

**STOCK EXCHANGE APPROVED VERSION: OCTOBER 1997**

DATED

**MASTER EQUITY & FIXED INTEREST STOCK LENDING AGREEMENT (1996)**

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IT IS HEREBY AGREED AS FOLLOWS:-

1. **INTERPRETATION.**

(A) In this Agreement:-

**"Act of Insolvency"**

means in relation to either Party

- (i) its making a general assignment for the benefit of, or entering into a reorganisation, arrangement, or composition with creditors, or
- (ii) its admitting in writing that it is unable to pay its debts as they become due, or
- (iii) its seeking, consenting to or acquiescing in the appointment of any trustee, administrator, receiver or liquidator or analogous officer of it or any material part of its property, or
- (iv) the presentation or filing of a petition in respect of it (other than by the other Party to this Agreement in respect of any obligation under this Agreement) in any court or before any agency alleging or for the bankruptcy, winding-up or insolvency of such Party (or any analogous proceeding) or seeking any reorganisation, arrangement, composition, re-adjustment, administration, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such petition (except in the case of a petition for winding-up or any analogous proceeding, in respect of which no such 30 day period shall apply) not having been stayed or dismissed within 30 days of its filing, or
- (v) the appointment of a receiver, administrator, liquidator or trustee or analogous officer of such Party or over all or any material part of such Party's property, or
- (vi) the convening of any meeting of its creditors for the purposes of considering a voluntary arrangement as referred to in Section 3 of the Insolvency Act 1986 (or any analogous proceeding);

**"Agency Transaction"**

shall have the meaning given in Clause 16;

<b>"Agent"</b>	shall have the meaning given in Clause 16;
<b>"Alternative Collateral"</b>	means Collateral of a Value equal to the Collateral delivered pursuant to Clause 6 and provided by way of substitution for Collateral or Cash Collateral originally delivered or previously substituted in accordance with the provisions of Clauses 6(F) or 6(G);
<b>"Appropriate Tax Vouchers"</b>	means:- <ul style="list-style-type: none"> <li>(i) either such tax vouchers and/or certificates as shall enable the recipient to claim and receive from any relevant tax authority, in respect of interest, dividends, distributions and/or other amounts (including for the avoidance of doubt any manufactured payment) relating to particular Securities, all and any repayment of tax or benefit of tax credit to which the Lender would have been entitled but for the loan of Securities in accordance with this Agreement and/or to which the Lender is entitled in respect of tax withheld and accounted for in respect of any manufactured payment; or such tax vouchers and/or certificates as are provided by the Borrower which evidence an amount of overseas tax deducted which shall enable the recipient to claim and receive from any relevant tax authority all and any repayment of tax from the UK Inland Revenue or benefits of tax credit in the jurisdiction of the recipient's residence; and</li> <li>(ii) such vouchers and/or certificates in respect of interest, dividends, distributions and/or other amounts relating to particular Collateral;</li> </ul>
<b>"Approved UK Collecting Agent"</b>	means a person who is approved as such for the purposes of the Rules of the UK Inland Revenue relating to stocklending and manufactured overseas dividends;
<b>"Approved UK Intermediary"</b>	means a person who is approved as such for the purposes of the Rules of the UK Inland Revenue relating to stocklending and manufactured overseas dividends;
<b>"Assured Payment"</b>	means a payment obligation of a Settlement Bank arising (under the Assured Payment Agreement) as a

result of a transfer of stock or other securities to a CGO stock account of the member of the CGO for whom that Settlement Bank is acting;

**"Assured Payment Agreement"**

means an agreement dated 24th October 1986 between the Bank of England and all the other banks which are for the time being acting as Settlement Banks in relation to the CGO regulating the obligations of such banks to make payments in respect of transfers of securities through the CGO as supplemented and amended from time to time;

**"Bid Price"**

in relation to Equivalent Securities or Equivalent Collateral means the best available bid price thereof on the most appropriate market in a standard size;

**"Bid Value"**

subject to Clause 10(E) means:-

(a) in relation to Equivalent Collateral at a particular time:-

(i) in relation to Equivalent Collateral type B(x) (more specifically referred to in the Schedule) the Value thereof as calculated in accordance with such Schedule;

(ii) in relation to all other types of Equivalent Collateral (more specifically referred to in the Schedule) the amount which would be received on a sale of such Equivalent Collateral at the Bid Price thereof at such time less all costs, fees and expenses that would be incurred in connection with selling or otherwise realising such Equivalent Collateral, calculated on the assumption that the aggregate thereof is the least that could reasonably be expected to be paid in order to carry out such sale or realisation and adding thereto the amount of any Income declared or paid to the Lender and in respect of which equivalent amounts have not been paid to the Borrower in accordance with Clause 6(G) prior to such time in respect of such Equivalent Collateral or the original Collateral held gross of all and any tax deducted or paid in respect thereof; and

(b) in relation to Equivalent Securities at a particular

time the amount which would be received on a sale of such Equivalent Securities at the Bid Price thereof at such time less all costs, fees and expenses that would be incurred in connection therewith, calculated on the assumption that the aggregate thereof is the least that could reasonably be expected to be paid in order to carry out the transaction;

**"Borrower"**

means the Party who acts as borrower under this Agreement;

**"Borrowing Request"**

means

- (a) in relation to loans of Securities, a request made by the Borrower to the Lender (by telephone or otherwise) pursuant to Clause 2(A) specifying the description, title and amount of the Securities required by the Borrower, the proposed Settlement Date and duration of such loan and in the case of Securities which are not designated by CRESTCo Limited as eligible for settlement within CREST the date, time, mode and place of delivery;
- (b) in relation to loans of money, a request made by the Borrower to the Lender (by telephone or otherwise) pursuant to Clause 7(A) specifying:-
  - (i) the amount and currency of money;
  - (ii) the rate of interest thereon;
  - (iii) the date, time, mode and place of payment;
  - (iv) the type of Collateral to be provided and mode of delivery; and
  - (v) the duration of the loan;

**"Business Day"**

means a day on which banks and securities markets are open for business generally both in London and, in relation to the delivery or redelivery of any of the following items, in relation to any loan, in the place(s) where the relevant Securities, Equivalent Securities, Collateral or Equivalent Collateral are to be delivered;

**"Cash Collateral"**

means Collateral that takes the form of a deposit of currency;

<b>"Central Gilts Office"</b> or <b>"CGO"</b>	means the computer based system managed by the Bank of England to facilitate the book-entry transfer of gilt-edged securities;
<b>"CGO Collateral"</b>	shall have the meaning specified in paragraph 1A of the Schedule;
<b>"CGO Rules"</b>	means the requirements of the CGO for the time being in force as defined in the membership agreement regulating membership of the CGO;
<b>"Close of Business"</b>	means the time at which banks close in the business centre in which payment is to be made or Collateral is to be delivered;
<b>"Collateral"</b>	means such securities or financial instruments or deposits of currency as are referred to in the Schedule hereto or any combination thereof which are delivered by the Borrower to the Lender in accordance with this Agreement and shall include the certificates and other documents of or evidencing title and transfer in respect of the foregoing (as appropriate), and shall include Alternative Collateral;
<b>"CREST"</b>	means the computer based system, and procedures, operated by CREST Co. Limited which enable title to units of a security to be evidenced and transferred without a written instrument;
<b>"Defaulting Party"</b>	shall have the meaning given in Clause 14;
<b>"Default Valuation Time"</b>	shall have the meaning given in Clause 10(D);
<b>"Delivery-by-Value"</b>	means a transaction effected through the CGO, CREST or another book entry transfer system whereby Collateral is provided in the form of a package of securities determined by the operator of the system of a particular aggregate value and "delivered-by-value" shall be construed accordingly;
<b>"Equivalent Collateral"</b> or <b>"Collateral equivalent to"</b>	in relation to any Collateral provided under this Agreement means securities, cash or other property, as the case may be, of an identical type, nominal value, description and amount to particular Collateral so provided and shall include the certificates and other documents of or evidencing title and transfer in respect of the foregoing (as appropriate). If and to the extent that the particular Collateral consists of securities that

are partly paid or have been converted, subdivided, consolidated, redeemed, made the subject of a takeover, capitalisation issue or rights issue, or any event similar to the foregoing, the expression shall have the following meaning:

