

## APPLICABLE PRICING SUPPLEMENT



### US PLUS LIMITED

*(Incorporated with limited liability in the Republic of South Africa under registration number 2014/048709/06)  
(Formerly Us Plus (Proprietary) Limited)*

### Issue of R15 000 000,00 Floating Rate Notes (USP02U)

#### Under its ZAR1,000,000,000 Note Programme

This Applicable Pricing Supplement must be read in conjunction with the Programme Memorandum dated 6 April 2020, prepared by the Issuer in connection with the Us Plus Limited ZAR1,000,000,000 Note Programme, as amended and/or supplemented from time to time (the **Programme Memorandum**).

Any capitalised terms not defined in this Applicable Pricing Supplement shall have the meanings ascribed to them in the section of the Programme Memorandum headed “*Terms and Conditions of the Notes*”.

This document constitutes the Applicable Pricing Supplement relating to the issue of Notes described herein. The Notes described herein are issued on and subject to the Terms and Conditions as amended and/or supplemented by the Terms and Conditions contained in this Applicable Pricing Supplement. To the extent that there is any conflict or inconsistency between the contents of this Applicable Pricing Supplement and the Programme Memorandum, the provisions of this Applicable Pricing Supplement shall prevail.

### DESCRIPTION OF NOTES

1. Issuer	Us Plus Limited (registration number 2014/048709/06)
2. Status of Notes	Secured, Senior Notes
3. Form of Notes	Unlisted Registered Notes: The Notes in this Tranche are issued in certificated form and represented by an Individual Certificate.
4. Series Number	2
5. Tranche Number	1
6. Aggregate Nominal Amount:	
(a) Series	15 000 000,00
(b) Tranche	15 000 000,00
7. Interest	Interest-bearing
8. Interest Payment Basis	Floating Rate
9. Automatic/Optional conversion from one Interest /Redemption /Payment Basis to another	N/A
10. Issue Date	12 May 2022
11. Maturity Date	12 May 2024 (as adjusted in accordance with the Applicable Business Day Convention) unless redeemed or called at a prior date, in which case, such earlier date.
12. Nominal Amount per Note	R1 000 000,00
13. Interest Commencement Date	Issue Date

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14. Specified Denomination	R1 000 000,00
15. Specified Currency	ZAR
16. Issue Price	100% of the Nominal Amount of each Note
17. Final Redemption Amount	100% of the Nominal Amount of each Note
18. Books Closed Period(s)	The Register will be closed from the first Day prior to each Floating Interest Payment Date and the fourth Business Day prior to the Maturity Date
19. Last Day to Register	The last day of the calendar month immediately prior to each Floating Interest Payment Date and the fifth Business Day prior to the Maturity Date
20. Applicable Business Day Convention	Following Business Day Convention

**FLOATING RATE NOTES**

21.	On or before the 7 <sup>th</sup> calendar day of each month and the Maturity Date or, if any such day is not a Business Day, the following Business Day as determined in accordance with the Applicable Business Day Convention;
(a) Floating Interest Payment Date(s)	
(b) Interest Period(s)	Each period commencing on (and including) one Floating Interest Payment Date and ending on (but excluding) the following Floating Interest Payment Date; provided that: <ol style="list-style-type: none"> <li>1) the first Interest Period will commence on the Interest Commencement Date and ending on (but exclude) the following Floating Interest Payment Date (each Floating Interest Payment Date as adjusted in accordance with the Applicable Business Day Convention); and</li> <li>2) the last Interest Period shall end on (but exclude) the Maturity Date.</li> </ol>
(c) Interest Rate	Reference Rate plus the Margin
(d) Definition of Business Day (if different from that set out in Condition 1 ( <i>Interpretation</i> ))	Following Business Day Convention
(e) Minimum Rate of Interest	Not applicable
(f) Maximum Rate of Interest	Not applicable
(g) Day Count Fraction	Actual/365
22. Manner in which the Rate of Interest is to be determined	Screen Rate Determination
23. Margin	750 basis points to be added to the Reference Rate
24. Reference Rate (including relevant period by reference to which the Rate of Interest is to be calculated)	3-Month ZAR-JIBAR
25. Interest Rate Determination Date(s)	Each Floating Interest Payment Date in each year up to the Maturity Date but the first Interest Rate Determination Date shall be 12 May 2022
26. Relevant Screen Page and Reference Code	Reuters Code: Reuters page SAFETY code 01209 or any successor page
27. Calculation Agent responsible for calculating amount of principal and	The Issuer

interest

28. Default Rate 200 basis points above the Interest Rate

**PROVISION REGARDING  
REDEMPTION/MATURITY**

29. Redemption at the Option of the Issuer: Yes

If yes:

- |   |   |
|---|---|
| (a) Optional Redemption Date(s)   | Any Interest Payment Date   |
| (b) Minimum period of notice (if different from Condition 10.3 ( <i>Redemption at the Option of the Issuer</i> )) | Clause 10.3 is applicable (being irrevocable notice of not less than 30 (thirty) Days nor more than 60 (sixty) Days)  |
| (c) Optional Redemption Amount(s) and method, if any, of calculation of such amount(s)                            | No greater than the Aggregate Nominal Amount Outstanding  |
| (d) If redeemable in part:  | Yes   |
| i. Minimum Redemption Amount(s)   | ZAR1 000 000  |
| ii. Higher Redemption Amount(s)   | N/A   |
| (e) Other terms applicable on Redemption  | If the Optional Redemption Date is before 12 May 2023, the Issuer shall pay an early repayment amount to the relevant Noteholders equal to 2% of the Optional Redemption Amount |

30. Redemption at the Option of the Senior Noteholders: Yes

If yes:

- |   |  |
|---|--|
| (a) Optional Redemption Date(s)   | 12 May 2024  |
| (b) Optional Redemption Amount(s)   | The Aggregate Nominal Amount Outstanding   |
| (c) Amendment to Minimum period of notice in Condition 10.4 ( <i>Redemption at the Option of the Senior Noteholders</i> ) | The first paragraph of Condition 10.4 is amended and replaced with the following first paragraph:<br>“If Senior Noteholders are specified in the Applicable Pricing Supplement as having an option to request the redemption of Senior Notes, such Senior Noteholders may exercise such option in respect of such Senior Notes by delivering to the Transfer Agent, in accordance with Condition 19 (Notices), a duly executed notice (Put Notice), at least 6 months prior to the Optional Redemption Date (the first date on which such notice can be given being 12 November 2023 subject to the Applicable Business Day Convention) and which notice may also be given on every Interest Payment Date thereafter). |
| (d) If redeemable in part:  |  |
| i. Minimum Redemption Amount(s)   | N/A  |
| ii. Higher Redemption Amount(s)   | N/A  |
| iii. Other terms applicable on  | N/A  |

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## Redemption

- |     |   |   |
|-----|---|---|
| 31. | Redemption in the event of a failure to maintain JSE Listing at the election of Noteholders pursuant to Condition 10.5 ( <i>Redemption in the event of a failure to maintain JSE Listing</i> )  | N/A                                     |
| 32. | Early Redemption Amount(s) payable on redemption for taxation reasons pursuant to Condition 10.2 (Redemption for Tax Reasons), on an Event of Default pursuant to Condition 17 ( <i>Events of Default</i> ) or if different from that set out in Condition 10.7 ( <i>Early Redemption Amount</i> ). | 100% of the Nominal Amount of each Note |

**PARTIES**

- |     |                                       |   |
|-----|---------------------------------------|---|
| 33. | Dealer(s)                             | N/A   |
| 34. | Paying Agent<br>Specified Office      | Us Plus Limited<br>Office 202, Greenside Quarter, 10 Gleneagles Road, Greenside, Johannesburg, 2193, South Africa |
| 35. | Calculation Agent<br>Specified Office | Us Plus Limited<br>Office 202, Greenside Quarter, 10 Gleneagles Road, Greenside, Johannesburg, 2193, South Africa |
| 36. | Transfer Agent<br>Specified Office    | Merchantec Capital<br>13th Floor, Illovo Point, 68 Melville Road, Illovo, Sandton, 2196, South Africa             |

