

NMC HOLDCO SPV LTD  
AS THE COMPANY

AND

ABU DHABI COMMERCIAL BANK PJSC  
AS INVESTMENT AGENT

---

SERVICE AGENCY AGREEMENT

---

## CONTENTS

Clause	Page
1. Definitions and Interpretation.....	1
2. Appointment and Fee.....	4
3. Services.....	4
4. Account.....	6
5. Income Periods and Income Amount .....	7
6. Income Payment .....	8
7. No Partnership .....	9
8. Further Assurance.....	9
9. Other Provisions .....	9
10. Governing Law .....	9
11. Waiver of Interest .....	9
Schedule 1 Form of Income Amount Notice .....	10

**THIS SERVICE AGENCY AGREEMENT** is dated 25 March 2022

**BETWEEN:**

- (1) **NMC HOLDCO SPV LTD**, a limited liability company incorporated under the laws of the Abu Dhabi Global Market, United Arab Emirates, with its registered office at c/o Walkers Professional Services (Middle East) Limited, 2462ResCowork01, 24th Floor, Al Sila Tower, Abu Dhabi Global Market Square, Al Maryah Island, Abu Dhabi, United Arab Emirates and company registration number 000005914 (the "**Company**"); and
- (2) **ABU DHABI COMMERCIAL BANK PJSC** as investment agent of the Islamic Financing Parties (the "**Investment Agent**").

**RECITALS:**

- (A) From time to time the Investment Agent (on behalf of the Participants) shall purchase the Relevant Term Assets from the Company (acting on its own behalf) in accordance with the terms of the Master Sale and Purchase Agreement, subject to the terms and conditions of the Islamic Financing Transaction Documents.
- (B) The Investment Agent wishes to appoint the Company to provide the Services in respect of the Relevant Term Assets.

**IT IS AGREED:**

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

"**Account**" means each of the Collection Account and the Revenue Reserve Account.

"**Additional Income Date**" means the first Income Payment Date when 90 per cent. of the Total Islamic Financing Commitments (as at the date of such payment) has been paid by the Company to the Investment Agent by way of the aggregate Exercise Prices paid by the Company under the Purchase Undertaking or the Sale Undertaking or any Principal Shortfall Amounts paid pursuant to Clause 3.4 (*Shari'a compliant hedging strategy*).

"**Additional Portfolio**" means an identified number of the Relevant Assets sold by the Company to the Investment Agent pursuant to a Supplemental Sale and Purchase Agreement (other than the First Supplemental Sale and Purchase Agreement).

"**Agency Term**" means the period commencing on the date of this Agreement and ending on the Final Maturity Date.

"**Available Funds**" means, in relation to an Income Payment Date:

- (a) if no Exit Event has occurred, amounts held by the Company in the Collection Account after all amounts listed under paragraphs (a)(i) to (a)(vii) of clause 13.2 (*Cash Waterfall*) of the Common Terms Agreement have been paid in full;

- (b) following an Exit Event which is a Novated Exit Event, amounts held by Company in the Collection Account after all amounts listed under paragraphs (b)(i) to (b)(iii) of clause 13.2 (*Cash Waterfall*) of the Common Terms Agreement have been paid in full;
- (c) following an Indemnity Determination Event, amounts held by Company in the Collection Account after all amounts listed under paragraphs (c)(i)(A) and (c)(i)(B) of clause 13.2 (*Cash Waterfall*) of the Common Terms Agreement have been paid in full;
- (d) following the occurrence of the End Date, amounts held by Company in the Collection Account after all amounts listed under paragraphs (c)(ii)(A) and (c)(ii)(B) of clause 13.2 (*Cash Waterfall*) of the Common Terms Agreement have been paid in full; and
- (e) following an Exit Event which is not a Novated Exit Event, amounts held by Company in the Collection Account after all amounts listed under paragraphs (d)(i) and (d)(ii) of clause 13.2 (*Cash Waterfall*) of the Common Terms Agreement have been paid in full.

**"Collection Account"** has the meaning given to it in paragraph (a) of Clause 4.1 (*Opening*).

**"Common Terms Agreement"** means the common terms agreement dated on or about the date of this Agreement between, amongst others, the Investment Agent, the Original Participants and the Company.

