



ที่ ACI 010/50

วันที่ 27 กรกฎาคม 2550

เรื่อง หนังสือแจ้งการยอมรับใช้ Annex I (Supplemental Terms and Conditions) to the Global Master Repurchase Agreement ในการทำธุรกรรมซื้อคืนภาคเอกชน  
เรียน คณะกรรมการและสมาชิกชมรมเอ ซี ไอ (ประเทศไทย)

ตามที่ชมรมเอ ซี ไอ (ประเทศไทย) ได้จัดทำร่างแนวทางปฏิบัติมาตรฐาน (Market Convention) ในการทำธุรกรรมซื้อคืนภาคเอกชน (Private Repo) เพื่อประกอบการลงนามในสัญญา Global Master Repurchase Agreement และเสนอให้สมาคมธนาคารไทย และสมาคมธนาคารต่างประเทศพิจารณา แล้วนั้น

ขณะนี้ทางสมาคมธนาคารไทย และสมาคมธนาคารต่างประเทศได้ออกหนังสือแสดงความเห็นขอให้ใช้ร่างแนวทางฯดังกล่าวเป็นหลักเกณฑ์เบื้องต้นในการทำธุรกรรมซื้อคืนภาคเอกชนเป็นที่เรียบร้อยแล้ว (เอกสารแนบ 1 และ 2) โดยสมาคมฯ ขอสงวนสิทธิ์ให้สมาชิกที่มีนโยบายของตนเองต่างไปจากหลักเกณฑ์เบื้องต้นนี้สามารถกำหนดหรือแก้ไขแนวทางฯ ให้เป็นไปตามนโยบายของตนเองได้

ทั้งนี้ทางชมรมเอ ซี ไอ (ประเทศไทย) จึงขอประกาศให้ท่านสมาชิกรับทราบโดยทั่วกัน

ขอแสดงความนับถือ

(นายภากร ปีตธวัชชัย)

ประธานชมรม เอ ซี ไอ (ประเทศไทย)

**Annex I**  
**Supplemental Terms and Conditions**  
**to the**  
**TBMA/ISMA Global Master Repurchase Agreement**  
**(2000 Version)**  
**dated as of <insert>**

between

**("Party A") and**

**("Party B")**

Paragraph references are to paragraphs in the Agreement.

1. The following elections shall apply-
  - (a) Paragraph 1(c)(i). Buy/Sell Back Transactions may be effected under this Agreement, and accordingly Buy/Sell Back Annex shall apply.
  - (b) Paragraph 1(c)(ii). Transactions in Net Paying Securities may not be effected under this Agreement.
  - (c) Paragraph 1(d). Agency Transactions may not be effected under this Agreement, and accordingly the Agency Annex shall not apply.
  - (d) Paragraph 2(d). The Base Currency shall be Thai Baht.
  - (e) Paragraph 2(p).  
Party A's Designated Office(s) shall be: Bangkok  
Party B's Designated Office(s) shall be: Bangkok
  - (f) Paragraph 2(cc). The pricing source for the calculation of Market Value shall be the web page <http://www.thaibma.or.th/priceyield/Rpreferenceyield> or any replacement or successor page as published by the Thai Bond Market Association.  
In the absence of the publication of the pricing source under the foregoing paragraph, the pricing source shall be five dealers selected by one party and agreed to by the other party. The Market Value shall be determined by using the weighted average of the bidding quotations provided by those selected dealers, disregarding the highest and lowest values.  
In the absence of the publication of the pricing sources under the two foregoing paragraphs, the pricing source shall be jointly determined by the parties.
  - (g) Paragraph 2(rr). Paragraph 2(rr) shall be amended to read as follows:  
""Spot Rate" – where an amount in one currency is to be converted into a second currency on any date,  
in case there is no Event of Default, unless the parties otherwise agree, the spot rate of exchange quoted by an inter-bank dealer selected by the party performing the conversion for the sale by such dealer of such second currency against a purchase by it of such first currency;  
in case an Event of Default has already occurred, the spot rate of exchange

quoted by an inter-bank dealer selected by the non-Defaulting Party for the sale (if the non-Defaulting Party is to receive such amount ) or purchase (if the non-Defaulting Party is to deliver such amount) by such dealer of such first currency against a purchase or sale, as the case may be, by it of such second currency;"