**GENERAL**

- |     |  |  |
|-----|--|--|
| 37. | Financial Exchange   | Unlisted   |
| 38. | Additional selling restrictions                                | N/A  |
| 39. | Stock Code   | USP02U   |
| 40. | ISIN No  | N/A  |
| 41. | Stabilising manager  | N/A  |
| 42. | Provisions relating to stabilisation                           | N/A  |
| 43. | Method of distribution   | Private Placement  |
| 44. | Rating assigned to the Issuer or Programme or Notes            | N/A  |
| 45. | Applicable Rating Agency                                       | N/A  |
| 46. | Aggregate Nominal Amount of Notes in Issue                     | R55 000 000,00 including the issue of Notes contemplated in this Applicable Pricing Supplement   |
| 47. | Programme Amount   | R1 000 000 000,00 - The Programme Amount has not been exceeded.  |
| 48. | Governing law (if the laws of South Africa are not applicable) | RSA  |
| 49. | Use of Proceeds  | The funds to be raised through the issue of the Notes are to be used by the Issuer for the reduction of existing debt (particularly the exposure of the Issuer to foreign- |

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- currency denominated borrowing) and/or for the purchase by the Issuer of invoices and other assets in the ordinary course of its business.
50. Other Provisions  
Yes, see Schedule 1 of this Applicable Pricing Supplement headed "Amended Terms and Conditions"
- Transferability:** The Noteholder shall, at any time, be entitled to transfer some or all of the Notes to a Permitted Transferee (as defined in Schedule 1) domiciled in South Africa.
51. Security  
Yes, see Schedule 2 for the security provided in respect of the obligations under the Notes
52. Additional Agreement  
Yes, a Subordination Agreement by the shareholders of the Issuer in favour of the Noteholder

**Responsibility:**

The Issuer certifies that to the best of its knowledge and belief there are no facts that have been omitted from this Programme Memorandum which would make any statement false or misleading and that all reasonable enquiries to ascertain such facts have been made and that this Programme Memorandum contains all information required by law. The Issuer accepts full responsibility for the accuracy of the information contained in this Programme Memorandum and the annual financial statements, the annual reports, the constitutional documents of the Issuer, this Applicable Pricing Supplement(s) of the Issuer and all documents incorporated by reference and any amendments or supplements to the aforementioned documents, except as otherwise stated therein.

As at the date of this Applicable Pricing Supplement, the Issuer confirms that the authorised Programme Amount of ZAR1,000,000,000 has not been exceeded.

**SIGNED** at Johannesburg on this 11 May 2022

For and on behalf of

**Us Plus Limited**




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Name: **Leon Kirkinis**

Capacity: Director

Who warrants his/her authority hereto




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Name: **Gary Sayers**

Capacity: Director

Who warrants his/her authority hereto

**SCHEDULE 1****AMENDED TERMS AND CONDITIONS****1. CERTIFICATED AND UNLISTED NOTES**

Due to the fact that the Notes are Certificated and Unlisted:

1.1 the following Conditions will not apply to the Notes:

1.1.1 Condition 8.2.6 (*Notification of Rate of Interest and Interest Amount*); and

1.1.2 Condition 17.3 (*Notification of Event of Default*);

1.2 any provisions requiring the obtaining of any JSE approval, the provision of any documents to the JSE or issuing any SENS in Condition 20 shall not apply; and

1.3 any provisions requiring announcements to be made on SENS in Condition 21 shall not apply.

**2. OTHER EVENT OF DEFAULT**

As contemplated in Condition 17.1.9 of the Terms and Conditions, it shall be an Event of Default if any provision of Clause 3.2 (*Financial Condition*) below is not satisfied on the date of delivery of the relevant Compliance Certificate to be delivered in terms of Clause 4 (*Provision and Contents of Compliance Certificate*) below.

**3. FINANCIAL COVENANTS****3.1 Financial Definitions**

All accounting expressions which are not otherwise defined in this document shall be construed in accordance with the Accounting Principles and, unless the context dictates otherwise, the accounting expressions set forth below shall bear the following meanings –

3.1.1 "**Accounting Principles**" means the generally accepted accounting principles in South Africa, including IFRS (being the international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements);

3.1.2 "**Equity**" means ordinary share capital, subordinated loans subject to a subordination agreement, non-redeemable preference share capital, share premium, non-distributable reserves (excluding revaluation reserves) and retained income;

3.1.3 "**Equity to Debt Ratio**" at any Measurement Date means the ratio of (i) Equity at such Measurement Date to (ii) Total Interest Bearing Debt at such Measurement Date, expressed as a percentage;

3.1.4 "**Financial Indebtedness**" means any indebtedness for or in respect of –

3.1.4.1 moneys borrowed or credit obtained;

- 3.1.4.2 any amount raised by acceptance under any acceptance credit facility or dematerialized equivalent;
  - 3.1.4.3 any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
  - 3.1.4.4 any liability in respect of any lease, hire purchase contract or licence agreement which would, in accordance with the Accounting Principles, be treated as a finance or capital lease;
  - 3.1.4.5 any liability in respect of any advance or deferred purchase agreement if one of the primary reasons for entering into such agreement is to raise finance or if such agreement is not in the ordinary course of business;
  - 3.1.4.6 receivables sold or discounted by the Issuer (other than any receivables to the extent they are sold on a non-recourse basis);
  - 3.1.4.7 any agreement or option to re-acquire an asset if one of the primary reasons for entering into such agreement or option is to raise finance;
  - 3.1.4.8 any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
  - 3.1.4.9 any swap or hedge transaction (“Treasury Transaction”) and, for the purpose of calculating the amount of any person’s Financial Indebtedness, excluding any Forward Exchange Contracts used to hedge any foreign exchange denominated liabilities as referred to in Clause 3.2.4, a Treasury Transaction shall be valued at an amount equal to (i) the marked to market value thereof, plus (ii) if an amount owing by that person under the applicable Treasury Transaction has not been paid, that amount;
  - 3.1.4.10 any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
  - 3.1.4.11 any liability in respect of any guarantee, indemnity or suretyship for any of the items referred to in Clauses 3.1.4.1 to 3.1.4.10;
- 3.1.5 "**Interest Cover Ratio**" means, in respect of each Measurement Date, the ratio which the income (excluding any investment revenue but including interest revenue) earned by the Company during the corresponding Measurement Period bears to the accrued interest on the Total Interest Bearing Debt during the same period;
- 3.1.6 "**Measurement Date**" means each 28 February; 31 May, 31 August and 30 November until the Maturity Date;
- 3.1.7 "**Measurement Period**" means each 3-month period ending on that Measurement Date;
- 3.1.8 "**Net Book Value**" means, in respect of each Receivable, the net value of the amounts payable by the debtor thereunder as determined by IFRS and after deducting all general and specific bad debt provisions prescribed in terms of the bad and doubtful debt policy maintained by the Company from time to time;

- 3.1.9 “**Net Receivables Value**” means, at any Measurement Date, means the aggregate of the Net Book Value of all the Receivables at such time;
- 3.1.10 “**Receivables**” means amounts owing to the Issuer as a result of the Issuer purchasing (factoring) invoices issued by Issuer’s clients to such clients’ customers;
- 3.1.11 “**Subordinated Debt**” means any indebtedness which has been contractually subordinated to the claims of the Noteholder; and
- 3.1.12 “**Total Interest Bearing Debt**” means, as at any relevant Measurement Date, the aggregate of all of the Issuer's interest-bearing Financial Indebtedness (excluding any Subordinated Debt as at that date), less any cash on hand (as at that date), all as determined in accordance with IFRS.

### 3.2 Financial Condition: Issuer

The Issuer shall ensure that for so long as any amount is outstanding under the Notes –

- 3.2.1 Equity to Debt Ratio: the Equity to Debt Ratio at any Measurement Date shall not be less than 25%;
- 3.2.2 Interest Cover Ratio: the Interest Cover Ratio as at any Measurement Date, but not earlier than twelve months from the Issue Date for the corresponding Measurement Period shall be at least 1.7;
- 3.2.3 Bad Debt Ratio: The bad debts written off by the Issuer in accordance with its bad and doubtful debt policy during each financial year of the Issuer shall be less than 3% of Net Receivables as at the relevant Measurement Date; and
- 3.2.4 Any Financial Indebtedness payable in a currency other than ZAR shall be fully hedged.

### 3.3 Financial Testing

The financial covenants contained in Clause 3.2 (*Financial Condition*), other than Clause 3.2.3, shall be tested as at each Measurement Date by reference to the management accounts of the Issuer for the relevant Measurement Period ending on the relevant Measurement Date.

