, DEUTSCHE BANK AG, DEUTSCHE BANK AG, AUSTRALIA BRANCH, HSBC HOLDINGS PLC, HSBC BANK AUSTRALIA LIMITED, LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, LLOYDS TSB BANK PLC, AUSTRALIA, MACQUARIE GROUP LTD., MACQUARIE BANK LTD., ROYAL BANK OF CANADA, RBC CAPITAL MARKETS LLC, ROYAL BANK OF CANADA, AUSTRALIA BRANCH, MORGAN STANLEY, MORGAN STANLEY AUSTRALIA LIMITED, CREDIT SUISSE GROUP AG, CREDIT SUISSE AG, ICAP PLC, ICAP AUSTRALIA PTY LTD., TULLETT PREBON PLC, TULLETT PREBON (AUSTRALIA) PTY LTD., AND JOHN DOES NOS. 1-50.

Defendants.

EXHIBIT A

**[PROPOSED] ORDER
GRANTING CONDITIONAL
CLASS CERTIFICATION FOR
PURPOSES OF CLASS ACTION
SETTLEMENT WITH MORGAN
STANLEY**

This putative class action comes before the Court on Representative Plaintiffs’¹ Motion for Conditional Class Certification for Purposes of Class Action Settlement with Morgan Stanley and Morgan Stanley Australia Limited (collectively, “Morgan Stanley”), and for an Order Issuing Class Notice of Proposed Settlements (together, “Motion”) and on the Stipulation and Agreement of Settlement as to Defendant Morgan Stanley dated October 1, 2021 (“Settlement Agreement”) entered into by Representative Plaintiffs and Morgan Stanley in the above-entitled action (“Action”). The Court has reviewed the Motion, the Settlement Agreement and attached exhibits, which set forth the terms and conditions for a proposed settlement of and for dismissal of the Action with prejudice as against Morgan Stanley; and the Court having read and considered the Settlement Agreement and the attached exhibits finds that the Motion is due to be granted.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. All defined terms used in this Order shall have the same meanings as set forth in the Settlement Agreement, except as otherwise defined herein. Representative Plaintiffs and Morgan Stanley are referred to collectively as the “Parties.”

2. In the Action only and solely for purposes of the settlement, this Court: (i) has personal jurisdiction over Representative Plaintiffs and Morgan Stanley and all Settlement Class Members, and (ii) subject matter jurisdiction over the Action to consider the Settlement Agreement and all exhibits attached thereto.

3. For purposes of settlement only, pursuant to FED. R. CIV. P. 23(a) and (b)(3), the Court hereby certifies a Settlement Class consisting of all Persons (including both natural persons and entities) who purchased, acquired, sold, held, traded, or otherwise had any interest in, BBSW-

¹ “Representative Plaintiffs” are Richard Dennis, Orange County Employees Retirement System (“OCERS”), and any subsequently named plaintiff(s).

Based Derivatives² during the period January 1, 2003 through August 16, 2016, inclusive (“Settlement Class Period”), provided that, if Representative Plaintiffs expand the putative or certified class in this Action in or through any subsequent amended complaint, class motion, or Other Settlement, the defined Settlement Class in this Order and the Settlement Agreement shall be expanded so as to be coterminous with such expansion. Excluded from the Settlement Class are the Defendants and any parent, subsidiary, affiliate or agent of any Defendant or any co-conspirator whether or not named as a Defendant, and the United States Government. Investment Vehicles³ are not to be excluded from the Settlement Class solely on the basis of being deemed to be Defendants or affiliates, subsidiaries, parents or agents of Defendants or controlled by Defendants or affiliates, subsidiaries, parents or agents of Defendants. However, to the extent that any Defendant or any entity that might be deemed to be an affiliate, subsidiary, parent or agent thereof (i) managed or advised, and (ii) directly or indirectly held a beneficial interest in, said Investment Vehicle during the Settlement Class Period, that beneficial interest in the Investment Vehicle is excluded from the Settlement Class.

² “BBSW-Based Derivatives” means any financial derivative instrument that is based or priced in whole or in part in any way on BBSW or in any way includes BBSW as a component of price (whether priced, benchmarked and/or settled by BBSW), entered into by a U.S. Person, or by a person from or through a location within the U.S., including, but not limited to: (i) Australian dollar foreign exchange (“FX”) derivatives, including Australian dollar FX forwards (also known as “outright forwards” or “outrights”), Australian dollar FX swaps (also known as “currency swaps”), Australian dollar currency options, Australian dollar futures contracts (such as the Chicago Mercantile Exchange (“CME”) Australian dollar futures contract) and options on such futures contracts; (ii) BBSW-based interest rate derivatives, including interest rate swaps, swaptions, forward rate agreements (“FRAs”), exchange-traded deliverable swap futures and options on those futures, 90-day bank accepted bill (“BAB”) futures and options on those futures, and other over-the-counter (“OTC”) contracts or publicly traded vehicles that reference BBSW; (iii) Australian dollar cross-currency swaps; and (iv) any other financial derivative instrument or transaction based in whole or in part on BBSW, or that in any way incorporates BBSW as a component of price, or is alleged by Representative Plaintiffs in this Action to be based in whole or in part on BBSW, or to in any way incorporate BBSW as a component of price. For the avoidance of doubt, BBSW-Based Derivatives do not include: (i) any BBSW-Based Deposits or Loans; or (ii) any Prime Bank Bills or Prime Bank eligible securities.

³ “Investment Vehicles” means any investment company, separately managed account or pooled investment fund, including, but not limited to: (i) mutual fund families, exchange-traded funds, fund of funds and hedge funds; and (ii) employee benefit plans.

4. Solely for the purposes of effectuating the Settlement, the Court conditionally finds and concludes that the requirements of FED. R. CIV. P. 23(a) and 23(b)(3) have been satisfied as follows:

- a. the Settlement Class Members are so numerous that joinder of all Settlement Class Members is impracticable;
- b. there are questions of law and fact common to the Settlement Class which predominate over any individual questions;
- c. the claims of the Representative Plaintiffs are typical of the claims of the Settlement Class;
- d. Representative Plaintiffs and Class Counsel (as defined in paragraph 5 below) will fairly and adequately represent and protect the interests of all of the Settlement Class Members; and
- e. a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

5. The Court appoints Lowey Dannenberg, P.C. and Lovell Stewart Halebian Jacobson LLP as Class Counsel to such Settlement Class for purposes of the Settlement, having determined that the requirements of Rule 23(g) of the Federal Rules of Civil Procedure are fully satisfied by this appointment.

6. The Court appoints A.B. Data, Ltd. as Settlement Administrator for purposes of the Settlement.

7. The Court appoints Citibank, N.A. as Escrow Agent for purposes of the Settlement Fund defined in the Settlement Agreement. The Court approves the establishment of the

Settlement Fund as qualified settlement funds pursuant to Section 468B of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder.

8. The Court appoints Representative Plaintiffs Richard Dennis and OCERS as representatives of the Settlement Class for purposes of the Settlement.

