

TBMA/ISMA GLOBAL MASTER REPURCHASE AGREEMENT (2000 VERSION)

EQUITIES ANNEX

Supplemental terms and conditions for transactions in equities

This Annex constitutes an Annex to the TBMA/ISMA Global Master Repurchase Agreement dated _____ between and (the "Agreement").

1. Scope

- (a) The parties have agreed that -
- (i) the Transactions to which this Agreement applies may include Transactions in respect of which the Purchased Securities consist of or include equities; and
 - (ii) a transfer of Margin Securities may consist of or include equities,
- and the terms and conditions of this Annex shall apply to such Transactions and transfers of Margin Securities.
- (b) In relation to Transactions and transfers of Margin Securities to which this Annex applies, the Agreement shall be construed as if it had been amended and supplemented as set out in paragraphs 3 to 5 of this Annex.

2. Interpretation

- (a) In this Annex -
- (i) "equities" and "equity securities" include shares or stock in the share capital of a corporation, whether ordinary shares or preference shares or other kinds of shares or stock;
 - (ii) "Equivalent Margin Securities" and "Equivalent Securities" mean, in relation to Margin Securities and Purchased Securities which are equity securities and which are partly paid, or have been converted, sub-divided, consolidated, redeemed, made the subject of a takeover, capitalisation issue, rights issue or event similar to any of the foregoing –
 - (A) in the case of conversion, sub-division or consolidation, securities equivalent to the securities into which the relevant Securities have been converted, sub-divided or consolidated; provided that, if appropriate, notice has been given in accordance with paragraph 4 (a) of this Annex;
 - (B) in the case of redemption, a sum of money equivalent to the proceeds of the redemption;
 - (C) in the case of takeover, a sum of money or securities equivalent to the consideration or alternative consideration of

which notice has been given in accordance with paragraph 4(a) of this Annex;

- (D) in the case of a call on partly paid securities, securities equivalent to the paid-up securities; provided that, in the case of Equivalent Securities, Seller or, in the case of Equivalent Margin Securities, the party which transferred the relevant Margin Securities shall have paid to the other party a sum of money equal to the sum due in respect of the call;
 - (E) in the case of a capitalisation issue, securities equivalent to the relevant Securities together with the securities allotted by way of bonus thereon;
 - (F) in the case of a rights issue, securities equivalent to the relevant Securities together with the securities allotted thereon; provided that notice has been given to the other party in accordance with paragraph 4(a) of this Annex;
 - (G) in the event that income in the form of securities, or a certificate which may at a future date be exchanged for securities or an entitlement to acquire securities is distributed, securities equivalent to the relevant Securities together with securities or a certificate or an entitlement equivalent to those allotted; provided that notice has been given in accordance with paragraph 4(a) of this Annex;
 - (H) in the case of any event similar to any of the foregoing, securities equivalent to the relevant Securities together with or replaced by a sum of money or securities or other property equivalent to that received in respect of such Securities resulting from such event.
- (b) In the event of any conflict between the terms of this Annex and the Agreement the terms of this Annex shall prevail.

3. Income Payments

- (a) Subject as otherwise provided in this Annex or as otherwise agreed between the parties, where the Income paid or distributed by the issuer of Purchased Securities or Margin Securities is not in the form of money but is in the form of other property, the obligation of a party under paragraph 5 of the Agreement to pay to the other party an amount equal to the amount paid by the issuer shall be construed as an obligation to transfer property equivalent to that distributed by the issuer.
- (b) The existing paragraph 5 of the Agreement shall be replaced by the following -
- “5. Income Payments**
- (a) Unless otherwise agreed -

- (i) where the Term of a particular Transaction extends over an Income Payment Date in respect of any Securities subject to that Transaction which are not equities, Buyer shall on the date such Income is paid by the issuer transfer to or credit to the account of Seller an amount equal to (and in the same currency as) the amount paid by the issuer;
- (ii) where Margin Securities which are not equities are transferred from one party ("the first party") to the other party ("the second party") and an Income Payment Date in respect of such Securities occurs before Equivalent Margin Securities are transferred by the second party to the first party, the second party shall on the date such Income is paid by the issuer transfer to or credit to the account of the first party an amount equal to (and in the same currency as) the amount paid by the issuer,

and for the avoidance of doubt references in this sub-paragraph to the amount of Income paid by the issuer of any Securities shall be to an amount paid without any withholding or deduction for or on account of taxes or duties notwithstanding that a payment of such Income made in certain circumstances may be subject to a withholding or deduction.

