

## Risk Disclosure Statement For Securities Borrowing and Lending

All capitalized terms not otherwise defined herein shall have the meaning ascribed to same in the Terms and Conditions For Securities Borrowing and Lending (“Terms and Conditions”).

### Part 1 – Securities Borrowing

- 1.1 The borrowing of securities by the Client from KGISS is an on-demand facility. KGISS may require the Client to return the Borrowed Securities or to re-deliver Equivalent Securities and the Client has to do so within the time specified in the Terms and Conditions. If the Client fails to return the Borrowed Securities or re-deliver the Equivalent Securities, KGISS may effect a buy-in without consulting the Client further, and the Client will be liable for the total costs and expenses incurred by KGISS arising from such buying-in.
- 1.2 When the Client borrows securities from KGISS, the Client will be required to deposit a required level of Collateral. The Client may be called upon at short notice to place additional deposits if the level of Collateral is inadequate in relation to the market value of the Borrowed Securities. If the required deposit is not made within the prescribed time, KGISS may buy-back the Borrowed Securities without prior notification to the Client.
- 1.3 The interest, dividends and any distribution whatsoever (each a “**Distribution**”) attributable to the Borrowed Securities belong to KGISS and the Client has to pay and deliver to KGISS any such Distribution on its date of payment regardless of whether the Client receives the same. The Client is also to exercise any voting rights attached to such Borrowed Securities and any other rights arising and attributable to the Borrowed Securities in accordance with the instructions of KGISS, if the Client has agreed to the same. Failure to pay any Distribution to KGISS, or to protect and exercise any rights with respect to the Borrowed Securities in accordance with the instructions of KGISS (where the Client has agreed to do so) may expose the Client to liability.
- 1.4 Where, in respect of any Borrowed Securities, any rights relating to conversion, sub-division, consolidation, pre-emption, rights arising under a takeover offer, rights to receive securities or a certificate which may at a future date be exchanged for securities or other rights, including those requiring election by the holder for the time being of such Borrowed Securities, become exercisable prior to the delivery of Equivalent Securities, then KGISS may, within a reasonable time before the latest time for the exercise of the right or option give written notice to the Client that on delivery of Equivalent Securities it wishes to receive Equivalent 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 manner, is exercised as is specified in such written notice.
- 1.5 The Client is required to furnish and maintain Collateral with KGISS so as to meet the SB Margin. Accordingly, the Client will encounter various risks, including:
  - (a) an increase in the value of the Borrowed Securities and/or a decrease in the value of the Collateral may require the Client to provide additional Collateral to KGISS to avoid KGISS from realising the existing Collateral;
  - (b) KGISS can realise the Collateral to cover the deficiency in the SB Margin. The Client also will be responsible for any short fall after such realisation;
  - (c) KGISS can realise the Collateral without contacting the Client. Some investors mistakenly believe that KGISS must contact them for a call for additional Collateral to be valid, and that KGISS cannot realise Collateral to meet the call unless KGISS has contacted them first. This is not the case. KGISS will attempt to notify the Client of a call for additional Collateral, but it is not required to do so. However, even if KGISS has contacted the Client and provided a specific date by which the Client can meet a call for additional Collateral, KGISS can still take necessary steps to protect its interests. This may include immediately realising the Collateral without notice to the Client;
  - (d) the Client is not entitled to choose which Collateral are to be realised to meet a call for additional Collateral. KGISS has the right to decide which Collateral to realise in order to protect its interests;
  - (e) KGISS can increase its SB Margin requirements at any time and is not required to provide the Client advance written notice. These changes in KGISS policy often take effect immediately and may result in the issuance of a call for additional Collateral. The Clients’ failure to satisfy the call may cause KGISS to realise the Collateral;
  - (f) the Client is not entitled to an extension of time on a call for additional Collateral. While an extension of time to meet such a call may be available to the Client under certain conditions, the Client does not have a right to the extension.

### Part 2 – Securities Lending

- 1.6 When the Client lends securities to KGISS, the Client temporarily loses legal ownership rights to the securities but in place, has a right to claim Equivalent Securities. Insofar as the Client receives manufactured dividends, the Client may be required to treat the entire amount as income for tax purposes.

# Terms and Conditions For Securities Borrowing and Lending

## SECTION A: GENERAL TERMS AND CONDITIONS

### A1. Application and Scope

A1.1 Any and all Loans carried out under these terms and conditions shall be on and subject to the General Terms and Conditions between KGISS and the Client and to the terms and conditions herein. The Client acknowledges that KGI will rely on the foregoing in agreeing to and/or making any lending or borrowing of Securities to/from the Client. The Client agrees that these terms and conditions form an integrated part of the application form for Securities Borrowing and Lending Account, and therefore fall within the definition of "Agreement", and the Client's Securities Borrowing and Lending Account falls within the definition of "Account", set out in the General Terms and Conditions. In the event of any inconsistency between the provisions of these terms and conditions and the General Terms and Conditions, these terms and conditions shall prevail.

A1.2 In addition to the terms set out below, all Loans carried out under these terms and conditions shall at all times be subject to the provisions of all relevant Singapore Rules and applicable foreign rules and regulations with respect to securities borrowing and lending.

### A2. Interpretation

A2.1 In these terms and conditions, the following words and expressions shall have the meanings set out hereunder unless the context otherwise requires:-

**"Act of Insolvency"** means in relation to either Party: (a) its making a general assignment for the benefit of, or entering into a reorganisation, arrangement, or composition with creditors; or (b) its stating in writing that it is unable to pay its debts as they become due; or (c) 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 (d) the presentation of filing of a petition in respect of it (other than by the other Party) in respect of any obligation under these terms and conditions) in any court or before any agency alleging or for the bankruptcy, winding-up or insolvency of such Party (or 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 not having been stayed or dismissed within 30 days of its filing (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); or (e) the appointment of a receiver, administrator, liquidator or trustee or analogous officer of such Party over all or material part of such Party's property; or (f) the convening of any meeting of its creditors for the purpose of considering a scheme of arrangement as referred to under Section 210 of the Companies Act (Chapter 50 of Singapore)(or any analogous proceeding);

**"Alternative Collateral"** means Collateral of a value equal to or greater than the Collateral delivered pursuant to Clause B6 and provided by way of substitution for Collateral originally delivered or previously substituted in accordance with the provisions of Clause B6.9;

**"Base Currency"** means Singapore Dollars (S\$) unless otherwise agreed between the Parties;

**"Borrowed Securities"** means the securities delivered to the Client by KGISS in accordance with the Borrowing Request and the SB Confirmation;

**"Borrowing Request"** means a request to borrow securities from KGISS made (by telephone or otherwise) by the Client to KGISS specifying the (a) description and quantity of the securities required by the Client; and (b) the proposed SB Settlement Date;