9. All proceedings in the Action as to Morgan Stanley, other than proceedings as may be necessary to implement the proposed Settlement or to effectuate the terms of the Settlement Agreement, are hereby stayed and suspended until further order of this Court.

10. A hearing (the “Fairness Hearing”) will be held on a date of the Court’s convenience on _____, 2021 at _____ [a.m./p.m.] [at least 300 days after entry of this Order] in Courtroom 21B of this Courthouse before the undersigned, to consider the fairness, reasonableness, and adequacy of the Settlement Agreement. The foregoing date, time, and place of the Fairness Hearing shall be set forth in the Class Notice, which is ordered herein, but shall be subject to adjournment or change by the Court without further notice to the Settlement Class Members, other than that which may be posted at the Court or on the Settlements website at www.BBSWSettlement.com.

11. The Court reserves the right to approve the Settlement at or after the Fairness Hearing with such modifications as may be consented to by the Parties and without further notice to the Settlement Class.

12. Representative Plaintiffs, all Settlement Class Members and their legally authorized representatives, unless and until they have submitted a valid request for exclusion from the Settlement Class (hereinafter, “Request for Exclusion”), are hereby preliminarily enjoined, pending determination by the Court of whether the Settlement should be approved, (i) from filing, commencing, prosecuting, intervening in, or participating as a plaintiff, claimant, or class member

in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on the Released Claims; (ii) from filing, commencing, or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any Settlement Class Members (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on the Released Claims; and (iii) from attempting to effect an opt-out of a group, class, or subclass of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action) based on the Released Claims.

13. Within one hundred and twenty (120) days after entry of this Order, the Settlement Administrator shall cause copies of the mailed notice, in the form (without material variation) of Exhibit __ to the Joint Declaration of Vincent Briganti and Christopher McGrath, dated _____, 2021 (“Joint Decl.”), to begin being mailed by United States first class mail, postage prepaid, to the following: (a) Morgan Stanley’s and any other Settling Defendants’ known counterparties for BBSW-Based Derivatives during the Class Period based on transactional and other data provided by (or to be provided by) Morgan Stanley and any other settling Defendants; (b) non-settling Defendants’ known counterparties for BBSW-Based Derivatives, to the extent they are identified during the course of discovery and prior to the deadline to complete mailing pursuant to this Order; (c) market participants that provided names of counterparties in BBSW-Based Derivatives pursuant to a subpoena and prior to the deadline to complete mailing pursuant to this Order; and (iv) A.B. Data’s proprietary list of banks, brokers, and other nominees, which are likely to trade or hold BBSW-Based Derivatives on behalf of themselves and/or their clients. The foregoing

initial mailing shall be completed no later than one hundred eighty (180) days after the date of the entry of this Order.

14. Within one hundred and twenty (120) days after entry of this Order, the Settlement Administrator shall begin to cause to be published a publication notice, without material variation from Exhibit ___ to the Joint Decl., as follows: (a) one time in the Wall Street Journal, Investor's Business Daily, The Financial Times, Stocks & Commodities, Global Capital, Hedge Fund Alert, and Grant's Interest Rate Observer; (b) for at least two weeks on websites Zacks.com, Traders.com, GlobalInvestorGroup.com, and GlobalCapital.com; (c) once in e-newsletters from Global Investor Group, Stocks & Commodities, Zacks.com, and Barchart.com; (d) one email "blast" to subscribers of Stocks & Commodities and Zacks.com; and (e) one news release via PR Newswire's US1 Newswire.

15. The Settlement Administrator shall continue to maintain a Settlements website, www.BBSWSettlement.com, until the termination of the administration of the Settlement ("Settlements website"). The website shall include copies of the Settlement Agreement (including exhibits), this and any previous Orders, the mailed and publication notices, the motions for conditional certification and all exhibits attached thereto, and the proposed Distribution Plan following submission to the Court, shall identify important deadlines, and provide answers to frequently asked questions. The website may be amended as appropriate during the course of the administration of the Settlement. The Settlements website, www.BBSWSettlement.com, shall be searchable on the Internet.

16. The Settlement Administrator shall maintain a toll-free interactive voice response telephone system containing recorded answers to frequently asked questions, along with an option permitting callers to speak to live operators or to leave messages in a voicemail box.

17. The Court approves, in form and substance, the mailed notice, the publication notice, and the website as described herein. The Class Notice plan specified herein (i) is the best notice practicable; (ii) is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency and status of this Action and of their right to object to or exclude themselves from the proposed Settlement; (iii) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice of the Fairness Hearing; and (iv) fully satisfies all applicable requirements of Rule 23 of the Federal Rules of Civil Procedure, Due Process, and any other applicable rules or laws.

18. At least ninety (90) days prior to the Fairness Hearing, Representative Plaintiffs shall file with the Court a copy of the proposed Distribution Plan and Proof of Claim and Release. The proposed Distribution Plan and Proof of Claim and Release shall be posted on the Settlements website as soon as practicable after it is filed with the Court.

19. At least sixty (60) days prior to the Fairness Hearing, the Settlement Administrator shall serve and file a sworn statement attesting to compliance with the notice provisions in paragraphs 13-16 of this Order.

20. Any Settlement Class Member that has not requested exclusion and that objects to the fairness, reasonableness, or adequacy of any term or aspect of the Settlement, the application for attorneys' fees and expenses, or the Final Approval Order and Final Judgment, or who otherwise wishes to be heard or intervene, may appear in person or by his or her attorney at the Fairness Hearing to present evidence or argument that may be proper and relevant. However, except for good cause shown, no such Person other than Class Counsel and Morgan Stanley's counsel shall be heard and no papers, briefs, pleadings, or other documents submitted by any such Person shall be considered by the Court unless, not later than sixty (60) days prior to the Fairness

Hearing, the Settlement Class Member files with the Court (and serves the same on or before the date of such filing by hand or overnight mail on Class Counsel and Morgan Stanley's counsel) a statement of the objection or motion to intervene, as well as the specific legal and factual reasons for each objection or motion to intervene, including all support that the objecting Settlement Class Member wishes to bring to the Court's attention and all evidence the objecting Settlement Class Member wishes to introduce in support of his, her, or its objection or motion. Such submission must contain: (1) a heading that refers to this Action by case name and case number; (2) a statement of whether the objecting or intervening Person intends to appear at the Fairness Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, address, and telephone number; (3) a statement of the specific legal and factual basis for each objection or intervention argument, including whether the objection applies only to the objecting Person, a specific subset of the Settlement Class or the entire Settlement Class; (4) a description of any and all evidence the objecting Person may offer at the Fairness Hearing, including but not limited to, (a) the names, addresses, and expected testimony of any witnesses; (b) all exhibits intended to be introduced at the Fairness Hearing; and (c) documentary proof of the objecting Person's membership in the Settlement Class; (5) a description of the BBSW-Based Derivatives transactions entered into by the Settlement Class Member that fall within the Settlement Class definition, including, (a) the number and extent of the transactions in BBSW-Based Derivatives which the Settlement Class Member purchased, acquired, sold, held, traded, or otherwise had any interest in during the Settlement Class Period, (b) the notional value or amount of each of the aforementioned transactions; and (c) the effective and maturity date and/or trade and value dates for each of the aforementioned transactions; and (6) a list of other cases in which the objector or intervenor or counsel for the objector or intervenor has appeared either as an objector or counsel

for an objector in the last five years. Persons who have timely submitted a valid Request for Exclusion are not Settlement Class Members and are not entitled to object.