- (b) (i) Unless otherwise agreed, where the Purchased Securities the subject of a Transaction consist of or include equities in respect of which an Income Payment Date would, but for this provision, occur during the Term of such Transaction, Seller shall seek to effect a substitution of such equities in accordance with paragraph 8(a) before the Notice Date referred to in sub-paragraph (b)(iii), but if such a substitution has not been effected by that date then Termination of such Transaction shall, provided that Seller has notified Buyer of such Termination in accordance with sub-paragraph (b)(iii), occur on, and, accordingly, the Repurchase Date of such Transaction shall fall on, the Business Day immediately preceding such Income Payment Date.
- (ii) Unless otherwise agreed and except to the extent that Equivalent Margin Securities in respect of the relevant Margin Securities have already been transferred, where one party (the "transferor") has transferred Margin Securities which are equities to the other (the "transferee") then, on the Business Day preceding the next Income Payment Date in respect of such Margin Securities, the transferee shall transfer to the transferor Equivalent Margin Securities in respect of such Margin Securities in exchange for new Margin Securities as if such transfers were made pursuant to a request under paragraph 8(d) to which the transferee had agreed; provided that (aa) the transferor has given notice to the transferee in accordance with sub-paragraph (b)(iii) of the application of this sub-paragraph (b)(ii) and (bb) the transferor has provided reasonable details to the transferee of the Margin Securities in question, the relevant Income Payment Date and the new

Margin Securities to be exchanged for such Equivalent Margin Securities and the transferee has indicated to the transferor that such new Margin Securities are acceptable to it.

- (iii) Any notice given pursuant to sub-paragraphs (b)(i) or (b)(ii) above shall not be valid unless given so as to be effective, at the latest, one hour before the close of business on the last Business Day (the "**Notice Date**") on which the recipient would customarily be required to initiate settlement of the securities to be transferred by it pursuant to such notice in order for settlement to take place on the Business Day immediately preceding the relevant Income Payment Date.
 - (iv) Nothing in this sub-paragraph (b) shall prejudice any entitlement of either party to terminate a Transaction in any other manner permitted by the Agreement.
- (c) Unless otherwise agreed between the parties, where (notwithstanding, and without prejudice to, sub-paragraph (b) above) Equivalent Securities in respect of Purchased Securities which are equities or, as the case may be, Equivalent Margin Securities in respect of Margin Securities which are equities have not been transferred by Buyer to Seller or the transferee to the transferor prior to an Income Payment Date in respect of such Securities, sub-paragraph (a) above shall not apply in respect of such Securities, but instead Buyer shall or, as the case may be, the transferee shall, on the date Income is paid by the issuer of those Securities, transfer to or credit to the account of Seller or, as the case may be, the transferor -
- (i) an amount equal to (and in the same currency as) so much of such Income attributable to such Securities as is (if it is the holder of such Securities on such Income Payment Date) or would have been (if it had been the holder of such Securities on such Income Payment Date) paid in cash by the issuer to the holder; and
 - (ii) an amount equal to such amount, if any, in respect of tax or tax benefit as Buyer or the transferee is (if it is the holder of such Securities on such Income Payment Date) or would have been (if it had been the holder of such Securities on such Income Payment Date) entitled to claim or recover in cash from the issuer's jurisdiction in respect of such Income payment;

provided that, unless otherwise agreed between the parties, if Buyer or, as the case may be, the transferee has failed to make reasonable efforts to transfer the relevant Equivalent Securities or Equivalent Margin Securities prior to such Income Payment Date in circumstances where the proviso to sub-paragraph (b)(i) above or, as the case may be, sub-paragraph (b)(ii) has been satisfied, then, instead of transferring or crediting the amount referred to in sub-paragraphs (i) and (ii) of this sub-paragraph (c), Buyer or, as the case may be, the transferee shall indemnify Seller or, as the case may be, the transferor in respect of any cost, loss (including for the avoidance

of doubt the amount of Income that would have been paid to Seller or, as the case may be, the transferor if it had been the holder of such Securities on such Income Payment Date) or damage (excluding, for the avoidance of doubt, any consequential loss or damage) suffered by such person which it would not have suffered had the relevant Equivalent Securities or Equivalent Margin Securities been transferred prior to such Income Payment Date.