**"First Income Payment Date"** means the date falling nine Months after the Restructuring Effective Date.

**"First Supplemental Sale and Purchase Agreement"** has the meaning given to it in the Master Sale and Purchase Agreement.

**"Hedging Costs"** has the meaning given to it in paragraph (f) of Clause 3.4 (*Shari'a compliant hedging strategy*).

**"Income Amount"** means, in relation to each Income Period, the amount calculated in accordance with paragraph (c) of Clause 5.3 (*Income Amount*).

**"Income Amount Notice"** means a notice substantially in the form set out in Schedule 1 (*Form of Income Amount Notice*).

**"Income Cash Amount"** means, in relation to each Income Period, the amount calculated in accordance with paragraph (c)(i)(A) of Clause 5.3 (*Income Amount*).

**"Income Payment Date"** means:

- (a) the First Income Payment Date; and
- (b) each date falling every twelve Months thereafter.

**"Income Period"** means each period determined in accordance with Clause 5 (*Income Periods and Income Amount*).

**"Income PIK Amount"** means, in relation to each Income Period, the amount calculated in accordance with paragraph (c)(i)(B) of Clause 5.3 (*Income Amount*).

**"Income Variable Amount"** means, in relation to each Income Period, the amount calculated in accordance with paragraph (c)(i)(C) of Clause 5.3 (*Income Amount*).

**"Initial Portfolio"** means the identified number of the Relevant Assets sold by the Company to the Investment Agent pursuant to the First Supplemental Sale and Purchase Agreement.

**"Investment Agency Agreement"** means the investment agency agreement dated on or about the date of this Agreement between, amongst others, the Investment Agent, the Original Participants and the Company.

**"Islamic Financing Share"** means, at any time, the proportion that the Total Islamic Financing Commitments bears to the Total Commitments at that time.

**"Master Sale and Purchase Agreement"** means the master sale and purchase agreement dated on or about the date of this Agreement between the Investment Agent and the Company.

**"Outstanding Purchase Price"** has the meaning given to it in the Purchase Undertaking.

**"Party"** means a party to this Agreement.

**"Principal Shortfall Amount"** has the meaning given to it in paragraph (b) of Clause 3.4 (*Shari'a compliant hedging strategy*).

**"Purchase Price"** has the meaning given to it in the relevant Supplemental Sale and Purchase Agreement.

**"Purchase Transaction"** means a sale and purchase transaction in respect of the Initial Portfolio or any Additional Portfolio pursuant to a Supplemental Sale and Purchase Agreement and subject to the conditions of the Common Terms Agreement and the Master Sale and Purchase Agreement.

**"Purchase Transaction Date"** has the meaning given to it in the Master Sale and Purchase Agreement.

**"Relevant Assets"** has the meaning given to it in the Master Sale and Purchase Agreement.

**"Relevant Term Assets"** means all the Relevant Assets purchased by the Investment Agent pursuant to any Supplemental Sale and Purchase Agreement (as such assets may be sub-divided or consolidated) as may be reduced pursuant to any transfer to the Company pursuant to the Purchase Undertaking or the Sale Undertaking, as applicable.

**"Reserve Revenue"** means any amounts standing to the credit of the Collection Account (attributable to the Relevant Term Assets) on each Income Payment Date following payment of the Income Amount and all other amounts outstanding under the Transaction Documents.

**"Restructuring Effective Date"** has the meaning given to it in the LTD DOCA.

**"Revenue"** means all income, dividend, distribution, revenue or proceeds generated with respect to all or any part of the Relevant Term Assets.

**"Revenue Reserve Account"** has the meaning given to it in paragraph (b) of Clause 4.1 (*Opening*).

**"Services"** means the services agreed to be provided by the Company in accordance with the terms of this Agreement.

**"Supplemental Sale and Purchase Agreement"** means, in relation to a Purchase Transaction, an agreement substantially in the form set out in schedule 1 (*Form of Supplemental Sale and Purchase Agreement*) of the Master Sale and Purchase Agreement.

## 1.2 Construction

- (a) Unless defined in this Agreement or the context otherwise requires, terms defined in the Common Terms Agreement and the Investment Agency Agreement have the same meanings in this Agreement or in any notice given under or in connection with this Agreement.
- (b) Except as otherwise expressly provided in this Agreement, the provisions of clause 1.2 (*Construction*) of the Common Terms Agreement apply to this Agreement as if set out in full in this Agreement, and any references in the Common Terms Agreement to "this Agreement" are to be construed as references to this Agreement.