### 3.4 Breach of a Financial Condition Undertaking

Immediately upon becoming aware of a breach of any of the financial covenants contained in Clause 3.2 (*Financial Condition*) the Issuer shall notify the Lender (and provide such details about the breach as the Noteholder may reasonably request).

## 4. PROVISION AND CONTENTS OF COMPLIANCE CERTIFICATE

- 4.1 The Issuer shall supply a Compliance Certificate to the Noteholder within 15 Business days of the end of every Measurement Period
- 4.2 The Compliance Certificate shall:
- 4.2.1 certify whether or not as at the relevant Measurement Date the Issuer was in compliance with the financial covenants contained in Clause 3.2 (*Financial Condition*);



4.2.2 set out (in reasonable detail) computations as to compliance with financial covenants contained in Clause 3.2 (*Financial Condition*); and

4.2.3 confirm that no Event of Default has occurred and is continuing or, if an Event of Default has occurred, what Event of Default has occurred and the steps being taken to remedy that Event of Default.

4.3 Each Compliance Certificate shall be signed by the Managing Director or Financial Director of the Issuer.

## 5. **SECURITY**

The obligations of the Issuer under the Notes to the Noteholder shall be secured through a cession in security annexed hereto as **Schedule 2**.

## 6. **SUBORDINATION AGREEMENT**

The obligations of the Issuer in respect of any claims of any of its shareholders against the Issuer shall be subordinated to the obligations of the Issuer under the Notes to the Noteholder under the terms of a Subordination Agreement in a form approved by the first Noteholder prior to the Issue Date.

## 7. **PERMITTED TRANSFEREE**

7.1 “**AAM**” means Absa Alternative Asset Management Proprietary Limited, an authorised financial services provider in accordance with the provisions of the Financial Advisory and Intermediary Services Act (Act 37 of 2002), or its successor in title, Registration Number: 1999/027973/07;

7.2 “**Entity**” means any company, close corporation, trust, joint venture, partnership or a ring-fenced pool of assets or assets and liabilities (in each case whether or not having separate legal personality);

7.3 “**Permitted Transferee**” means any AAM or any Entity which has appointed AAM as its fund or asset or investment manager to make and/or implement investment decisions for it pursuant to which AAM:

7.3.1 is authorised to acquire an interest in the Notes for and on behalf of such Entity;

7.3.2 is authorised and empowered to enter into contracts (including acquiring the Notes and security arrangements relating thereto) on its behalf and to deal with its investments in and rights thereunder in such manner as AAM may deem fit, subject to the portfolio management agreement and the accompanying investment guideline concluded by it with AAM;

7.3.3 concluded all arrangements and contracts related to the acquisition of Notes and security arrangements relating thereto on behalf of such Entities;

7.3.4 will act for and on behalf of, and represent such Entities in their dealings with the Issuer.

**SCHEDULE 2**

Cession in Security

# **CESSION IN SECURITY**

between

**US PLUS LIMITED**

and

**ABSA ALTERNATIVE ASSET MANAGEMENT PROPRIETARY LIMITED**

an authorised financial services provider in accordance with the provisions of the Financial  
Advisory and Intermediary Services Act (Act 37 of 2002), or its successor in title

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## ANNEXURES

Annexure A	Form of Collateral Cession Notice
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## 1 PARTIES

1.1 This Agreement is made between –

1.1.1 Absa Alternative Asset Management Proprietary Limited, a private company registered in accordance with the laws of South Africa under registration number 1999/027973/07 (as Noteholder and cessionary); and

1.1.2 Us Plus Limited, a public company registered in accordance with the laws of South Africa under registration number 2014/048709/06 (as Issuer and cedent),

1.2 The Parties agree as set out below.

## 2 DEFINITIONS AND INTERPRETATION

2.1 In this Agreement capitalised terms not otherwise defined herein shall bear the meanings assigned to such terms in the Issue Documents, and unless inconsistent with the context, the following words and expressions bear the meanings assigned to them in their corresponding definition provisions, and cognate expressions bear corresponding meanings –

2.1.1 "**Agreement**" means the cession in security agreement contained in this document, including the Annexures hereto;

2.1.2 "**APS**" means the pricing supplement signed or to be signed by the Issuer on or about 11 May 2022 under which the Issuer is to issue the Notes to the Noteholder;

2.1.3 "**Available Cash**" at any time means all cash held in bank accounts of the Issuer at such time, excluding any bank accounts the rights to which have been ceded in security to any other funder of the Issuer;

2.1.4 "**Ceded Rights**" means all the Issuer's rights of any nature whatsoever in and interests of any nature whatsoever to –

2.1.4.1 the Collateral including all rights and benefits under all underlying agreements relating to such Collateral;

2.1.4.2 all rights and benefits in respect of any agreement or arrangement for the disposal or other realisation of any of the rights and assets referenced above including any monies and proceeds of any such disposal or other realisation,

whether actual, prospective or contingent, direct or indirect, whether a claim to the payment of money or to the performance of any other obligation, and whether or not the said rights and interests were within the contemplation of the Parties at the Signature Date;

- 2.1.5 "**Collateral**" means the Receivables of the Issuer described in clause 5.1 and which are ceded by the Issuer to the Noteholder under and in terms of this Agreement as security for the Secured Obligations;
- 2.1.6 "**Collateral Cession Notice**" means the notice to be delivered by the Issuer to the Noteholder within 15 Business Days after each Measurement Date attaching a schedule of the Collateral to be ceded to the Noteholder pursuant to such Notice, such notice to be substantially in the form set out in Schedule 1 **Annexure A** (*Form of Collateral Cession Notice*);
- 2.1.7 "**Discharge Date**" means the date on which all the Secured Obligations have been fully paid and discharged to the satisfaction of the Noteholder, whether or not as a result of enforcement;
- 2.1.8 "**Entity**" means any company, close corporation, trust, joint venture, partnership or a ring-fenced pool of assets or assets and liabilities (in each case whether or not having separate legal personality);
- 2.1.9 "**Event of Default**" means any breach, default or event of default (howsoever described) under and in terms of the Issue Documents which has occurred and is continuing;
- 2.1.10 "**Flag**", "**Flagged**" or "**Flagging**" refers to the act of, and ability to, separately identify those Receivables forming part of the Collateral by way of a separate schedule or table extracted from the database of Receivables;
- 2.1.11 "**Issue Documents**" means the APS read with the Programme Memorandum;
- 2.1.12 "**Issuer**" means Us Plus Limited, a public company registered in accordance with the laws of South Africa under registration number 2014/048709/06;
- 2.1.13 "**Measurement Date**" means on any date, means the last day of the calendar month immediately preceding such date;
- 2.1.14 "**Noteholder**" means Absa Alternative Asset Management Proprietary Limited, a private company and registered in accordance with the laws of South Africa under registration number 1999/027973/07, an authorised financial services provider in accordance with the provisions of the Financial Advisory and Intermediary Services Act (Act 37 of 2002), or its successor in title, subject to clause 28.2;
- 2.1.15 "**Notes**" means R15 000 000,00 Floating Rate Notes to be issued in terms of the APS under Stock Code USP02U;
- 2.1.16 "**2021 Notes**" means R40 000 000,00 Floating Rate Notes to be issued by the Issuer under Stock Code USP01U in December 2021;

- 2.1.17 **“2021 Notes Required Cash Amount”** means the capital amount outstanding under the 2021 Notes held by the noteholder of the 2021 Notes as at the relevant Measurement Date less the aggregate of:
- 2.1.17.1 the book value of the aggregate Receivables already ceded to the noteholder of the 2021 Notes as at the relevant Measurement Date in respect of the 2021 Notes; and
  - 2.1.17.2 the book value of the aggregate Receivables to be ceded to the noteholder of the 2021 Notes on the relevant Measurement Date in respect of the 2021 Notes;
- 2.1.18 **“Permitted Transferee”** means any AAM and any Entity which has appointed AAM as its fund or asset or investment manager to make and/or implement investment decisions for it pursuant to which AAM:
- 2.1.18.1 is authorised to acquire an interest in the Notes for and on behalf of such Entity; and
  - 2.1.18.2 is authorised and empowered to enter into contracts (including acquiring the Notes and security arrangements relating thereto) on its behalf and to deal with its investments in and rights thereunder in such manner as AAM may deem fit, subject to the portfolio management agreement and the accompanying investment guideline concluded by it with AAM;
  - 2.1.18.3 concluded all arrangements and contracts related to the acquisition of Notes and security arrangements relating thereto on behalf of such Entities;
  - 2.1.18.4 will act for and on behalf of, and represent such Entities in their dealings with the Parties;
- 2.1.19 **“Programme Memorandum”** means the Programme Memorandum dated 6 April 2020, prepared by the Issuer in connection with the Us Plus Limited ZAR1,000,000,000 Note Programme, as amended and/or supplemented from time to time, in accordance with its terms;
- 2.1.20 **“Parties”** means –
- 2.1.20.1 the Issuer; and
  - 2.1.20.2 the Noteholder,
- and **“Party”** means, as the context requires, any of them;
- 2.1.21 **“Receivables”** means amounts owing to the Issuer as a result of the Issuer purchasing (factoring) invoices and other qualifying instruments issued by Issuer’s clients to such clients’ customers;

- 2.1.22 "**Representations**" means the representations and warranties set out in clause 15;
- 2.1.23 "**Required Collateral Information**" in respect of each Receivable forming part of, or to form part of, Collateral as at the relevant Measurement Date, means the following information:
- 2.1.23.1 the unique reference number for such Receivable;
- 2.1.23.2 the gross amount of such Receivable;
- 2.1.23.3 the net amount of such Receivable;
- 2.1.23.4 the name of the debtor in respect of such Receivable,  
as at the relevant Measurement Date;
- 2.1.24 "**Security Cession**" means the cession in *securitatem debiti* contemplated by this Agreement;
- 2.1.25 "**Secured Obligations**" means all the obligations at any time due, owing or incurred by the Issuer to the Noteholder under or in respect of the Issue Documents, whether present or future, actual or contingent and whether incurred solely or jointly and whether as principal or surety or in some other capacity;
- 2.1.26 "**Signature Date**" means the date of the signature of the Party last signing this Agreement in time; and
- 2.1.27 "**South Africa**" means the Republic of South Africa.
- 2.2 **Interpretation**
- 2.2.1 Where this Agreement makes reference to AAM exercising any discretion or election, performing any function, exercising or enforcing any right, requiring the performance of any obligation or the like or otherwise acting under this Agreement, such reference shall be to AAM acting in its capacity as the investment manager for and on behalf of any Permitted Transferee as its clients; and no Party shall be entitled to dispute or otherwise howsoever challenge the authority of AAM to so act for and on behalf of any Permitted Transferee under this Agreement.
- 2.2.2 Unless inconsistent with the context or a contrary indication appears, a reference in this Agreement to the "**Issuer**", "**Noteholder**", any "**Party**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- 2.2.2.1 a provision of law is a reference to that provision as amended or re-enacted;



- 2.2.2.2 one gender includes a reference to the others; the singular includes the plural and *vice versa*; natural persons include juristic persons and *vice versa*; and
- 2.2.2.3 a time of day is a reference to Johannesburg time.
- 2.2.3 Unless inconsistent with the context or a contrary indication appears, in this Agreement –
- 2.2.3.1 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any party to this Agreement, notwithstanding that it appears only in a definition, effect shall be given to it as if it were a substantive provision of this Agreement; and
- 2.2.3.2 when any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which case the last day shall be the next succeeding Business Day.
- 2.2.4 The headings to the Clauses and Annexures of this Agreement are for reference purposes only and shall in no way affect or govern the interpretation of nor modify nor amplify the terms of this Agreement nor any Clause or Annexures thereof.
- 2.2.5 The Annexures to this Agreement form an integral part thereof and words and expressions defined in this Agreement shall bear, unless the context otherwise requires, the same meaning in such Annexures. To the extent that there is any conflict between the Annexures to this Agreement and the provisions of this Agreement, the provisions of this Agreement shall prevail.
- 2.2.6 Where any term is defined within the context of any particular Clause in this Agreement, the term so defined, unless it is clear from the Clause in question that the term so defined has limited application to the relevant Clause, shall bear the same meaning as ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in any interpretation Clause.
- 2.2.7 The rule of construction that, in the event of ambiguity, a contract shall be interpreted against the party responsible for the drafting thereof, shall not apply in the interpretation of this Agreement.
- 2.2.8 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the Clauses themselves do not expressly provide for this.

- 2.2.9 This Agreement shall to the extent permitted by applicable law be binding on and enforceable by the administrators, trustees, permitted assigns, permitted transferees or liquidators of the Parties as fully and effectually as if they had signed this Agreement in the first instance and reference to any Party shall be deemed to include such Party's administrators, trustees, permitted assigns, permitted transferees or liquidators, as the case may be.
- 2.2.10 The use of any expression in this Agreement covering a process available under South African law such as winding-up (without limitation *eiusdem generis*) shall, if any of the parties to this Agreement is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such other jurisdiction.
- 2.2.11 This Agreement and the rights and obligations of the Parties shall in all respects be subject to the terms and conditions of the Issue Documents and in the event of any conflict between the provisions of this Agreement and the provisions of the Issue Documents, the provisions of this Agreement shall prevail.

### 3 INTRODUCTION

As security for the due performance of the Secured Obligations, the Issuer has agreed to cede *in securitatem debiti* all of the Ceded Rights on the terms and subject to the conditions set out in this Agreement.

### 4 CESSION IN SECURITY

- 4.1 The Parties hereby agree that, with effect from the Issue Date, the Issuer shall all be bound by the provisions of this Agreement and shall comply with the terms set out herein.
- 4.2 With effect from the Issue Date, the Issuer hereby cedes *in securitatem debiti* to the Noteholder all of the Ceded Rights as a continuing general covering collateral security for the due, proper and timeous payment and performance in full of all of the Secured Obligations, on the terms and conditions set out in this Agreement, which cession the Noteholder hereby accepts.
- 4.3 Without prejudice to the Representations and without prejudice to the rights of the Noteholder consequent upon any breach of the Representations, if the Ceded Rights are subject to any right in breach of the Representations or if the Issuer has ceded any of the Ceded Rights to any other person prior to the Issue Date, this Agreement shall (without affecting the operation of this Agreement in respect of those of the Ceded Rights which have not been so ceded to another person) constitute a cession in *securitatem debiti* to the Noteholder of the Issuer's reversionary rights or other interests (including all of the Issuer's rights of action against such other person and any rights which now or may in the future vest in the Issuer pursuant to such reversionary rights) in respect of those Ceded Rights,

which are hereby ceded *in securitatem debiti* to the Noteholder with effect from the Issue Date, which cession the Noteholder hereby accepts. The Noteholder shall be entitled to notify any such other person of this Agreement, and if any such other person is entitled to possession of any of the documents referred to in clause 6, then the Issuer shall deliver photocopies of the relevant documents to the Noteholder, and as soon as such person ceases to be entitled to possession or gives up possession of such documents, the Issuer shall deliver the relevant documents to the Noteholder.

- 4.4 The Security Cession is intended to operate as a cession of each part and all of the Ceded Rights, individually and collectively.
- 4.5 If, for any reason, any Security intended to be created under this Agreement is or becomes illegal, invalid or unenforceable in respect of some of the Ceded Rights, then the cession of those Ceded Rights, as the case may be, shall be severed from this Agreement, and this Agreement and all the Security created over the remainder of the Ceded Rights shall continue in full force and effect.
- 4.6 The Security Cession operates as a security cession and not as an out and out or outright cession and the Issuer retains bare ownership of the Ceded Rights, subject to the rights of the Noteholder as secured creditor.
- 4.7 The Security Cession may operate as a cession *in anticipando* of any or all of the Ceded Rights not in existence as at the Issue Date (such that no further act shall be required to be taken by the Parties to give effect thereto).

## 5 RECEIVABLES- COLLATERAL

- 5.1 The Collateral to be ceded in security to the Noteholder under and in terms of this Agreement as security for the Secured Obligations shall:
- 5.1.1 be selected from the Receivables which are not subject to or will be released from all prior encumbrances of other funders to the creditor (which funders include but are not limited to the noteholder(s) of the 2021 Notes in respect of the 2021 Notes notwithstanding that such noteholder(s) may also be Noteholder(s) of the Notes) ("**Unencumbered Receivables**"); and
- 5.1.2 comprise at least so many of the Unencumbered Receivables of the Issuer (and all rights and assets related thereto) as exist as at the Issue Date and at each Measurement Date so that the aggregate of:
- 5.1.2.1 the Available Cash (after deducting therefrom an amount equal to the 2021 Notes Required Cash Amount);
- 5.1.2.2 the book value of the aggregate Receivables already ceded to the Noteholder in respect of the Notes; and

5.1.2.3 the book value of the aggregate Receivables to be ceded to the Noteholder in respect of the Notes under the relevant Collateral Cession Notice,

shall not be and is not less than the capital amount outstanding under the Notes held by the Noteholder as at the relevant Issue Date or the relevant Measurement Date, as the case may be.