- (a) in the case of conversion, subdivision or consolidation, securities equivalent to the securities into which the particular Collateral has been converted, subdivided or consolidated PROVIDED THAT, if appropriate, notice has been given in accordance with Clause 4(B)(vi);
- (b) in the case of redemption, a sum of money equivalent to the proceeds of the redemption;
- (c) in the case of a takeover, a sum of money or securities equivalent to the money or securities which was or were the consideration or alternative consideration in respect of Collateral of that particular kind in such takeover, PROVIDED THAT, if appropriate, notice has been given in accordance with Clause 4(B)(vi);
- (d) in the case of a call on partly paid Collateral securities, securities equivalent to the particular Collateral securities after such call has been paid-up PROVIDED THAT the Borrower shall have paid to the Lender an amount of money equal to the sum due in respect of the call;
- (e) in the case of a capitalisation issue, securities equivalent to the particular Collateral securities TOGETHER WITH securities equivalent to the securities allotted by way of a bonus on Collateral securities of that particular kind;
- (f) in the case of a rights issue, securities equivalent to the particular Collateral securities TOGETHER WITH the securities equivalent to securities allotted thereon, PROVIDED THAT the Borrower has given notice to the Lender in accordance with Clause 4(B)(vi), and has paid to the Lender all and any sum due in respect thereof;
- (g) in the event that a payment of Income is made in respect of the particular Collateral in the form of securities or a certificate which may at a future date be exchanged for securities or in the event of

an option to take Income in the form of securities or a certificate which may at a future date be exchanged for securities, PROVIDED THAT notice has been given to the Lender in accordance with Clause 4(B)(vi), securities equivalent to the particular Collateral TOGETHER WITH securities or a certificate equivalent to those allotted;

- (h) in the case of any event similar to any of the foregoing, securities equivalent to the particular Collateral TOGETHER WITH or replaced by a sum of money or securities equivalent to that received in respect of the particular Collateral resulting from such event;

For the avoidance of doubt, in the case of Bankers' Acceptances (Collateral type B(v)), Equivalent Collateral must be drawn by and bear dates, acceptances and endorsements (if any) by the same entities as the bill to which it is intended to be equivalent;

**"Equivalent Securities"**

means securities of an identical type, nominal value, description and amount to particular Securities borrowed and such term shall include the certificates and other documents of or evidencing title and transfer in respect of the foregoing (as appropriate). If and to the extent that such Securities are partly paid or have been converted, subdivided, consolidated, redeemed, made the subject of a takeover, capitalisation issue or rights issue, or any event similar to the foregoing, the expression shall have the following meaning:

- (a) in the case of conversion, subdivision or consolidation the securities equivalent to the securities into which the particular Securities have been converted, subdivided or consolidated PROVIDED THAT, if appropriate, notice has been given in accordance with clause 4(B)(vi);
- (b) in the case of redemption, a sum of money equivalent to the proceeds of the redemption;
- (c) in the case of a takeover, a sum of money or securities equivalent to the money or securities which was or were the consideration or alternative consideration in respect of securities of that particular kind in such takeover, PROVIDED

THAT, if appropriate, notice has been given in accordance with Clause 4(B)(vi);

- (d) in the case of a call on partly paid Securities, securities equivalent to the particular Securities after such call has been paid-up PROVIDED THAT the Lender shall have paid to the Borrower an amount of money equal to the sum due in respect of the call;
- (e) in the case of a capitalisation issue, securities equivalent to the particular securities TOGETHER WITH securities equivalent to the securities allotted by way of a bonus on securities of that particular kind;
- (f) in the case of a rights issue, securities equivalent to the particular securities TOGETHER WITH the securities equivalent to securities allotted thereon, PROVIDED THAT the Lender has given notice to the Borrower in accordance with Clause 4(B)(vi), and has paid to the Borrower all and any sum due in respect thereof;
- (g) in the event that a payment of Income is made in respect of the particular Securities in the form of securities or a certificate which may at a future date be exchanged for securities or in the event of an option to take Income in the form of securities or a certificate which may at a future date be exchanged for securities, PROVIDED THAT notice has been given to the Borrower in accordance with Clause 4(B)(vi), securities equivalent to the particular Securities TOGETHER WITH securities or a certificate equivalent to those allotted;
- (h) in the case of any event similar to any of the foregoing, the securities equivalent to the particular Securities TOGETHER WITH or replaced by a sum of money or securities equivalent to that received in respect of the particular Securities resulting from such event;

**"Event of Default"**

has the meaning given in Clause 14;

**"Income"**

means any interest, dividends or other distributions of any kind whatsoever with respect to any Securities or Collateral;

<b>"Income Payment Date"</b>	with respect to any Securities or Collateral means the date on which Income is paid in respect of such Securities or Collateral, or, in the case of registered Securities or Collateral, the date by reference to which particular registered holders are identified as being entitled to payment of Income;
<b>"Intermediary"</b>	means a Lender who has borrowed the Securities which are the subject of a particular loan from a Third Party;
<b>"Lender"</b>	means the Party who acts as lender under this Agreement;
<b>"Manufactured Dividend"</b>	shall have the meaning given in Clause 4(B)(ii);
<b>"Margin"</b>	shall have the meaning specified in the Schedule hereto;
<b>"Nominee"</b>	means an agent or a nominee appointed by either Party to accept delivery of, hold or deliver Securities, Equivalent Securities, Collateral and/or Equivalent Collateral on its behalf whose appointment has been notified to the other Party;
<b>"Non-Defaulting Party"</b>	shall have the meaning given in Clause 14;
<b>"Offer Price"</b>	in relation to Equivalent Securities or Equivalent Collateral means the best available offer price thereof on the most appropriate market in a standard size;
<b>"Offer Value"</b>	subject to Clause 10(E) means:- <ul style="list-style-type: none"> <li>(a) in relation to Equivalent Collateral type B(x) (more specifically referred to in the Schedule hereto) the Value thereof as calculated in accordance with such Schedule; and</li> <li>(b) in relation to Equivalent Securities or Collateral equivalent to all other types of Collateral (more specifically referred to in the Schedule hereto) the amount it would cost to buy such Equivalent Securities or Equivalent Collateral at the Offer Price thereof TOGETHER WITH all costs, fees and expenses that would be incurred in connection therewith, calculated on the assumption that the aggregate thereof is the least that could reasonably be expected to be paid in order to carry out the</li> </ul>

	transaction;
<b>"Overseas Securities"</b>	shall have the meaning specified in paragraph 1(1) of Schedule 23A to the Income and Corporation Taxes Act 1988;
<b>"Parties"</b>	means the Lender and the Borrower and "Party" shall be construed accordingly;
<b>"Performance Date"</b>	shall have the meaning given in Clause 10;
<b>"Posted Collateral"</b>	shall have the meaning given in Clause 6(H);
<b>"Principal"</b>	shall have the meaning given in Clause 16;
<b>"Reference Price"</b>	means: <ul style="list-style-type: none"> <li>(a) in relation to the valuation of Securities, Equivalent Securities, Collateral and/or Equivalent Collateral eligible for settlement within CREST, such price as may be established from time to time for use within such system, or, where such price is not available, the mid market quotation of such Securities, Equivalent Securities, Collateral and/or Equivalent Collateral as derived from the latest edition of the Daily Official List published by the Stock Exchange;</li> <li>(b) in relation to the valuation of Securities, Equivalent Securities, Collateral and/or Collateral equivalent to Collateral types B (ii), (viii), (xi) and (xii) (more specifically referred to in the Schedule hereto) (not designated as eligible for settlement within CREST, such price (in sterling) as is equal to the mid market quotation of such Securities, Equivalent Securities, Collateral and/or Equivalent Collateral as derived from the latest edition of the Daily Official List published by the Stock Exchange or, if unavailable, such price as published in the latest edition of such other equivalent financial publication in the business centre in which payment is to be made or Collateral and/or Equivalent Collateral is to be delivered or redelivered (as the case may be) or, in the case of Overseas Securities, such price as is equal to the mid market quotation of such Securities, Equivalent Securities, Collateral and/or Equivalent Collateral as derived from a reputable pricing information service (such as the services</li> </ul>

provided by Reuters, Extel Statistical Services and Telerate) reasonably chosen in good faith by the Lender or if unavailable the market value thereof as derived from the prices or rates bid by a reputable dealer for the relevant instrument reasonably chosen in good faith by the Lender, in each case at Close of Business on the previous Business Day;

- (c) in relation to the valuation of Securities, Equivalent Securities, Collateral and/or Collateral equivalent to Collateral types A and B(i) (more specifically referred to in the Schedule hereto), the CGO Reference Price of such Securities, Equivalent Securities, Collateral and/or Equivalent Collateral then current as determined in accordance with the CGO Rules from time to time in force.
- (d) in relation to the valuation of Collateral and/or Collateral equivalent to Collateral types B (iii), (iv), (v), (vi), (vii) and (ix) (more specifically referred to in the Schedule hereto), the market value thereof as derived from the rates bid by Barclays Bank PLC for such instruments or, in the absence of such a bid, the average of the rates bid by two leading market makers for such instruments at Close of Business on the previous Business Day.