21. Any objection to the Settlement or motion to intervene submitted by a Settlement Class Member pursuant to paragraph 20 of this Order must be signed by the Settlement Class Member (or his, her, or its legally authorized representative), even if the Settlement Class Member is represented by counsel. The right to object to the proposed Settlement or to intervene must be exercised individually by a Settlement Class Member or the Person's attorney, and not as a member of a group, class, or subclass, except that such objections and motions to intervene may be submitted by a Settlement Class Member's legally authorized representative.

22. Any motion to intervene must comply with the Federal Rules of Civil Procedure and the Local Rules of the Court.

23. All objectors shall make themselves available to be deposed by any Party in the Southern District of New York or the county of the objector's residence or principal place of business within seven (7) days of service of the objector's timely written objection.

24. Any Settlement Class Member that fails to object or move to intervene in the manner described in paragraphs 20-23 of this Order shall be deemed to have waived the right to object (including any right of appeal) or to intervene and shall be forever barred from raising such objection or seeking to intervene in this or any other action or proceeding related to or arising out of the Settlement. Discovery concerning any purported objections to the Settlement and any purported motions to intervene shall be completed no later than seven (7) days before the Fairness Hearing. Class Counsel, Morgan Stanley's counsel, and any other Persons wishing to reply to or otherwise oppose timely-filed objections in writing may do so not later than seven (7) days before the Fairness Hearing.

25. The Settlement Administrator shall furnish Class Counsel and Morgan Stanley's Counsel with copies of any and all objections, motions to intervene, notices of intention to appear, and any other communications from purported Settlement Class Members concerning objections that come into its possession (except as otherwise expressly provided in the Settlement Agreement) as they become available.

26. Any Request for Exclusion from the Settlement by a Settlement Class Member must be sent in writing by U.S. first class mail (or, if sent from outside the U.S., by a service that provides for guaranteed delivery within five (5) or fewer calendar days of mailing) to the Settlement Administrator at the address in the mailed notice and received no later than sixty (60) days before the Fairness Hearing (the "Exclusion Bar Date"). Any Request for Exclusion must contain the following information:

- a. the name, address, and telephone number of the Settlement Class Member;
- b. a list of all trade names or business names that the Settlement Class Member requests to be excluded;
- c. the name of this Action ("*Dennis, et al. v. JPMorgan Chase & Co., et al., No. 16-cv-06496 (LAK) (S.D.N.Y.)*");
- d. a statement certifying such person is a Settlement Class Member;
- e. a description of the BBSW-Based Derivatives transactions entered into by the Settlement Class Member that fall within the Settlement Class definition, including,
 - i. the number and extent of the transactions in BBSW-Based Derivatives which the Settlement Class Member purchased, acquired, sold, held, traded, or otherwise had any interest in during the Settlement Class Period;

ii. the notional value or amount of each of the aforementioned transactions;
and

iii. the effective and maturity date and/or trade and value dates for each of the aforementioned transactions;

f. a statement that “I/we hereby request that I/we be excluded from the proposed Settlement Class in *Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) for the Settlement with Morgan Stanley”; and

g. a statement specifying whether such person is requesting exclusion from the Settlement Class as it relates to the Settlement.

27. Any Request for Exclusion from the Settlement submitted by a Settlement Class Member pursuant to paragraph 26 of this Order must be signed by the Settlement Class Member (or his, her, or its legally authorized representative) even if the Settlement Class Member is represented by counsel. The right to be excluded from the proposed Settlement must be exercised individually by a Settlement Class Member or his, her, or its attorney, and not as a member of a group, class, or subclass, except that a Request for Exclusion may be submitted by a Settlement Class Member’s legally authorized representative. A Request for Exclusion shall not be effective unless it provides all of the required information listed in paragraph 26 of this Order, complies with this paragraph 27, and is received by the Exclusion Bar Date, as set forth in the Class Notice.

28. All Persons who submit valid and timely Requests for Exclusion in the manner set forth in paragraphs 26-27 shall be excluded from the Settlement Class as to the Morgan Stanley Settlement, shall have no rights with respect to the Settlement Agreement, shall receive no payment from the sums provided for in the Settlement Agreement and shall be deemed to have

excluded themselves from the Action as against Morgan Stanley, including but not limited to any and all future prosecution of the Action against Morgan Stanley.

29. The Parties may request leave of the Court to seek discovery, including by subpoena, from any Settlement Class Member who submits any Request for Exclusion.

30. The Settlement Administrator shall promptly log each Request for Exclusion that it receives and provide to Class Counsel and Morgan Stanley's counsel copies of the log, each Request for Exclusion (including all documents submitted with such requests), and any written revocations of Requests for Exclusion as soon as possible after receipt by the Settlement Administrator and in no event later than two business days after receipt.

31. At least fifteen (15) days before the Fairness Hearing, the Settlement Administrator shall prepare an opt-out list identifying all Persons, if any, who submitted a timely and valid Request for Exclusion from the Settlement Class, as provided in the Settlement Agreement, and an affidavit attesting to the accuracy of the opt-out list. Class Counsel shall file the opt-out list and affidavit of the Settlement Administrator attesting to the accuracy of such list with the Court.

32. Any Settlement Class Member who does not submit a timely and valid written Request for Exclusion from the Settlement Class shall be bound by all proceedings, orders, and judgments in the Action that relate to the Settlement.

33. All Proofs of Claim and Release shall be submitted by Settlement Class Members to the Settlement Administrator as directed in the mailed notice and must be postmarked no later than seventy-five (75) days after the Fairness Hearing.

34. To effectuate the Settlement and the notice provisions, the Settlement Administrator shall be responsible for: (a) establishing a P.O. Box (to be identified in the mailed notice and the publication notice described in paragraphs 13-14 above), a toll-free interactive voice

response telephone system and call center, and a website for the purpose of communicating with Settlement Class Members; (b) effectuating the Class Notice plan, including by running potential Settlement Class Members' addresses through the National Change of Address Database to obtain the most current address for each person; (c) accepting and maintaining documents sent from Settlement Class Members, including Proofs of Claim and Release, and other documents relating to the Settlement and its administration; (d) administering claims for allocation of funds among Settlement Class Members; (e) determining the timeliness of each Proof of Claim and Release submitted by Settlement Class Members, and the adequacy of the supporting documents submitted by Settlement Class Members; (f) corresponding with Settlement Class Members regarding any deficiencies in their Proofs of Claim and Release and regarding the final value of any allowed claim; (g) calculating each Authorized Claimant's allowed claim pursuant to the Distribution Plan; (h) determining the timeliness and validity of all Requests for Exclusion received from Settlement Class Members; (i) preparing the opt-out list and an affidavit attaching and attesting to the accuracy of such list, and providing same to Class Counsel and Morgan Stanley's Counsel; and (j) providing Class Counsel and Morgan Stanley's Counsel with copies of any Requests for Exclusion (including all documents submitted with such requests).