- (h) Paragraph 3(b). Party A and Party B shall deliver the Confirmation in the form set out in Annex II attached hereto on the date that both parties agree to enter into the relevant transaction by SWIFT (Society for Worldwide Interbank Financial Telecommunication) messaging system or by facsimile transmission and by hand and/or by post.
- (i) Paragraph 4(f). Interest on Cash Margin shall accrue daily from (and including) the date on which the Cash Margin has been received by the relevant party or the previous interest payment date, as the case may be, to (but excluding) the relevant due date for payment of interest, at, in case of Cash Margin denominated in THB, the afternoon closing rate of the Bank of Thailand Repurchase Market for 1-day tenor as published on the web page [www.bot.or.th/bothomepage/databank/Finmarkets/rpprice/frame\\_rp\\_rate.asp](http://www.bot.or.th/bothomepage/databank/Finmarkets/rpprice/frame_rp_rate.asp) or any replacement or successor page, or (in the absence of the said rate or in case of Cash Margin denominated in currencies other than THB) such other rate as agreed in writing between the parties. The interest shall be calculated based on the actual number of days elapsed and a 365-day year basis. The interest shall be payable on the last Business Day of each calendar month as well as the date on which the Cash Margin received by one party is redelivered to the other party, except for the case where there is only one outstanding Transaction between the Parties, at the Repurchase Date of such Transaction.
- (j) Paragraph 4(g). Delivery period for both Cash Margin and Margin Securities to be no later than 2.00 p.m., Bangkok time of same day for margin calls received by 9.30 a.m., Bangkok time and no later than 2.00 p.m., Bangkok time of the next Business Day for margin calls received after 9.30 a.m., Bangkok time.
- (k) Paragraph 6(j). Paragraph 6(j) shall apply and the events specified in paragraph 10(a) identified for the purposes of paragraph 6(j) shall be those set out in sub paragraphs (i) to (x) of paragraph 10(a) of this Agreement.
- (l) Paragraph 10(a)(ii). Paragraph 10(a)(ii) shall apply.
- (m) Paragraph 14. For the purposes of paragraph 14 of this Agreement –
  - (i) Address for notices and other communications for Party A –  
Address:  
Attention:  
Telephone:  
Facsimile:
  - (ii) Address for notices and other communications for Party B –  
Address:  
Attention:  
Telephone:  
Facsimile:

- (n) Paragraph 17. For the purposes of paragraph 17 of this Agreement-  
Party A appoints [•] as its agent for service of process: Not applicable  
Party B appoints [•] as its agent for service of process: Not applicable
- (o) Thailand Annex. The parties agree that the provisions of the Thailand Annex shall be incorporated into this Agreement, provided that the language "a Thai company" in paragraph 1 of the Thailand Annex shall be amended to read "Thai companies, government and/or state enterprises".
2. The following supplemental terms and conditions shall apply –
- (a) The parties agree that Forward Transactions (as defined in sub-paragraph (i)(A) below) may be effected under this Agreement and accordingly the provisions of sub-paragraphs (i) to (iv) below shall apply.
- (i) The following definitions shall apply -
- (A) "Forward Transaction", a Transaction in respect of which the Purchase Date is at least three Business Days after the date on which the Transaction was entered into and has not yet occurred;
- (B) "Forward Repricing Date", with respect to any Forward Transaction, the date which is such number of Business Days before the Purchase Date as is equal to the minimum period for the delivery of margin applicable under paragraph 4(g).
- (ii) The Confirmation relating to any Forward Transaction may describe the Purchased Securities by reference to a type or class of Securities, which, without limitation, may be identified by issuer or class of issuers and a maturity or range of maturities. Where this paragraph applies, the parties shall agree the actual Purchased Securities not less than two Business Days before the Purchase Date and Buyer or Seller (or both), as shall have been agreed, shall promptly deliver to the other party by facsimile transmission, by hand and/or by post a Confirmation which shall describe such Purchased Securities.
- (iii) At any time between the Forward Repricing Date and the Purchase Date for any Forward Transaction the parties may agree either –
- (A) to adjust the Purchase Price under that Forward Transaction;  
or
- (B) to adjust the number of Purchased Securities to be sold by Seller to Buyer under that Forward Transaction.
- (iv) Where the parties agree to an adjustment under paragraph (iii) above, Buyer shall promptly deliver to the Seller a Confirmation of the Forward Transaction, as adjusted under paragraph (iii) above and the Seller shall promptly deliver to the Buyer by facsimile transmission, by hand and/or by post its acceptance to the terms and conditions of the Confirmation.