## 1.3 Third party rights

Clause 1.3 (*Third party rights*) of the Common Terms Agreement applies to this Agreement as if set out in full in this Agreement and any references in the Common Terms Agreement to "this Agreement" are to be construed as references to this Agreement.

## 2. APPOINTMENT AND FEE

### 2.1 Appointment

- (a) The Investment Agent (for and on behalf of the Participants) appoints and authorises the Company, and the Company accepts such appointment and authority, to provide the Services for the Agency Term.
- (b) The Company has no right or authority, express or implied, to impose any obligation or liability on the Investment Agent in connection with the provision of the Services, other than as expressly set out in this Agreement.

- (c) The appointment of the Company under this Clause 2.1 shall terminate automatically at the end of the Agency Term.

## 2.2 Fee

In consideration of the Company providing the Services:

- (a) the Investment Agent shall pay to the Company a fee of USD100 on the date of this Agreement (the adequacy of which the Company hereby acknowledges); and
- (b) subject to Clause 6 (*Income Payment*), the Company shall be entitled to any amount recorded as standing to the credit of the Revenue Reserve Account on the Final Maturity Date to use for its own account as an incentive fee **provided that** no Event of Default is continuing and no amount is outstanding under the Transaction Documents.

## 3. SERVICES

### 3.1 Provision of Services

- (a) During the Agency Term, the Company undertakes to the Investment Agent that it shall provide the following services:
  - (i) it shall collect all Revenue and pay the same into the Collection Account;
  - (ii) it shall maintain each Account in accordance with Clause 4 (*Account*) and shall comply with all its other obligations under this Agreement;
  - (iii) it shall obtain all necessary Authorisations in connection with the performance of its obligations under or in connection with this Agreement; and
  - (iv) it shall exercise voting rights in respect of the Relevant Term Assets having regard to the principles of *Shari'a*.
- (b) For the avoidance of doubt, the Company will not provide any investment services on behalf of the Investment Agent.

### 3.2 Standard of Care

The Company shall provide the Services:

- (a) in accordance with all applicable laws and regulations; and
- (b) as it deems fit, but with the degree of skill and care that it would exercise in respect of its own assets.

### 3.3 Reduction of Relevant Term Assets

This Agreement shall continue in full force and effect with respect to the Relevant Term Assets that have not been acquired by the Company pursuant to the exercise of the Sale Undertaking or the Purchase Undertaking and no further action shall be required under clause 34 (*Amendments, Waivers and Consents*) of the Common Terms Agreement in order to effect any such change.

### 3.4 Shari'a compliant hedging strategy

- (a) In this Clause 3.4:

**"Current Market Value"** has the meaning given to that term in the Purchase Undertaking or the Sale Undertaking (as applicable);

**"Exercise Price"** has the meaning given to it in the Purchase Undertaking or the Sale Undertaking, as the context requires; and

**"Relevant Term Assets"** has the meaning given to that term in the Purchase Undertaking or the Sale Undertaking (as applicable).

- (b) The Company shall use reasonable endeavours to procure that a *Shari'a* compliant hedging strategy is in place for the duration of the Agency Term, in form and substance satisfactory to the Investment Agent, for and on behalf of the Participants. The Company shall ensure that the rights under such hedging strategy are exercised on behalf of the Investment Agent if (i) upon making a calculation of the Exercise Price the Current Market Value of the applicable Relevant Term Assets is less than the Outstanding Purchase Price of the applicable Relevant Term Assets (such shortfall, being the **"Principal Shortfall Amount"**) and/or (ii) the Revenue generated from the Relevant Term Assets is less than the Income Amount and to ensure that the counterparty under such hedging strategy is required to pay the Investment Agent any Principal Shortfall Amount on any date the Exercise Price is, or would have been, due in accordance with the terms of the Islamic Financing Transaction Documents.
- (c) If the Company is not able to procure a *Shari'a* compliant hedging strategy in accordance with paragraph (b) above within 15 days of the date of this Agreement, it shall promptly (and in any event within five Business Days of becoming aware that it will not be able to procure such *Shari'a* compliant hedging strategy) notify the Investment Agent. Any such notification shall include the reasons for its inability to procure a *Shari'a* compliant hedging strategy.
- (d) If the Company has not complied with its obligations referred to in paragraph (b) above due to its negligence, fraud or misconduct or failed to comply with its obligations referred to in paragraph (c) above, the Company undertakes, as an independent and primary obligation to indemnify the Investment Agent (for the account of the relevant Participants) immediately on demand against any actual cost, loss or liability (excluding opportunity costs or costs of funding) it incurs as a result, in an amount equal to any Principal Shortfall Amount.