35. Neither this Order, the Settlement Agreement, the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or Settlement, whether or not the Settlement shall become Final, is or shall be deemed or construed to be an admission, adjudication, or evidence of: (a) any violation of any statute or law or of the validity of any claims, alleged wrongdoing, or liability of Morgan Stanley or any Released Party; (b) the truth of any of the claims or allegations alleged in the Action; (c) the incurrence of any damage, loss, or injury by any Person; (d) the existence or amount of any artificiality of any interest

benchmark or other interest rate; (e) any fault or omission of Morgan Stanley in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; or (f) the propriety of certification of a class other than solely for purposes of the Settlement. Further, neither this Order, the Settlement Agreement (including its exhibits), nor the Settlement contained therein, whether or not the Settlement shall become Final, nor any negotiations, documents and discussions associated with them, nor the Final Approval Order and Final Judgment, may be discoverable or used directly or indirectly, in any way, whether in the Action or in any other action or proceeding of any nature, whether by the Settlement Class or any Person, except if warranted by existing law in connection with a dispute under the Settlement Agreement or an action in which the Settlement Agreement is asserted as a defense (in which case this paragraph does not apply). All rights of Morgan Stanley and Representative Plaintiffs are reserved and retained if the Settlement does not become Final in accordance with the terms of the Settlement Agreement.

36. Neither this Order, the Settlement Agreement, the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the Settlement is or may be used as an admission or evidence that the claims of Representative Plaintiffs lacked merit in any proceeding against anyone in any court, administrative agency, or other tribunal.

37. Class Counsel shall file their motions for payment of attorneys' fees and reimbursement of expenses, incentive awards, and for final approval of the Settlement at least seventy-five (75) days prior to the Fairness Hearing. Any reply briefs concerning Class Counsel's motions for payment of attorneys' fees and reimbursement of expenses, incentive awards, and for final approval of the Settlement shall be filed no later than seven (7) days prior to the Fairness Hearing.

38. If the Settlement is approved by the Court following the Fairness Hearing, a Final Approval Order and Final Judgment will be entered as described in the Settlement Agreement.

39. The Court may, for good cause, extend any of the deadlines set forth in this Order without notice to Settlement Class Members, other than that which may be posted at the Court or on the Settlement website, www.BBSWSettlement.com. Class Counsel may move the Court for permission to combine notice of the Settlement with any other settlements that may be reached.

40. In the event that the Settlement is terminated in accordance with its provisions, such terminated Settlement Agreement and all proceedings had in connection therewith, including but not limited to all negotiations, documents, and discussions associated with it, and any Requests for Exclusion from the Settlement previously submitted and deemed to be valid and timely, shall, without the need for further action by the Court or either of the Parties, be null and void and be of no force and effect, except as expressly provided to the contrary in the Settlement Agreement, and shall be without prejudice to the *status quo ante* rights of the Parties and may not be introduced as evidence or referred to in any actions or proceedings by any person or entity. Each Party shall be restored to his, her or its respective position as it existed as of February 19, 2021. In such circumstances, each of the Parties shall retain its currently existing rights to seek or to object to the certification of this litigation as a class action under FED. R. CIV. P. 23, or any state or federal rule, statute, law, or provision, and to contest and appeal any grant or denial of certification in this litigation or in any other litigation on any other grounds.

41. Except as otherwise provided herein, in the event that the Settlement Agreement is terminated, vacated, not approved, or the Effective Date fails to occur for any reason, then the Parties shall be deemed to have reverted to their respective status in the Action as of February 19, 2021 and the Settlement Amount, and all interest earned in the Settlement Fund on that Settlement

Amount, shall be refunded, reimbursed, and repaid to Morgan Stanley to the extent provided in the Settlement Agreement.

42. All funds held by the Escrow Agent shall be deemed and considered to be *in custodial legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Settlement Agreement, returned to the Person(s) paying the same pursuant to the Settlement Agreement and/or further order(s) of the Court.

43. If the Settlement is terminated pursuant to Sections 22 or 23 of the Settlement Agreement or if the Settlement is ultimately not approved or does not become Final for any reason, the Court will modify any existing scheduling order to ensure that the Parties will have sufficient time to prepare for the resumption of litigation.

44. This civil action was commenced after February 18, 2005. The Court directs Morgan Stanley to notify the appropriate Federal and State officials under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 (“CAFA”). Counsel for Morgan Stanley shall, before the Fairness Hearing, file with the Court proof of compliance with CAFA.

45. The Court’s conditional certification of the Settlement Class and appointment of Representative Plaintiffs as class representatives, as provided herein is without prejudice to, or waiver of, the rights of any Defendant to contest any other request by Representative Plaintiffs to certify a class. The Court’s findings in this Conditional Certification Order shall have no effect on the Court’s ruling on any motion to certify any class in this litigation, or appoint class representatives, and no party may cite or refer to the Court’s approval of the Settlement Class as binding or persuasive authority with respect to any motion to certify such class or appoint class representatives.

46. The Court hereby orders Morgan Stanley to produce documents to the Representative Plaintiffs consistent with and solely to the extent of its cooperation obligations provided in Section 5 of the Settlement Agreement.

47. If any deadline herein falls on a Saturday, Sunday or legal holiday, such deadline shall be extended until the next Business Day that is not a Saturday, Sunday or legal holiday.

ENTERED this ____ day of _____, _____.

Hon. Lewis A. Kaplan
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

RICHARD DENNIS, SONTERRA CAPITAL MASTER FUND, LTD., FRONTPOINT FINANCIAL SERVICES FUND, L.P., FRONTPOINT ASIAN EVENT DRIVEN FUND, L.P., AND FRONTPOINT FINANCIAL HORIZONS FUND, L.P., on behalf of themselves and all others similarly situated,

Docket No. 16-cv-06496 (LAK)

Plaintiffs,

-against-

JPMORGAN CHASE & CO., JPMORGAN CHASE BANK, N.A., JPMORGAN CHASE BANK, N.A. AUSTRALIA BRANCH, BNP PARIBAS, S.A., BNP PARIBAS, AUSTRALIA BRANCH, THE ROYAL BANK OF SCOTLAND GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC, RBS N.V., RBS GROUP (AUSTRALIA) PTY LIMITED, UBS AG, UBS AG, AUSTRALIA BRANCH, AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD., COMMONWEALTH BANK OF AUSTRALIA, NATIONAL AUSTRALIA BANK LIMITED, WESTPAC BANKING CORPORATION, DEUTSCHE BANK AG, DEUTSCHE BANK AG, AUSTRALIA BRANCH, HSBC HOLDINGS PLC, HSBC BANK AUSTRALIA LIMITED, LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, LLOYDS TSB BANK PLC, AUSTRALIA, MACQUARIE GROUP LTD., MACQUARIE BANK LTD., ROYAL BANK OF CANADA, RBC CAPITAL MARKETS LLC, ROYAL BANK OF CANADA, AUSTRALIA BRANCH, MORGAN STANLEY, MORGAN STANLEY AUSTRALIA LIMITED, CREDIT SUISSE GROUP AG, CREDIT SUISSE AG, ICAP PLC, ICAP AUSTRALIA PTY LTD., TULLETT PREBON PLC, TULLETT PREBON (AUSTRALIA) PTY LTD., AND JOHN DOES NOS. 1-50.