(b) Where the parties agree that this paragraph shall apply, paragraphs 2 and 4 of the Agreement are amended as follows.

(i) Paragraph 2(ww) is deleted and replaced by the following -

“(ww) “Transaction Exposure” means -

- (i) with respect to any Forward Transaction at any time between the Forward Repricing Date and the Purchase Date, the difference between (A) the Market Value of the Purchased Securities at the relevant time and (B) the Purchase Price;
- (ii) with respect to any Transaction at any time during the period (if any) from the Purchase Date to the date on which the Purchased Securities are delivered to Buyer or, if earlier, the date on which the Transaction is terminated under paragraph 10(g), the difference between (A) the Market Value of the Purchased Securities at the relevant time and (B) the Repurchase Price at the relevant time;
- (iii) with respect to any Transaction at any time during the period from the Purchase Date (or, if later, the date on which the Purchased Securities are delivered to Buyer or the Transaction is terminated under paragraph 10(g)) to the Repurchase Date (or, if later, the date on which Equivalent Securities are delivered to Seller or the Transaction is terminated under paragraph 10(h)), the difference between (A) the Repurchase Price at the relevant time multiplied by the applicable Margin Ratio (or, where the Transaction relates to Securities of more than one description to which different Margin Ratios apply, the amount produced by multiplying the Repurchase Price attributable to Equivalent Securities of each such description by the applicable Margin Ratio and aggregating the resulting amounts, the Repurchase Price being for this purpose attributed to Equivalent Securities of each such description in the same proportions as those in which the Purchase Price was apportioned among the Purchased Securities) and (B) the Market Value of Equivalent Securities at the relevant time.

In each case, if (A) is greater than (B), Buyer has a Transaction Exposure for that Transaction equal to the excess, and if (B) is greater than (A), Seller has a Transaction Exposure to Buyer equal to the excess.”

(ii) In paragraph 4(c) -

- (aa) the words “any amount payable to the first party under paragraph 5 but unpaid” are deleted and replaced by “any amount which will become payable to the first party under paragraph 5 during the period after the time at which the calculation is made which is equal to the minimum period for the delivery of margin applicable under paragraph 4(g) or which is payable to the first party under paragraph 5 but unpaid”; and

- (bb) the words "any amount payable to the other party under paragraph 5 but unpaid" are deleted and replaced by "any amount which will become payable to the other party under paragraph 5 during the period after the time at which the calculation is made which is equal to the minimum period for the delivery of margin applicable under paragraph 4(g) or which is payable to the other party under paragraph 5 but unpaid".
- (c) Paragraph 1(b) is modified by inserting the following sentence at the end thereof:
- "In the event of any inconsistency between the provisions of this Agreement and the provisions of any of the Annexes, the provisions of such Annex shall prevail. In the event of any inconsistency between this Annex and the Thailand Annex, the provisions of this Annex shall prevail. In the event of any inconsistency between provisions of any Confirmation and this Agreement (including the Annexes), the Confirmation shall prevail for the purpose of the relevant transaction."
- (d) Paragraph 2 of this Agreement is amended as follows:
- (i) The definition of "LIBOR" shall be replaced with the following definition and any reference thereto throughout this Agreement shall be reference to "Default Interest Rate".
- "Default Interest Rate" means the average of the minimum lending rates of Bangkok Bank Public Company Limited, Kasikornbank Public Company Limited, The Siam Commercial Bank Public Company Limited and Krung Thai Bank Public Company Limited on the date on which it is to be determined plus 2%".
- (ii) The definition of "Price Differential" shall be amended by replacing the words "on a 360 days basis or 365 days basis in accordance with the applicable ISMA convention" with the words "on a 365-day basis".
- (iii) Local Business Day means any day other than a Saturday, a Sunday or a day on which commercial banks in Bangkok are required to close.
- (e) Neither party may require the other party to make a Margin Transfer to it under this Agreement if its Net Exposure in respect of the other party is less than Baht xxx.
- (f) In the event that a party delivers Margin Securities or Equivalent Margin Securities in respect of Margin Transfer, such delivery shall be in an amount that is of itself equal to an integral multiple of the minimum round lot size in accordance with the applicable ThaiBMA Market Convention.
- (g) Paragraph 6 is amended by inserting the following provisions as sub-section (k) thereof:
- "(k) Where the Seller or Buyer becomes obliged under the Agreement to pay a Repurchase Price or to deliver the Equivalent Securities as the case may be, on any date, such party shall make such payment or delivery as the case may be, to the other party no later than 2.00 p.m. on such date."