5.2 The Issuer shall on the Issue Date and within 15 Business Days after each Measurement Date:

5.2.1 deliver a Collateral Cession Notice to the Noteholder:

5.2.1.1 incorporating a summary of aggregate values of the Collateral Flagged in terms of clause 5.2.2 (determined with reference to the relevant Measurement Date) such that the book value of the Receivables forming part of the Collateral reflected in the Collateral Cession Notice together with the book value of all Collateral already ceded to the Noteholder (in each case determined with reference to the relevant Measurement Date) is at least equal to (but may not be less than) the capital amount outstanding under the Notes held by the Noteholder as at the relevant Issue Date or relevant Measurement Date, as the case may be;

5.2.1.2 setting out the Available Cash as at the relevant Measurement Date supported by bank statements evidencing such balance;

5.2.1.3 setting out the 2021 Notes Required Cash Amount as at the relevant Measurement Date; and

5.2.1.4 confirming that a Flag has been placed on each Receivable forming part of such Collateral;

5.2.2 place a Flag on each Receivable forming part of the Collateral ceded as security for such Secured Obligations (subject to clause 5.3); and

5.2.3 deliver to the Noteholder an electronic file containing the Required Collateral Information in respect of each Receivable forming part of the Collateral (with the relevant book values of each Receivable determined with reference to the relevant Measurement Date, the aggregate amounts of which shall correspond with the summary contemplated in clause 5.2.1.1).

5.3 Upon any Collateral being ceded to the Noteholder in terms of this Agreement, such Collateral shall serve as security for the Secured Obligations in respect of amounts outstanding in respect of the Notes held by the Noteholder from time to time on a fungible basis with all other Collateral already held by the Noteholder for any such amounts outstanding in respect of the Notes at such time and from time to time.

- 5.4 Any electronic files contemplated in this Agreement containing the Required Collateral Information in respect of relevant Receivables may take the form of separate electronic files containing the relevant Required Collateral Information or separate worksheets containing the relevant Required Collateral Information in a single electronic file or a combination of the foregoing.

## 6 DELIVERY OF DOCUMENTS AND OTHER OBLIGATIONS OF THE ISSUER

### 6.1 Delivery of Lists in respect of the Collateral

- 6.1.1 Within 15 Business Days of written request, the Issuer shall deliver to the Noteholder, a list of the Collateral ceded to the Noteholder in terms of this Agreement; provided that any failure or omission to furnish such list, or any error or omission in any list so furnished, shall not affect any of the Noteholder's rights under this Agreement.
- 6.1.2 The Issuer shall deliver to the Noteholder any documents relating to the Ceded Rights for which it may at any time reasonably call, which documents shall be delivered to the Noteholder, in so far as the Noteholder is not already in possession thereof, within a reasonable period, as agreed between the Noteholder and the Issuer, and, failing such agreement, within 15 Business Days.
- 6.1.3 Within 15 Business Days or written request therefor, the Issuer shall deliver to the Noteholder the Required Collateral Information in respect of each Receivable forming part of such Collateral with reference to the most recent Measurement Date at the time of such request.
- 6.1.4 Unless the Issuer requires such documents for the purposes of enforcing any of the Ceded Rights, the Noteholder may retain possession of all documents delivered to it under this clause 6 until the Discharge Date, on which date they shall be returned to the Issuer.
- 6.1.5 All documents delivered to the Noteholder (or its custodian) in terms of this clause 6 are delivered to ensure that the Noteholder has full, complete and up-to-date information relating to the Collateral and evidence of the Issuer's title to such Collateral and, accordingly -
- 6.1.5.1 delivery of any such documents shall not constitute a novation or alteration of this Agreement;
- 6.1.5.2 the breach by the Issuer of the obligation to deliver any document in terms of this clause shall not -
- 6.1.5.2.1 affect the legality, validity, enforceability or binding effect of the cession in security of the Collateral embodied in this Agreement; or

6.1.5.2.2 affect, or in any manner, impinge on the rights of the Noteholder in terms of this Agreement; and

6.1.5.3 the Security Cession has been perfected and completed purely by virtue of the entry into this Agreement and the delivery of the documents, or any one of them, in terms of this clause 6 shall not be required to effect such completion or perfection of the Security Cession.

## **7 RIGHTS, POWERS AND PRIVILEGES ATTACHING TO THE CEDED RIGHTS**

7.1 Subject to clause 7.3, this Agreement operates in respect of all rights, powers and privileges attaching to the Ceded Rights, including but not limited to those set out in clause 7.2 below and such rights, powers and privileges shall accordingly vest in the Noteholder with the power to exercise them either in its own name or in the name of the Issuer, upon the occurrence of an Event of Default. Alternatively, the Issuer shall, if the Noteholder so directs, exercise its rights, powers and privileges in their own name and in accordance with the Noteholder's directions to the extent permitted by applicable law.

7.2 Subject to clause 7.1, such rights, powers and privileges attaching to the Ceded Rights include (but are not limited to) the right to receive payment of the benefits which become due in respect of the Ceded Rights from time to time.

7.3 Notwithstanding anything to the contrary contained in this Agreement, prior to the occurrence of an Event of Default, the Issuer shall be entitled to exercise the rights in terms of clause 7.2 in respect of the Ceded Rights without the consent of the Noteholder.

## **8 REALISATION**

8.1 Upon the occurrence of an Event of Default which is continuing and not remedied, the Issuer hereby irrevocably and unconditionally authorises and empowers the Noteholder or its nominee, without any further authority or consent of any nature whatsoever required from the Issuer, and in the name of the Noteholder or its nominee or in the name of the Issuer to –

8.1.1 exercise all or any of the rights, powers and privileges and enforce all or any obligations attaching to the Ceded Rights in such manner and on such terms as the Noteholder in its sole discretion deems fit; and/or

8.1.2 receive payment for, delivery of and/or performance in respect of, the Ceded Rights in its own name; and/or

8.1.3 at the Noteholder's election –

- 8.1.3.1 sell or otherwise realise the Ceded Rights or any one of them by public auction provided that the Noteholder shall provide the Issuer with at least 15 Business Days prior written notice of such public auction; or
- 8.1.3.2 sell or otherwise realise the Ceded Rights by private treaty, on notice to the Issuer not exceeding 15 Business Days; or
- 8.1.3.3 take over the Ceded Rights at a fair value which, in the absence of agreement within 15 Business Days after delivery by the Noteholder to the Issuer of a written notice stating that the Noteholder intends to exercise its rights pursuant to this clause 8.1.3.3, shall be determined by an independent accountant agreed to by the Parties or, failing agreement within 15 Business Days, appointed, at the request of a Party, by the President for the time being of the Southern African Institute of Chartered Accountants (or the successor body thereto) (which independent accountant shall act as an expert and not as an arbitrator, shall be instructed to make his determination within 10 Business Days of being requested to do so and shall determine the liability for his charges which will be paid accordingly, provided that if any determination is manifestly unjust and the court exercises its general power, if any, to correct such determination, the Parties shall be bound thereby) and, subject to the provisions of clause 9, set off the purchase price payable by the Noteholder for the Ceded Rights against the Issuer's indebtedness to the Noteholder in respect of the Secured Obligations on the basis that any excess on realisation or any balance owing to the Issuer, as the case may be, will be paid to the Issuer and any shortfall will remain as a debt due by the Issuer to the Noteholder; and/or
- 8.1.4 institute any legal proceedings which the Noteholder may deem necessary in connection with any sale or other realisation or transfer of any of the Ceded Rights by the Noteholder or its nominee; and/or
- 8.1.5 convey valid title in the Ceded Rights to any purchaser thereof (including the Noteholder, on the basis envisaged in clause 8.1.3.3) and/or
- 8.1.6 take all such further or other steps as the Noteholder may consider necessary to deal with the Ceded Rights.
- 8.2 On the Noteholder taking any actions in terms of clause 8.1, the Issuer shall on demand by the Noteholder –
- 8.2.1 notify any relevant person required by the Noteholder in writing that payment for, delivery of or performance in respect of the Ceded Rights must be made to the Noteholder, and that payment, delivery or performance to the Issuer or to anyone else will not constitute valid payment, delivery or performance, and the Noteholder shall be

entitled to do likewise. The Issuer shall on demand by the Noteholder provide proof that such notification has been duly given;

8.2.2 refuse to accept any payment, delivery or performance tendered in respect of any of the Ceded Rights in order that such payment, delivery or performance be tendered to the Noteholder, which will apply to any payment so received in accordance with the provisions of clause 9; and

8.2.3 at its own cost carry out any lawful necessary directions the Noteholder may give in regard to the realisation of the Ceded Rights and sign any document or do any other lawful act necessary to vest the Ceded Rights in the Noteholder, to enable the sale or disposition of the Ceded Rights, which may otherwise be necessary or required to perfect the Security Cession created in this Agreement.