Defendants.

EXHIBIT B

**[PROPOSED]
FINAL APPROVAL ORDER OF
CLASS ACTION SETTLEMENT
WITH MORGAN STANLEY**

This matter came for a duly-noticed hearing on _____ 202__ (the “Fairness Hearing”), upon the Representative Plaintiffs’¹ Motion for Final Approval of Class Action Settlement with Morgan Stanley and Morgan Stanley Australia Limited (collectively, “Morgan Stanley”) in the action captioned *Richard Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) (the “Action”), which was consented to by Morgan Stanley (together with Representative Plaintiffs, the “Parties”). Due and adequate notice of the Stipulation and Agreement of Settlement, dated October 1, 2021 (the “Settlement Agreement”) having been given to the Settlement Class Members, the Fairness Hearing having been held and the Court having considered all papers filed and proceedings had in the Action, and otherwise being fully informed in the premises and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. This Final Approval Order hereby incorporates by reference the definitions in the Settlement Agreement and all terms used herein, except as otherwise expressly defined herein, shall have the same meanings as set forth in the Settlement Agreement.

2. For purposes only of the settlement of the Released Claims² set forth in the Settlement Agreement (the “Settlement”), the Court hereby finally certifies the Settlement Class:

¹ “Representative Plaintiffs” are Richard Dennis, Orange County Employees Retirement System (“OCERS”), and any subsequently named plaintiff(s).

² “Released Claims” means any and all manner of claims, including unknown claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, set-offs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class, derivative, or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys’ fees, and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, which Settling Class Members or any of them ever had, now has, or hereafter can, shall or may have, representatively, derivatively or in any other capacity, against the Released Parties arising from or relating in any way to the claims, allegations or conduct alleged in the Action, or which could have been alleged in the Action against the Released Parties, concerning any:

- (i) BBSW-Based Derivatives;

All Persons (including both natural persons and entities) who purchased, acquired, sold, held, traded, or otherwise had any interest in BBSW-Based Derivatives during the period January 1, 2003 through August 16, 2016, inclusive. Excluded from the Settlement Class are the Defendants and any parent, subsidiary, affiliate or agent of any Defendant or any co-conspirator whether or not named as a Defendant, and the United States Government.

3. Based on the record, the Court reconfirms that the applicable provisions of Rule 23 of the Federal Rules of Civil Procedure have been satisfied for purposes only of the Settlement.

4. In so holding, the Court finds that, solely for purposes of settlement, the Settlement Class meets all of the applicable requirements of FED. R. CIV. P. 23(a) and (b)(3). The Court hereby finds, in the specific context of this Settlement, that: (i) the Settlement Class is so numerous that joinder of all Settlement Class Members is impracticable, FED. R. CIV. P. 23(a)(1); (ii) common questions of law and fact exist with regard to Morgan Stanley's alleged manipulation of BBSW and the prices of BBSW-Based Derivatives, FED. R. CIV. P. 23(a)(2); (iii)

(ii) BBSW-Based Deposits or Loans (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.);

(iii) Prime Bank Bills or Prime Bank eligible securities purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.); or

(iv) any similar financial instruments priced, benchmarked, or settled to BBSW purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.), including additional financial instruments or claims subsequently alleged in the Action, or in which any of the foregoing otherwise had any interest;

including, but not limited to, any alleged manipulation of BBSW under any statute, regulation, or common law, or any purported conspiracy, collusion, racketeering activity, or of other improper conduct relating to BBSW (including, but not limited to, all claims under Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968, and any other federal or state statute, regulation, or the common law). The following claims shall not be released by this Settlement: (i) any claims against former Morgan Stanley employees arising solely from those former employees' conduct or alleged conduct that occurred while not employed by Morgan Stanley; (ii) any claims against the named Defendants in this Action other than Morgan Stanley and other than any John Doe Defendants to the extent they are current or former employees of Morgan Stanley (solely in their capacity as employees of Morgan Stanley); or (iii) any claims against any Defendant not affiliated with Morgan Stanley who may be subsequently added in this Action. *See* Settlement Agreement § 13.

the Representative Plaintiffs' claims in this litigation are typical of those of the Settlement Class Members, FED. R. CIV. P. 23(a)(3); and (iv) the Representative Plaintiffs' interests do not conflict with, and are co-extensive with, those of absent Settlement Class Members; and (v) Lowey Dannenberg, P.C. and Lovell Stewart Halebian Jacobson LLP ("Class Counsel") have adequately represented the interests of the Settlement Class, FED. R. CIV. P. 23(a)(4). The Court also finds that common issues of fact and law predominate over any questions affecting only individual members and that a class action is superior to other available methods for fairly and efficiently adjudicating this controversy. FED. R. CIV. P. 23(b)(3).

5. Representative Plaintiffs are hereby approved to serve as representatives of such Settlement Class for purposes of the Settlement.

6. Lowey Dannenberg, P.C. and Lovell Stewart Halebian Jacobson LLP are appointed Class Counsel to the Settlement Class for the purposes of the Settlement.

7. In the Action only and solely for purposes of the Settlement, this Court: (i) has personal jurisdiction over Representative Plaintiffs and Morgan Stanley, and all Settlement Class Members, and (ii) subject matter jurisdiction over the Action to consider the Settlement Agreement and all exhibits attached thereto.

8. The Court finds that the mailed notice, publication notice, website, and Class Notice plan implemented pursuant to the Settlement Agreement and approved by the Court in the Order dated _____, 202__ : (a) constituted the best practicable notice; (b) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, of their right to exclude themselves from or object to the proposed Settlement, of their right to appear at the Fairness Hearing, of the Distribution Plan, and of Class Counsel's application for an award of attorneys' fees, Incentive Award(s), and for

reimbursement of expenses associated with the Action; (c) provided a full and fair opportunity to all Settlement Class Members to be heard with respect to the foregoing matters; and (d) met all applicable requirements of Federal Rule of Civil Procedure 23, Due Process, and any other applicable rules or law. Based upon Morgan Stanley's submission to the Court dated _____, 202__, the Court further finds that Morgan Stanley has complied with the obligations imposed on it under the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

9. The Court finds that ___ Settlement Class Members have validly requested to be excluded from the Settlement Class as it relates to the Settlement. Those excluded members of the Settlement Class are identified at ECF No. ___ and in Exhibit 1 hereto. The excluded members of the Settlement Class as to the Settlement with Morgan Stanley identified in Exhibit 1 hereto shall have no rights with respect to the Settlement Agreement, shall receive no payment from the sums provided for in the Settlement Agreement and shall be deemed to have excluded themselves from the Action as against Morgan Stanley, including but not limited to any and all future prosecution of the Action against Morgan Stanley.