- (e) No Event of Default will occur under clause 18 (*Events of Default*) of the Common Terms Agreement by reason only of the Company's failure to comply with its obligations under paragraph (b) or (c) of this Clause 3.4.
- (f) Any costs incurred by the Company in connection with complying with its obligations under paragraph (b) above (the "**Hedging Costs**") shall be reimbursed by the Investment Agent on the last day of the next Income Period to commence after the date on which such costs are incurred.

#### 4. **ACCOUNT**

##### 4.1 **Opening**

The Company shall:

- (a) open and maintain a collection account for the purpose of the receipt and payment of all Revenue in accordance with the terms of this Agreement; (the "**Collection Account**"); and
- (b) maintain a ledger account for the purpose of recording Reserve Revenue (the "**Revenue Reserve Account**").

##### 4.2 **Recording**

The Company must make ledger entries to ensure that each debit and credit of each Account is accurately recorded.

##### 4.3 **Access to books and records**

The Company shall, if so requested, as soon as practicable provide the Investment Agent with any information or details in relation to the Accounts and the Relevant Term Assets that the Investment Agent may, by written notice, reasonably request.

#### 5. **INCOME PERIODS AND INCOME AMOUNT**

##### 5.1 **Income Periods**

- (a) The Parties agree that each Income Period in respect of the Income Amount on the Relevant Assets the subject of a Purchase Transaction shall:
  - (i) start on the relevant Purchase Transaction Date; and
  - (ii) end on the next Income Payment Date.
- (b) An Income Period shall not extend beyond the Final Maturity Date and if an Income Period would otherwise extend beyond the Final Maturity Date it shall instead end on the Final Maturity Date.

## 5.2 Business Days

If an Income Period would otherwise end on a day which is not a Business Day, that Income Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

## 5.3 Income Amount

- (a) The Investment Agent shall serve an Income Amount Notice substantially in the form set out in Schedule 1 (*Form of Income Amount Notice*) on each Purchase Transaction Date (other than a Purchase Transaction Date in relation to a Purchase Transaction entered into in connection with an Income PIK Amount) and on the first day of each subsequent Income Period, notifying the Company of any Income Cash Amount, Income PIK Amount and Increased Costs for the purposes of calculating the Income Amount applicable to the immediately following Income Period. The Investment Agent shall promptly notify the Company of the determination of any Income Variable Amount under this Agreement.
- (b) Subject to the Cash Waterfall and paragraphs (d) and (e) below, the Company must pay the accrued Income Amount out of realised Revenue on the last day of each Income Period.
- (c) The Income Amount for each Income Period shall be the aggregate of:
  - (i) an amount of income being the aggregate of:
    - (A) the cash amount equal to the product of (i) the rate equal to 0.5 per cent. per annum and (ii) the Contributions Outstanding (the "**Income Cash Amount**");
    - (B) the non-cash amount equal to the product of (i) the rate equal to 2.0 per cent. per annum and (ii) the Contributions Outstanding (the "**Income PIK Amount**"); and
    - (C) on and from the Additional Income Date, an amount equal to the Islamic Financing Share of the Company's Available Funds on the relevant Income Payment Date (the "**Income Variable Amount**");
  - (ii) any Increased Costs incurred during the immediately preceding Income Period and claimed in accordance with clause 4 (*Increased Costs*) of the Investment Agency Agreement; and
  - (iii) the amount of any Hedging Costs incurred during the immediately preceding Income Period.
- (d) The Company shall pay any Increased Costs component of an Income Amount on the first day of the relevant Income Period.
- (e) The payment of the Income PIK Amount by the Company to the Investment Agent shall be settled by way of the sale by the Company of an Additional

Portfolio to the Investment Agent pursuant to a Supplemental Sale and Purchase Agreement.

