

It is expected that users of this Annex will produce this Annex I on their word processor and simply attach it to a photocopy of the 1995 GMRA. Annex I in the standard 1995 GMRA should be ruled through and initialled.

ANNEX I

Supplemental Terms and Conditions

Paragraph references are to the paragraphs in the Agreement.

1. The following elections shall apply:

- | | | |
|------------------|-----------------|---|
| (a) ¹ | Paragraph 1: | Buy/Sell Back Transactions may be effected under this Agreement, and accordingly Annex III will apply. |
| (b) ² | Paragraph 1: | Agency Transactions [may][may not] be effected under this Agreement, and accordingly Annex IV [will][will not] apply. |
| (c) ³ | Paragraph 2(c): | <p>The Base Currency shall be:</p> <ul style="list-style-type: none">(i) for the purpose of paragraph 10, where the relevant Event of Default is the event set out in paragraph 10(a)(iv) and an amount is due and payable by the Defaulting Party to the non-Defaulting Party in accordance with paragraph 10(c)(ii), the currency of the jurisdiction in which the Defaulting Party is incorporated;(ii) in all other cases, Australian Dollars. |
| (d) ⁴ | Paragraph 2(y): | The pricing source for calculation of the Market Value shall be the relevant page of Bloomberg or, if that page is not published for the relevant day, any other pricing source as reasonably agreed between the parties. |

¹ This election allows Buy/Sell Back Transactions.

² Alternative provisions have been provided for parties that do or do not intend to allow Agency transactions under the Agreement. If Agency transactions are to be allowed, then consequential amendments to Annex IV are included (at paragraph 2(o)). These are self-explanatory, and are consequent on the 1995 GMRA being governed by the laws of New South Wales.

³ The Base Currency is defined to be Australian dollars. The exception in sub-paragraph 1(c)(i) covers the currency of payments by the Defaulting Party to the non-Defaulting Party when Acts of Insolvency occur with respect to the Defaulting Party. In this event, the currency of the payment is that of the jurisdiction in which the Defaulting Party is incorporated. In some insolvency jurisdictions we believe this can facilitate payment from an insolvent Defaulting Party. In all other cases of default, the Base Currency will be Australian dollars. Sub-paragraph (i) will be of relevance only to transactions involving offshore counterparties.

⁴ Defines the pricing source for the calculation of Market Value as the relevant page of Bloomberg or, failing that, as reasonably agreed between the parties.

(e) ⁵	Paragraph 3(b):	Both Seller and Buyer to deliver Confirmation.
(f) ⁶	Paragraph 4(f):	Interest rate on Cash Margin to be the Cash Rate. Simple interest to be accumulated daily and payable as agreed between the parties or, failing agreement, monthly.
(g) ⁷	Paragraph 4(g):	Delivery period for margin calls to be: (i) if a margin call is made on or before 11.00am [Sydney] time on a Business Day, on that Business Day; or (ii) if a margin call is made after 11.00am [Sydney] time on a Business Day, on the next Business Day.
2. ⁸	The Agreement is amended as follows:	
(a) ⁹	Paragraph 2(a)(vi):	Insert “or equivalent Australian legislation” after “1986”.
(b) ¹⁰	Paragraph 2(ea):	Insert a new paragraph 2(ea) as follows: ““Cash Rate”, the interbank overnight cash rate calculated by the Reserve Bank of Australia, as displayed on Reuters Screen RBA30 or any other widely published electronic page. If no such rate is available from Reuters Screen RBA30 or any other widely published electronic page, the rate shall be another rate reasonably agreed between the parties except that if the parties cannot agree, the rate shall be equal to the best bid rate reasonably obtainable by [Party A] in the market for overnight unsecured Australian dollar cash deposits in the relevant currency (as certified by [Party A] such certificate to be conclusive in the absence of manifest error)”.
(c) ¹¹	Paragraph 2(u):	Delete the definition of “LIBOR”.

⁵ This specifies that both Buyer and Seller must deliver Confirmations.

⁶ This provision provides a method to determine the interest rate on the Cash Margin, being simple interest calculated daily. The date for the payment of interest is to be as agreed between the parties or, should the parties be unable to agree, monthly.

⁷ This paragraph provides for the delivery period for margin calls with a distinction drawn between margin calls made before and after 11.00am.

⁸ These sub-paragraphs set out a number of amendments to the 1995 GMRA, some being consequent on the 1995 GMRA being used in an Australian context.

⁹ This amendment is included to clarify that Australian insolvency legislation is intended to apply.

¹⁰ Paragraphs 2(b) and (c) replace the use of LIBOR with a source for the Cash Rate which is more relevant to Australian transactions. The paragraph uses the daily reference rate for overnight unsecured cash as published on Reuters Monitor System Page RBA30 or, failing that, an agreed rate and failing that the best bid rate reasonably obtainable by a designated party to the transaction. Participants are reminded that using this definition of Cash Rate requires the agreement of the parties as to which will be the designated party. A consequential amendment to paragraph 10(d) is mentioned below (see footnote on 2(k)).

(d) ¹²	Paragraph 2(dd):	Replace “on a 360 day basis or 365 day basis in accordance with the applicable ISMA convention, unless otherwise agreed between the parties for the Transaction” with “on a 365 day basis”.
(e) ¹³	Paragraph 3(b):	After (“Confirmation”).”, insert “Confirmations may be in writing or sent by telex, electronic messaging system or other means agreed between the parties.”
(f) ¹⁴	Paragraph 3(e):	Insert “A demand for Termination must be given no later than 11.00am [Sydney] time on a Business Day if Termination is to occur on that Business Day” at the end of the paragraph.
(g) ¹⁵	Paragraph 4(a):	Replace with: “If at any time either party has a Net Exposure in respect of the other party, it may by notice to the other party require that Net Exposure to be eliminated by the repricing of Transactions under sub-paragraph (j) below. The Transactions to be repriced shall be agreed between the parties before the close of business on the day on which such notice is received or, if agreement has not been reached by that time, shall be as determined by the party with the Net Exposure.”
	Paragraph 4(g):	Replace “sub-paragraph (a) above” with “sub-paragraph (i) below.”
	Paragraph 4(i):	Replace with: “The parties may agree that a particular Net Exposure which may arise shall be eliminated not by a repricing in sub-paragraph (j) below but by:- (i) the making of a Margin Transfer to the party having the Net Exposure of an aggregate amount or value at least equal to that Net Exposure; or (ii) the adjustment of Transactions under sub-paragraph (k) below; or

¹¹ See footnote on 2(b).

¹² This amendment applies a “365 day basis” for the Pricing Rate, in accordance with Australian market practice.

¹³ This amendment allows the parties to use other agreed methods of Confirmations, such as telex or electronic messaging system.

¹⁴ This amendment clarifies the procedure for Termination demands.

¹⁵ These provisions amend paragraph 4 of the Agreement. The Agreement, when unamended, gives either party the right, when it has a Net Exposure, to make a call for a Margin Transfer. It then further provides that if they so agree, they can either reprice the transaction or reset it. These provisions change this emphasis by making repricing or resetting the standard with margining an option which can be agreed on.

		(iii) by a combination of both these methods.”
(h) ¹⁶	Paragraph 6(h):	Replace “shall be combined in a single calculation of a net sum” with “may be combined, if agreed by the parties, in a single calculation of a net sum”.
(i) ¹⁷	Paragraph 6(i):	Replace “shall be combined in a single calculation of a net quantity of Securities” with “may be combined, if agreed by the parties, in a single calculation of a net quantity of Securities”.
(j) ¹⁸	Paragraph 9(i):	Replace “UK tax” with “Australian tax”.
(k) ¹⁹	Paragraph 10(d):	Replace “LIBOR” with “the Cash Rate”
(l) ²⁰	Paragraph 12:	Replace “LIBOR on a 360 day basis or 365 day basis in accordance with the applicable ISMA convention” with “the Cash Rate on a 365 day basis”.
(m) ²¹	Paragraph 17:	Replace with: “This agreement is governed by the law in force in New South Wales. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.”
(n)	Paragraph 19:	Replace “England” with “New South Wales”.
[(o) ²²	Annex IV, paragraph 5(b)(ii):	Replace: (i) the words “Great Britain” with “New South Wales”; (ii) the word “England” with “New South Wales”; (iii) the words “the United Kingdom” with “New South Wales”.]

3 The following supplemental terms and conditions shall apply to all Transactions:

¹⁶ Paragraphs (h) and (i) amend the payments netting and securities netting provisions so that they operate only if the parties agree.

¹⁷ See footnote on 2(h).

¹⁸ Replaces “UK tax” with “Australian tax”.

¹⁹ See footnote on 2(b).

²⁰ See footnote on 2(b).

²¹ This paragraph alters the governing law of the Agreement to that of New South Wales.

²² See footnote on 1(b).

-
- (a)²³ If any of the events listed in sub-paragraphs (i) or (iii) of paragraph 10(a) occurs, no such event shall be an Event of Default unless continuing unrectified by close of business on the third Business Day following notice of that event being served by the non-Defaulting Party on the Defaulting Party.
- (b)²⁴ All transactions entered into between the parties prior to the date of this Agreement having the characteristics of a Repurchase Transaction or Buy/Sell Back Transaction, and whether or not entered into under the terms of a master agreement shall be deemed to have been entered into under the terms and conditions set forth in this Agreement, and shall be governed by such terms and conditions hereafter.
- (c)²⁵ If the parties have previously entered into an ISDA Master Agreement (published by International Swaps and Derivatives Association Inc.) with each other, that Agreement is amended by the deletion of the September 1992 Australian Addendum No. 9 - Reciprocal Purchase Agreements, if that addendum forms part of that Agreement and, despite anything in that Agreement, nothing in that Agreement means that a particular Transaction is governed by that Master Agreement rather than this Agreement.
- (d)²⁶ Neither party may require the repricing of a Transaction under paragraph 4(a) or a Margin Transfer to it under paragraph 4(i) if its Net Exposure in respect of the other party is less than AS\$[].
- (e)²⁷ If there is any inconsistency between the terms of this Annex and the terms of the printed form PSA/ISMA Global Master Repurchase Agreement, then the terms of this Annex prevail.
- (f)²⁸ For the purpose of paragraph 2(l) Designated Offices are as follows:
- Party A: [Sydney][any] office.

²³ **3 days grace.** This provision gives 3 days grace to the Defaulting Party if one of the Events of Default in paragraph 10(a)(i) or (iii) occur. These sub-paragraphs relate to the failure of a party to pay the purchase or repurchase price or to make an income payment. The Agreement requires the non-Defaulting Party to serve a Default Notice and it is from the serving of this notice that this provision allows three days grace prior to the event in question being considered an Event of Default. This is consistent with the 1992 ISDA Master Agreement. If this provision is not included, then the Event of Default occurs upon the serving of the Default Notice.

²⁴ **Prior transactions.** This provides that previous transactions between the parties with the characteristics of a sale and reciprocal purchase are deemed to have been entered into under the terms and conditions of the 1995 GMRA. Should the parties want to exclude a particular Transaction or group of Transactions from the operation of this provision, then it is suggested that the following additional wording be used: "The following Transactions are excluded from the application of this provision and are not governed by the terms of this Agreement: [describe transactions, eg by deal number]".

²⁵ **Previous ISDA Agreement.** This clause allows parties to agree to amend any previously entered ISDA Master Agreement by deleting the September 1992 Australian Addendum No. 9 to ensure that there is no confusion about which master agreement governs future repos. The clause also provides that where an earlier Agreement specifically states that a particular Transaction is governed by that Agreement, then the parties agree that the Transaction in question is now governed by this Agreement.

²⁶ **Repricing threshold.** This clause allows the parties to specify a minimum Margin Transfer amount. The parties must agree on an actual dollar amount to include in the clause.

²⁷ **Inconsistency.** An interpretation provision.

²⁸ **Nomination of Designated Offices.** This enables parties to enter into transactions only through branches or offices in jurisdictions in respect of which they have obtained legal opinions as to the efficacy of the netting provisions of the Agreement. If parties do not wish to restrict the offices through which repos can be transacted, then the option of "any office" should be included.

²⁹ Although the Events of Default in the 1995 GMRA are similar to the Events of Default in the 1992 ISDA Master Agreement, there is at least one Event of Default in the 1995 GMRA which is materially different from the 1992 ISDA equivalent. It is paragraph (iv) of “Act of Insolvency” which relates to the institution of insolvency proceedings against a party. In the 1992 ISDA Master Agreement the institution of insolvency proceedings does not result in an Event of Default if the proceedings are “dismissed, discharged, stayed or restrained” within 30 days. In the 1995 GMRA, the Event of Default occurs immediately on a petition for winding up being presented.

We suggest that parties consider amending paragraph (iv) to provide that the Event of Default does not occur if the proceedings are stayed or dismissed within 30 days. Of course this is a credit issue and the desirability of having these words to protect a participant from frivolous claims must be weighed against the desirability of having the ability to close out quickly when it is the other party who is the defaulting party. At the very least participants should appreciate the different treatment of these issues in the 1995 GMRA and ISDA.

To effect the amendment, you would simply delete the third set of bracketed words in paragraph (iv) of the “Act of Insolvency” definition.

The following is an excerpt of the Guide to OTC documents published by the Australian Financial Markets Association. The Australian Financial Markets Association has provided it to the International Securities Markets Association for information purposes only and this does not constitute legal or other professional advice given to, or which can be relied on by, the International Securities Markets Association or any member of it. The opinions given in this excerpt are provided to subscribers of the Guide to OTC Documents only and are subject to the other parts of the Guide to OTC Documents including all of the qualifications and assumptions set out in it.

[26.23] **Mallesons Supplemental Opinion on AFMA Annex I to the 1995 and 2000 GMRA**

This is a supplementary opinion on both the AFMA Annex I to the 1995 GMRA ("1995 Annex I") and the AFMA Annex I to the 2000 GMRA ("2000 AFMA Annex I"). It relates to the laws of the Commonwealth of Australia, New South Wales, Victoria, Queensland, Western Australia and the Australian Capital Territory (together, the "**Relevant Jurisdictions**").

We have assumed that the blanks in the 1995 AFMA Annex I and 2000 AFMA Annex I will be completed simply by making one of the variable elections or filling in blanks - ie no additional text is added beyond that clearly contemplated by those annexes.

We note that we have given an opinion dated 28 March 2003 on the 1995 GMRA and 2000 GMRA ("**Main Opinion**").

This opinion is:

- (a) confined to matters of the laws of the Relevant Jurisdiction and we express no opinion with regard to any system of law other than the laws of the Relevant Jurisdictions; and
- (b) subject to the same assumptions and qualifications as the Main Opinion.

Subject to the above, we are of the opinion that as at the date of the Main Opinion under the laws of the Relevant Jurisdictions:

- (i) the provisions in the 1995 AFMA Annex I and 2000 AFMA Annex I would be enforceable in accordance with their terms; and
- (ii) none of the provisions affects or detracts from the advice contained in the Main Opinion.

It is necessary for participants to determine in each case the suitability of a 1995 AFMA Annex 1 or a 2000 AFMA Annex I to the particular circumstances applicable to that case. This analysis is not intended to be an opinion on which participants can rely in actual transactions. Instead, it is intended as an aid in understanding issues which arise under Australian laws when participants want to enter into netting arrangements. Accordingly, while every care has been taken in preparing this analysis, Mallesons do not accept responsibility for any losses suffered by contracting in the manner recommended in this analysis or arising from any error or omission in this analysis.