10. The Court finds that ___ objections to the proposed Settlement have been submitted. Notwithstanding the [lack of] objections, the Court has independently reviewed and considered all relevant factors and has conducted an independent examination into the propriety of the proposed Settlement. [The Court finds all objections are without merit and they are hereby overruled.]

11. It is hereby determined that all Settling Class Members are bound by the Settlement Agreement and this Final Approval Order regardless of whether such Settling Class Members execute and deliver a Proof of Claim and Release.

12. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby finally approves the Settlement, as set forth in the Settlement Agreement, and finds that the Settlement is, in all respects, fair, reasonable and adequate, and in the best interests of the Settlement Class, including the Representative Plaintiffs. In reaching this conclusion, the Court considered the factors set forth in *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974), *abrogated on other grounds by Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000). This Court further finds that the Settlement set forth in the Settlement Agreement is the result of arm's-length negotiations between experienced counsel representing the interests of the Parties, and that Class Counsel and the Representative Plaintiffs adequately represented the Settlement Class for the purpose of entering into and implementing the Settlement Agreement. The Court finds that the relief provided by the Settlement is adequate and Settlement Class Members are treated equitably. Accordingly, the Settlement embodied in the Settlement Agreement is hereby approved in all respects. The Parties are hereby directed to carry out the Settlement Agreement in accordance with all of its terms and provisions, including the termination provisions.

13. Notwithstanding the entry of this Final Approval Order, if the Settlement Agreement is validly terminated by Representative Plaintiffs or Morgan Stanley, is disapproved in whole or in part by the Court, any appellate court, or any other court of review, or does not become Final in accordance with its terms, then the provisions of this Final Approval Order shall be null and void with respect to the Settlement; Representative Plaintiffs' and Settling Class Members' claims shall be reinstated; Morgan Stanley's defenses shall be reinstated; the certification of the Settlement Class and final approval of the proposed Settlement, and all actions associated with it, including but not limited to any requests for exclusion from the

Settlement previously submitted and deemed to be valid, shall be vacated and be of no force and effect; the Settlement Agreement, including its exhibits, and any and all negotiations, documents, and discussions associated with it and the releases set forth in the Settlement Agreement, shall be without prejudice to the rights of any Party, and of no force or effect; and the Parties shall be returned to their respective positions before the Settlement Agreement was signed.

Notwithstanding the language in this section, any provision(s) in the Settlement Agreement that the Parties have agreed shall survive their termination shall continue to have the same force and effect intended by the Parties.

14. The Settlement Fund defined in the Settlement Agreement has been established as a trust and as a fiduciary account (the “Settlement Fiduciary Account”). The Court approves the establishment of the Settlement Fiduciary Account under the Settlement Agreement as qualified settlement funds pursuant to Section 468B of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder.

15. Without affecting the finality of the Final Approval Order for purposes of appeal, the Court reserves exclusive jurisdiction over the implementation and enforcement of the Settlement Agreement and the Settlement contemplated thereby and over the enforcement of this Final Approval Order. The Court also retains exclusive jurisdiction to resolve any disputes that arise out of or relate to the Settlement Agreement, the Settlement, or the Settlement Fund (except for such disputes and controversies as are subject to Section 42 of the Settlement Agreement, which disputes and controversies shall be governed by the respective terms of such section), to consider or approve administration costs and fees, including but not limited to fees and expenses incurred to administer the Settlement after the entry of the Final Approval Order, and to consider or approve the amounts of distributions to Settlement Class Members. In addition, without

affecting the finality of this Final Approval Order, the Representative Plaintiffs, Morgan Stanley, and the Settlement Class hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of New York for any suit, action, proceeding, or dispute arising out of or relating to this Final Approval Order or the Settlement Agreement. Any disputes involving the Representative Plaintiffs, Morgan Stanley, or Settling Class Members concerning the implementation of the Settlement Agreement shall be submitted to the Court.

16. Each Settling Class Member must execute a release and covenant not to sue, in conformity with the Settlement Agreement, as incorporated into the Proof of Claim and Release form, in order to receive the Settling Class Member's share, if any, of the Net Settlement Fund defined in the Settlement Agreement. The Court hereby confirms the appointment of A.B. Data, Ltd. as Settlement Administrator and directs that the Settlement Administrator shall ensure that each Proof of Claim and Release form provided to Settling Class Members contains a copy of such release and covenant not to sue. However, Settling Class Members' claims shall be released pursuant to Section 13 of the Settlement Agreement regardless of whether the Settling Class Member executes a release and covenant not to sue.

17. The Court declares that the Settlement Agreement and the Final Approval Order shall be binding on, and shall have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings against the Released Parties involving the Released Claims that are maintained by or on behalf of any Releasing Party regardless of whether the Releasing Party previously initiated or subsequently initiates individual litigation or other proceedings involving the Released Claims, and even if such Releasing Party never received actual notice of the Action or the proposed Settlement.

18. The Court hereby approves the release and covenant not to sue set forth in Section 13 of the Settlement and directs dismissal of the Action as against Morgan Stanley (but not any other Defendant) fully, finally and with prejudice, pursuant to the terms of the Settlement and the Final Judgment to be entered concurrently herewith.

19. The Court permanently bars and enjoins the Releasing Parties and all Settling Class Members from: (a) filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction against Morgan Stanley or any Released Parties based on the Released Claims; (b) filing, commencing, or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any Settlement Class Members (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), against Morgan Stanley or any Released Parties based on the Released Claims; (c) organizing members of the Settlement Class into a separate group, class, or subclass for purposes of pursuing as a purported class action any lawsuit or administrative, regulatory, arbitration, or other proceeding (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action) against Morgan Stanley or any Released Parties based on the Released Claims; or (d) assisting any third party in the prosecution of any Released Claims against Morgan Stanley or any Released Parties.

20. The Court permanently bars and enjoins claims by any Person against Morgan Stanley or any Released Parties for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment or otherwise. To the extent permitted by law, the Court permanently bars and enjoins claims against Morgan Stanley and any Released Parties for contribution or indemnification (however denominated) for all or a portion of any amounts paid

or awarded in the Action by way of settlement, judgment, or otherwise by (a) any of the other Defendants currently named in the Action; (b) any other Person formerly named as a party in the Action; or (c) any other Person subsequently added or joined as a party in the Action. Should any court determine that any Defendant is or was legally entitled to any kind of set-off, apportionment, contribution, or indemnification from Morgan Stanley or any Released Parties arising out of or related to Released Claims, any money judgment subsequently obtained by the Releasing Parties against any Defendant shall be reduced to an amount such that, upon paying the entire amount, the Defendant would have no claim for set-off, apportionment, contribution, indemnification, or similar claims against Morgan Stanley or any Released Parties.