#### **5.4 Adjustment of Income Amount**

The Income Amount in respect of the last Income Period may be adjusted to the extent that any Increased Costs are incurred during that Income Period, by delivery of an updated Income Amount Notice by the Investment Agent to the Company. Any such adjustment must be pre-agreed by the Company.

#### **6. INCOME PAYMENT**

Subject to clause 13 (*Cash Sweep*) of the Common Terms Agreement:

- (a) the Company shall credit any Revenue to the Collection Account and hold such amounts for and on behalf of the Investment Agent;
- (b) following payment of the Income Amount (other than the Income PIK Amount) and all other amounts outstanding under the Transaction Documents, Reserve Revenue (if any) shall be debited from the Collection Account and credited to the Revenue Reserve Account; and
- (c) if, on any Income Payment Date, there is a shortfall of funds to enable the Company to pay the Income Amount or any other amounts outstanding under the Islamic Financing Transaction Documents, any amounts standing to the credit of the Revenue Reserve Account may be applied to meet such shortfall.

#### **7. NO PARTNERSHIP**

This Agreement is not intended to constitute a partnership or trust for the purposes of English law and, to the fullest extent permitted by law, the Parties confirm that the provisions of the Partnership Act 1890 do not apply to the terms of this Agreement.

#### **8. FURTHER ASSURANCE**

Each Party shall do all such acts and use all reasonable endeavours (including, but not limited to, procuring that third parties shall execute documents and do all such acts) as the other Party may reasonably request in order to carry out the intended purpose of this Agreement or otherwise to preserve or enforce any Party's rights under this Agreement.

#### **9. OTHER PROVISIONS**

Clauses 30 (*Notices*), 32 (*Partial Invalidity*), 34 (*Amendments, Waivers and Consents*), 36 (*Counterparts*) and 40 (*Enforcement*) of the Common Terms Agreement shall apply *mutatis mutandis* to this Agreement as if set out in full herein.

#### **10. GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

**11. WAIVER OF INTEREST**

The Parties acknowledge and agree that the principle of the payment of interest is repugnant to the principles of Shari'a and accordingly, to the extent that any legal system would impose (whether by contract, statute or court order) any obligation to pay interest, the Parties hereby irrevocably and unconditionally, expressly waive and reject any entitlement to recover interest from each other.

**THIS AGREEMENT** is entered into by the Parties on the date stated at the beginning of this Agreement.

**SCHEDULE 1**  
**FORM OF INCOME AMOUNT NOTICE**

From: ABU DHABI COMMERCIAL BANK PJSC as Investment Agent

To: NMC HOLDCO SPV LTD

Date:

**Service Agency Agreement dated [\_\_\_\_\_] 2022**  
**(the "Agreement")**

Unless the context does not so admit, terms defined, and the construction given to them, in the Agreement have the same meaning and construction when used herein.

This Income Amount Notice is given pursuant to Clause 5.3 (*Income Amount*) of the Agreement.

We refer to the following Relevant Term Assets: [ ].

The Income Amount in respect of the Relevant Term Assets described above for the Income Period from and including [\_\_\_\_\_] to but excluding [\_\_\_\_\_] shall be the aggregate of:

- (a) USD[ ], being the Income Cash Amount;
- (b) USD[ ], being the Income PIK Amount; and
- (c) [USD[ ] being the amount of Increased Costs incurred during the previous Income Period.]\*

Clause 9 (*Other Provisions*) of the Agreement shall apply *mutatis mutandis* to this Income Amount Notice as if set out in full herein.

This Income Amount Notice and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

.....  
By:

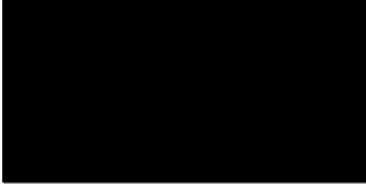
for and on behalf of  
**ABU DHABI COMMERCIAL BANK PJSC**  
as Investment Agent

*\* Delete if no Increased Costs are being claimed*

## **SIGNATORIES**

### **THE COMPANY**

Signed by Michael Davis as attorney for  
**NMC HOLDCO SPV LTD**, a company  
incorporated in the ADGM



**THE INVESTMENT AGENT**

Signed by  
**ABU DHABI COMMERCIAL BANK**  
**PJSC**, acting in its capacity as Investment  
Agent, acting by

---

Name:

Title:

Date: 25 March 2