For the purposes of this Agreement the Reference Price of any Securities, Equivalent Securities, Collateral and/or Equivalent Collateral eligible for settlement within the CREST shall be the offer price thereof, unless otherwise indicated;

<b>"Relevant Payment Date"</b>	shall have the meaning given in Clause 4(B)(i);
<b>"Relevant Value"</b>	shall have the meaning given in Clause 10(C);
<b>"Required Collateral Value"</b>	shall have the meaning given in Clause 6;
<b>"Required Notice"</b>	shall have the meaning given in Clause 8(B);
<b>"Rules"</b>	means the rules for the time being of the Stock Exchange and/or any other regulatory authority whose rules and regulations shall from time to time affect the activities of the Parties pursuant to this Agreement (PROVIDED THAT in an Event of Default the rules of

the Stock Exchange shall prevail where the Defaulting Party is a member of that exchange);

**"Securities"**

means equities and other securities, not being gilt-edged securities as defined in the Rules, and which are the subject of a loan pursuant to this Agreement and such term shall include the certificates and other documents of title in respect of the foregoing;

**"Settlement Bank"**

means a settlement member of the CHAPS and Town Clearing systems who has entered into contractual arrangements with the CGO to provide Assured Payment facilities for members of the CGO;

**"Settlement Date"**

means:-

- (a) in relation to a loan of Securities the date upon which such Securities are or are to be transferred to the Borrower in accordance with this Agreement;
- (b) in relation to a loan of money, the date upon which the advance of such money to the Borrower is or is to be made in accordance with this Agreement;

**"Stock Exchange"**

means the London Stock Exchange Limited;

**"Third Party"**

means a lender who is not an Intermediary;

**"Valuation Date"**

in relation to borrowed Securities means the date upon which the Reference Price is established within CREST or such other date as the Parties may from time to time agree;

**"Value"**

at any particular time means:-

- (a) in respect of Securities, Equivalent Securities, Collateral and/or Equivalent Collateral eligible for settlement within CREST and Securities and Equivalent Securities not so designated the aggregate worth of such Securities, Equivalent Securities, Collateral and/or Equivalent Collateral as calculated at the Reference Prices then current; and
- (b) in respect of Collateral or Equivalent Collateral not eligible for settlement within CREST, such

worth as determined in accordance with the Schedule hereto.

- (B) All headings appear for convenience only and shall not affect the interpretation hereof.
- (C) Notwithstanding the use of expressions such as "borrow", "lend", "Collateral", "Margin", "redeliver" etc. which are used to reflect terminology used in the market for transactions of the kind provided for in this Agreement, title to Securities "borrowed" or "lent" and "Collateral" provided in accordance with this Agreement shall pass from one Party to another as provided for in this Agreement, the Party obtaining such title being obliged to redeliver Equivalent Securities or Equivalent Collateral as the case may be.
- (D) For the purposes of determining any prices, sums or values (including Value, Relevant Value, Bid Value, and Offer Value for the purposes of Clauses 6, 7, 8 and 10 of this Agreement), prices, sums or values stated in currencies other than sterling shall be converted into sterling at the spot rate of exchange quoted by Barclays Bank Plc in the London interbank market for the purchase of sterling with the currency concerned, at or about 11.00 a.m. London time on the day on which the calculation is to be made or, if that day is not a Business Day or the calculation needs to be made before 11.00 a.m. on that day, the immediately preceding Business Day.
- (E) Any reference in this Agreement to an act, regulation or other legislation hereunder shall include a reference to any statutory modification or re-enactment thereof for the time being in force.

## 2. **LOANS OF SECURITIES.**

- (A) The Lender will lend Securities to the Borrower, and the Borrower will borrow Securities from the Lender in accordance with the terms and conditions of this Agreement and with the Rules PROVIDED THAT the Lender shall have received from the Borrower and accepted (by whatever means) a Borrowing Request.
- (B) The Borrower has the right to reduce the amount of Securities referred to in a Borrowing Request PROVIDED THAT the Borrower has notified the Lender of such reduction no later than midday on the day which is two Business Days prior to the Settlement Date, unless otherwise agreed between the parties, and the Lender shall have accepted such reduction (by whatever means).

## 3. **DELIVERY OF SECURITIES.**

- (A) In the case of Securities eligible for settlement within CREST the Lender shall deliver or procure the delivery of such Securities to the Borrower in accordance with the Borrowing Request. Such Securities shall be deemed to have been delivered by the Lender to the Borrower when credited to the CREST account designated by the Borrower in the Borrowing Request.
- (B) In the case of Securities not eligible for settlement within CREST the Lender shall deliver such Securities in accordance with the Borrowing Request TOGETHER WITH appropriate instruments of transfer duly stamped where necessary and such other instruments as may be requisite to vest title thereto in the Borrower. Such Securities shall be deemed to have been delivered by the Lender to the Borrower on delivery to the Borrower, or as it shall direct, of the relevant instruments of transfer; or, in the case of securities held by an agent or a clearing or

settlement system, on the effective instructions to such agent or the operator of such system to hold the Securities absolutely for the Borrower, or by such other means as shall be agreed.

4. **RIGHTS AND TITLE.**

(A) The Parties shall execute and deliver all necessary documents and give all necessary instructions to procure that all right, title and interest in:

- (i) any Securities borrowed pursuant to Clause 2;
- (ii) any Equivalent Securities redelivered pursuant to Clause 8;
- (iii) any Collateral delivered pursuant to Clause 6;
- (iv) any Equivalent Collateral redelivered pursuant to Clauses 6 or 8;

shall pass from one Party to the other subject to the terms and conditions mentioned herein and in accordance with the Rules on delivery or redelivery of the same in accordance with this Agreement, free from all liens, charges and encumbrances. In the case of Securities, Collateral, Equivalent Securities or Equivalent Collateral title to which is established through a computer based system which provides for the recording and transfer of title to the same by way of book entries, delivery and transfer of title shall take place in accordance with the rules and procedures of such system as in force from time to time. The Party acquiring such right, title and interest shall have no obligation to return or redeliver any of the assets so acquired but, in so far as any Securities are borrowed or any Collateral is delivered to such Party, such Party shall be obliged, subject to the terms of this Agreement, to redeliver Equivalent Securities or Equivalent Collateral as appropriate.

- (B) (i) Where Income is paid in relation to any Securities on or by reference to an Income Payment Date on which such Securities are the subject of a loan hereunder, the Borrower shall, on the date of the payment of such Income, or on such other date as the Parties may from time to time agree (the "**Relevant Payment Date**") pay and deliver a sum of money or property equivalent to the same (with any such endorsements or assignments as shall be customary and appropriate to effect the delivery) to the Lender or its Nominee, irrespective of whether the Borrower received the same. The provisions of Clause 4(B)(ii) to (iv) below shall apply in relation thereto. Unless otherwise agreed between the Parties as indicated in the Schedule to this Agreement, if in relation to Overseas Securities at any time any Manufactured Dividend (as defined in 4(B)(ii) below) falls to be paid pursuant to this clause neither of the Parties is an Approved UK Intermediary or an Approved UK Collecting Agent, the Borrower will procure that the relevant payment is paid through an Approved UK Intermediary or an Approved UK Collecting Agent agreed by the Parties for this purpose, unless the rate of relevant withholding tax (as defined above) in respect of any Income that would be payable to the Lender but for the loan of the Securities would have been zero and no income tax liability under Chapter VII A of Part IV of the Income and Corporation Taxes Act 1988 would have arisen in respect thereof.
- (ii) Subject to Clause 4(B)(iii) below, in the case of any Income comprising a payment, the amount (the "**Manufactured Dividend**") payable by the Borrower shall be equal to the

amount of the relevant Income TOGETHER WITH an amount equivalent to any deduction, withholding or payment for or on account of tax made by the relevant issuer (or on its behalf) in respect of such Income TOGETHER WITH an amount equal to any other tax credit associated with such Income, unless a lesser amount is agreed between the Parties or an Appropriate Tax Voucher (TOGETHER WITH any further amount which may be agreed between the Parties to be paid) is provided in lieu of such deduction, withholding, tax credit or payment.

- (iii) Where either the Borrower, or any person to whom the Borrower has on-lent the Securities, is unable to make payment of the Manufactured Dividend to the Lender without there being a requirement to account to the Inland Revenue for any amount of relevant tax (as required by Schedule 23A to or section 737(1) of the Income and Corporation Taxes Act 1988) the Borrower shall pay to the Lender or its Nominee, in cash, the Manufactured Dividend less amounts equal to such tax. The Borrower shall at the same time, if requested, supply Appropriate Tax Vouchers to the Lender.
- (iv) In the event of the Borrower failing to remit either directly or by its Nominee any sum payable pursuant to this Clause, the Borrower hereby undertakes to pay a rate to the Lender (upon demand) on such sum at the rate provided for in Clause 15 hereof. Interest on such sum shall accrue daily commencing on and inclusive of the third Business Day after the Relevant Payment Date, unless otherwise agreed between the Parties.
- (v) Each Party hereby undertakes that where it holds Securities of the same description as any Securities borrowed by it or transferred to it by way of Collateral at a time when a right to vote arises in respect of such Securities, it will use its best endeavours to arrange for the voting rights attached to such Securities to be exercised in accordance with the instructions of the Lender or Borrower (as the case may be) PROVIDED THAT each Party shall use its best endeavours to notify the other of its instructions in writing no later than seven Business Days prior to the date upon which such votes are exercisable or as otherwise agreed between the Parties and that the Party concerned shall not be obliged so to exercise the votes in respect of a number of Securities greater than the number so lent or transferred to it. For the avoidance of doubt the Parties agree that subject as hereinbefore provided any voting rights attaching to the relevant Securities, Equivalent Securities, Collateral and/or Equivalent Collateral shall be exercisable by the persons in whose name they are registered or in the case of Securities, Equivalent Securities, Collateral and/or Equivalent Collateral in bearer form, the persons by or on behalf of whom they are held, and not necessarily by the Borrower or the Lender (as the case may be).
- (vi) Where, in respect of any borrowed Securities or any Collateral, any rights of conversion, sub-division, consolidation, pre-emption or option, rights arising under a takeover offer or other rights, including those requiring election by the holder for the time being of such Securities or Collateral, become exercisable prior to the redelivery of Equivalent Securities or Equivalent Collateral, then the Lender or Borrower as the case may be may within a reasonable time before the latest time for the exercise of the right or option give written notice to the other Party that, on redelivery of Equivalent Securities or Equivalent Collateral, as the case may be, it wishes to receive Equivalent

Securities or Equivalent Collateral 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 manner, is exercised as is specified in such written notice.

(vii) This Clause 4(B) shall not apply after Securities have been sold and sums of money remitted pursuant to Clause 8(D) hereof.

(viii) Any payment to be made by the Lender or the Borrower under this Clause shall be made in a manner to be agreed between the Parties.

5. **RATES.**

(A) In respect of each loan of Securities the Borrower shall pay to the Lender, in the manner prescribed in sub-Clause (D) below, sums calculated by applying such rate as shall be agreed between the Parties from time to time to the daily Value of the relevant Securities.

(B) The Borrower shall pay to the Lender the rates agreed between the Parties on any loans of money made by the Lender to the Borrower pursuant to Clause 7.

(C) Where Cash Collateral is deposited with the Lender in respect of any loan of Securities, the Lender shall pay to the Borrower, in the manner prescribed in Clause 5(D), sums calculated by applying such rates as shall be agreed between the Parties from time to time to the amount of such Cash Collateral. Any such payment due to the Borrower may be set-off against any payment due to the Lender pursuant to Clause 5(A) hereof.

(D) In respect of each loan of Securities, the payments referred to in sub-Clauses 5(A), (B) and (C) hereof shall accrue daily in respect of the period commencing on and inclusive of the Settlement Date and terminating on and exclusive of the Business Day upon which Equivalent Securities are redelivered or Cash Collateral is repaid. Unless otherwise agreed, the sums so accruing in respect of each calendar month shall be paid in arrears by the Borrower to the Lender or to the Borrower by the Lender (as the case may be) on the last Business Day, or, in respect of loans of Overseas Securities, not later than the Business Day which is one week after the last Business Day, of the calendar month to which such payments relate or such other date as the Parties shall from time to time agree.

(E) Any payment made pursuant to sub-Clauses 5(A), (B) and (C) hereof shall be in such currency and shall be paid in such manner and at such place as shall be agreed between the Parties.

6. **COLLATERAL.**

(A) (i) Subject to Clauses 6(B), (C) and (E) below the Borrower undertakes to deliver Collateral to the Lender (or in accordance with the Lender's instructions) TOGETHER WITH appropriate instruments of transfer duly stamped where necessary and such other instruments as may be requisite to vest title thereto in the Lender simultaneously with delivery of the borrowed Securities and in any event no later than Close of Business on the Settlement Date. Collateral may be provided in any of the forms in the Schedule hereto (as agreed between the Parties);

- (ii) where Collateral is delivered to the Lender's Nominee any obligation under this Agreement to redeliver or otherwise account for Equivalent Collateral shall be an obligation of the Lender notwithstanding that any such redelivery may be effected in any particular case by the Nominee.
  
- (B) Where CGO Collateral is provided to the Lender or its Nominee by member-to-member delivery or Delivery-by-Value in accordance with the provisions of the CGO Rules from time to time in force, the obligation of the Lender to redeliver Equivalent Collateral in respect thereof shall be an obligation to redeliver Equivalent Collateral through the CGO to the Borrower in accordance with this Agreement. Any references, (howsoever expressed) in this Agreement, the Rules, and/or any other agreement or communication between the Parties to an obligation to redeliver such Equivalent Collateral shall be construed accordingly. If, when the Equivalent Collateral is redelivered, any loan of Securities remains outstanding, the Assured Payment obligation generated on such redelivery shall be deemed to constitute a payment of money which shall be treated as Cash Collateral. This procedure shall continue daily where CGO Collateral is delivered-by-value for as long as any loans of securities remain outstanding.
  
- (C) Where Collateral is provided by Delivery-by-Value through CREST or an alternative book entry transfer system, not being the CGO, the obligation of the Lender shall be to redeliver Equivalent Collateral through such book entry transfer system in accordance with this Agreement. If the loan of Securities in respect of which such Collateral was provided has not been discharged when the Collateral is redelivered, any payment obligation generated within the book entry transfer system on such redelivery shall be deemed to constitute a payment of money which shall be treated as Cash Collateral until the loan is discharged, or further Equivalent Collateral is provided later during that Business Day. This procedure shall continue when Collateral is delivered-by-value for as long as the relevant loan remains outstanding.
  
- (D) Where CGO Collateral or other Collateral is provided by Delivery-by-Value to a Lender or its Nominee the Borrower may consolidate such Collateral with other Collateral provided by the same delivery to a third party for whom the Lender or its Nominee is acting.
  
- (E) Where Cash Collateral is provided the sum of money so deposited may be adjusted in accordance with Clause 6(H) and shall be held by the Lender until Equivalent Securities (in respect of the Securities borrowed) are redelivered. The Borrower may, simultaneously with the delivery of the borrowed Securities, deposit with the Lender (or in accordance with the Lender's instructions) Cash Collateral equivalent to the Value of those borrowed Securities TOGETHER WITH the Margin applicable thereto. Such Cash Collateral may be in the form of a currency other than sterling paid in a manner and at a place to be agreed between the Parties. Subject to Clause 6(H), the Cash Collateral shall be repaid at the same time as Equivalent Securities in respect of the Securities borrowed are redelivered, and the Borrower shall not assign, charge, dispose of or otherwise deal with its rights in respect of the Cash Collateral. If the Borrower fails to comply with its obligations for such redelivery of Equivalent Securities the Lender shall have the right to apply the Cash Collateral by way of set-off in accordance with Clause 10.
  
- (F) The Borrower may from time to time call for the repayment of any Cash Collateral or the redelivery of Collateral equivalent to any Collateral delivered to the Lender prior to the date on which the same would otherwise have been repayable or redeliverable PROVIDED THAT at the time of such repayment or redelivery the Borrower shall have delivered or delivers Alternative Collateral acceptable to the Lender and the Borrower is in compliance with Clause 6(I).

- (G) (i) Where Collateral (other than Cash Collateral) is delivered in respect of which any Income may become payable, the Borrower shall call for the redelivery of Collateral equivalent to such Collateral in good time to ensure that such Equivalent Collateral may be delivered prior to any such Income becoming payable to the Lender, unless in relation to such Collateral the Parties are satisfied before the relevant Collateral is transferred that no tax will be payable to the UK Inland Revenue under Schedule 23A or Section 737 (1) of the Income and Corporation Taxes Act 1988. At the time of such redelivery the Borrower shall deliver Alternative Collateral acceptable to the Lender.
- (ii) Where the Lender receives any Income in circumstances where the Parties are satisfied as set out in Clause 6(G)(i) above, then the Lender shall, on the date on which the Lender receives such Income, or on such other date as the Parties may from time to time agree, pay and deliver a sum of money or property equal to the amount of such Income (with any such endorsements or assignments as shall be customary and appropriate to effect the delivery) to the Borrower and shall supply Appropriate Tax Vouchers (if any) to the Borrower.
- (H) Unless the Schedule to this Agreement indicates that Clause 6(I) shall apply in lieu of this Clause 6(H), or unless otherwise agreed between the Parties, the Value of the Collateral delivered to or deposited with the Lender or its nominated bank or depository (excluding any Collateral repaid or redelivered under sub-Clauses (H)(ii) or (I)(ii) below (as the case may be) ("**Posted Collateral**")) in respect of any loan of Securities shall bear from day to day and at any time the same proportion to the Value of the Securities borrowed under such loan as the Posted Collateral bore at the commencement of such loan. Accordingly:
- (i) the Value of the Posted Collateral to be delivered or deposited while the loan of Securities continues shall be equal to the Value of the borrowed Securities and the Margin applicable thereto (the "**Required Collateral Value**");
- (ii) if on any Business Day the Value of the Posted Collateral in respect of any loan of Securities exceeds the Required Collateral Value in respect of such loan, the Lender shall (on demand) repay such Cash Collateral and/or redeliver to the Borrower such Equivalent Collateral as will eliminate the excess; and
- (iii) if on any Business Day the Value of the Posted Collateral falls below the Required Collateral Value, the Borrower shall (on demand) provide such further Collateral to the Lender as will eliminate the deficiency.
- (I) Subject to Clause 6(J), unless the Schedule to this Agreement indicates that Clause 6(H) shall apply in lieu of this Clause 6(I), or unless otherwise agreed between the Parties:-
- (i) the aggregate Value of the Posted Collateral in respect of all loans of Securities outstanding under this Agreement shall equal the aggregate of the Required Collateral Values in respect of such loans;
- (ii) if at any time the aggregate Value of the Posted Collateral in respect of all loans of Securities outstanding under this Agreement exceeds the aggregate of the Required Collateral Values in respect of such loans, the Lender shall (on demand) repay such

Cash Collateral and/or redeliver to the Borrower such Equivalent Collateral as will eliminate the excess;

- (iii) if at any time the aggregate Value of the Posted Collateral in respect of all loans of Securities outstanding under this Agreement falls below the aggregate of Required Collateral Values in respect of all such loans, the Borrower shall (on demand) provide such further Collateral to the Lender as will eliminate the deficiency.
- (J) Where Clause 6(I) applies, unless the Schedule to this Agreement indicates that this Clause 6(J) does not apply, if a Party (the "**first Party**") would, but for this Clause 6(J), be required under Clause 6(I) to repay Cash Collateral, redeliver Equivalent Securities or provide further Collateral in circumstances where the other Party (the "**second Party**") would, but for this Clause 6(J), also be required to repay Cash Collateral or provide or redeliver Equivalent Collateral under Clause 6(I), then the Value of the Cash Collateral or Equivalent Collateral deliverable by the first Party ("**X**") shall be set-off against the Value of the Cash Collateral, or Equivalent Collateral or further Collateral deliverable by the second Party ("**Y**") and the only obligation of the Parties under Clause 6(I) shall be, where X exceeds Y, an obligation of the first Party, or where Y exceeds X, an obligation of the second Party, to repay Cash Collateral, redeliver Equivalent Collateral or to deliver further Collateral having a Value equal to the difference between X and Y.
- (K) Where Cash Collateral is repaid, Equivalent Collateral is redelivered or further Collateral is provided by a Party under Clause 6(I), the Parties shall agree to which loan or loans of Securities such repayment, redelivery or further provision is to be attributed and failing agreement it shall be attributed, as determined by the Party making such repayment, redelivery or further provision to the earliest outstanding loan and, in the case of a repayment or redelivery up to the point at which the Value of Collateral in respect of such loan is reduced to zero and, in the case of a further provision up to the point at which the Value of the Collateral in respect of such loan equals the Required Collateral Value in respect of such loan, and then to the next earliest outstanding loan up to the similar point and so on.
- (L) Where any Cash Collateral falls to be repaid or Equivalent Collateral to be redelivered or further Collateral to be provided under this Clause 6, it shall be delivered within the minimum period after demand specified in the Schedule or if no appropriate period is there specified within the standard settlement time for delivery of the relevant type of Cash Collateral, Equivalent Collateral or Collateral, as the case may be.
- (M) For the purposes of this Clause the Value of Collateral, Alternative Collateral or Equivalent Collateral which is eligible for settlement within the CREST system shall be calculated by reference to the bid price thereof.

## 7. LOANS OF MONEY

- (A) The Lender may agree to lend sums of money to the Borrower in accordance with this Agreement PROVIDED THAT in respect of all and any loans of money made pursuant to this sub-clause (A) the Lender shall have received from the Borrower and accepted (by whatever means) a Borrowing Request.
- (B) Against a loan of money pursuant to sub-clause (A) hereof, the Borrower shall deliver Collateral to the Lender pursuant to Clause 6 of a Value equal to the amount of money borrowed

TOGETHER WITH such Margin as the Parties may from time to time agree in relation to the type of Collateral in question. Collateral shall be delivered in accordance with the Lender's instructions.

- (C) Where Collateral is provided through the CGO, CREST or any other book entry transfer system, whether by member to member delivery or Delivery-by-Value, the loan of money shall be made through the payment obligations generated by such system.
- (D) Unless otherwise agreed loans of money will be made on an overnight basis. At the same time as any money borrowed is repaid, the Lender shall redeliver the Equivalent Collateral provided as security for that loan. If Collateral has been provided in accordance with Clause 7(C) above, repayment of the loan shall be against the redelivery of Equivalent Collateral through the book entry transfer system in accordance with Clause 6(C).

8. **REDELIVERY OF EQUIVALENT SECURITIES.**

- (A) The Borrower undertakes to redeliver Equivalent Securities in accordance with this Agreement, and the terms of the relevant Borrowing Request. For the avoidance of doubt any reference herein or in any other agreement or communication between the Parties (howsoever expressed) to an obligation to redeliver or account for or act in relation to borrowed Securities shall accordingly be construed as a reference to an obligation to redeliver or account for or act in relation to Equivalent Securities.
- (B) Subject to Clause 10 hereof and the terms of the relevant Borrowing Request, the Lender may call for the redelivery of all or any Equivalent Securities at any time upon notice (the "**Required Notice**") of not less than:-
  - (i) in the case of Overseas Securities, the standard settlement time for such Equivalent Securities on the exchange or in the clearing organisation through which the relevant borrowed Securities were originally delivered, or
  - (ii) in the case of any other Securities, one Business Day less than the standard settlement time, or
  - (iii) such other period as may be agreed between the Parties,

PROVIDED THAT the Lender shall give notice as soon as practicable after recall becomes necessary. The Borrower shall redeliver such Equivalent Securities not later than the expiry of such notice in accordance with the Lender's instructions. Simultaneously with the redelivery of the Equivalent Securities in accordance with such call, the Lender shall (subject to Clause 6(I) if applicable) repay any Cash Collateral and redeliver to the Borrower Collateral equivalent to the Collateral delivered pursuant to Clause 6 in respect of the borrowed Securities PROVIDED THAT in respect of Securities eligible for settlement within CREST the Borrower shall (if so requested by the Lender) procure the delivery of such Equivalent Securities to another account designated by the Lender. The Lender shall (subject to Clause 6(I) if applicable) accept such action as redelivery and shall simultaneously therewith repay any Cash Collateral and redeliver Collateral equivalent to the Collateral delivered by the Borrower pursuant to Clause 6 in respect thereof. For the avoidance of doubt any reference herein or in any other agreement or communication between the Parties (however expressed) to an obligation to redeliver or account

for or act in relation to Collateral shall accordingly be construed as a reference to an obligation to redeliver or account for or act in relation to Equivalent Collateral.

- (C) If the Borrower does not redeliver Equivalent Securities in accordance with such call, the Lender may elect to continue the loan of Securities (which loan, for the avoidance of doubt, shall continue to be taken into account for the purposes of Clause 6(H), subject to Clause 8(D) below) PROVIDED THAT if the Lender does not elect to continue the loan or the Borrower fails to comply with its obligations under Clauses 6(H), 8(D) and 8(E), the Lender may by notice to the Borrower elect to terminate the loan forthwith whereupon the provisions of Clause 10 shall apply as if an Event of Default had occurred in relation to the Borrower.
- (D) Without prejudice to the Clause 8(E) below, where the Borrower does not redeliver Equivalent Securities in accordance with such call:
- (a)
    - (i) the Lender may require the Borrower to deliver to the Lender Collateral in the form of cash in an amount equal to the Value of the relevant Equivalent Securities and the Margin applicable to such Collateral in the form of cash;
    - (ii) until the relevant Equivalent Securities are redelivered by the Borrower, the Borrower shall ensure that the Collateral Aggregate shall include Collateral in the form of cash in an amount (the "Clause 8 Amount") at least equal to the Value of the relevant Equivalent Securities (or, if at any time there is more than one loan of Securities which is being continued pursuant to Clause 8(C), the aggregate Value of the Equivalent Securities under all such loans) and the Margin applicable to such Collateral in the form of cash;
    - (iii) during the period from (and including) the date on which the relevant Equivalent Securities fall to be redelivered in accordance with such call to (but excluding) the date on which the relevant Equivalent Securities are redelivered by the Borrower, the Lender may, at its discretion, not pay a rate or rates in accordance with Clause 5 on Collateral in the form of cash up to an amount equal to the Clause 8 Amount; or
  - (b) where the Lender has not required the delivery of Collateral in the form of cash in accordance with sub-Clause (a) above, the Lender may require the Borrower to pay the full money market rate of interest on the Value of the borrowed Securities in lieu of the rate originally agreed pursuant to Clause 5(A), such full money market rate to be as reasonably agreed between the parties, but failing agreement thereon sub-Clause (a) of this Clause 8(D) shall apply; and, whether sub-Clause (a) or sub-Clause (b) of this Clause 8(D) applies;
  - (c) the parties' obligations under Clause 6(H) shall be subject to this Clause 8(D); and
  - (d) the Borrower shall redeliver Equivalent Securities as soon as they are available and simultaneously therewith the Lender shall make any repayment or redelivery required under Clause 6.
- (E) In the event that as a result of the failure of the Borrower to redeliver Equivalent Securities to the Lender in accordance with this Agreement a "buy-in" is exercised against the Lender or

Third Party, as the case may be, in respect of the sale of the Securities then, PROVIDED THAT reasonable notice has been given to the Borrower of the likelihood of such a "buy-in", the Borrower shall account to the Lender or Third Party for the total costs and expenses reasonably incurred by the Lender or Third Party as a result of such "buy-in".

- (F) Subject to the terms of the relevant Borrowing Request, the Borrower shall be entitled at any time to terminate a particular loan of Securities and to redeliver all and any Equivalent Securities due and outstanding to the Lender. Redelivery shall be made in accordance with the Lender's instructions. The Lender shall accept such redelivery and simultaneously therewith shall repay to the Borrower any Cash Collateral and redeliver Collateral equivalent to the Collateral provided by the Borrower pursuant to Clause 6 in respect thereof.
- (G) Where a Letter of Credit is provided by way of Collateral, the obligation to redeliver Equivalent Collateral shall be satisfied by the Lender redelivering for cancellation the Letter of Credit so provided or, where the Letter of Credit is provided in respect of more than one loan, by the Lender consenting to a reduction in the value of the Letter of Credit.

9. **SUSPENDED SECURITIES**

If dealings in any borrowed Securities are suspended by reason of the adverse financial position of the issuer, then the following provisions shall apply:-

- (i) either the Lender or the Borrower may give notice of the suspension to the other in which event Clause 9(ii) and (iii) below shall apply;
- (ii) where notice is given pursuant to Clause 9(i) by or to an Intermediary, the Intermediary shall forthwith give notice of the suspension to any Third Party from whom it borrowed the suspended Securities or to the Borrower as the case may be; and
- (iii) notwithstanding the definitions of Value and Reference Price appearing in this Agreement, the Borrower, the Lender (and any Third Party) shall enter into negotiations in good faith with a view to agreeing the Value of the borrowed Securities, each Party undertaking not to withhold his consent unreasonably to any such agreement, it being understood that in the absence of such agreement the definitions of Value and Reference Price will continue to apply, PROVIDED THAT if the Lender or any Third Party called for the return of the borrowed Securities in order to deliver such Securities pursuant to a sale of such Securities, then the Value shall not be less than the net proceeds of such sale.

10. **SET-OFF ETC.**

- (A) On the date and time (the "Performance Date") that Equivalent Securities are required to be redelivered by the Borrower in accordance with the provisions of this Agreement the Lender shall simultaneously redeliver the Equivalent Collateral and repay any Cash Collateral held (in respect of the Equivalent Securities to be redelivered) to the Borrower.
- (B) If an Event of Default occurs, the Parties' delivery and payment obligations (and any other obligations they have under this Agreement) shall be accelerated so as to require performance

thereof at the time such Event of Default occurs, the date of which shall be the "**Performance Date**" for the purposes of this Clause and in such event:

- (i) the Relevant Value of the Securities to be delivered (or payment to be made, as the case may be) by each Party shall be established in accordance with Clause 10(C); and
  - (ii) on the basis of the Relevant Values so established, an account shall be taken (as at the Performance Date) of what is due from each Party to the other under this Agreement (including any unpaid amounts due and owing at such time) and (on the basis that each Party's claim against the other in respect of delivery of Equivalent Securities or Equivalent Collateral or any cash payment equals the Relevant Value thereof) the sums due from one Party shall be set-off against the sums due from the other and only the balance of the account shall be payable (by the Party having the claim valued at the lower amount pursuant to the foregoing) and such balance shall be payable on the Performance Date.
- (C) For the purposes of Clause 10(B) the Relevant Value:-
- (i) of any cash payment obligation shall equal its par value in sterling (disregarding any amount taken into account under (ii) or (iii) below);
  - (ii) of any securities to be delivered by the Defaulting Party shall, subject to Clause 10(D), equal the Offer Value thereof; and
  - (iii) of any securities to be delivered to the Defaulting Party shall, subject to Clause 10(D) below, equal the Bid Value thereof;
- (D) For the purposes of Clause 10(C) but subject to Clause 10(E) below, the Bid Value and Offer Value of any securities shall be calculated as at the Close of Business in the relevant market for such securities on the first Business Day following the Performance Date or, if the relevant Event of Default occurs outside the business hours of the relevant market, on the second Business Day following the Performance Date ("the Default Valuation Time").
- (E)
- (i) Where the Non-Defaulting Party has, following the occurrence of an Event of Default but prior to the Default Valuation Time purchased securities forming part of the same issue and being of an identical type and description to those to be delivered by the Defaulting Party and in substantially the same amount as those securities, or sold securities forming part of the same issue and being of an identical type and description to those to be delivered by him to the Defaulting Party and in substantially the same amount as those securities, the cost of such purchase or the proceeds of such sale, as the case may be, (taking into account all costs, fees and expenses that would be incurred in connection therewith), shall be treated as the Offer Value or Bid Value, as the case may be, of the relevant securities for the purposes of this Clause 10; and
  - (ii) Where the amount of any securities sold or purchased as mentioned in Clause 10(E)(i) above is not in substantially the same amount as those securities to be valued for the purposes of Clause 10(C) the Offer Value or the Bid Value (as the case may be) of those securities shall be ascertained by dividing the net proceeds of sale or cost of purchase by

the amount of the securities sold or purchased so as to obtain a net unit price and multiplying that net unit price by the amount of the securities to be valued.

- (F) Any reference in this Clause 10 to securities shall include any asset other than cash provided by way of Collateral.
- (G) If the Borrower or the Lender for any reason fails to comply with their respective obligations under Clauses 6(E) or 6(F) in respect of redelivery of Equivalent Collateral or repayment of Cash Collateral such failure shall be an Event of Default for the purposes of this Clause 10, and the Party who has failed to comply shall thus be treated as the Defaulting Party for the purpose of this Agreement.
- (H) Subject to and without prejudice to its rights under Clause 10(A) either Party may from time to time in accordance with market practice and in recognition of the practical difficulties in arranging simultaneous delivery of Securities, Collateral and cash transfers waive its right under this Agreement in respect of simultaneous delivery and/or payment PROVIDED THAT no such waiver in respect of one transaction shall bind it in respect of any other transaction.
- (I) The Defaulting Party shall be liable to the non-Defaulting Party for the amount of all reasonable legal and other professional expenses incurred by the non-Defaulting Party in connection with or as a consequence of an Event of Default, together with interest thereon at the one-month London Inter Bank Offered Rate as quoted on Page 3750 on the Telerate Service (or such other page as may replace page 3750 on that service) ("LIBOR") as of 11.00am, London Time, on the date on which it is to be determined or, in the case of an expense attributable to a particular transaction and where the parties have previously agreed a rate of interest for the transaction, that rate of interest if it is greater than LIBOR

11. **TAXATION.**

- (A) The Borrower hereby undertakes promptly to pay and account for all transfer or similar duties or taxes chargeable in connection with any transaction effected pursuant to or contemplated by this or any contingent Agreement, and shall indemnify and keep indemnified the Lender against any liability arising in respect thereof as a result of the Borrower's failure to do so.
- (B) A Party undertakes to notify the other Party if it becomes or ceases to be an Approved UK Intermediary or an Approved UK Collecting Agent.

12. **LENDER'S WARRANTIES.**

Each Party hereby warrants and undertakes to the other on a continuing basis to the intent that such warranties shall survive the completion of any transaction contemplated herein that, where acting as Lender:

- (A) it is duly authorised and empowered to perform its duties and obligations under this Agreement;
- (B) it is not restricted under the terms of its constitution or in any other manner from lending Securities in accordance with this Agreement or from otherwise performing its obligations hereunder;

- (C) it is absolutely entitled to pass full legal and beneficial ownership of all Securities provided by it hereunder to the Borrower free from all liens, charges and encumbrances;
- (D) it is acting as principal in respect of this Agreement or, subject to Clause 16, as agent and the conditions referred to in Clause 16(B) will be fulfilled in respect of any transaction into which it enters as agent;
- (E) in relation to Overseas Securities only, where the Lender is not resident in the United Kingdom for tax purposes and either is not carrying on a trade in the United Kingdom through a branch or agency or, if it is carrying on such a trade, the loan is not entered into in the course of the business of such branch or agency, the Lender has:
  - (i) delivered to the Borrower a duly completed and certified Certificate (MOD2) or a photocopy thereof bearing an Inland Revenue acknowledgement and unique number and such Certificate or photocopy remains valid; or
  - (ii) taken all necessary steps to enable a specific authorisation to make gross payment of Manufactured Dividends of Overseas Securities to be issued by the Inland Revenue.

13. **BORROWER'S WARRANTIES.**

Each Party hereby warrants and undertakes to the other on a continuing basis to the intent that such warranties shall survive the completion of any transaction contemplated herein that, where acting as Borrower:

- (A) it is duly authorised and empowered to perform its duties and obligations under this Agreement;
- (B) it is not restricted under the terms of its constitution or in any other manner from borrowing Securities in accordance with this Agreement or from otherwise performing its obligations hereunder;
- (C) it is absolutely entitled to pass full legal and beneficial ownership of all Collateral provided by it hereunder to the Lender free from all liens, charges and encumbrances;
- (D) it is acting as principal in respect of this Agreement.

14. **EVENTS OF DEFAULT.**

Each of the following events occurring in relation to either Party (the "**Defaulting Party**", the other Party being the "**Non-Defaulting Party**") shall be an Event of Default for the purpose of Clause 10:-

- (A) the Borrower or Lender failing to pay or repay Cash Collateral or deliver or redeliver Collateral or Equivalent Collateral upon the due date and the Non-Defaulting Party serves written notice on the Defaulting Party;
- (B) the Lender or Borrower failing to comply with its obligations under Clause 6(H) hereof and the Non-Defaulting Party serves written notice on the Defaulting Party;

- (C) the Borrower failing to comply with Clause 4(B)(i) hereof and the Non-Defaulting Party serves written notice on the Defaulting Party;
- (D) an Act of Insolvency occurring with respect to the Lender or the Borrower and (except in the case of an Act of Insolvency which is the presentation of a petition for winding up or any analogous proceeding or the appointment of a liquidator or analogous officer of the Defaulting Party in which case no such notice shall be required) the Non-Defaulting Party serves written notice on the Defaulting Party;
- (E) any representations or warranties made by the Lender or the Borrower being incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated, and the Non-Defaulting Party serves written notice on the Defaulting Party;
- (F) the Lender or the Borrower admitting to the other that it is unable to, or it intends not to, perform any of its obligations hereunder and/or in respect of any loan and the Non-Defaulting Party serves written notice on the Defaulting Party;
- (G) the Lender (if appropriate) or the Borrower being declared in default by the appropriate authority under the Rules or being suspended or expelled from membership of or participation in any securities exchange or association or other self-regulatory organisation, or suspended from dealing in securities by any government agency and the Non-Defaulting Party serves written notice on the Defaulting Party;
- (H) any of the assets of the Lender or the Borrower or the assets of investors held by or to the order of the Lender or the Borrower being transferred or ordered to be transferred to a trustee by a regulatory authority pursuant to any securities regulating legislation and the Non-Defaulting Party serves written notice on the Defaulting Party, or
- (I) the Lender or the Borrower failing to perform any other of its obligations hereunder and not remedying such failure within 30 days after the Non-Defaulting Party serves written notice requiring it to remedy such failure, and the Non-Defaulting Party serves a further written notice on the Defaulting Party.

Each Party shall notify the other (in writing) if an Event of Default or an event which, upon the serving of a written notice as referred to above, would be an Event of Default, occurs in relation to it.

The provisions of this Agreement constitute a complete statement of the remedies available to each Party in respect of any Event of Default.

Neither Party may claim any sum by way of consequential loss or damage in the event of failure by the other party to perform any of its obligations under this Agreement.

## 15. **OUTSTANDING PAYMENTS.**

In the event of either Party failing to remit either directly or by its Nominee sums in accordance with this Agreement such Party hereby undertakes to pay a rate to the other Party upon demand on the net balance due and outstanding of 1% above the Barclays Bank PLC base rate from time to time in force.

16. **TRANSACTIONS ENTERED INTO AS AGENT.**

(A) Subject to the following provisions of this Clause, the Lender (not being an Intermediary) may enter into transactions as agent (in such capacity, "the Agent") for a third person (a "Principal"), whether as custodian or investment manager or otherwise (a transaction so entered into being referred to in this Clause as an "Agency Transaction").

(B) A Lender may enter into an Agency Transaction if, but only if -

- (i) it specifies that transaction as an Agency Transaction at the time when it enters into it;
- (ii) it enters into that Transaction on behalf of a single Principal whose identity is disclosed to the Borrower (whether by name or by reference to a code or identifier which the Parties have agreed will be used to refer to a specified Principal) at the time when it enters into the transaction; and
- (iii) it has at the time when the transaction is entered into actual authority to enter into the transaction and to perform on behalf of that Principal all of that Principal's obligations under the agreement referred to in Clauses 16(D)(ii).

(C) The Lender undertakes that, if it enters as agent into an Agency Transaction, forthwith upon becoming aware -

- (i) of any event which constitutes an Act of Insolvency with respect to the relevant Principal; or
- (ii) of any breach of any of the warranties given in Clause 16(E) below or of any event or circumstance which has the result that any such warranty would be untrue if repeated by reference to the current facts;

it will inform the Borrower of that fact and will, if so required by the Borrower, furnish it with such additional information as it may reasonably request.

(D) (i) Each Agency Transaction shall be a transaction between the relevant Principal and the Borrower and no person other than the relevant Principal and the Borrower shall be a party to or have any rights or obligations under an Agency Transaction. Without limiting the foregoing, the Lender shall not be liable as principal for the performance of an Agency Transaction or for breach of any warranty contained in Clause 12(E), but this is without prejudice to any liability of the Lender under any other provision of this Clause.

(ii) All the provisions of the Agreement shall apply separately as between the Borrower and each Principal for whom the Agent has entered into an Agency Transaction or Agency Transactions as if each such Principal were a party to a separate agreement with the Borrower in all respects identical with this Agreement other than this Clause and as if the Principal were Lender thereunder in respect of that agreement;

PROVIDED THAT,

- (a) if there occurs in relation to the Lender an Event of Default or an event which would constitute an Event of Default if the Borrower served written notice under any sub-clause of Clause 14, the Borrower shall be entitled by giving written notice to the Principal (which notice shall be validly given if given to the Lender in accordance with Clause 21) to declare that by reason of that event an Event of Default is to be treated as occurring in relation to the Principal. If the Borrower gives such a notice then an Event of Default shall be treated as occurring in relation to the Principal at the time when the notice is deemed to be given; and
  - (b) if the Principal is neither incorporated nor has established a place of business in Great Britain, the Principal shall for the purposes of the agreement referred to in Clause 16 (D)(ii) be deemed to have appointed as its agent to receive on its behalf service of process in the courts of England the Agent, or if the Agent is neither incorporated nor has established a place of business in the United Kingdom, the person appointed by the Agent for the purposes of this Agreement, or such other person as the Principal may from time to time specify in a written notice given to the other party.
  - (iii) The foregoing provisions of this Clause do not affect the operation of the Agreement as between the Borrower and the Lender in respect of any transactions into which the Lender may enter on its own account as a principal.
- (E) The Lender warrants to the Borrower that it will, on every occasion on which it enters or purports to enter into a transaction as an Agency Transaction, have been duly authorised to enter into that transaction and perform the obligations arising thereunder on behalf of the person whom it specified as the Principal in respect of that transaction and to perform on behalf of that person all the obligations under the agreement referred to in Clause 16(D)(ii).

17. **TERMINATION OF COURSE OF DEALINGS BY NOTICE.**

Each Party shall have the right to bring the course of dealing contemplated under this Agreement to an end by giving not less than 10 Business Days notice in writing to the other Party (which notice shall specify the date of termination) subject to an obligation to ensure that all transactions which have been entered into but not discharged at the time such notice is given are duly discharged in accordance with this Agreement and with the Rules.

18. **OBSERVANCE OF PROCEDURES.**

Each of the Parties hereto agrees that in taking any action that may be required in accordance with this Agreement it shall observe strictly the procedures and timetable applied by the Rules and, further, shall observe strictly any agreement (oral or otherwise) as to the time for delivery or redelivery of any money, Securities, Equivalent Securities, Collateral or Equivalent Collateral entered into pursuant to this Agreement.

19. **SEVERANCE.**

If any provision of this Agreement is declared by any judicial or other competent authority to be void or otherwise unenforceable, that provision shall be severed from the Agreement and the remaining provisions of this Agreement shall remain in full force and effect. The Agreement shall, however, thereafter be amended by the Parties in such reasonable manner so as to achieve, without illegality, the intention of the Parties with respect to that severed provision.

20. **SPECIFIC PERFORMANCE.**

Each Party agrees that in relation to legal proceedings it will not seek specific performance of the other Party's obligation to deliver or redeliver Securities, Equivalent Securities, Collateral or Equivalent Collateral but without prejudice to any other rights it may have.

21. **NOTICES.**

All notices issued under this Agreement shall be in writing (and shall include telex or facsimile messages) and shall be deemed validly delivered if sent by prepaid first class post to or left at the addresses or sent to the telex or facsimile number of the Parties respectively or such other addresses or telex or facsimile numbers as each Party may notify in writing to the other.

22. **ASSIGNMENT.**

- (A) Subject to Clause 22(B) below, neither Party may charge, assign or transfer all or any of its rights or obligations hereunder without the prior consent of the other Party
- (B) Clause 22(A) above shall not preclude a Party from assigning, charging or otherwise dealing with all or any part of its interest in any sum payable to it under Clause 10(C) and 10(I).

23. **WAIVER.**

No failure or delay by either Party to exercise any right, power or privilege hereunder shall operate as a waiver thereof nor shall 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 as herein provided.

24. **ARBITRATION AND JURISDICTION.**

- (A) All claims, disputes and matters of conflict between the Parties arising hereunder shall be referred to or submitted for arbitration in London in accordance with English Law before a sole arbitrator to be agreed between the Parties or in default of agreement by an arbitrator to be nominated by the Chairman of the Stock Exchange on the application of either Party, and this Agreement shall be deemed for this purpose to be a submission to arbitration within the Arbitration Acts 1950 and 1979, or any statutory modification or re-enactment thereof for the time being in force.
- (B) This Clause shall take effect notwithstanding the frustration or other termination of this Agreement.
- (C) No action shall be brought upon any issue between the Parties under or in connection with this Agreement until the same has been submitted to arbitration pursuant hereto and an award made.

25. **TIME.**

Time shall be of the essence of the Agreement.

26. **RECORDING.**

The parties agree that each may electronically record all telephonic conversations between them.

27. **GOVERNING LAW.**

This Agreement is governed by, and shall be construed in accordance with, English Law.

IN WITNESS WHEREOF this Agreement has been executed on behalf of the Parties hereto the day and year first before written.

SIGNED BY )  
 )  
ON BEHALF OF )  
 )

SIGNED BY )  
 )  
ON BEHALF OF )  
 )

## SCHEDULE

### COLLATERAL

#### 1. Types

Collateral acceptable under this Agreement may include the following or otherwise, as agreed between the Parties from time to time whether transferable by delivery or within a book entry transfer system.

A British Government Stock and other stock registered at the Bank of England which is transferable through the CGO to the Lender or its Nominee against an Assured Payment, hereinbefore referred to as CGO Collateral.

B (i) British Government Stock and Sterling Issues by foreign governments (transferable through the CGO), in the form of an enfaced transfer deed or a long term collateral certificate or overnight collateral chit issued by the CGO accompanied (in each case) by an executed unenfaced transfer deed;

(ii) Corporation and Commonwealth Stock in the form of registered stock or allotment letters duly renounced;

(iii) UK Government Treasury Bills;

(iv) US Government Treasury Bills;

(v) Bankers' Acceptances

(vi) Sterling Certificates of Deposit;

(vii) Foreign Currency Certificates of Deposit;

(viii) Local Authority Bonds;

(ix) Local Authority Bills;

(x) Letters of Credit;

(xi) Bonds or Equities in registrable form or allotment letters duly renounced;

(xii) Bonds or Equities in bearer form;

C Cash.

#### 2. Valuation of Collateral

Collateral provided in accordance with this Agreement shall be evaluated by reference to the following, or by such means as the Parties may from time to time agree:-

- (A) in respect of Collateral types A and B(i), the current CGO value calculated by reference to the middle market price of each stock as determined from time to time by the Bank of England, adjusted to include the accrued interest thereon (the CGO Reference Price);
- (B) in respect of Collateral types B(ii) to (ix), (xi) and (xii) the Reference Price thereof;
- (C) in respect of Collateral type B(x) the value specified therein.

3. **Margin**

- (A) The Margin unless otherwise agreed between the Parties shall be:-
  - (i) in the case of Collateral types A, B(i) to (x), and C:    % (for Certificates of Deposit the Margin shall be the accumulated interest thereon); or
  - (ii) in the case of Collateral types B(xi) and (xii)        %.

If the Value of the borrowed Securities includes any Margin over the mid market price of the borrowed Securities this shall be taken into account in determining the Margin applicable.

- (B) Basis of Margin Maintenance:
  - (i) Clause 6(H) (transaction by transaction margining) shall apply\*
  - (ii) Clause 6(I) (global margining) shall apply\*
  - (iii) Clause 6(J) (netting of margin where one Party both a Borrower and a Lender) shall not apply\*

- (C) Clause 6(L) (minimum period after demand for transferring Cash Collateral or Equivalent Collateral):-\*\*
  - (i)  Same Business Day
  - (ii)  Next Business Day

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\* Indicate if applicable by ticking the box

\*\* Tick applicable box

(iii) Other (to be agreed)

(D) Clause 7 (loans of money) shall apply\*

4. **Agency**

- Clause 16 may apply to Party A\*

- Clause 16 may apply to Party B\*