- (d) Where Buyer or, as the case may be, the transferee is required by law to make any transfer or credit pursuant to sub-paragraph (c)(i) or (ii)¹ above subject to withholding or deduction of taxes or duties, and as a result would, but for this sub-paragraph, be required to pay additional amounts under paragraph 6(b) of the Agreement, unless otherwise agreed between the parties, it shall only be obliged to pay such additional amounts to the extent that it could, in the relevant circumstances, have avoided, satisfied or off-set the relevant obligation to withhold or deduct (or to account for the tax withheld or deducted) by utilising any available tax credit in respect of the relevant Securities (or transactions relating to them).”.

4. Corporate actions and voting

- (a) In relation to Purchased Securities or Margin Securities which are equities (and in respect of which Equivalent Securities or, as the case may be, Equivalent Margin Securities have not been transferred) Buyer, in the case of Purchased Securities, or the transferee, in the case of Margin Securities, shall notify the other party within a reasonable time after the date on which a holder of such Securities would in the normal course have received such notice from the issuer of any notice issued by the issuer of such Securities to the holders of such Securities relating to any proposed conversion, sub-division, consolidation, takeover, pre-emption, option or other similar right or event affecting such Securities or of any Income payment declared in respect of such Securities. Whether or not such notice is received from the first party, the other party may -
- (i) where the relevant Securities are Purchased Securities, cause the Transaction to be terminated in accordance with paragraphs 3(d), (e) and (f) of the Agreement as if the Transaction were an on demand Transaction or, where the relevant Securities are Margin Securities, request that Equivalent Margin Securities be transferred in respect of such Securities to paragraph 8(d) of the Agreement; and/or (as appropriate);
- (ii) within a reasonable time before the latest time for the exercise of the right or option give written notice to the first party that on redelivery of Equivalent Securities or Equivalent Margin Securities, as the case may be, it wishes to receive Equivalent Securities or Equivalent Margin Securities in such form as will arise if the right is exercised or, in the case of a right which may be exercised in more than one

¹ Note: this is intended to make clear that the disapplication of the gross-up provision does not apply where the buyer/transferee has failed to co-operate with the seller/transferor – in these circumstances there is no transfer under (c)(i) or (ii) and the indemnity in (c) applies.

manner, is exercised as is specified in such written notice; provided that if any sum is required to be paid by a holder of the securities to the issuer or any other person in order to exercise such rights, the other party shall pay to the first party an amount equal to such sum.

- (b) Where any voting rights fall to be exercised in relation to any Purchased Securities or Margin Securities which are equities and in respect of which Equivalent Securities or, as the case may be, Equivalent Margin Securities have not been transferred, neither Buyer, in the case of Purchased Securities, nor the transferee, in the case of Margin Securities, shall have any obligation to arrange for voting rights of that kind to be exercised in accordance with the instructions of the other party in relation to such Purchased Securities or Margin Securities, unless otherwise agreed between the parties.

5. Transfer

- (a) Seller shall promptly pay and account for any transfer or similar duties or taxes chargeable in connection with the transfer of Purchased Securities which are equities and any Equivalent Securities in respect thereof and shall reimburse to Buyer the amount of any liability incurred by it as a result of Seller's failure to do so.
- (b) Where Margin Securities which are equities are transferred by one party to the other, the transferor (the first party) shall promptly pay and account for any transfer or similar duties or taxes chargeable in connection with such transfer as well as in connection with any subsequent transfer by the transferee (the second party) of Equivalent Margin Securities in respect thereof to the first party and shall reimburse to the second party the amount of any liability incurred by the second party as a result of the first party's failure to do so.
- (c) In relation to Transactions to which this Annex applies and unless otherwise agreed, where any Purchased Securities, Equivalent Securities, Margin Securities or Equivalent Margin Securities are transferred through a settlement system which automatically generates a mandatory payment or delivery, or a mandatory obligation to pay or deliver, against the transfer of such Securities, then -
 - (i) such automatically generated payment, delivery or obligation shall be treated as a payment or delivery by the transferee to the transferor, and except to the extent that it is applied to discharge an obligation of the transferee to effect a payment or delivery, such payment or delivery, or obligation to pay or deliver, shall be deemed to be a Margin Transfer made by the transferee; and
 - (ii) unless the parties shall have agreed otherwise, the party receiving such Margin Transfer shall cause to be made to the other party for value the same day either, where such Margin Transfer is a payment, an irrevocable payment in the amount of such Margin Transfer or, where such Margin Transfer is a delivery, an irrevocable delivery of Securities (or other property, as the case may be) equivalent thereto.