8.3 Notwithstanding anything to the contrary contained in this Agreement, the Noteholder shall not be obliged to take any particular steps to collect or otherwise enforce its rights in respect of the Ceded Rights.

8.4 The Parties acknowledge and agree that –

8.4.1 the Secured Obligations are obligations of a commercial nature;

8.4.2 the application of the provisions of this clause 8 will confer upon the Noteholder certain procedural advantages which, in the light of the commercial nature of the transaction secured by the Security Cession, are fair, reasonable and necessary to ensure that the Noteholder does not suffer unfair commercial prejudice;

8.4.3 the provisions of this clause 8 are without prejudice to all other rights and remedies which the Noteholder may have at law and shall be severable and divisible from the other terms and conditions of this Agreement if same are found to be invalid or unenforceable. In this regard, the Parties record that they would have concluded a cession *in securitatem debiti* of the Ceded Rights on all the other terms hereof even if the *parate executie* and/or *pactum commisorium* terms included herein were not agreed upon and accordingly even if the *parate executie* and/or *pactum commisorium* terms are found to be invalid or unenforceable, the remaining provisions of this Agreement are intended to remain of full force and effect.

## 9 APPROPRIATION OF PROCEEDS

The Noteholder shall apply the net proceeds of all amounts received pursuant to the sale or other realisation of the Ceded Rights (after deducting costs and expenses incurred by the Noteholder in relation to such realisation) in reduction or discharge, as the case may be, of the Issuer's obligations under the Secured Obligations. Any amount remaining thereafter shall be



paid to the Issuer provided that all of the Secured Obligations have been completely, unconditionally and irrevocably fulfilled.

## 10 AUTHORITY

If at any time during this Agreement the Noteholder becomes entitled to exercise its rights under clause 8.1, the Issuer hereby authorises and appoints the Noteholder irrevocably and *in rem suam* as its attorney and agent in its name, place and stead to sign and execute such documents as may be necessary –

- 10.1 in order to render the Ceded Rights or any of them negotiable including, without limitation, the signature of transfer declarations;
- 10.2 to enable the Noteholder to receive payment of the purchase price of the Ceded Rights subject to the provisions of clause 9; and
- 10.3 to enable the Noteholder to exercise any of its rights granted to it herein.

## 11 DURATION

This Agreement is a continuing covering security and will *ipso facto* terminate only upon the unconditional and irrevocable fulfilment of all the Secured Obligations (namely the Discharge Date).

## 12 CONTINUING COVERING SECURITY

- 12.1 The obligations of the Issuer as contemplated in this Agreement are irrevocable and shall operate as continuing covering security for the Issuer's obligations under and in terms of the Secured Obligations, and shall, unless otherwise agreed in writing by the Parties, continue to be of full force and effect until the Discharge Date notwithstanding –
  - 12.1.1 any intermediate discharge or settlement of, or fluctuation in the Secured Obligations, in which event this Security Cession shall operate as security for any indebtedness subsequently arising in favour of the Noteholder;
  - 12.1.2 the Issuer's legal disability and/or any variation or amendment of, addition to or deletion from or cancellation or termination of any agreement or of any of the rights of the Noteholder against the Issuer;
  - 12.1.3 any latitude, indulgence or extension of time which may be allowed or shown by the Noteholder;
  - 12.1.4 the release by the Noteholder in whole or in part of any security and/or the release by the Noteholder of the Issuer from some but not all of the obligations hereunder.
- 12.2 Without prejudice to clause 12.1, –

- 12.2.1 the Issuer shall remain bound even if it is deregistered, becomes financially distressed, is placed in liquidation (whether provisionally or finally, voluntarily or compulsorily), commences business rescue proceedings or otherwise becomes subject to any other legal liability or to any law for the benefit or assistance of debtors and/or creditors, or enters into or becomes subject to any scheme of arrangement or compromise, or is deregistered or becomes financially distressed; and
- 12.2.2 where any discharge (whether in respect of any amounts hereby secured, this Agreement, any other security for the Secured Obligation or otherwise) is made in whole or in part, or any arrangement is made on the faith of any payment, security or other disposition, which discharge or arrangement is voided or must be repaid on winding-up, or repaid otherwise, without limitation, the liability of the Issuer under this Agreement shall continue as if there had been no such discharge or arrangement.

### 13 FURTHER ASSURANCES

The Issuer shall promptly do everything that may be required in order to comply with its obligations under this Agreement and as may otherwise be required by the Noteholder for the purposes of and to give effect to this Agreement, failing which the Noteholder may, to the extent possible, attend thereto on behalf of the Issuer and recover on demand from the Issuer any expenses incurred in relation thereto. In particular, the Issuer shall execute and do all such acts and things as the Noteholder, in its reasonable discretion, may require or be entitled to under this Agreement –

- 13.1 to perfect or protect the Security created (or intended to be created) by this Agreement;
- 13.2 to preserve or protect any of the rights of the Noteholder under this Agreement;
- 13.3 to enforce any Security created under this Agreement on or at any time after it becomes enforceable;
- 13.4 for the exercise of any power, authority or discretion vested in the Noteholder under this Agreement; and
- 13.5 to carry out the effect, intent and purpose of this Agreement,

in any such case, forthwith upon demand by the Noteholder to the maximum extent permitted by law and at the expense of the Issuer.

### 14 ADDITIONAL RIGHTS

The rights conferred on the Noteholder by this Agreement are additional to and not in substitution for –

- 14.1 any other rights the Noteholder has, or may at any time in the future have, against the Issuer or any other person;
- 14.2 any other security held or hereafter to be held by the Noteholder from the Issuer, or any other person, in connection with the Secured Obligations. The Noteholder may release any security held by it without prejudice to its rights under this Agreement.

## 15 WARRANTIES AND REPRESENTATIONS

### 15.1 Representations and Warranties

The Issuer hereby represents and warrants that –

- 15.1.1 it is and will remain the sole and beneficial owner of the Ceded Rights to the exclusion of all others and it has not granted to any person an option or right of refusal over the Ceded Rights;
- 15.1.2 the Ceded Rights ceded to the Noteholder under this Agreement have not been ceded (either outright or as security), discounted, factored, mortgaged under notarial bond or otherwise, or otherwise disposed of or hypothecated by it, nor are they subject to any other rights granted by it in favour of any person, save for any contractual restrictions which have been waived by the applicable counterparty to the satisfaction of the Noteholder;
- 15.1.3 all obligations undertaken by it under this Agreement have been authorised by all necessary corporate action and the Constitutional Documents of the Issuer do not place any limitations or restrictions on the Issuer to cede the Ceded Rights as provided for in this Agreement; and
- 15.1.4 the issue of the Security Cession and the fulfilment of its obligations in accordance with the terms hereof do not contravene any law, regulation or any contractual obligation binding on it.

### 15.2 Times when Representations made

- 15.2.1 All the Representations are made by the Issuer on the Issue Date and are deemed to be repeated on each day after the Issue Date to (and including) the Discharge Date.
- 15.2.2 Each Representation deemed to be made after the Issue Date shall be deemed to be made by reference to the facts and circumstances existing as at the date the Representation is deemed to be made.

### 15.3 Reliance

The Noteholder has entered into this Agreement and will subscribe for the Notes on the strength of, and relying on, the Representations, each of which shall be deemed to be a

separate representation and warranty given without prejudice to any other representation or warranty and deemed to be a material representation inducing the Noteholder to enter into this Agreement and subscribe for the Notes.

## 16 UNDERTAKINGS

The undertakings in this clause 16 remain in force from the Signature Date and on each day until the Discharge Date. The Issuer hereby –

- 16.1 agrees not to exercise any rights in respect of the Ceded Rights which it may have in conflict with the rights of the Noteholder under this Agreement without the prior written consent of the Noteholder;
- 16.2 acknowledges that, it may not pledge, cede, assign or transfer or in any other manner encumber or deal with the Ceded Rights without the prior written consent of the Noteholder;
- 16.3 agrees that on the occurrence of an Event of Default, it will forthwith pay over to the Noteholder any interest or other benefits of any nature accrued and/or received in respect of the Ceded Rights (including any interest or other benefits accrued or received in contravention of clause 8.2.2) by depositing the same into a nominated account as the Noteholder may from time to time direct in writing; and
- 16.4 undertakes and agrees, to the extent possible to prevent any variation of the value of, or rights relating to, the Ceded Rights without the prior written consent of the Noteholder.

## 17 ISSUER BOUND NOTWITHSTANDING CERTAIN CIRCUMSTANCES

- 17.1 The Issuer agrees that on signature hereof, it will be bound under this Agreement to the full extent hereof, despite the fact that –
  - 17.1.1 any intended additional security from the Issuer or any other person for the Secured Obligations may not be obtained or may be released or may cease to be held for any other reason;
  - 17.1.2 the Noteholder may agree any variation or novation of any Issue Document to which it is a party;
  - 17.1.3 the Noteholder may receive a dividend or benefit in any insolvency, liquidation, business rescue proceedings or judicial management or any compromise or composition of the Issuer, whether in terms of any statutory enforcement or the common law;
  - 17.1.4 the Noteholder may grant any indulgences to any Obligor or may not exercise any one or more of its rights under the Issue Documents, either timeously or at all; or
  - 17.1.5 any other fact or circumstance may arise on which the Issuer might otherwise be able to rely on a defence based on prejudice, waiver or estoppel.

- 17.2 If the Issuer suffer any loss arising from any of the facts, circumstances, acts or omissions referred to above, it will have no claim against the Noteholder in respect thereof, save to the extent caused by the gross negligence or wilful default of the Noteholder.

## 18 KEEPING, INSPECTION AND DELIVERY OF RECORDS

- 18.1 The Issuer shall at all times keep up-to-date records of the Ceded Rights ceded by it and shall comply with any reasonable directions the Noteholder may give in regard to the keeping of such records.
- 18.2 The Noteholder or anyone authorised by the Noteholder may at any reasonable time and on reasonable notice inspect any of the Issuer's books of account and other records including books of account and records which may be in the possession of a third party.
- 18.3 If the Noteholder at any time so requests, the Issuer shall at their own cost deliver to the Noteholder certified copies of any of the books and records referred to in clauses 18.1 or 18.2.

## 19 EXEMPTION FROM LIABILITY

Neither the Noteholder, its officers, trustees, agents, beneficiaries, employees and advisors shall be liable for any loss or damage, whether direct, indirect, consequential or otherwise, suffered by the Issuer howsoever arising in connection with this Agreement, whether that loss or damage arises as a result of a breach of contract (whether total, fundamental or otherwise), delict or any other cause and whether this Agreement has been terminated or not, other than as a result of the gross negligence or wilful misconduct of the Noteholder.

## 20 FURTHER CESSIONS

The Issuer shall not grant any further cessions of the Ceded Rights or otherwise encumber them without the prior written consent of the Noteholder.

## 21 CERTIFICATE OF INDEBTEDNESS

A certificate signed by any director or manager of the Noteholder (whose appointment need not be proved) as to the existence of and the amount of indebtedness owing by the Issuer to the Noteholder, that such amount is due and payable, the amount of interest accrued thereon and as to any other fact, matter or thing related to the Issuer's indebtedness to the Noteholder under the Issue Documents or the Secured Obligations, as the case may be, shall be *prima facie* proof of the contents and correctness thereof for the purposes of provisional sentence, summary judgement or any other proceedings, shall be valid as a liquid document for such purpose and shall, in addition, be *prima facie* proof for purposes of pleading or trial in any action instituted by the Noteholder arising herefrom.

## 22 RENUNCIATION OF BENEFITS

The Issuer hereby renounces, to the extent permitted under applicable law, the benefits of each of the legal exceptions of excussion, division, revision of accounts, no value received, *errore calculi, non causa debiti, non numeratae pecuniae* and cession of actions, and the Issuer declares that they understand the meaning of such legal exception and effect of such renunciation.

## 23 NOTICES AND DOMICILIA

### 23.1 Communications in Writing

Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by email or letter.

### 23.2 Addresses

The address and email address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Agreement is –

#### 23.2.1 in the case of the Issuer–

Physical Address: Office 202, Greenside Quarter, 10 Gleneagles Road,  
Greenside 2191  
E-mail: [debt officer@usplus.world](mailto:debt officer@usplus.world)  
Attention: Gary Sayers

#### 23.2.2 in the case of the Noteholder –

Physical address: Second Floor, Bridge Park East, Bridge Way, Century City,  
Email: [motshidisi.mazibuko@absa.africa](mailto:motshidisi.mazibuko@absa.africa) and [mornay.visser@absa.africa](mailto:mornay.visser@absa.africa)  
Attention: Motshidisi Mazibuko and Mornay Visser

or any substitute address, e-mail address or department or officer as the Party may notify to the Noteholder (or the Noteholder may notify to the other Party, if a change is made by the Noteholder) by not less than 5 Business Days' notice.

### 23.3 Domicilia

23.3.1 Each of the Parties chooses its physical address provided under or in connection with clause 23.2 as its *domicilium citandi et executandi* at which documents in legal proceedings in connection with this Agreement may be served.

23.3.2 Any Party may by written notice to the other Party change its domicilium from time to time to another address, not being a post office box or a poste restante, in South Africa, provided that any such change shall only be effective on the fourteenth day after deemed receipt of the notice by the other Party pursuant to clause 23.4.

## 23.4 Delivery

23.4.1 Any communication or document made or delivered by one person to another under or in connection with this Agreement will –

23.4.1.1 if by way of email, be deemed to have been received upon receipt in a readable form by the recipient;

23.4.1.2 if delivered by hand, be deemed to have been received at the time of delivery; and

23.4.1.3 if by way of courier service, be deemed to have been received at the time of delivery,

and provided, if a particular department or officer is specified as part of its address details provided under clause 23.2, if such communication or document is addressed to that department or officer, unless the contrary is proved.

23.4.2 Any communication or document to be made or delivered to the Noteholder will be effective only if it is expressly marked for the attention of the department or officer specified as part of its address details provided under clause 23.2 (or any substitute department or officer as the Noteholder shall specify for this purpose).

23.4.3 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a Party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen address and/or e-mail address.

## 23.5 Notification of Address and Email Address

As soon as reasonably possible upon receipt of notification of an address or change of address pursuant to clause 23.2 or changing its own address and/or e-mail address, the Noteholder shall notify the other Party.

## 23.6 English Language

Any notice or other document given under or in connection with this Agreement must be in English.

## 24 BENEFIT OF THE AGREEMENT

This Agreement will also be for the benefit of and be binding upon the successors in title and permitted assigns of the Parties or either of them.

## 25 APPLICABLE LAW

This Agreement will in all respects be governed by and construed under the laws of South Africa.

## 26 JURISDICTION

- 26.1 The Issuer hereby irrevocably and unconditionally consents and submits to the jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg (or any successor to that division) in regard to all matters arising from this Agreement (including a dispute relating to the existence, validity or termination of this Agreement, any Issue Documents or any non-contractual obligation arising out of or in connection with this Agreement or any Issue Document) (a "**Dispute**").
- 26.2 The Issuer agrees that the High Court of South Africa, Gauteng Local Division, Johannesburg (or any successor to that division) is the most appropriate and convenient court to settle Disputes and accordingly –
- 26.2.1 it will not argue to the contrary;
- 26.2.2 it hereby waives any objection to the jurisdiction of that court on the grounds of venue or *forum non conveniens* or any similar grounds; and
- 26.2.3 it consents to service of process in any manner permitted by applicable law.
- 26.3 This clause 26 is for the benefit of the Noteholder only. As a result, the Noteholder shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction as they see fit. To the extent allowed by law, the Noteholder may take concurrent proceedings in any number of jurisdictions.

## 27 INDEPENDENT ADVICE

Each Party hereby acknowledges and agrees that –

- 27.1 it has been free to secure independent legal and other professional advice (including financial and taxation advice) as to the nature and effect of all of the provisions of this Agreement and that it has either taken such independent advice or has dispensed with the necessity of doing so; and
- 27.2 all of the provisions of this Agreement and the restrictions herein contained are fair and reasonable in all the circumstances and are in accordance with the Issuer's intentions.

## 28 CESSION AND DELEGATION

- 28.1 The Issuer shall not be entitled to cede all or any of its rights and/or delegate all or any of its obligations under this Agreement without the prior written consent of the Noteholder.
- 28.2 Subject to clause 28.3, the Noteholder shall, at any time, be entitled to cede, assign, delegate and/or make over all but not part of its rights, title, interests and/or obligations under this Agreement, to any Permitted Transferee to whom that Noteholder has transferred some or all of the Notes, in which event this Agreement shall operate and be of



full force and effect in favour of such transferee, cessionary and/or assignee, which shall be entitled to exercise all rights and enforce all obligations provided for in terms of this Agreement. In this regard, the Issuer hereby unconditionally and irrevocably consents to any cession, assignment, delegation and/or making over by the Noteholder in terms of this clause 28.2.

28.3 Notwithstanding any cession, assignment, delegation or making over, AAM shall continue to exercise all rights under this Agreement as if there was a single security holder, (acting in its capacity as the investment manager for and on behalf of each Noteholder as its clients) in order to avoid a splitting of security and AAM shall be responsible for allocating any amounts realised by AAM arising from this Agreement between such Noteholders.

## 29 GENERAL

### 29.1 Whole Agreement

29.1.1 This Agreement constitutes the whole of the agreement between the Parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on any of the Parties.

29.1.2 This Agreement supersedes and replaces any and all agreements between the Parties (and other persons, as may be applicable) and undertakings given to or on behalf of the Parties (and other persons, as may be applicable) in relation to the subject matter hereof.

29.1.3 No oral *pactum de non petendo* shall be of any force or effect.

### 29.2 Variations to be in Writing

No addition to or variation, deletion, or agreed cancellation of all or any clauses or provisions of this Agreement will be of any force or effect unless in writing and signed by all the Parties.

### 29.3 No Indulgences

No latitude, extension of time or other indulgence which may be given or allowed by any Party to the other Party in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from this Agreement and no single or partial exercise of any right by any Party under this Agreement, shall in any circumstances be construed to be an implied consent or election by such Party or operate as a waiver or a novation of or otherwise affect any of the Party's rights in terms of or arising from this Agreement or estop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof. Failure or delay on the part of any Party in exercising any right, power or

privilege under this Agreement will not constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

#### 29.4 **No Waiver or Suspension of Rights**

No waiver, suspension or postponement by any Party of any right arising out of or in connection with this Agreement shall be of any force or effect unless in writing and signed by such Party. Any such waiver, suspension or postponement will be effective only in the specific instance and for the purpose given.

#### 29.5 **Provisions Severable**

All provisions and the various clauses of this Agreement are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of this Agreement which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions and clauses of this Agreement shall remain of full force and effect. The Parties declare that it is their intention that this Agreement would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

#### 29.6 **Continuing Effectiveness of Certain Provisions**

The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

### 30 **COSTS**

All legal costs incurred by a Party in consequence of any default of the provisions of this Agreement by any other Party shall be payable on demand by the defaulting Party on the scale as between attorney and own client and shall include collection charges, the costs incurred by the non-defaulting Party in endeavouring to enforce such rights prior to the institution of legal proceedings and the costs incurred in connection with the satisfaction or enforcement of any judgement awarded in favour of the non-defaulting Party in relation to its rights in terms of or arising out of this Agreement.

### 31 **SIGNATURE**

31.1 This Agreement is signed by the Parties on the dates and at the places indicated below.

- 31.2 This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement as at the date of signature of the Party last signing one of the counterparts.
- 31.3 The persons signing this Agreement in a representative capacity warrant their authority to do so.
- 31.4 The Parties record that it is not required for this Agreement to be valid and enforceable that a Party shall initial the pages of this Agreement and/or have its signature of this Agreement verified by a witness.

*[Signature pages to follow]*

SIGNED at Cape Town ..... on 11 May 2022

For and on behalf of  
**ABSA ALTERNATIVE ASSET  
MANAGEMENT PROPRIETARY LIMITED**

  
\_\_\_\_\_

Signature

Matsholisi Mgqibike  
Name of Signatory

Authorised Signatory  
Designation of Signatory

  
\_\_\_\_\_


Signature

Corneus Petrus Pretorius  
Name of Signatory

Authorised  
Designation of Signatory

SIGNED at .....Johannesburg..... on 11 May 2022

For and on behalf of  
**US PLUS LIMITED**



\_\_\_\_\_  
Signature

Leon Kirkinis

\_\_\_\_\_  
Name of Signatory

Executive Director

\_\_\_\_\_  
Designation of Signatory

## Annexure A

**FORM OF COLLATERAL CESSION NOTICE**

[To appear on the letterhead of the Issuer]

To: Absa Alternative Asset Management Proprietary Limited (the "**Noteholder**")

[insert address]

Date: [Insert]

Dear Sirs

**COLLATERAL CESSION NOTICE**

1. We refer to the cession in security agreement entered into between ourselves and the Noteholder on or about 11 May 2022, in terms of which, *inter alia*, we undertake to cede to the Noteholder, *in securitatem debiti*, our rights title and interest in and to certain Collateral from time to time, as security for the Secured Obligations ("**Cession in Security Agreement**").
2. Terms and expressions used herein shall bear the meanings ascribed to them in the Cession in Security Agreement unless otherwise defined herein.
3. This is a Collateral Cession Notice.
4. We confirm that we are indebted to you under the Notes in an aggregate outstanding capital amount of [ZAR15 000 000].
5. We hereby cede to the Noteholder, *in securitatem debiti*, all our rights, title and interest in and to the Collateral as detailed in the electronic file entitled [*UsPlus Collateral to AAM - the Utilisation Date: [ ]*] (the "**Relevant Electronic File**") delivered or to be delivered to the Noteholder today.
6. The Relevant Electronic File contains the Required Collateral Information in respect of each Receivable forming part of such Collateral determined with reference to [*insert the Issue Date/relevant Measurement Date*] ("**Relevant Measurement Date**"), a summary of the aggregate values of which are set out below, (the "**Collateral**").
7. This cession, *in securitatem debiti*, shall be with effect from the Relevant Measurement Date as security for the Secured Obligations, all on the terms and subject to the conditions set out in the Cession in Security Agreement.

SUMMARY OF COLLATERAL VALUE AS AT THE RELEVANT MEASUREMENT DATE		
RELEVANT ELECTRONIC FILE NAME	AGGREGATE BOOK VALUE OF ALL COLLATERAL ALREADY CEDED AS COLLATERAL TO THE NOTEHOLDER	AGGREGATE BOOK VALUE OF ALL NEW COLLATERAL COVERED BY THIS COLLATERAL CESSION NOTICE
<i>UsPlus Collateral to AAM – Measurement Date: [insert]]</i>		

8. We confirm that we have Flagged each of the Receivables constituting the Collateral in our systems as being ceded, *in securitatem debiti*, in favour of the Noteholder for our Secured Obligations and all capital amount outstanding under the Notes held by the Noteholder from time to time (on a fungible basis).
9. We confirm and warrant that, in respect of the Receivables of the Issuer (and all rights and assets related thereto) ceded to the Noteholder as new Collateral in terms hereof, aggregate of:
- 9.1 the Available Cash (after deducting therefrom an amount equal to the 2021 Notes Required Cash Amount);
- 9.2 the book value of the aggregate Receivables already ceded to the Noteholder; and
- 9.3 the book value of the aggregate Receivables to be ceded under the relevant Collateral Cession Notice,
- (in each case measured as at the Relevant Measurement Date) is not less than the aggregate capital amount outstanding under the Notes.
10. We confirm that this Collateral Cession Notice and the contents thereof are evidence of our cession, *in securitatem debiti*, of the Collateral set out in this Collateral Cession Notice and the Relevant Electronic File.
11. The Available Cash as at the relevant Measurement Date was ZAR[ ] as reflected in the attached bank statements.
12. The 2021 Notes Required Cash Amount as at the relevant Measurement Date was ZAR[ ].

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For and on behalf of

**US PLUS LIMITED**

who warrants that he/she is duly authorised to sign hereto