21. The Court permanently bars and enjoins claims by Morgan Stanley or any Released Parties against any other Defendants for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment or otherwise. To the extent permitted by law, the Court permanently bars and enjoins claims by Morgan Stanley and any Released Parties for contribution or indemnification (however denominated) from other Defendants for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment, or otherwise against any of the other Defendants currently named in the Action and absolves the other Defendants against any claims for contribution, indemnification, or similar claims from the Released Parties arising out of or related in any way to the Released Claims, in the manner and to the fullest extent permitted under the law of New York or any other jurisdiction that might be construed or deemed to apply for claims of contribution, indemnification, or similar claims against any of the other Defendants. For the avoidance of doubt, this paragraph shall not bar any claims, including claims for contribution or indemnification (however denominated) by Morgan

Stanley and/or any Released Parties against any third parties other than other Defendants in this Action.

22. Neither the Settlement Agreement (nor its respective exhibits), whether or not it shall become Final, nor any negotiations, documents exchanged among counsel for the Representative Plaintiffs and Morgan Stanley in connection with settlement discussions, and discussions associated with them, nor the Final Approval Order and Final Judgment are or shall be deemed or construed to be an admission, adjudication, or evidence of: (a) any violation of any statute or law or of the validity of any claims, alleged wrongdoing, or liability of Morgan Stanley or any Released Party; (b) the truth of any of the claims or allegations alleged in the Action; (c) the incurrence of any damage, loss, or injury by any Person; (d) the existence or amount of any artificiality of any interest benchmark or other interest rate; (e) any fault or omission of Morgan Stanley in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; or (f) the propriety of certification of a class other than solely for purposes of the Settlement. Further, neither the Settlement Agreement (nor its exhibits), whether or not it shall become Final, nor any negotiations, documents exchanged among counsel for the Representative Plaintiffs and Morgan Stanley in connection with settlement discussions, and discussions associated with them, nor the Final Approval Order and Final Judgment, may be discoverable, offered or received in evidence, or used directly or indirectly, in any way, whether in the Action or in any other action or proceeding of any nature, by any Person, except if warranted by existing law in connection with a dispute under the Settlement Agreement or an action (including this Action) in which the Settlement Agreement is asserted as a defense. Notwithstanding anything to the contrary herein, the foregoing provisions do not apply to discovery or cooperation materials provided by Morgan Stanley to the Representative Plaintiffs

or by the Representative Plaintiffs to the Morgan Stanley in connection with the Settlement or the Action. The Parties, without the need for approval from the Court, may adopt such amendments, modifications, and expansions of the Settlement Agreement and all exhibits thereto as (i) shall be consistent in all material respects with the Final Approval Order; and (ii) do not limit the rights of Settling Class Members.

23. The Court finds that, during the course of the Action, the Parties and their respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure as to each other.

24. Any data or other information provided by Settlement Class Members in connection with the submission of claims shall be held in strict confidence, available only to the Settlement Administrator, Class Counsel, and experts or consultants acting on behalf of the Settlement Class. In no event shall a Settlement Class Member's data or personal information be made publicly available, except as provided for herein or upon Court Order for good cause shown.

25. The Distribution Plan and the Proof of Claim and Release Form are each approved as fair, reasonable, and adequate.

26. The word "days," as used herein, means calendar days. In the event that any date or deadline set forth herein falls on a weekend or federal or state legal holiday, such date or deadline shall be deemed moved to the first business day thereafter.

27. The Court's certification of the Settlement Class and appointment of the Representative Plaintiffs as class representatives, as provided herein, is without prejudice to, or waiver of, the rights of any Defendant to contest any other request by the Representative Plaintiffs to certify a class. The Court's findings in this Final Approval Order shall have no

effect on the Court's ruling on any motion to certify any class or to appoint class representatives in this litigation or any challenge to the Representative Plaintiffs' capacity to litigate or to represent a putative class, and no party may cite or refer to the Court's approval of the Settlement Class as binding or persuasive authority with respect to any such motion or challenge.

28. Class Counsel's request for attorneys' fees and reimbursement of expenses (and Incentive Awards for the Representative Plaintiffs) shall be the subject of a separate order by the Court.

IT IS SO ORDERED.

Signed this _____ day of _____ 202__.

Hon. Lewis A. Kaplan
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

RICHARD DENNIS, SONTERRA CAPITAL MASTER FUND, LTD., FRONTPOINT FINANCIAL SERVICES FUND, L.P., FRONTPOINT ASIAN EVENT DRIVEN FUND, L.P., AND FRONTPOINT FINANCIAL HORIZONS FUND, L.P., on behalf of themselves and all others similarly situated,

Docket No. 16-cv-06496 (LAK)

Plaintiffs,

-against-

JPMORGAN CHASE & CO., JPMORGAN CHASE BANK, N.A., JPMORGAN CHASE BANK, N.A. AUSTRALIA BRANCH, BNP PARIBAS, S.A., BNP PARIBAS, AUSTRALIA BRANCH, THE ROYAL BANK OF SCOTLAND GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC, RBS N.V., RBS GROUP (AUSTRALIA) PTY LIMITED, UBS AG, UBS AG, AUSTRALIA BRANCH, AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD., COMMONWEALTH BANK OF AUSTRALIA, NATIONAL AUSTRALIA BANK LIMITED, WESTPAC BANKING CORPORATION, DEUTSCHE BANK AG, DEUTSCHE BANK AG, AUSTRALIA BRANCH, HSBC HOLDINGS PLC, HSBC BANK AUSTRALIA LIMITED, LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, LLOYDS TSB BANK PLC, AUSTRALIA, MACQUARIE GROUP LTD., MACQUARIE BANK LTD., ROYAL BANK OF CANADA, RBC CAPITAL MARKETS LLC, ROYAL BANK OF CANADA, AUSTRALIA BRANCH, MORGAN STANLEY, MORGAN STANLEY AUSTRALIA LIMITED, CREDIT SUISSE GROUP AG, CREDIT SUISSE AG, ICAP PLC, ICAP AUSTRALIA PTY LTD., TULLETT PREBON PLC, TULLETT PREBON (AUSTRALIA) PTY LTD., AND JOHN DOES NOS. 1-50.

Defendants.

EXHIBIT C

**[PROPOSED]
FINAL JUDGMENT AND ORDER
OF DISMISSAL WITH
PREJUDICE OF MORGAN
STANLEY**

This matter came for a duly-noticed hearing on ____ 202__ (the “Fairness Hearing”), upon Representative Plaintiffs’¹ Motion for Final Approval of Class Action Settlement with Morgan Stanley and Morgan Stanley Australia Limited (collectively, “Morgan Stanley”) in the action captioned *Richard Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.) (the “Action”), which was consented to by Morgan Stanley (together with Representative Plaintiffs, the “Parties”). The Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. This Final Judgment hereby incorporates by reference the definitions in the Stipulation and Agreement of Settlement dated October 1, 2021 between Representative Plaintiffs and Morgan Stanley, ECF No. ____ (the “Settlement Agreement”), and all terms used herein, except as otherwise expressly defined herein, shall have the same meanings as set forth in the Settlement Agreement.

