

**Order of the minister of economy and finance no. 2840-13 of 22<sup>nd</sup> Safar 1435 (26<sup>th</sup> December 2013) approving the standard model framework agreement on securities lending operations.**

THE MINISTER OF ECONOMY AND FINANCE,

Having regard to law no. 45-12 on securities lending enacted by Dahir no. 1-12-56 of 14<sup>th</sup> Safar 1434 (28<sup>th</sup> December 2012), in particular article 9 thereof;

Having regard to Decree no. 2-13-274 of 15<sup>th</sup> Ramadan 1434 (24<sup>th</sup> July 2013) adopted for the application of law

no. 45-12 on securities lending, in particular article 2 thereof,

HEREBY ORDERS:

ARTICLE ONE - the standard model framework agreement on securities lending operations elaborated by the Moroccan Capital Market Authority (AMMC) is hereby approved and annexed to this order.

ART. 2. - This order shall be published in the Official Gazette.

*Rabat, on 22<sup>nd</sup> Safar 1435 (26<sup>th</sup> December 2013).*  
MOHAMMED BOUSSAID

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### **Standard model framework agreement on securities lending operations**

#### **Between the undersigned**

**“Party A”**

.....

represented, by virtue of the powers conferred upon them, by [●], holder of national identity card or equivalent no. [●], in their capacity as [●].

**ON THE ONE HAND,**

AND

**“Party B”**

.....

represented, by virtue of the powers conferred upon them, by [●], holder of national identity card or equivalent no. [●], in their capacity as [●].

**ON THE OTHER HAND,**

Hereinafter referred to as the “Parties”

#### **PRESENTATION**

The Parties hereby agree and decide that securities lending operations concluded between them are governed by this framework agreement hereinafter referred to as “Agreement”, its annexes and by all the legal provisions applicable to it, in particular those provided for in articles 856 to 869 inclusive of Dahir of 9<sup>th</sup> Ramadan 1331 (12<sup>th</sup> August 1913) on the Code of Obligations and Contracts and by law no. 45-12 on securities lending.

## Article 1 – Definitions

For the purposes of this framework agreement, the following definitions shall apply:

*Calculation agent:* a person (whether a party or a third party) designated in annex I to this agreement whose role is to make certain determinations and calculations related to the securities lending operation, including the cancellation balance, on behalf of a determined party or, as the case may be, of both parties once agreed upon by the latter in Annex I to this agreement.

*Event of default:* any event referred to in article 11 of the agreement.

*New circumstance:* any event referred to in article 11 of the agreement.

*Confirmation:* an exchange in writing, in accordance with the model set out in Annex I to this framework agreement, which certifies the completion of each securities lending operation.

*Delivery Date:* the date on which the lender delivers the securities lent to the borrower in accordance with the market management rules.

*Termination Date:* the date specified by the notice of termination as from which the parties are released from any payment or delivery obligation for terminated operations following an event of default or the occurrence of a new circumstance, as provided for in chapter IV of the aforementioned law no. 45-12.

*Return Date:* the date on which the borrower returns the securities borrowed to the lender in accordance with the market management rules.

*Habitual delivery time limits:* the habitual time limits required for delivering securities or transferring financial assets, as determined by the regulations, professional standards and practices in effect for the assets concerned.

*Loan period:* a period freely determined by the parties during which the securities are lent and which may not exceed the maximum loan period of one year, in accordance with article 8 of the aforementioned law no. 45-12.

*Guarantee or delivery:* cash and/or securities provided as collateral for securities lent.

*Interest on late payment:* amount due by the defaulting party in the event of late payment of any amount due under the agreement or in the event of delivery or return of the securities on a date later than the date of delivery or return agreed.

*Intermediary:* a bank or any other body authorized by the administration, after consulting the Securities Ethics Council (CDVM), to carry out securities lending operations, in accordance with article 6 of the aforementioned law no. 45-12.

*Business day:* any day the Moroccan securities markets are open and the securities settlement systems are operational.

*Borrowing persons:* legal entities subject to corporate income tax, undertakings for collective investment in transferable securities as defined by the Dahir providing law no. 1-93-213 of 4<sup>th</sup> Rabii II 1414 (21<sup>st</sup> September 1993) on undertakings for collective investment in transferable securities and companies investing in risk capital as defined by law no. 41-05 on companies investing in risk capital.

*Additional delivery:* cash and/or securities delivered in full ownership to take into account the evolution of the value of the securities lent.

*Termination balance:* amount determined on the date of cancellation by the calculation agent in accordance with the provisions of article 11 of this agreement.

## Article 2. – Declarations

2.1 For the purposes of this agreement, each party shall declare and certify in accordance with the provisions of article 10 of the aforementioned law no. 45-12:

- that it is regularly constituted and that it carries out its activities in accordance with the laws and regulations in force, the articles of association and other documents applicable to it;
- that it has full authority and capacity to enter into the framework agreement and any securities lending operations related thereto and that these have been validly authorized by its management board or by any other competent board;
- that the conclusion and execution of this framework agreement and any securities lending operation related thereto shall not contravene any provision of the laws or regulations in force or any articles of association or other documents applicable to this party;
- that all authorizations that may be necessary for the conclusion and execution of this framework agreement and any securities lending operation related thereto have been obtained and remain valid;
- that no event of default provided for in article 19 of law no. 45-12 exists as far as it is concerned;
- that it has the knowledge and experience necessary for the assessment of the benefits and the risks incurred in respect of each securities lending operation and that it has not relied on the other party to do so;
- that the securities lending operations entered into pursuant to this framework agreement and the law and regulations governing securities lending constitute a set of rights and obligations that are binding against it in its entirety, and;
- that no action, arbitral or judicial procedure, or any administrative or other measure has been brought against it that could result in a manifest and substantial deterioration in their activities,

assets or financial position or which could affect the validity or proper performance of the framework agreement and any related securities lending operation.

2.2 Upon the conclusion of the lending operation, the lender declares and ensures that all securities lent under the framework agreement are free and clear of any liens, claims, security or encumbrance, and that none of these securities have been sold.

2.3 The borrower declares that they can only use the lender's securities as from their actual delivery.

2.4 When one of the parties acts on behalf of a principal, they shall declare it to the other party at the time of the conclusion of the lending operation.

2.5 The parties acknowledge that this agreement is valid whether they have the status of lender or borrower.

2.6 The parties declare that this agreement conforms to the model approved by the order of the minister..... no..... of... In addition, in the event of special stipulations, the parties undertake, prior to the conclusion of any securities lending operation, to have the aforementioned stipulations approved by the CDVM according to the procedures laid down in the CDVM circular.

#### Article 3. - Eligible securities

Pursuant to the provisions of article 4 of law no. 45-12 on securities lending, the parties acknowledge that only the following are eligible for securities lending operations covered by this agreement:

- transferable securities listed on the Stock Exchange, as referred to in article 2 of the Dahir providing law no. 1-93-211 of 4<sup>th</sup> Rabii II 1414 (21<sup>st</sup> September 1993) on the Stock Exchange;
- marketable debt securities defined by law no. 35-94 on certain marketable debt securities;
- securities issued by the Treasury.
- Any limitation on the list of securities eligible for lending operations shall be specified, if applicable, in Annex III to this agreement.

#### Article 4. - Terms and conditions for the conclusion of loans and the delivery of securities

4.1 Securities lending operations are concluded by all means, including the telephone, and take effect between the parties as soon as the latter exchange their consent. Also, the parties acknowledge and accept that all telephone conversations taking place between them in connection with the conclusion and execution of their loans are registered and already acknowledge their probative effect.

4.2 The conclusion of each securities lending operation shall be followed by an exchange of written confirmation, the model of which is drawn up in Annex I to this agreement.

4.3 Any notification made pursuant to this agreement must be made by letter, telex, facsimile or any electronic or digitized transmission providing a sufficient degree of

security and reliability for the parties and shall take effect upon its receipt.

4.4 In the event of disagreement on the terms of a confirmation, which shall be notified immediately to the other party, each party may refer to their telephone records as a mode of proof to establish the terms of the corresponding loan.

4.5 As from the conclusion of the lending operations, the parties undertake to address their instructions to their respective intermediaries in order to initiate the settlement flows in accordance with the market management rules.

#### Article 5. - Transfer of the securities lent

Without prejudice to the obligations of the borrower vis-à-vis the lender, in particular the return of the securities under the conditions and deadlines agreed, the lender authorizes the borrower to transfer the securities subject to the loan.

In the event that the lender does not grant the borrower a permanent authorization to transfer all the securities lent under the agreement, provisions in this regard must be specified in Annex I for each operation.

#### Article 6. - Remuneration of the lender

6.1 For each lending operation, the borrower pays to the lender a loan remuneration. The latter is obtained by the product of the annual rate and the value of the securities lent, as set by the parties in Annex I to this agreement, pro rata temporis to the period of the loan (based on the exact number of days elapsed in the period from the date of delivery (included) or the date of actual delivery of the securities lent to the borrower, if that date is posterior, to the return date (excluded) or the date of actual return of the securities lent to the lender, if this date is posterior).

The parties may agree on a minimum amount of this remuneration in Annex I to this agreement.

6.2 The remuneration is paid to the lender on the return date of the securities or on any dates agreed upon by the parties and specified by them in Annex I to this agreement.

#### Article 7. - Change of the return date of the securities

7.1 In accordance with the provisions of article 13 of the above-mentioned law no. 45-12, the parties may agree on the possibility of changing the return date, initially determined by them, of all or part of the securities lent.

In such cases, they specify the following information:

- events whose occurrence results in changes to the return date;
- the term of the notice;
- the potential financial compensation.

In the absence of any specification in this agreement, the parties shall determine, for each operation,

the procedures relating to the right to change the said date in Annex V-I to this agreement.

7.2 The borrower may at any time request an extension of the return date of all or part of the securities lent coming due. The lender, without justifying their reply and taking into account the habitual delivery periods, informs the borrower in writing of their consent or refusal to extend the loan. In the event of a favorable response, the parties then agree on the extension procedures, which have no effect of novation on the loan in question or any guarantee already constituted.

7.3 Any change of the return date of the securities or extension must respect the principle that the total duration of the securities lending operation may not exceed one year as from the date of the initial agreement.

7.4 In case a general meeting giving rise to the exercise of voting rights of the holders of the securities lent is convened: (tick the corresponding box))

[ °] The lender recovers the securities lent (in this case specify the period for notification by the lender to the borrower of the acceleration of the return date of the securities; the minimum period being 2 working days in addition to the habitual delivery periods before the deadline for exercising the rights in question);

[ °] The lender does not recover the securities lent and the borrower can participate in the general meeting.

Failing to tick one of the boxes above, the parties shall agree for each operation in Annex V-2 to this agreement on whether or not the securities should be returned for the purpose of attending the general meeting.

#### Article 8. – Assets pledged as collateral

8.1 In accordance with the provisions of article 12 of the above-mentioned law no. 45-12, the parties may agree on the delivery of securities and/or cash as collateral upon each securities lending operation.

Any limitation on the list of securities eligible for collateral is specified, where appropriate, in Annex III to this agreement.

The parties designate the assets provided as collateral in Annex IV to this agreement.

8.2 The lender undertakes to use the collateral only in the event of default by the borrower.

8.3 The collateral must be free and clear of any liens, claims, security or encumbrances and the lender shall be the definitive owner of the collateral and shall be free to dispose of it without the borrower's permission in the event of default by the latter.

#### Article 9. - Additional deliveries

9.1 In accordance with the provisions of article 12 of the above-mentioned law no. 45-12, the parties may agree, upon each securities lending operation, on additional cash and/or securities deliveries, to take account of changes in the value of the securities lent and/or of the securities and/or cash provided as collateral.

The parties designate the additional assets delivered in Annex IV to this agreement.

9.2 Where additional deliveries are provided for, the parties agree on the terms and conditions for their implementation in Annex IV to this agreement.

#### Article 10. – Default interest

In the event of a delay in the payment of any sum due under this agreement or a delay in the delivery or the return of the securities by one of the parties, this party must, without delay, pay default interest to the other party which shall be due as of right until the effective date of payment or delivery and without prior formal notice.

The rate of delay and the calculation methods are defined below...

Failing any specification in this agreement, the rate of delay and the calculation methods are set out in Annex V to this agreement.

#### Article 11. - Termination of securities lending operations

11.1 Securities lending operations, concluded pursuant to this framework agreement, may be terminated, in the event of default by any of the parties or in the event of new circumstances, in accordance with articles 19 to 26 of law no. 45-12 above-mentioned and under the conditions set out below.

11.2 Any of the following events constitute an event of default by one of the parties:

- non-compliance with any of the provisions of law no. 45-12 above-mentioned, of this framework agreement or of a securities lending operation which has not been remedied, either upon notification of the non-compliance by the non-defaulting party where the said non-compliance relates to the constitution or return of additional deliveries, or within three (3) working days of the said notification, in other cases;
- any declaration provided for in article 2 of this framework agreement that is found to have been inaccurate at the time it was made by the defaulting party or to have ceased to be accurate;
- the declaration by that party to the other party of the impossibility or refusal to settle all or part of its debts or to fulfill its obligations, the opening of an amicable settlement procedure provided for in Title I of Book V of law no. 15-95 on the Commercial Code, the opening of a procedure for judicial reorganization and liquidation provided for respectively in Title II and III of Book V of the same law, the appointment of a provisional director as well as any equivalent procedure;
- the de facto cessation of activity.

11.3 in accordance with the 2<sup>nd</sup> paragraph of article 19 of law no. 45-12 above-mentioned, the time limit for non-compliance if this non-compliance does not relate to the constitution or return of additional deliveries is three (3) working days from the notification of the non-compliance.

11.4 The occurrence of an event of default under article 19 of law no. 45-12 above-mentioned entitles the non-defaulting party, upon simple notification to the defaulting party, to suspend the performance of its payment and delivery obligations and to terminate all ongoing lending operations between the parties. This notification shall specify the event of default claimed and the termination date chosen, which may not exceed twenty (20) days from the date of notification.

11.5 Any of the following events constitute new circumstances for a party:

- the entry into force of a new law or regulation, the amendment to a law or any mandatory text, which results in a lending agreement being unlawful for the party concerned or an obligation to proceed with a deduction or new withholding of a fiscal nature from an amount it shall receive from the other party in respect of the said lending agreement or;
- any merger or demerger affecting the party concerned or any transfer of assets by the latter resulting in an evident and substantial deterioration in its business, assets or financial situation;

11.6 Upon the occurrence of a new circumstance referred to in the 1<sup>st</sup> paragraph of article 21 of law no. 45-12 above-mentioned, any party becoming aware thereof shall inform the other party of this occurrence as soon as possible by listing only the securities lending transactions concerned by this new circumstance. The parties shall then suspend the execution of their payment and delivery obligations only for the securities lending transactions concerned and shall seek in good faith for a period of thirty (30) days a mutually satisfactory solution.

If at the end of this period no mutually satisfactory solution can be reached, either party or the party receiving less than the amount provided for may notify the other party of the termination of the securities lending transactions concerned by the new circumstance only. This notification shall specify the termination date chosen, which may in no case exceed twenty (20) days from the date of notification.

Upon the occurrence of a new circumstance referred to in the 2<sup>nd</sup> paragraph of article 21 of law no. 45-12 above-mentioned, all securities lending transactions shall be considered affected by the said circumstance. The party not affected by this new circumstance shall then have the right, upon simple notification to the other party, to suspend the performance of its payment and delivery obligations and terminate all securities lending transactions in progress between the parties. This notification shall specify the chosen termination date, which may in no case exceed twenty (20) days from the date of notification.

11.7 Without prejudice to the effects of the termination of securities lending transactions as provided for in the aforementioned law no. 45-12, the calculation agent shall determine a termination balance in accordance with the terms and conditions set out below:.....

Failing any specification in this agreement, the methods of calculation of the termination balance are set out in Annex V to this agreement.

The calculation agent shall notify the other party as soon as possible of the amount of the termination balance and the details of the calculations used to determine it. These calculations shall be final upon their notification and, in the absence of a manifest error, cannot be contested.

The party liable for the termination balance shall make the relevant payment to the other party within three (3) working days from the notification referred to in the preceding paragraph.

#### Article 12. - Duration of the agreement

12.1 This agreement is concluded for an indefinite period. It may be terminated at any time, by registered letter with acknowledgment of receipt; the said termination takes effect upon the expiry of a period of twenty (20) working days following its receipt.

12.2 This agreement shall, however, continue to govern the relations between the parties for all loans entered into prior to the entry into effect of the said termination.

#### Article 13. – Informing intermediaries

In accordance with the provisions of article 6 of law no. 45-12 above-mentioned, securities lending operations may only be carried out through a bank or any other authorized body. Also, the parties undertake, as soon as this agreement is concluded, to send a copy thereof to their bank and/or to the body of their choice authorized by the administration.

#### Article 14. - Declaration to the company managing the Stock Exchange.

In accordance with the provisions of article 24 of law no. 45-12 above-mentioned, and in the event of circumstances resulting in the definitive transfer of ownership of listed securities, both parties undertake to declare the transaction in accordance with the procedures determined by the managing company, which shall proceed with its registration.

#### Article 15. – Non-waiver

The non-exercise or late exercise by a party of any right, power or privilege arising from the Agreement shall not constitute a waiver of the right, power or privilege in question.

#### Article 16. -Waiver of immunities

The agreement is of a commercial nature. The parties irrevocably waive any immunity from legal proceedings or from execution they may benefit from both in respect of themselves and in respect of their present or future property.

## Article 17. - Loans concluded on behalf of third parties

Where a signatory to the agreement acts on behalf of a principal whose identity has been disclosed, that principal shall be a party to the agreement and to the loans. The agreement then applies exclusively to loans concluded in the name and on behalf of the principal.

The signatory acting under a mandate:

(a) declares and certifies that it has all authorizations necessary to bind its principal and that it has ensured that the principal was fully bound by the terms of the agreement as well as any loan entered into in its name and on its behalf;

(b) undertakes to facilitate any contact between its principal and the other party and disclose to the latter any event of default or new circumstances affecting its principal of which it has knowledge.

Loans in respect of which one party acts on behalf of a third party without having previously and expressly disclosed to the other party the identity of the said third party shall be binding on the party acting on behalf of the third party in the same way as if it were acting on its own behalf and on its own account.

## Article 18. - Law applicable and attribution of jurisdiction

18.1 This agreement is subject to Moroccan law. In case of translation, only the original signed version shall be binding.

18.2 Any dispute relating to the validity of the agreement, its interpretation or its execution shall, failing an amicable settlement, be subject to the jurisdiction of the courts falling within the jurisdiction of the Commercial Court of [o].

Done in [e] on [o]

**"Party A"**

**"Party B"**



## ANNEX I

## CONFIRMATION MODEL OF A SECURITIES LENDING TRANSACTION

Securities subject to the securities lending	<i>Indicate the characteristics and quantity of the securities subject to the loan</i>	
Maroclear Code		
Value of the securities		
Borrower	<i>Party A or Party B</i> <input type="checkbox"/> Own account      Mandate <i>(tick the corresponding box)</i>	
Lender	<i>Party A or Party B</i> <input type="checkbox"/> Own account      Mandate <i>(tick the corresponding box)</i>	
Calculation agent		
Delivery date of the securities	DD/MM/YY	
Delivery terms		
Return date of the securities	DD/MM/YY	
Transfer of securities	<i>(tick the corresponding box)</i>  <input type="checkbox"/> The borrower is authorized to transfer the securities borrowed freely. <input type="checkbox"/> The borrower is authorized to transfer the securities borrowed subject to the following conditions: - (to be completed by the lending party) - <input type="checkbox"/> The borrower is not authorized to transfer the securities borrowed.	
Remuneration of the loan	<i>Rate</i>	
	<i>Method of calculation and payment</i>	$\frac{\text{Base (value of the securities)} \times \text{rate} \times \text{number of days (duration of the loan)}}{360}$
	<i>Minimum amount</i>	
	<i>Payment date</i>	
Remuneration of the borrower relating to the delivery of cash as collateral, if applicable	<i>Rate</i>	
	<i>Method of calculation and payment</i>	$\frac{(\text{amount of the guarantee}) \times \text{rate} \times \text{number of days (duration of the loan)}}{360}$
	<i>Payment Date</i>	

Signature of Party A

Signature of Party B

ANNEX II  
ADMINISTRATIVE PARAMETERS OF A SECURITIES LENDING OPERATION

	<b>Party A</b>	<b>Party B</b>
Corporate name or full name		
Address to which notifications should be sent	<i>(Failing an indication, the registered office)</i>	<i>(Failing an indication, the registered office)</i>
Office concerned	<i>(Failing an indication, the registered office)</i>	<i>(Failing an indication, the registered office)</i>
Telephone no.		
Fax no.		
Full name of the persons authorized to enter into securities lending operations		

**Signature of Party A**

**Signature of Party B**



## ANNEX III

## LIST OF SECURITIES ELIGIBLE FOR THE LOAN AND GUARANTEE

	Securities lent	Securities provided as collateral
Transferable securities listed on the Stock Exchange		
Marketable debt securities		
Securities issued by the Treasury		

Signature of Party A

Signature of Party B

ANNEX IV  
DELIVERIES AND COLLATERAL MANAGEMENT

Assets provided as collateral to [Party A]	<i>Securities</i>	<i>Cash</i>
Assets provided as collateral to [Party B]	<i>Securities</i>	<i>Cash</i>
Valuation methods for securities provided as collateral		
Assets in respect of additional deliveries of [Party A]	<i>Securities</i>	<i>Cash</i>
Assets in respect of additional deliveries of [Party B]	<i>Securities</i>	<i>Cash</i>
Valuation methods for securities admitted as an additional delivery		
Delivery dates for collateral	<i>Cash</i> <i>Securities</i>	
Time limits for additional deliveries	<i>Cash</i> <i>Securities</i>	
Trigger thresholds: deliveries increasing the collateral of [Party A] or reducing the collateral of [Party B]		
Trigger thresholds: deliveries increasing the collateral of [Party B] or reducing the guarantee of [Party A]		
Substitution of collateral securities, if applicable	<i>Specify the conditions for this substitution.</i>	
Delivery terms		

Signature of Party A

Signature of Party B

## ANNEX V

**Annex V-1 – Change of the return date of securities**

Change of the return date of securities (tick the corresponding box)  <input type="checkbox"/> A part of the securities subject to the loan <input type="checkbox"/> All of the securities subject to the loan	<i>-Events whose occurrence leads to the amendment:</i>   <i>- Period of notice:</i>   <i>- Possible financial compensation:</i>
Termination balance, if applicable	<i>Specify the methods for calculating the termination balance</i>
Default interests	<i>Delay rate</i> <i>Method for calculating default interests:</i>

Signature of Party A

Signature of Party B

**Annex V-2- Participation in meetings**

Tick the corresponding box

- ☐ The lender recovers the securities lent (in this case specify the time limit for the lender to notify the borrower of the acceleration of the return date of the securities; the minimum time limit being two (2) working days in addition to the habitual delivery periods before the deadline for exercising the rights in question).
- ☐ The lender does not recover the securities loaned and the borrower may attend the general meeting.

Signature of Party A

Signature of Party B

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