

TBMA/ISMA GLOBAL MASTER REPURCHASE AGREEMENT

([1995] [2000] VERSION)

SOUTH AFRICAN ANNEX

This Annex applies to all Transactions entered into where one of the parties is incorporated in or is acting through a branch in the Republic of South Africa (such party being a “South African party”).

In the event of any conflict between the terms of this Annex, or any other term of the Agreement or any Annex to the Agreement, or any term or condition of a Confirmation, the terms of this Annex shall prevail.

Interpretation

1. The following revisions of the definition of Act of Insolvency shall be added to paragraph 2(a) and shall apply to the reference thereto in paragraph 10(a) of the Agreement to include all types of South African insolvency-related proceedings, including curatorship¹ under the Banks Act, 94 of 1990 (the “Banks Act”):

“Without limiting any other provision of Paragraph 2(a) of the Agreement in the case of a South African party –

- (i) for the purposes of Paragraph 2(a)(i), the reference to a reorganisation, arrangement or composition with creditors shall include any reorganisation, arrangement or compromise or composition with creditors or any one or more classes of creditors;
- (ii) the reference in Paragraph 2(a)(iv) to the presentation or filing of any petition shall include any application for winding up and the reference to analogous proceedings shall include the provisional or final bankruptcy, winding-up or insolvency, curatorship under the Banks Act, or any compromise or judicial management (whether provisional or final);
- (iii) the reference to an analogous officer in Paragraph 2(a)(v) shall include a judicial manager or curator.”

Events of Default

2. The following revisions to the definition of Events of Default in paragraph 10 of the Agreement shall be added:

¹ Curatorship is a form of administration proceedings for Banks registered pursuant to the Banks Act.

- (i) Paragraphs 10(a)(xi), 10(a)(xii), 10(a)(xiii), and 10(a)(xiv)² shall be added as follows:

“10(a)(xi) a company being wound up by a Court in accordance with Section 344 of the Companies Act, 61 of 1973 (the “Companies Act”);

10(a)(xii) a company deemed to be unable to pay its debts in accordance with Section 345 of the Companies Act;

10(a)(xiii) its application for voluntary winding-up in terms of Section 348 or Section 351 of the Companies Act;

10(a)(xiv) application by its creditors for it to be placed in liquidation in circumstances where its liabilities exceed its assets.”

and

- (ii) for the purposes of paragraph 10(a)(vi) of the Agreement³, if an Act of Insolvency occurs which is the presentation of a petition for winding-up or any analogous proceedings (including curatorship under the Banks Act) or the appointment of a liquidator, judicial manager, curator or analogous officer of the Defaulting Party, the non-Defaulting Party shall not be required to serve a Default Notice on the Defaulting Party.

Exchange Control

3. The following paragraph is included as an additional Paragraph 9(i)⁴ is inserted as follows:

“in the case of [*a party resident in South Africa*] it has all licences, approvals and consents (including but not limited to Exchange Control Approvals) under all relevant laws, regulations and rules applicable to it for the entering into and performance by it of this Agreement.

For purposes of this paragraph 9(i)⁵ –

- (a) an “Exchange Control Approval” shall mean any approval that [*a party resident in South Africa*] may be required to obtain pursuant to the Exchange Control Regulations, 1961 (the “Exchange Control Regulations”), published under the Currency and Exchanges Act, 9 of 1933, from the exchange control department of the South African Reserve Bank, or from any authorised dealer

² If the GMRA 1995 is used, these references should be to paragraphs 10(a)(ix), 10(a)(x), 10(a)(xi) and 10(a)(xii).

³ If the GMRA 1995 is used, this reference should be to paragraph 10(a)(iv).

⁴ If the GMRA 1995 is used, this reference should be to paragraph 9(j).

⁵ If the GMRA 1995 is used, this reference should be to paragraph 9(j).

appointed for this purpose by the South African Reserve Bank;
and

(b) "resident" shall have the meaning ascribed thereto in the Exchange Control Regulations."