**"Business Day"**

- (a) in relation to delivery or re-delivery in respect of any Loan, means a day other than a Saturday or a Sunday on which KGISS and the Relevant Exchange are open for business;
- (b) in relation to any payments hereunder, means a day other than a Saturday or a Sunday on which banks are open for business generally in the principal financial centre of the country of which the currency in which the payment is denominated is the official currency and, if different, in the place where any account designated by the Parties for the making or receipt of the payment is situated; and
- (c) in any other case, means a day other than a Saturday or a Sunday on which banks are open for business in Singapore;

**"Cash Collateral"** means Collateral or KGISS Lending Collateral that takes the form of a deposit of cash;

**"Client Securities"** means securities of the Client which are deposited by KGISS in a custody account with KGISS or a custodian in accordance with the requirements under the Singapore Rules and applicable foreign rules

and regulations;

**“Close of business”**

means the time at which the relevant banks, securities settlement systems or depositories close in the business centre in which payment is to be made or securities or Collateral is to be delivered;

**“Collateral”**

means the (a) Cash Collateral; (b) securities listed on a securities exchange; (c) Client’s property; and (d) such other securities or instruments or asset, in whatever form, as KGISS may from time to time prescribe, together with all attendant rights and interests under any contract (where applicable) for the sale, purchase, custody or management of such asset and to the income, dividends, interests thereon, whether now or hereafter held by KGISS or in transit to KGISS or to KGISS’s nominee;

**“custodian”**

means an agent appointed by KGISS to accept delivery of, hold or deliver securities, Equivalent Securities, Collateral, Equivalent Collateral, KGISS Lending Collateral and/or Equivalent KGISS Lending Collateral on KGISS and/or the Client’s behalf;

**“Event of Default”**

has the meaning ascribed to it in Clause B10.2;

**“Equivalent KGISS Lending Collateral”**

means KGISS Lending Collateral of an identical type, nominal value or value, description and amount to the particular KGISS Lending Collateral delivered to the Client pursuant to these terms and conditions 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 KGISS Lending Collateral consists of securities that are partly paid or have been converted, subdivided, consolidated, made the subject of a takeover, rights of pre-emption, rights to receive securities or a certificate which may at a future date be exchanged for securities, the expression shall include such securities or other assets to which KGISS is entitled following the occurrence of the relevant event, and provided that KGISS has paid to the other party all and any sums due in respect thereof. In the event that such KGISS Lending Collateral have been redeemed, are partly-paid, are the subject of a capitalisation issue or are subject to an event similar to any of the foregoing events described in this paragraph, the expression shall have the following meanings:

- (a) in the case of redemption, a sum of money equivalent to the proceeds of the redemption;
- (b) in the case of a call on partly-paid securities, securities equivalent to the relevant Collateral, provided that KGISS shall have paid the Client, in respect of securities, an amount of money equal to the sum due in respect of the call;
- (c) in the case of a capitalisation issue, securities equivalent to the relevant Collateral, together with the securities allotted by way of bonus thereon; and
- (d) in the case of any event similar to any of the foregoing events described in this paragraph, securities equivalent to the KGISS Lending Collateral which are the subject matter of the Loan, 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;

**“Equivalent Collateral”**

means Collateral of an identical type, nominal value or value, description and amount to the particular Collateral delivered to KGISS pursuant to these terms and conditions 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 Collateral consists of securities that are partly paid or have been converted, subdivided, consolidated, made the subject of a takeover, rights of pre-emption, rights to receive securities or a certificate which may at a future date be exchanged for securities, the expression shall include such securities or other assets to which the Client is entitled following the occurrence of the relevant event, and provided that the Client has paid to the other party all and any sums due in respect thereof. In the event that such Collateral have been redeemed, are partly-paid, are the subject of a capitalisation issue or are subject to an event similar to any of the foregoing events described in this paragraph, the expression shall have the following meanings:

- (a) in the case of redemption, a sum of money equivalent to the proceeds of the redemption;
- (b) in the case of a call on partly-paid securities, securities equivalent to the relevant Collateral, provided that the Client shall have paid KGISS, in respect of securities, an amount of money equal to the sum due in respect of the call;
- (c) in the case of a capitalisation issue, securities equivalent to the relevant Collateral, together with the securities allotted by way of bonus thereon; and
- (d) in the case of any event similar to any of the foregoing events described in this paragraph, securities equivalent to the Collateral which are the subject matter of the Loan, 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;

**“Equivalent Securities”**

means securities of an identical type, nominal value or value, description and amount to the Borrowed Securities or KGISS Borrowed Securities (as the case may be) 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 Borrowed Securities or KGISS Borrowed Securities (as the case may be) consists of securities that are partly-paid or have been converted, subdivided, consolidated, made the subject of a takeover, rights of pre-emption, rights to receive securities or a certificate which may at a future date be exchanged for securities, the expression shall include such securities or other assets to which KGISS or the Client (as the case may be) is entitled following the occurrence of the relevant event, and provided that KGISS or the Client (as the case may be) has paid to the other party all and any sums due in respect thereof. In the event that such Borrowed Securities or KGISS Borrowed Securities (as the case may be) have been redeemed, are partly-paid, are the subject of a capitalisation issue or are subject to an event similar to any of the foregoing events described in this paragraph, the expression shall have the following meanings:

- (a) in the case of redemption, a sum of money equivalent to the proceeds of the redemption;
- (b) in the case of a call on partly-paid securities, securities equivalent to the relevant Borrowed Securities or KGISS Borrowed Securities (as the case may be), provided that KGISS or the Client (as the case may be) shall have paid to the other Party, in respect of securities, an amount of money equal to the sum due in respect of the call;
- (c) in the case of a capitalisation issue, securities equivalent to the relevant Borrowed Securities or KGISS Borrowed Securities (as the case may be), together with the securities allotted by way of bonus thereon; and
- (d) in the case of any event similar to any of the foregoing events described in this paragraph, securities equivalent to the Borrowed Securities or KGISS Borrowed Securities (as the case may be) which are the subject matter of the Loan, together with or replaced by a sum of money or securities or other property equivalent to that received in respect of such Borrowed Securities or KGISS Borrowed Securities (as the case may be) resulting from such event;

**“General Terms and Conditions”**

means the Terms and Conditions for Operations of Securities Trading Account and other general terms and conditions of KGISS which govern the relationship between KGISS and the Client in respect of the accounts maintained with and the services provided by KGISS, as may be amended, varied, novated or supplemented from time to time, which shall supplement the terms and conditions hereof;

**“KGISS Borrowed Securities”**

shall have the meaning ascribed to it in Clause C1.2;

**“KGISS Collateral”**

shall have the meaning ascribed to it in Clause C1.2(b);

**“KGISS Event of Default”**

shall have the meaning ascribed to it in Clause C7.2;

**“KGISS Lending Collateral”**

shall have the meaning ascribed to it in Clause C1.2;

**“Loan”**

means each of the transactions with regard to securities borrowing or lending between KGISS and the Client;

**“Outstanding Borrowed Securities”**

means all Borrowed Securities in respect of which Equivalent Securities have not been redelivered to KGISS or otherwise accounted for or to KGISS;