2. Upon the Effective Date of the Settlement, the Action, including each claim in the Action, is hereby dismissed with prejudice on the merits as to Morgan Stanley (but not any other Defendant) without fees or costs except as provided by the terms of the Settlement.

3. Upon the Effective Date of the Settlement, the Action shall be dismissed fully, finally and in its entirety against Morgan Stanley and any John Doe Defendants to the extent they are current or former Morgan Stanley employees (solely in that capacity) with prejudice.

¹ The “Representative Plaintiffs” are Richard Dennis, Orange County Employees Retirement System (“OCERS”), and any subsequently named plaintiff(s). Unless otherwise noted, ECF citations are to the docket in *Richard Dennis, et al. v. JPMorgan Chase & Co., et al.*, No. 16-cv-06496 (LAK) (S.D.N.Y.).

4. The Releasing Parties² fully, finally and forever released, relinquished and discharged from and covenanted not to sue the Released Parties³ for any and all manner of claims, including unknown claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, set-offs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class, derivative, or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys' fees, and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, which Settling

² "Releasing Parties" means each and every Representative Plaintiff and each and every Settling Class Member on their own behalf and on behalf of their respective predecessors, successors and assigns, direct and indirect parents, subsidiaries, divisions, related entities, associates and affiliates, and on behalf of their current and former officers, directors, advisors, representatives, employees, agents, principals, managers, members, trustees, participants, representatives, fiduciaries, beneficiaries, consultants, attorneys, accountants, auditors, insurers or legal representatives in their capacity as such, and the predecessors, successors, heirs, executors, administrators and assigns of each of the foregoing in their capacity as such, whether or not they object to the Settlement or make a claim for payment from the settlement fund. Notwithstanding that the U.S. Government is excluded from the Settlement Class, with respect to any Settling Class Member that is a government entity, Releasing Parties include any and every Settling Class Member as to which the government entity has the legal right to release such claims. As used in this provision, "affiliates" means entities controlling, controlled by, or under common control with a Releasing Party. For the avoidance of doubt, the "Releasing Parties" include all Persons (including both natural persons and entities) entitled to bring or release claims on behalf of Settling Class Members relating to the Released Claims, including, but not limited to, the Settling Class Members' transactions, interests or positions in, or ownership of, BBSW-Based Derivatives or any similar financial instruments priced, benchmarked, or settled to BBSW held by Representative Plaintiffs or Settling Class Members (to the extent such similar financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.). *See* Settlement Agreement § 1(MM).

³ "Released Parties" means Morgan Stanley, its predecessors, successors and assigns, its past, present, and future direct and indirect parents, subsidiaries, divisions, related entities, associates and affiliates, and each of Morgan Stanley's and each of the foregoing's respective current, former and future officers, directors, advisors, representatives, employees, principals, managers, members, partners, participants, agents (in their capacity as agents of Morgan Stanley), shareholders (in their capacity as shareholders of Morgan Stanley), representatives, fiduciaries, beneficiaries, consultants, attorneys, accountants, auditors, insurers, or legal representatives, and the predecessors, successors, heirs, executors, administrators, trustees and assigns of each of the foregoing and any John Doe Defendants named or subsequently named in this Action (to the extent they are current or former employees of any of the foregoing but solely in that capacity). As used in this provision, "affiliates" means entities controlling, controlled by, or under common control with a Released Party. For the avoidance of doubt, for purposes of this Settlement, "Released Parties" shall not include any named Defendants other than Morgan Stanley and Morgan Stanley Australia Limited. *See* Settlement Agreement § 1(LL).

Class Members or any of them ever had, now has, or hereafter can, shall or may have, representatively, derivatively or in any other capacity, against the Released Parties arising from or relating in any way to the claims, allegations or conduct alleged in the Action, or which could have been alleged in the Action against the Released Parties, concerning any:

- a. BBSW-Based Derivatives;
- b. BBSW-Based Deposits or Loans (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.);
- c. Prime Bank Bills or Prime Bank eligible securities purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.); or
- d. any similar financial instruments priced, benchmarked, or settled to BBSW purchased, sold, held, traded, and/or transacted by the Representative Plaintiffs, members of the Settlement Class, and/or Settling Class Members (to the extent such financial instruments were entered into by a U.S. Person, or by a Person from or through a location within the U.S.), including additional financial instruments or claims subsequently alleged in the Action, or in which any of the foregoing otherwise had any interest;

including, but not limited to, any alleged manipulation of BBSW under any statute, regulation, or common law, or any purported conspiracy, collusion, racketeering activity, or of other improper conduct relating to BBSW (including, but not limited to, all claims under Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1 *et seq.*, the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*,

the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968, and any other federal or state statute, regulation, or the common law).

5. The following claims shall not be released by the Settlement: (i) any claims against former Morgan Stanley employees arising solely from those former employees' conduct or alleged conduct that occurred while not employed by Morgan Stanley; (ii) any claims against the named Defendants in this Action other than Morgan Stanley and other than any John Doe Defendants to the extent they are current or former employees of Morgan Stanley (solely in their capacity as employees of Morgan Stanley); or (iii) any claims against any Defendant not affiliated with Morgan Stanley who may be subsequently added in this Action.

6. Although the foregoing release is not a general release, the foregoing release constitutes a waiver by the Parties and each Settling Class Member of any and all rights and provisions under Section 1542 of the California Civil Code (to the extent it applies to the Action), which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

This release also constitutes a waiver of any and all provisions, rights, and benefits of any federal, state or foreign law, rule, regulation, or principle of law or equity that is similar, comparable, equivalent to, or which has the effect of, Section 1542 of the California Civil Code. Releasing Parties and Settling Class Members shall be deemed to acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject matter of the Settlement Agreement, but that it is their intention to release fully, finally, and forever all of the Released Claims, and in

furtherance of such intention, the release shall be irrevocable and remain in effect notwithstanding the discovery or existence of any such additional or different facts. In entering and making this Settlement Agreement, the Parties assume the risk of any mistake of fact or law and the release shall be irrevocable and remain in effect notwithstanding any mistake of fact or law.

7. Upon the Effective Date, each of the Releasing Parties shall forever be enjoined from prosecuting in any forum any Released Claim against any of the Released Parties and agrees and covenants not to sue any of the Released Parties on the basis of any Released Claims or to assist any third party in prosecuting any Released Claims against any Released Party.

8. The Court, finding no just reason for delay, directs pursuant to Rule 54(b) of the Federal Rules of Civil Procedure that the judgment of dismissal as to Morgan Stanley shall be final and entered forthwith.

IT IS SO ORDERED.

Signed this ___ day of _____, 202__.

Hon. Lewis A. Kaplan
United States District Judge