- (h) Paragraph 10 is amended by inserting the following provisions as sub-section (m) thereof:

"(m) In addition to any rights of set-off a party may have as a matter of law or otherwise, any amount (the "Termination Amount") payable to one party (the "Payee") by the other party (the "Payer") under paragraph 10, in circumstances where there is a Defaulting Party under paragraph 10(a), will, at the option of the non-Defaulting Party be reduced by its set-off against any amount(s) (the "Other Agreement Amount") payable (whether at such time or in the future or upon the occurrence of a contingency) by the Payee to the Payer (irrespective of the currency, place of payment or booking office of the obligation) under any other agreement(s) between the Payee and the Payer or instrument(s) or undertaking(s) issued or executed by one party to, or in favour of, the other party (and the Other Agreement Amount will be discharged promptly and in all respects to the extent it is set-off). The non-Defaulting Party will give notice to the Defaulting Party of any set-off effected under this paragraph 10(m).

For the purpose of effecting the set-off, the Other Agreement Amount (under any other agreement(s) between the Payee and the Payer or instrument(s) or undertaking(s) issued or executed by one party to, or in favour of, the other party) shall become immediately due and payable upon the occurrence of an Event of Default and the election of the exercise of the set-off by the non-Defaulting Party pursuant to this provision.

For this purpose, the Other Agreement Amount (or the relevant portion of such amount) which is denominated in other currency shall be converted by the non-Defaulting Party into the Base Currency at the Spot Rate.

- (i) Paragraph 12 shall be amended by replacing the language "360 day or 365 day basis in accordance with the applicable ISMA convention" with the language "on 365 day basis".
- (j) The following paragraphs shall apply where the governing law of this Agreement is Thai law:
- (i) Paragraph 2(qq). The definition of "Special Default Notice" shall not apply.
  - (ii) Paragraph 14(a)(ii) shall be amended by replacing "sub-paragraphs (b) and (c)" with "sub-paragraph (b)";
  - (iii) Paragraph 14(b) shall be amended by replacing "Subject to sub-paragraph (c) below, any" with "Any".
  - (iv) Paragraph 14(c). This entire paragraph shall be deleted.
  - (v) Paragraph 14(d). This paragraph shall be revised to read paragraph 14(c).
  - (vi) Paragraph 21. This paragraph shall not apply.
- (k) Each party shall deliver to the other the following documents:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered
Party A & Party B	Evidence of the authority, incumbency and specimen signatures of each person executing this Agreement and the Confirmation and the documents related thereto.	As soon as practicable after the execution of this Agreement and thereafter upon request
Party A & Party B	Certified true copy of (i) power of attorney (if any) and (ii) Memorandum and Articles of Association.	As soon as practicable after execution of this Agreement
Party A & Party B	Any other documents as may be reasonably requested by the other party	As soon as practicable after such request

(l) Each party hereby consents to the communication and disclosure of all information in respect of the Agreement, the Transactions and all matters incidental hereto and thereto by the other party to (i) all other branches of the other party and (ii) all government and regulatory authorities as and when required by such government and regulatory authorities.

(m) Unless otherwise agreed between the parties, the provisions of the rules and market practices relating to private repo transactions of the Thai Bond Market Association (as amended or supplemented from time to time) shall, wherever applicable, apply to any matters relating to the Transactions which have not been provided for in the Agreement.

(n) This Agreement supersedes all prior agreements or arrangements between the Parties relating to the subject matter of this Agreement.

(o) Governing Law

This Agreement shall be governed by and construed in accordance with the law of Thailand. Buyer and Seller hereby irrevocably submit for all purposes of or in connection with this Agreement and each Transaction to the jurisdiction of the Courts of Thailand.

(p) Waiver of Immunity

Each party hereto hereby waives, to the fullest extent permitted by applicable law, all immunity (whether on the basis of sovereignty or otherwise) from jurisdiction, attachment (both before and after judgment) and execution to which it might otherwise be entitled in any action or proceeding in the Courts of Thailand or of any other country or jurisdiction, relating in any way to this Agreement or any Transaction, and agrees that it will not raise, claim or cause to be pleaded any such immunity at or in respect of any such action or proceeding.



IN WITNESS WHEREOF, the parties have executed this Annex I on the respective dates specified below with effect from the date specified on the first page of this Annex I.

**PARTY A**

**PARTY B**

By:

By:

Name:

Name:

Title:

Title:

Date:

Date: