

## Annex I

## Guidance for Automated Interim and Annual Financial Returns

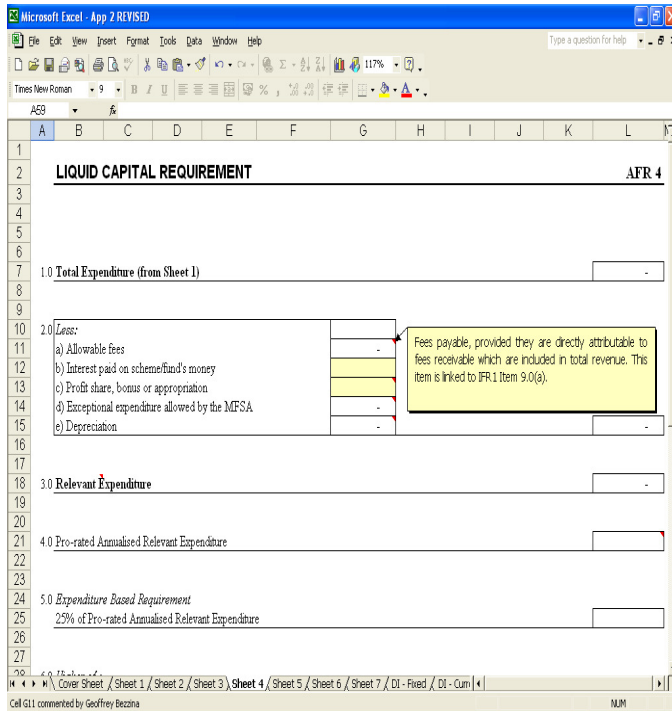
### General

- a) This Annex provides guidance for Retirement Scheme Administrators, Retirement Fund Administrators and Recognised Custodians ('the Registered Person' as applicable) when completing the automated Interim Financial Return ("IFR") and the automated Annual Financial Return ("AFR"). Unless otherwise specified, explanatory notes in this Appendix refer to both the IFR and AFR. The term "Returns" is used throughout this document and refers to both the IFR and AFR.
- b) There is one Excel file - APP 2.XLS - for both the AFR and IFR. This file has been optimised for use on Microsoft Excel 97. Some functions may not work if converted for use with other software or previous versions of Excel.
- c) Each Return consists of ten worksheets. To select a worksheet, move the pointer on any of the worksheets and click. The worksheets are password protected and all cells are locked except for the "yellow" cells which are write-enabled. This means that you are allowed to insert, delete or amend "yellow" cells only. Whenever cells are linked, the user would only need to input a value once. Sub-totals are calculated automatically.
- d) In some instances, the user may be prompted to execute a function or to input a value. Any instructions – which are given by the computer in red – should be followed carefully. An example of an instruction is provided below:

19				
20	4.	Registration Type	Retirement Scheme Administrator	
21				
22	5.	For the period from:	January 1, 2002	
23		to:	December 31, 2002	
24				
25				
26	6.	Number of months covered by reporting period	12	
27				
28				
29	7.	Currency in which accounts are reported	USD	
30				
31				
32	8.	Exchange rate as at end of reporting period (if accounts are prepared other than in Lm)		<-- Please input exchange rate
33				

*The instruction prompts the user to key in an exchange rate whenever Item 7 - "Currency in which accounts are reported" - is not Euro - "€".*

*This message will clear once the exchange rate is inserted.*



e) For further guidance, a “help” feature is available in respect of a number of items. This feature is active only for those cells marked with a ‘red’ spot at the upper right-hand side. As soon as the mouse pointer is placed on this spot, a pop-up box appears providing details regarding the item in question or indicating the relevant sections of Appendix 1 referring to that item.

- f) Users are encouraged to provide details (to certain entries) in the space provided at the bottom of each worksheet. Preferably, entries should not go beyond the space provided for this purpose. In case of detailed explanations, separate sheets should be used. Clear reference to the relevant worksheet should be included.
- g) The compilation of the automated Returns should start from the first worksheet (that is, the ‘Cover Sheet’). Details should be inserted (as and where appropriate) starting from the top and moving to the end of each worksheet. Unless otherwise indicated, users should then complete the subsequent worksheet which comes next – (before completing Sheet 3 users should complete ‘DI-Fixed’ or ‘DI-Current’ as appropriate).
- h) Users should key in “0” or “-” whenever a value is nil.
- i) The whole set of worksheets can be printed by choosing the ‘Print – Entire workbook’ in the Print Menu. Worksheets can also be printed individually.
- j) Returns should be submitted by their due date in both hardcopy (signed) and electronic format (by diskette or e-mail). The submission of Returns by e-mail is at the Registered Person’s own discretion and risk - (since communications by e-mail may not be secure).

## **Compilation of Financial Returns**

### **Cover Sheet**

- a) All cells should be filled in.
- b) Returns are to be prepared in the currency in which the Audited Annual Financial Statements are compiled. The Reporting Currency of the accounts should be inserted in ISO Code.
- c) If the Reporting Currency of the Accounts is not Euro (‘€’), the relevant Middle Exchange Rate against the Euro published by the Central Bank of Malta as at the end of the reporting month should be inserted in Item 8.

### **Profit & Loss Statements (Sheet 1)**

- a) Besides providing for taxation in the Annual Profit and Loss statement, the Registered Person is also required to provide for taxation when compiling the Interim Profit or Loss statement.
- b) Please use the space provided in Item 7.0 (“*Details of Other SFA related revenue*”) to explain Item 4.0 (“*Other SFA related revenue*”).
- c) Please use the space provided in Item 18.0 (“*Details of Exceptional items of expenditure allowed by MFSA*”) to explain Item 9.0a (“*Exceptional Items of expenditure allowed by MFSA*”).
- d) Allowable Fees, Item 8.0(a), are fees payable, provided they are directly attributable to fees receivable which are included in total revenue. For example, custody fees paid by a Fund Administrator to a third party custodian provided these are directly attributable to custody fees which the Administrator may itself receive from the Fund.
- e) Exceptional Expenditure, Item 9.0(a), have to be agreed with the MFSA.

### **Balance Sheet Statements (Sheet 2)**

- a) Disallowed Trade Debtors, Item 2.0(b)(i), are trade debtors due for settlement in more than three months’ time, or more than one month overdue.

- b) Related Company Loans, Item 2.0(b)(i.i), are loans and advances by the registered person to any related company. Please use the space in Item 10.0 to provide details in respect of this item.

**Definition of Related Company**

For the purposes of these Returns, a Related Company includes:

- A holding company or parent company of the registered person;
- The Registered Person's subsidiary, where the registered person holds directly or indirectly 50 per cent or more of the capital of another body corporate or controls the financial and operating policies of another body corporate so as to obtain benefits from its activities;
- Associated company of the registered person, where a company has directly or indirectly through subsidiaries, 20% or more of the voting power of the investee;
- A related company of the registered person, where the company has a majority shareholding which is common to that of the registered person.

- c) Other Disallowed Non-trade Debtors, Item 2.0 (b)(i.iii), shall be unsecured non-trade debtors, except for taxation debtors which have been agreed in writing by the Inland Revenue Department.
- d) Inter company balances should be disclosed under Item 2.0 (b)(ii) ("*Non-trade debtors – inter company balances*"). For the purpose of these Returns, inter company balances are balances arising from day to day transactions between related companies. Please use the space in Item 10.0 to provide details in respect of this item.
- e) Disallowed Prepayments, Item 2.0 (c)(i), shall be prepaid expenses to the extent that the period of prepayment exceeds three months.
- f) Disallowed Accrued Income, Item 2.0 (d)(i), shall be accrued income for which payment is due in more than six months' time.
- g) Subordinated loans, Item 6.0 (a)(i), should be in the form of the MFSA's specimen subordinated loan agreement (see Annex IV to this Appendix) or such other form as has been agreed by the MFSA.

### Calculation of Financial Resources (Sheet 3)

- a) The user is required to key in the relevant figures for the “*Calculation of Discounted Fixed or Current Asset Investments*” in worksheets ‘DI-Fixed’ or ‘DI-Current’ before proceeding further with the compilation of Sheet 3. The discounting of such assets is done automatically as soon as all the relevant information requested is keyed in. Information in respect of ‘DI-Fixed’ and ‘DI-Current’ should be compiled in accordance with Annex III.

#### **Adjusted Net Tangible Assets: Sheet 3 Item 3.0**

Adjusted Net Tangible Assets shall be calculated by deducting total liabilities from total assets, as shown in the balance sheet, adjusted for the following items:

a. Deductions:

- i. intangible fixed assets;
- ii. the amount by which the directors’ or partners’ estimated realisable value of tangible fixed assets is less than the amount included in the audited financial statements;
- iii. related company loans;
- iv. inter company balances - the amount of inter company balances in excess of 10% of the total assets less total liabilities shall be deducted;
- v. advances to directors, partners or shareholders;
- vi. any other amounts specified by the MFSA (for example in relation to investments in subsidiaries).

b. Additions:

- i. subordinated loans approved by the MFSA. Subordinated loans shall be allowed provided that:
  - i.i the total amount of all such loans is not greater than four times the net amount of net assets less intangible fixed assets;
  - i.ii the loan agreement is in the form of the MFSA's specimen subordinated loan agreement (see Annex IV to this Appendix) or such other form as has been agreed by the MFSA;
- ii. any other amounts agreed by the MFSA (for example in relation to guarantees or undertakings from a bank or a parent company. See Annex V and VI to this Appendix).

**Liquid Capital: Sheet 3 Item 5.0**

Liquid Capital – which is to satisfy the Liquid Capital Requirement, Sheet 4 Item 7.0 – shall be an amount equal to Adjusted Net Tangible Assets, adjusted for the following items:

a. Deductions:

- i. Tangible fixed assets – this item is linked to Sheet 2 Item 1.0(b), net of any deficiency as per Sheet 3 Item 2.0(b);
- ii. Discounts on Fixed Asset investments (as set out in Annex III) are applied unless immediate recourse is available to the asset by sale on the market free of all encumbrances and restrictions. All investments in subsidiaries (which, for the purposes of these Schedules are considered as ‘Unquoted Investments’) shall be deducted in full unless otherwise permitted by the MFSA. This item is linked to the total of Discounting on Fixed Asset Investments (worksheet ‘DI-Fixed’);
- iii. In the case of Current Asset investments, a proportion of the value of the investments calculated by reference to the discounts set out in Annex III. This item is linked to the total of Discounting on Current Asset investments (worksheet ‘DI-Current’);
- iv. Trade debtors due for settlement in more than three months' time, or more than one month overdue. This item is linked to Item 2.0(b)(i) in Sheet 2;
- v. Unsecured non-trade debtors, except for taxation debtors which have been agreed in writing by the Inland Revenue Department. This item is linked to Sheet 2 Item 2.0(b)(i.iii);
- vi. Prepaid expenses to the extent that the period of prepayment exceeds three months. This item is linked to Sheet 2 Item 2.0(c)(i);
- vii. Accrued income for which payment is due in more than six months' time. This item is linked to Sheet 2 Item 2.0(d)(i);
- viii. Deferred tax. This item is linked to Sheet 2 Item 2.0(f);
- ix. Ten percent of the market value of any certificates of deposit, money on deposit or bills which are not encashable within 90 days.  
  
Stocks, unless they are stocks of investments – in which case the discounts set out in Annex III shall be applied;
- x. Other amounts specified by the MFSA (for example, in relation to guarantees or undertakings);

xi. Any other amounts such as contingent liabilities and any other guarantees where the Registered Person is acting as the guarantor.

b. Additions:

i. Any amounts agreed by the MFSA.

#### Liquid Capital Requirement (Sheet 4)

a) Relevant Expenditure:

##### Relevant Expenditure: Sheet 4 Item 3.0

Relevant Expenditure – used as a basis for calculating a Registered Person’s Expenditure Based Requirement – shall be the Total Expenditure (Sheet 4 Item 1.0 which is linked to Sheet 1 Item 1.0) less the following items (if included):

- i. commissions and fees payable, provided they are directly attributable to commissions and fees receivable which are included in total revenue. This item is linked to Sheet 1 Item 8.0(a);
- ii. interest paid on clients’ money;
- iii. all forms of profit share, bonus or appropriation applicable to directors, partners and employees;
- iv. exceptional expenditure where the adjustment has been agreed by the MFSA. This item is linked to Item 9.0(a) in Sheet 1;
- v. depreciation. This item is linked to Sheet 1 Item 10.0(a).

b) Except for the ‘yellow’ cells and for the “*Satisfaction of Liquid Capital Requirement*” in the IFR – [which requires the user to key in the relevant amount for item 7.0(b)(ii)] - all cells in this worksheet are either linked to other cells or are calculated automatically.

c) Where the previous accounting period does not span 12 months, the Relevant Expenditure shall be pro-rated to an equivalent annual amount.

d) In the case of the AFR, the “*Satisfaction of Liquid Capital Requirement*” is calculated as Liquid Capital less the higher of the Expenditure Based Requirement and Absolute Minimum Requirement (€11,646.87).

- e) For the IFR, the “*Satisfaction of Liquid Capital Requirement*” is calculated as follows:

Liquid Capital less higher of (i) [higher of EBR calculated in the IFR and Absolute Minimum Requirement] or (ii) [higher of EBR calculated in the most recent AFR approved by the auditors or Financial Resources Statement and Absolute Minimum Requirement as applicable].

Accordingly, for Sheet 4, item 7.0(b)(ii), the registered person must input the higher of Absolute Minimum Requirement (€11,646.87) and Expenditure Based Requirement as calculated in the most recent Annual Financial Return approved by the auditors. Where the registered person has not yet reached the end of its first accounting period and has therefore not yet prepared an Annual Financial Return, the user must input the higher of Absolute Minimum Requirement and the Expenditure Based Requirement as calculated in the Financial Resources Statement submitted on application for registration.

The Surplus/(Deficit) of Financial Resources is then calculated automatically.

- f) The Liquid Capital Requirement (Sheet 4 Item 8.0) should be satisfied on a day-to-day basis.

#### **Net Tangible Assets Requirement (Sheet 5)**

- a) All cells in Sheet 5 are calculated automatically.
- b) Net Tangible Assets should exceed the following minimum Net Tangible Assets Requirement:

	€
▪ Retirement Scheme Administrator	116,468.67
▪ Retirement Fund Administrator (not maintaining custody)	116,468.67
▪ Retirement Fund Administrator (maintaining custody)	815,280.69
▪ Retirement Fund Custodian	815,280.69

- c) The Net Tangible Assets Requirements (Sheet 5 Item 3.0) should be satisfied on a day-to-day basis.

#### **Financial Details (Sheet 6)**

- a) Enter the appropriate figure in the ‘yellow’ cells. Sub-totals are calculated automatically. Please note that some of the items are only applicable to certain categories of registered persons.
- b) Some items enable the user to select a reply from a drop-down menu. The user may add comments to his/her replies by using the space provided at the bottom of the worksheet.



## Representations (Sheet 7)

- a) Some items enable the user to select a reply from a drop-down menu. The user may add comments to the replies by using the space provided at the bottom of the worksheet.