**“Party”**

shall mean the Client or KGISS and **“Parties”** shall mean both the Client and KGISS;

**“Relevant Exchange”**

means, in relation to securities, Equivalent Securities, Collateral or Equivalent Collateral, the financial market on which the securities, Equivalent Securities, Collateral or Equivalent Collateral is traded;

**“Requested Securities”**

means the securities that are the subject of the Borrowing Request;

**“SB Confirmation”**

means a written note (electronic or otherwise) from KGISS confirming KGISS’s acceptance of a Borrowing Request in such form as KGISS may from time to time prescribe;

**“SB Margin”**

means one hundred and forty percent (140%) (or such other percentage as KGISS may, at its

absolute discretion but subject to any applicable Singapore Rules and/or applicable foreign rules and regulations, prescribe in writing to the Client) of the aggregate value of all Outstanding Borrowed Securities;

<b>“SB Settlement Date”</b>	means the date upon which the Borrowed Securities are transferred to the Client in accordance with these terms and conditions;
<b>“SF(LCB) Regulations”</b>	means the Securities and Futures (Licensing and Conduct of Business) Regulations, as may be amended from time to time;
<b>“SGX Trading Rules”</b>	means the rules of the SGX-ST, as it may be amended from time to time;
<b>“SGX-ST”</b>	means the Singapore Exchange Securities Trading Limited; and
<b>“Singapore Rules”</b>	means all relevant rules, bye-laws, customs, practices, notices, directives and regulations for the time being of the SGX-ST, and all relevant Singapore governmental or regulatory authorities, whether having the force of law or not, and all applicable laws in Singapore including but not limited to the Securities and Futures Act and the Financial Advisers Act and all rules, regulations, notices promulgated under thereunder. References to any rules, practices, notices, directives and regulations or applicable law shall be deemed to include references to such rules, practices, notices, directives and regulations or applicable law as re-enacted, amended or extended and any subordinate legislation (as the case may be) enacted from time to time under it.

A2.2 All headings appear for convenience only and shall not affect the interpretation hereof.

A2.3 For the purposes of determining any prices or values of securities, Equivalent Securities, Collateral, KGISS Lending Collateral, Equivalent Collateral or KGISS Equivalent Lending Collateral (including Cash Collateral) under these terms and conditions prices, values or amounts stated in currencies other than the Base Currency shall be converted into the Base Currency at such rate which KGISS may reasonably prescribe.

A2.4 Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa, and words importing gender shall include all genders.

### **A3 RECORDING**

A3.1 The Parties agree that each may electronically record all telephonic conversations between them. Without prejudice to the generality of the foregoing, the Client expressly consents to the recording of all telephonic conversations between the Client and all relevant personnel of KGISS for the purposes of processing the transactions carried out under these terms and conditions (including any Loan) and agrees (where necessary) to obtain the notified consents of its relevant personnel for the carrying out of such recording by KGISS. The Client also agrees that these recordings may be submitted as evidence in investigations and proceedings.

### **A4 SET-OFF**

A4.1 KGISS will unconditionally and at all times have a continuing right at any time and from time to time, without notice to the Client, to set-off any of the Client's obligations or liabilities to KGISS against any obligations or liabilities of KGISS to the Client, and may set-off or transfer any sum standing to the credit of any one or more of the Client's accounts (whether in the Client's name or which the Client holds jointly with others or to which the Client is beneficially entitled) in or towards satisfaction of any of the Client's obligations or liabilities to KGISS, whether such obligations or liabilities be of the same currency as the accounts or KGISS's obligations or liabilities or not and whether any such obligations or liabilities be present, future, actual, contingent, primary, collateral or joint.

## **SECTION B: CLIENT'S BORROWING OF SECURITIES FROM KGISS**

### **B1 LOANS OF SECURITIES BY KGISS TO CLIENT**

B1.1 All Loans of securities by KGISS to the Client shall be made in accordance with this Section B, in addition to the provisions in Section A and Section D, of these terms and conditions and with the Singapore Rules (including Regulation 45 of the SF(LCB) Regulations and Rule 17 of the SGX Trading Rules), as the case may be.

B1.2 KGISS shall not be obliged to make a Loan hereunder unless it has received a Borrowing Request from the Client and issued a SB Confirmation to the Client. KGISS shall be entitled to determine from time to time and at its absolute discretion such minimum limits and/or other criteria for a Borrowing Request and/or Loan of securities, and the Client agrees to comply with such minimum limits and/or other criteria. The Client shall not be entitled to revoke such Borrowing Request and KGISS shall be entitled to treat the Borrowing Request as irrevocable. The Client agrees that KGISS is not obliged to accept and act upon a Borrowing Request and may refuse at any time and at its absolute discretion to do so or to continue doing so without providing any reason. The Client agrees that KGISS may from time to time and at its discretion establish and review borrowing and position limits for the Client, and the Client agrees to comply with, and not to exceed, such limits. The Client

undertakes that all securities sale transactions intended by the Client to be satisfied by the settlement of the Requested Securities shall be notified to KGISS and effected only through KGISS unless otherwise agreed by KGISS.

B1.3 In the event that KGISS is unable to lend the Requested Securities on any proposed SB Settlement Date requested by the Client, KGISS shall advise the Client accordingly and may notify the Client of the amount and type of Securities available and/or an alternative date on which it is able to make such securities available for Loan and the Client shall notify KGISS of its acceptance or refusal thereof as soon as reasonably practicable. The Client shall not have any recourse against KGISS for any claims or losses whatsoever arising out of or in connection with the inability of KGISS to lend the Requested Securities or any change or delay in the SB Settlement Date. Without prejudice to Clause D3, and for the purposes of this Clause B1.3, any communication between KGISS and the Client shall be carried out through trading representatives acting as agents of the Client. None of KGISS or the Client's trading representatives shall be responsible or liable for any losses resulting from, in relation to or in connection with such sale transaction and any failure of the Client to settle such sale transaction (including without limitation any losses resulting from, in relation to or in connection with a buying-in) as a result of the inability of KGISS to lend the Requested Securities or any change or delay in the SB Settlement Date.

B1.4 A Loan shall not be deemed to have occurred until the Requested Securities have been delivered to the Client either on the SB Settlement Date or such other date as may be notified to the Client by KGISS.

## **B2 DELIVERY OF SECURITIES FROM KGISS TO THE CLIENT**

B2.1 On the SB Settlement Date of each Loan, KGISS shall deliver the Requested Securities to the Client in accordance with the Borrowing Request together with appropriate instruments of transfer duly stamped and such other instruments as maybe requisite to vest title thereto in the Client, or in the case of securities held by a custodian or a clearing or settlement system, effective instructions to such custodian or clearing or settlement system to hold the Requested Securities for the benefit of the Client.

## **B3 RIGHTS AND TITLE**

B3.1 The Parties shall execute and deliver all necessary documents and give all necessary instructions to procure that all right, title and interest in:

- (a) any securities borrowed pursuant to Clause B1;
- (b) any Equivalent Securities redelivered pursuant to Clause B7;
- (c) any Collateral delivered pursuant to Clause B6;
- (d) any Equivalent Collateral redelivered pursuant to Clauses B6 or B7;

shall pass from one Party to the other subject to the terms and conditions mentioned herein and in accordance with any applicable Singapore Rules and/or applicable foreign rules and regulations, on delivery or redelivery of the same in accordance with these terms and conditions, free from all liens, charges and encumbrances. In the case of securities, Collateral, Equivalent Securities or Equivalent Collateral title to which is registered in 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 these terms and conditions, to redeliver Equivalent Securities or Equivalent Collateral as appropriate.

## **B4 DIVIDENDS, VOTING RIGHTS AND OTHER CORPORATE ACTIONS**

B4.1 The Client (in the case of Borrowed Securities) and KGISS (in the case of Collateral) shall, on the date of the payment or distribution of any interest, dividends or other distribution of any kind whatsoever (each a "**Distribution**") in respect of the Borrowed Securities or Collateral (as the case may be) or on such other date as KGISS and the Client may from time to time agree (the "**Relevant Payment Date**") pay and deliver a sum of money or property equivalent to the Distribution to KGISS or the Client (as the case may be) (with any such endorsements or assignments as shall be customary and appropriate to effect the settlement thereof), regardless of whether the Client received the same.

B4.2 In the case of any Distribution comprising a payment, the amount (the "**Manufactured Dividend**") payable by the Client to KGISS (in the case of Borrowed Securities) or payable by KGISS to the Client (in the case of Collateral) shall be equal to the amount of the relevant Distribution 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 Distribution and/or an amount equal to any other tax credit associated with such Distribution provided that where either the Client or any person to whom the Client has on-lent the Borrowed Securities, is unable to make payment of the Manufactured Dividend to KGISS without accounting to the relevant tax authorities for any amount of relevant withholding tax and/or any amount of tax, (if appropriate) the Client shall pay to KGISS in cash, the Manufactured Dividend less amounts equal to such relevant withholding tax and tax as the case may be. In the event of the Client failing to remit any sums payable pursuant to this Clause, the Client hereby undertakes to pay interest to KGISS (upon demand) on the amount due and outstanding as per Clause B11. Interest on such sum shall accrue daily commencing immediately on the day after the Relevant Payment Date.

B4.3 Where any voting rights fail to be exercised in relation to any Borrowed Securities or Collateral, neither the Client (in the case of Borrowed Securities) or KGISS (in the case of Collateral) shall have any obligation to arrange for voting rights of that kind to be exercised in accordance with the instructions of KGISS or the Client (as the case may be) in relation to the Borrowed Securities or Collateral (as the case may be) unless otherwise agreed between the Parties.

B4.4 Where, in respect of any Borrowed Securities or Collateral, any rights relating to conversion, sub-division, consolidation, pre-emption, rights arising under a takeover offer, rights to receive securities or a certificate which may at a future date be exchanged for securities or other rights, including those requiring election by the holder for the time being of such Borrowed Securities or Collateral, become exercisable prior to the delivery of Equivalent Securities or Equivalent Collateral (as the case may be), then KGISS or the Client (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 Client or KGISS (as the case may be) that on delivery of Equivalent Securities or Equivalent Collateral (as the case may be) it wishes to receive Equivalent Securities or Equivalent Collateral (as the case may be) 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.

## **B5 RATES**

B5.1 The Client shall pay to KGISS in respect of each Loan such borrowing fees as specified in the SB Confirmation, which shall include:

- (a) An administration charge for each Borrowing Request, unless waived by KGISS; and
- (b) A percentage of the daily market value of the Borrowed Securities (based on last transacted price) for the period commencing from and including the SB Settlement Date and ending on the day before the date of return of the Borrowed Securities.

B5.2 The borrowing fees shall be debited against the Client's SB Account.

B5.3 The Client shall also pay all out-of-pocket expenses incurred by KGISS in connection with the Loan of securities to the Client. Any fees payable herein may be revised by KGISS at its sole discretion and notified to the Client from time to time and any amounts payable by the Client to KGISS hereunder may be deducted and/or drawn from any Cash Collateral held by KGISS or debited from any sale proceeds of securities held by KGISS for and on behalf of the Client. The Client shall also continue to pay any fees and expenses stated herein notwithstanding that the Borrowed Securities may be suspended from trading.

B5.4 The payments referred to in Clause B5.1 shall be payable in the Base Currency and accrue daily in respect of the period commencing on and inclusive of the SB Settlement Date and terminating on and exclusive of the Business Day upon which Equivalent Securities are redelivered or otherwise accounted for to KGISS.

## **B6 COLLATERAL**

B6.1 Subject to Clauses B6.2 and B6.3 below, the Client undertakes to deliver Collateral acceptable to KGISS or its custodian, together with appropriate and duly executed instruments of transfer, duly stamped, where necessary, and such other instruments as may be requisite to vest title thereto in KGISS or its custodian simultaneously with the delivery of the Borrowed Securities to the Client and in any event no later than close of business on or prior to the SB Settlement Date. Collateral shall be provided only in such forms as determined by KGISS at its absolute discretion from time to time. Such Collateral shall be maintained with KGISS or its custodian throughout the period of the Loan of the Borrowed Securities and in respect of which Equivalent Securities have not for the time being been redelivered or otherwise accounted for or to KGISS.

B6.2 The Client undertakes to deliver to KGISS or custodian on or prior to the SB Settlement Date of any Loan of securities, Collateral such that the value of the total Collateral delivered by the Client to KGISS or its custodian is not less than the applicable SB Margin, and shall ensure that the value of the total Collateral delivered by the Client to KGISS is maintained with KGISS or its custodian at the level of the applicable SB Margin at all times.

B6.3 If at any time the value of the Collateral posted by the Client with KGISS falls below the SB Margin:

- (a) the Client shall provide such further Collateral immediately upon demand by KGISS to bring the value of the Collateral up to the applicable SB Margin;
- (b) if the Client does not provide the additional Collateral within the stipulated time, KGISS is entitled (but not obliged) at KGISS's absolute discretion and without notice to the Client to realise the Collateral (or any part thereof) and apply the proceeds therefrom to purchase such amounts of securities equivalent to the Outstanding Borrowed Securities and appropriate the same as securities returned by the Client to bring the market value of the Collateral up to the applicable SB Margin.

B6.4 Without prejudice to the foregoing, the Client acknowledges and agrees that:-

- (a) if on any Business Day the value of the Collateral falls below one hundred and forty percent (140%) but remains higher than one hundred and thirty percent (130%) of the aggregate value of all Outstanding Borrowed Securities, KGISS is

entitled to demand the Client to, and the Client shall on demand by KGISS, provide such further Collateral as is required to bring the value of the Collateral to not less than one hundred and forty percent (140%) of the aggregate value of all Outstanding Borrowed Securities) and in the interim the Client is not permitted to effect any new borrowings of securities;

- (b) if on any Business Day the value of the Collateral falls below one hundred and thirty percent (130%) of the aggregate value of all Outstanding Borrowed Securities, KGISS is entitled (but not obliged) at its absolute discretion and without notice to the Client, to demand the immediate return of all or part of Outstanding Borrowed Securities and/or realise Collateral (or any part thereof) and apply the proceeds therefrom to purchase such amounts of securities equivalent to the Outstanding Borrowed Securities and appropriate the same as as Equivalent Securities returned by the Client to bring the value of Collateral to not less than one hundred and forty percent (140%) of the aggregate value of all Outstanding Borrowed Securities; and
  - (c) KGISS is entitled at any time to, at its absolute discretion but subject to any applicable Singapore Rules and/or applicable foreign rules and regulations, vary the percentages set out above.
- B6.5 Any reference to the value or market value of Outstanding Borrowed Securities, Borrowed Securities or Collateral (where such Outstanding Borrowed Securities, Borrowed Securities or Collateral are in the form of securities listed for quotation or quoted on SGX-ST or any other securities exchange) in these terms and conditions shall mean:
- (a) the last transacted price of the Outstanding Borrowed Securities, Borrowed Securities or Collateral traded on the SGX-ST or any relevant securities exchange on the preceding Business Day;
  - (b) if there was no trading in the Outstanding Borrowed Securities, Borrowed Securities or Collateral on the SGX-ST or any other relevant securities exchange, then, subject to Clause B6.4(c), the lower of the last transacted price and the last bid price of the Outstanding Borrowed Securities, Borrowed Securities or Collateral; or
  - (c) if there was no trading in the Outstanding Borrowed Securities, Borrowed Securities or Collateral in the preceding thirty (30) days, the price which KGISS estimates as the value of the Outstanding Borrowed Securities, Borrowed Securities or Collateral subject to any approval by the relevant regulatory authority.
- B6.6 Notwithstanding its rights hereunder, KGISS shall be entitled (but not obliged), at its absolute discretion and without notice to the Client, to at any time realise the Collateral (or any part thereof) and apply the proceeds therefrom to purchase such amounts of securities equivalent to the Outstanding Borrowed Securities and appropriate the same as Equivalent Securities returned by the Client so as to maintain the agreed SB Margin.
- B6.7 Where the Client has fully returned all the Outstanding Borrowed Securities and has a debit cash balance due to KGISS, the Client is required to settle the outstanding debit in full on demand by KGISS, failing which KGISS shall be entitled (but not obliged), at its absolute discretion and without notice to the Client, realise the Collateral (or any part thereof) and apply the proceeds therefrom to settle the outstanding debit balances due to KGISS.
- B6.8 Any determination of the value of any Collateral or Equivalent Collateral (other than cash) made by KGISS in good faith shall be final and determinative as between itself and the Client. The Client agrees that depending on the quality of the securities provided as Collateral for the Borrowed Securities, a larger deduction or hair-cut may be made by KGISS during the valuation process of such Collateral. Any Collateral deposited or provided by the Client shall comply with the applicable requirements prescribed by the applicable Singapore Rules including but not limited to the requirements prescribed in Regulation 45 of the SF(LCB) Regulations.
- B6.9 The Client shall execute and deliver all necessary documents and give all necessary instructions to procure that all rights, titles and interests in any Collateral and any Equivalent Securities delivered to KGISS or its custodian shall pass from the Client to KGISS or its custodian and shall be free from all liens, charges and encumbrances.
- B6.10 In respect of any Collateral delivered or deposited with KGISS or its custodian, the Client acknowledges and agrees that:
- (a) KGISS shall maintain in its books a separate account into which the Collateral shall be credited and over which KGISS shall have a valid, first and paramount fixed charge, free of all encumbrances and adverse interests, and/ or general lien as security first for the obligations of the Client with respect to the Client's borrowings under these terms and conditions and secondly for any and all other obligations of the Client to KGISS howsoever arising. The Client shall, upon request by KGISS, forthwith execute all such transfers and other documents as may be necessary to enable KGISS or its custodian to perfect the charge, to be registered as owner of, or otherwise obtain legal title to, any Collateral deposited with or held by KGISS or its custodian and which are charged to KGISS or its custodian pursuant to this Clause B6.10(a). Save for the charge mentioned in this Clause B6.10(a), the Client will not create nor will the Client allow to be created any security interest of whatsoever nature over any part or all of the Collateral without the prior written consent of KGISS;
  - (b) KGISS shall be entitled to commingle and maintain any Collateral (not being the subject of any title transfer in favour of KGISS) together with any securities and/or money that KGISS may hold for any other party whether as Collateral or otherwise. In connection with this, the Client acknowledges that it would be administratively and operationally difficult, if not impossible (in view of the constant ebb and flow of the aggregate balance in such account) to account separately for the interest of each of KGISS's clients due to their fluctuating cash balances (insofar as the same has not been the subject of a title transfer in favour of KGISS) being part of a larger pool of money since interest will be received on a lump



sum basis. The Client further acknowledges and accepts that such an exercise would be likely to cost more than any interest earned. In the circumstances, the Client agrees that it is a material condition that the Client waives and relinquishes in KGISS's favour all claims for interest that might otherwise accrue with respect any Cash Collateral provided;

- (c) KGISS shall not be obliged to retain the same Collateral delivered or deposited by the Client with KGISS or its custodian in its possession or control (KGISS being entitled to treat all the same as fungibles) but to retain for the duration of the Client's Loan of Borrowed Securities, Equivalent Collateral and accordingly, upon termination of any Loan, KGISS shall only be obliged, subject to the value of the remaining Collateral posted by the Client with KGISS still meeting the SB Margin and subject otherwise to any other rights of KGISS rights under these terms and conditions (including Clause B6.10(d) below) or the General Terms and Conditions (including any right of interim liquidation or sale of the Client's Collateral), to redeliver Equivalent Collateral;
- (d) KGISS at its full discretion shall be entitled to convert its obligation to redeliver Equivalent Collateral to the Client into an obligation to pay the aggregate value of the same and subject such payment obligation to KGISS's general rights of set-off (in addition to any other rights of set-off and/or consolidation of accounts or obligations KGISS may have by operation of law or by contract); and
- (e) KGISS may create over the Collateral any encumbrance in favour of a third party by way of security, re-security, charge, re-charge, pledge, re-pledge, hypothecation, re-hypothecation or otherwise to secure KGISS's obligations to a third party account (if mortgaged, pledged or hypothecated otherwise than on a pool basis and otherwise for an amount that does not exceed the aggregate amounts owed by all clients collectively in the pool to KGISS).

B6.11 The Client may call for the repayment of any Cash Collateral (by giving no less than three (3) Business Days' notice) or the redelivery of the Equivalent Collateral (by giving a period of notice no less than the standard settlement time for such Equivalent Securities on the exchange or in the clearing organisation through which the Borrowed Securities were originally delivered), provided that: (a) the value of the remaining Collateral posted by the Client with KGISS still meets the SB Margin at the time of such repayment or redelivery, or (b) the Client delivers alternative Collateral acceptable to KGISS such that the value of all Collateral posted by the Client with KGISS still meets the applicable SB Margin following such repayment or redelivery.

## **B7 REDELIVERY OF SECURITIES**

- B7.1 Each Loan of Requested Securities will be of such duration as may be agreed between the Client and KGISS, subject to such minimum and/or maximum Loan period as KGISS may in its discretion determine from time to time. Subject to Clause B7.4, KGISS may call for the redelivery of all or any Equivalent Securities at any time in the ordinary course of business upon notice of not less than the standard settlement time for such Equivalent Securities on the exchange or in the clearing organisation through which the Borrowed Securities were originally delivered. The Client shall redeliver such Equivalent Securities not later than the expiry of such notice. Simultaneously with the redelivery of the Equivalent Securities in accordance with such call, KGISS shall redeliver Equivalent Collateral (subject to Clause B6) in respect of the redelivered Equivalent Securities and repay any Cash Collateral to the Client.
- B7.2 If the Client does not redeliver Equivalent Securities in accordance with such call, KGISS may, at its absolute discretion, elect to continue the Loan of securities or by notice to the Client terminate the Loan. In the event that the Client fails to redeliver Equivalent Securities to KGISS in accordance with these terms and conditions, KGISS shall be entitled, at its absolute discretion and without notice to the Client, to "buy-in" Equivalent Securities. If such "buy-in" right is exercised by KGISS, the Client shall be liable to account to KGISS for the total costs and expenses incurred by KGISS as a result of such "buy-in".
- B7.3 Where the Loan period for Borrowed Securities is not specified, the Client shall be entitled by giving notice of not less than (a) the standard settlement time for any Equivalent Collateral on the exchange or in the clearing organisation through which the Collateral were originally delivered or (b) three (3) Business Days (whichever is the longer period) to KGISS, to terminate a particular Loan of the Borrowed Securities and to redeliver all and any Equivalent Securities due and outstanding to KGISS. Upon such termination and at the request of the Client, KGISS shall (subject to Clause B6) redeliver and repay to the Client any Cash Collateral or Equivalent Collateral in respect of the redelivered Equivalent Securities.
- B7.4 If an Event of Default occurs, the Client's delivery and payment obligations (and any other obligations it has under these terms and conditions) shall be accelerated so as to require performance thereof on the date an Event of Default occurs or such notice is served (as the case may be).
- B7.5 Where, pursuant to the provisions of these terms and conditions, KGISS performs an obligation in respect of the delivery of Equivalent Collateral or the payment or transfer of money (by way of deposit or otherwise) in respect of Cash Collateral at a time when the Client, in accordance with these terms and conditions, is required to perform a similar obligation simultaneously with the performance of the KGISS's obligation but, nevertheless, the Client's obligation is not performed simultaneously, the Client shall hold on trust for KGISS any assets (including cash) that he receives from KGISS prior to the performance of his own obligation being completed and any such trust shall terminate upon the completion of the performance of the aforesaid obligations of the Client.
- B7.6 Subject to and without prejudice to its rights under Clause B7.5, KGISS 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 these terms and conditions 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.

## **B8 TAXATION**

B8.1 The Client hereby undertakes promptly to pay and account for any transfer or similar duties or taxes chargeable in connection with any transaction effected pursuant to or contemplated by these terms and conditions (including any Loan), and shall indemnify and keep indemnified KGISS against any liability arising in respect thereof as a result of the Client's failure to do so.

## **B9 CLIENTS' REPRESENTATIONS AND WARRANTIES**

B9.1 The Client hereby represents, warrants and undertakes to KGISS (on a continuing basis and which representations and warranties are deemed to be repeated each time a Loan is undertaken and to the intent that such representations, warranties and undertakings shall survive the completion of any Loan contemplated herein) that:

- (a) the Client is absolutely entitled to pass full legal and beneficial ownership of all Collateral provided by it hereunder to KGISS free from all liens, charges and encumbrances;
- (b) all information and particulars stated by the Client in, or provided by the Client to KGISS for the purpose of, the Borrowing Request are true and accurate. If any such information or particulars ceases to be true or accurate, the Client undertakes to promptly inform KGISS;
- (c) the Client is acting for its own account and will be liable as a principal in respect of all Loans entered into hereunder; and
- (d) by entering into and performing the Loans contemplated hereunder, the Client will not violate any laws or regulations applicable to the Client.

## **B10 EVENTS OF DEFAULT**

B10.1 If an Event of Default (as defined under Clause B10.2 below) occurs, the Client shall immediately redeliver the Equivalent Securities to KGISS. In the event that the Client does not so redeliver the Equivalent Securities or only redelivers a portion of Equivalent Securities, the Client shall indemnify KGISS for and against any and all losses which may be suffered or incurred by it in connection with, arising out of or in relation to such non-delivery, including but not limited to the consideration paid to purchase a like amount of such securities, brokerage fees, commissions, clearing fees and costs and expenses incurred as a result of a buy-in.

B10.2 Each of the following events occurring in relation to the Client shall be an Event of Default for the purpose of these terms and conditions:

- (a) the Client dies, becomes the subject of an Act of Insolvency, becomes insane or otherwise loses his legal capacity to contract under the applicable laws;
- (b) any representations or warranties made by the Client being or becoming incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated;
- (c) the Client admitting to KGISS his inability to, or his intention not to, perform any of his obligations hereunder and/ or in respect of any Loan, debenture, mortgage or agreement;
- (d) the Client fails to provide further Collateral as demanded by KGISS or redeliver all or any of the Equivalent Securities to KGISS in accordance with the terms of these terms and conditions;
- (e) any of the assets of the Client being transferred or ordered to be transferred to a trustee by a regulatory authority pursuant to any securities regulating legislation or seized, nationalised, expropriated or compulsorily acquired by any government or agency; or
- (f) the Client failing to perform any other of his obligations hereunder and not remedying such failure within such time period as may be specified by KGISS at its absolute and unfettered discretion whether in writing or otherwise.

## **B11 OUTSTANDING PAYMENTS**

B11.1 In the event the Client fails to remit sums in accordance with these terms and conditions, it hereby undertakes to pay interest to KGISS upon demand on the net balance due and outstanding at such rate which KGISS may, at its absolute discretion but subject to any applicable Singapore Rules, prescribe. Such interest shall be chargeable to and/ or set-off against any balances standing to the credit of the Client in any of his Accounts with KGISS. The interest shall be capitalised at the end of each month.

## **B12 TERMINATION**

B12.1 KGISS shall have the right at any time to immediately terminate the Loan without cause or liability giving a notice in writing to the Client. Notwithstanding the termination of these terms and conditions, the Client shall remain fully liable KGISS for all losses, interest, liabilities, actions, proceedings, costs, claims and demands that may be suffered or incurred by KGISS in connection with or arising from transactions contemplated hereunder.

## **SECTION C: CLIENT'S LENDING OF SECURITIES TO KGISS**

### **C1 LOANS OF CLIENT SECURITIES FROM CLIENT TO KGISS**

C1.1 All borrowing by KGISS of the Client Securities shall be made in accordance with this Section C, in addition to the provisions in Section A and Section D, of these terms and conditions and with the Singapore Rules (including Regulation 45 of the SF(LCB) Regulations).

C1.2 The Client agrees that KGISS is entitled to on a title transfer basis to borrow for itself as principal, any of the Client Securities (any Client Securities that are actually borrowed by KGISS pursuant to Section C of these terms and conditions will be referred to as "KGISS Borrowed Securities"), in return (where Regulation 45 of the SF(LCB) Regulations so obliges KGISS) for KGISS:

- (a) providing Cash Collateral; and/or
- (b) providing such securities as are owned by KGISS (the "KGISS Collateral").

The Cash Collateral and KGISS Collateral described above will be collectively referred to as "KGISS Lending Collateral". KGISS will notify the Client in writing each time KGISS borrows Client Securities from the Client pursuant to this Section C of these terms and conditions.

C1.3 KGISS will ensure that the total value of the KGISS Lending Collateral does not fall below 100% of the market value of the KGISS Borrowed Securities at any time.

C1.4 Any reference to the value or market value of KGISS Borrowed Securities or KGISS Lending Collateral (where such KGISS Borrowed Securities or KGISS Lending Collateral are in the form of securities listed for quotation or quoted on SGX-ST or any other securities exchange) in these terms and conditions shall mean:

- (a) the last transacted price of the KGISS Borrowed Securities or KGISS Lending Collateral traded on the SGX-ST or any relevant securities exchange on the preceding Business Day;
- (b) if there was no trading in the KGISS Borrowed Securities or KGISS Lending Collateral on the SGX-ST or any other relevant securities exchange, then, subject to Clause C1.4(c), the lower of the last transacted price and the last bid price of the KGISS Borrowed Securities or KGISS Lending Collateral; or
- (c) if there was no trading in the KGISS Borrowed Securities or KGISS Lending Collateral in the preceding thirty (30) days, the price which KGISS estimates as the value of the KGISS Borrowed Securities or KGISS Lending Collateral subject to any approval by the relevant regulatory authority.

### **C2 RIGHTS AND TITLE**

C2.1 The Parties shall execute and deliver all necessary documents and give all necessary instructions to procure that all right, title and interest in:

- (a) any KGISS Borrowed Securities borrowed pursuant to Clause C1;
- (b) any Equivalent Securities redelivered pursuant to Clause C5;
- (c) any KGISS Lending Collateral delivered pursuant to Clause C1;
- (d) any Equivalent KGISS Lending Collateral redelivered pursuant to Clause C5;

shall pass from one Party to the other subject to the terms and conditions mentioned herein and in accordance with any applicable Singapore Rules and/or applicable foreign rules and regulations, on delivery or redelivery of the same in accordance with these terms and conditions, free from all liens, charges and encumbrances. In the case of KGISS Borrowed Securities, KGISS Lending Collateral, Equivalent Securities or Equivalent KGISS Lending Collateral title to which is registered in 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 KGISS Borrowed Securities are borrowed or any KGISS Lending Collateral is delivered to such Party, such Party shall be obliged, subject to the terms of these terms and conditions, to redeliver Equivalent Securities or Equivalent KGISS Lending Collateral as appropriate.

### C3 DIVIDENDS, VOTING RIGHTS AND OTHER CORPORATE ACTIONS

- C3.1 KGISS (in the case of KGISS Borrowed Securities) and the Client (in the case of KGISS Lending Collateral) shall, on the date of the payment or distribution of any interest, dividends or other distribution of any kind whatsoever (each a “Distribution”) in respect of the KGISS Borrowed Securities or KGISS Lending Collateral (as the case may be) or on such other date as KGISS and the Client may from time to time agree (**the “Relevant Payment Date”**) pay and deliver a sum of money or property equivalent to the Distribution to KGISS or the Client (as the case may be) (with any such endorsements or assignments as shall be customary and appropriate to effect the settlement thereof), regardless of whether the Client received the same.
- C3.2 In the case of any Distribution comprising a payment, the amount (**the “Manufactured Dividend”**) payable by KGISS to the Client (in the case of KGISS Borrowed Securities) or payable by the Client to KGISS (in the case of KGISS Lending Collateral) shall be equal to the amount of the relevant Distribution 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 Distribution and/ or an amount equal to any other tax credit associated with such Distribution provided that where KGISS is unable to make payment of the Manufactured Dividend to the Client without accounting to the relevant tax authorities for any amount of relevant withholding tax and/or any amount of tax, (if appropriate) KGISS shall pay to the Client in cash, the Manufactured Dividend less amounts equal to such relevant withholding tax and tax as the case may be.
- C3.3 Where any voting rights fail to be exercised in relation to any KGISS Borrowed Securities or KGISS Lending Collateral, neither KGISS (in the case of KGISS Borrowed Securities) nor the Client (in the case of KGISS Lending Collateral) shall have any obligation to arrange for voting rights of that kind to be exercised in accordance with the instructions of the Client or KGISS (as the case may be) in relation to the KGISS Borrowed Securities or KGISS Lending Collateral (as the case may be) unless otherwise agreed between the Parties.
- C3.4 Where, in respect of any KGISS Borrowed Securities or KGISS Lending Collateral, any rights relating to conversion, sub-division, consolidation, pre-emption, rights arising under a takeover offer, rights to receive securities or a certificate which may at a future date be exchanged for securities or other rights, including those requiring election by the holder for the time being of such Borrowed Securities or Collateral, become exercisable prior to the delivery of Equivalent Securities or Equivalent KGISS Lending Collateral (as the case may be), then KGISS or the Client (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 Client or KGISS (as the case may be) that on delivery of Equivalent Securities or Equivalent KGISS Lending Collateral (as the case may be) it wishes to receive Equivalent Securities or Equivalent KGISS Lending Collateral (as the case may be) 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.

### C4 LENDING FEES

- C4.1 KGISS shall pay lending fees to the Client which will be calculated daily during the term of each Loan in accordance with the following formula (which may be amended as notified by KGISS to the Client from time to time):

$LF\% \times CP / 365 \times Q$  where:

“**LF%**” refers to the lending fee percentage as will be notified by KGISS to the Client from time to time;

“**CP**” refers to the closing price of the relevant KGISS Borrowed Securities (on the primary exchange on which such KGISS Borrowed Securities are traded) on the last Business Day preceding the day of calculation; and

“**Q**” refers to the quantity of the relevant KGISS Borrowed Securities.

### C5 REDELIVERY OF SECURITIES / COLLATERAL

- C5.1 Each Loan of KGISS Borrowed Securities shall continue until terminated by either Party. Either Party shall be entitled at any time, by giving notice during a Business Day, to terminate any Loan of the KGISS Borrowed Securities and to call for the redelivery of Equivalent Securities. KGISS undertakes to redeliver Equivalent Securities, in accordance with these terms and conditions within the period equivalent to the standard settlement time for such Equivalent Securities on the exchange or in the clearing organisation through which the KGISS Borrowed Securities were originally delivered. Simultaneously with the redelivery of the Equivalent Securities in accordance with such call, KGISS shall effect the redelivery of Equivalent KGISS Lending Collateral and/or the repayment of any Cash Collateral from the Client to KGISS in respect of any KGISS Lending Collateral held by KGISS in respect of such KGISS Borrowed Securities.
- C5.2 KGISS does not redeliver Equivalent Securities in accordance with such call, KGISS’s obligation to redeliver such Equivalent Securities shall be converted into an obligation to pay to the Client the aggregate market value of the same and subject such payment obligation to KGISS’s general rights of set-off (in addition to any other rights of set-off and/ or consolidation of accounts or obligations KGISS may have by operation of law or by contract).

### C6 KGISS’s REPRESENTATIONS AND WARRANTIES

C6.1 KGISS hereby represents, warrants and undertakes to the Client (on a continuing basis and which representations and warranties are deemed to be repeated each time a Loan is undertaken and to the intent that such representations, warranties and undertakings shall survive the completion of any Loan contemplated herein) that:

- (a) KGISS is absolutely entitled to pass full legal and beneficial ownership of all KGISS Collateral (as the case may be) provided by it hereunder to Client free from all liens, charges and encumbrances;
- (b) KGISS is acting for its own account and will be liable as a principal in respect of all Loans entered into hereunder; and
- (c) by entering into and performing the Loans contemplated hereunder, KGISS will not violate any laws or regulations applicable to KGISS.

## **C7 KGISS's EVENTS OF DEFAULT**

C7.1 If a KGISS Event of Default (as defined under Clause C7.2 below) occurs, KGISS shall immediately redeliver the Equivalent Securities to the Client. In the event that KGISS does not so redeliver the Equivalent Securities or only redelivers a portion of Equivalent Securities, KGISS's obligation to redeliver such Equivalent Securities or the remaining portion of Equivalent Securities shall be converted into an obligation to pay to the Client the aggregate market value of the same and subject such payment obligation to KGISS's general rights of set-off (in addition to any other rights of set-off and/or consolidation of accounts or obligations KGISS may have by operation of law or by contract). In the event that KGISS fails to repay any such outstanding payment to the Client after 7 Business Days following the occurrence of the Event of Default, KGISS shall deliver the portion of the KGISS Lending Collateral to the Client the value of which is equivalent to such outstanding payment owed by KGISS to the Client.

C7.2 Each of the following events occurring in relation to KGISS shall be a KGISS Event of Default for the purpose of these terms and conditions:

- (a) KGISS becomes the subject of an Act of Insolvency;
- (b) any representations or warranties made by KGISS being or becoming incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated;
- (c) KGISS admitting to the Client its inability to, or its intention not to, perform any of its obligations hereunder and/or in respect of any Loan, debenture, mortgage or agreement;
- (d) KGISS fails to redeliver all or any of the Equivalent Securities to the Client in accordance with the terms of these terms and conditions; or
- (e) any of the assets of KGISS being transferred or ordered to be transferred to a trustee by a regulatory authority pursuant to any securities regulating legislation or seized, nationalised, expropriated or compulsorily acquired by any government or agency.

## **SECTION D: MISCELLANEOUS PROVISIONS**

### **D1 SEVERANCE**

D1.1 If any provision of these terms and conditions is declared by any judicial or other competent authority to be void or otherwise unenforceable, that provision shall be severed from these Terms and Conditions and the remaining provisions of these terms and conditions shall remain in full force and effect. These Terms and Conditions 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.

### **D2 SPECIFIC PERFORMANCE**

D2.1 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, KGISS Lending Collateral, Equivalent Collateral or KGISS Equivalent Lending Collateral but without prejudice to any other rights it may have.

### **D3 NOTICES**

D3.1 Any demand, consent, notice or other communication ("Communication") given hereunder or in connection with these terms and conditions may be verbal unless otherwise required by these terms and conditions or any applicable Singapore Rules or applicable foreign rules and regulations to be in writing.

D3.2 All verbal Communications from the Client to KGISS shall be followed by a confirmation in writing. KGISS may but shall not be obliged to act on any verbal Communications unless the same has been confirmed in writing. All Communications sent by the Client to KGISS shall not be effective until actual receipt thereof by KGISS.

D3.3 Subject to Clause D3.2, all Communications given by letter, fax transmission or other electronic means (including e-mail) shall be addressed to or left at, in the case of KGISS, the business address of KGISS at the relevant time and in the case of the Client, the address stated in any agreements entered into between KGISS and the Client or as notified to KGISS by the Client from time to time. All such Communications given by KGISS to the Client as aforesaid shall be deemed to have been duly received by the Client upon delivery if delivered by hand, or if by post three (3) days after posting, or in the case of facsimile or other electronic means upon despatch.

D3.4 The Client agrees that personal service of a writ of summons or other originating process or sealed copy thereof of pleadings or other documents may be effected on the Client by leaving the same at the place of business or abode or the address in Singapore of the Client last known to KGISS (and in this connection KGISS shall be entitled to rely on the records kept by it or that of any registry or government or statutory authority) and if the last known address of the Client shall be a postal box or other hold mail address then personal service may be effected by posting the same to such address or addresses and the Client irrevocably confirms that service of such writs of summons originating process pleadings or documents in the manner aforesaid shall be deemed good sufficient personal service on the Client.

#### **D4 ASSIGNMENT**

D4.1 These terms and conditions shall be binding upon and inure to the benefit of the Parties and the successors in title and assigns of KGISS. All undertakings, agreements, representations and warranties given, made or entered into by the Client hereunder shall survive the making of any assignments.

D4.2 The Client shall have no right to assign or transfer any of his rights hereunder and he shall remain fully liable for all of his undertakings, agreements, duties, liabilities and obligations hereunder, and for the due and punctual observance and performance thereof.

D4.3 KGISS may assign all or part of its rights or transfer all or part of its obligations hereunder without the consent of the Client. Any such assignee or transferee shall be treated as a party hereto for all purposes of these terms and conditions and shall be entitled to the full benefit of these terms and conditions to the same extent as if it were an original party in respect of the rights or obligations assigned or transferred to it..

#### **D5 NON-WAIVER**

D5.1 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.

#### **D6 ADDENDUM**

D6.1 In the event that the Parties agree to enter into Loans of securities in respect of which additional documentation is necessary or advisable, the Parties agree to set out such terms in an addendum to these terms and conditions, which addendum shall supplement, amend and form part of these terms and conditions.

#### **D7 TIME**

D7.1 Time shall be of the essence of these terms and conditions.

#### **D8 GOVERNING LAW AND JURISDICTION**

D8.1 These terms and conditions are governed by, and shall be construed in accordance with, the laws of the Republic of Singapore. In the event of dispute the Parties hereby submit to the exclusive jurisdiction of the courts of the Republic of Singapore.