## Discounting of Investments (DI-Fixed/DI-Current)

- a) The discounting of Fixed Asset Investments is calculated in worksheet 'DI-Fixed' whilst for Current Asset Investments in worksheet 'DI-Current'. It is imperative that all required information is keyed in the appropriate cells. The disallowed fixed/current assets would then be automatically calculated and linked to Sheet 3 Item 4.0(b)/(c) as appropriate.
- b) There are 12 labelled columns in each of the two worksheets (i to xii).
- c) Choose the type of category under which the investment should be classified (i.e. whether it is a quoted floating rate security, a quoted fixed interest security, other quoted investments etc.).
- d) Each category contains six rows. A new row is to be used for each different investment. The user is urged to contact the Investment Services Unit to arrange for additional rows – if required.
- e) The blank spaces between column (iii) and (iv), and column (vi) to (vii) contain guidance/instructions for the compilation of information relating to a number of cells. Instructions are automatically shown as appropriate, once details are entered in the “yellow” cells.
- f) The base currency of the investment should be keyed in column (ii) and should be in ISO Code.
- g) If the investment is reported at cost in the accounts, then the letter “C” should be inserted in the relevant cell under column (iii). If the investment is reported at market value, then the letter “M” should be inserted.
- h) If the investment has been reported in the accounts at cost, the amount of the investment (at cost) in its currency of denomination should be inserted under column (iv) – the respective market value should also be inserted under column (v).

Otherwise, if the investment has been reported in the accounts at market value, the market value of the investment (in the currency of denomination) is required under column (v). The cost value of the investment need not be inserted under column (iv) in such cases.

- i) The user will be prompted to key in the exchange rate - which should be the Middle Rate of Exchange provided by the Central Bank of Malta as at the end of the reporting period - if the base currency of the investment is different from that in which the accounts are reported.
- j) When the investment has been reported in the accounts at Cost, the cost of the investment as reported in the accounts and in the reporting currency of the accounts, should be inserted in column (vii).
- k) In the circumstances where investments are classified (under column (i)) as being a mixture of 'd1 to d4', the user would need to insert the applicable discounts manually.
- l) The sheet will automatically calculate the discount rate and total of the required discount in accordance with the directives (Annex III refers).

**Calculation of Discounted Fixed Asset and Current Asset Investments**

- a) The following type of investments shall be discounted from their market value by a pre-set percentage. The amount of discount (i.e. the relevant percentage of market value) is reported as a Liquid Capital Adjustment under ‘Disallowed Fixed Asset Investments’ or ‘Disallowed Current Asset Investments’ for the purposes of calculating Liquid Capital in Sheet 3.
- b) Where an investment is reported in the Accounts at cost rather than market value, the relevant discount stipulated hereunder *would* not be applied if the discounted market value (i.e. market value following deduction of the relevant discount) is equal or exceeds cost value.

If, on the other hand, the cost value of an investment reported in the Accounts exceeds its discounted market value, the amount of Disallowed Fixed or Current Asset Investments to be included as a Liquid Capital Adjustment, shall be such as to reduce the cost of the investment to its discounted market value.

- c) Where quoted securities or investments, or units in Collective Investment Schemes, are denominated in a currency different from that in which the accounts are prepared, an additional 5 per cent discount is applied.
- d) Where the registered person has investments which do not fall under any of the categories described in [a] to [f] hereunder, the registered person should contact the Investment Services Unit for further guidance.

<b>Applicable Discount Rates</b>		
a.	Quoted floating rate securities	<b>5%</b>
b.	Quoted fixed interest securities	
	b1. Issued by the Government of Malta or, subject to MFSA approval, an overseas Government.	<b>5%</b>
	b2 Other	<b>10%</b>
c.	Other quoted investments	<b>30%</b>
d.	Units in Collective Investment Schemes not held in the manager’s box Collective Investment Schemes investing in:	
	d1. Money market instruments only	<b>5%</b>
	d2. Marketable fixed interest securities only	<b>10%</b>
	d3. Other marketable securities only	<b>25%</b>
	d4. Other non-marketable securities only	<b>35%</b>
	d5. Mixture of d1 to d4	<b>highest ratio applicable to any asset type in which the scheme can invest</b>
e.	Units in Collective Investment Schemes held in the manager’s box	<b>10%</b>
f.	Unquoted investments	<b>100%</b>



## **2. Interest**

Subject to the provisions of Clause 5 of this Agreement:

The Borrower shall until repayment of the Loan in full pay to the Lender annual interest on the Loan or on any part or parts thereof for the time being remaining due hereunder.

Provided that at no time during the continuance of this Agreement shall the Rate of Interest exceed an annual rate of [8% or other maximum rate set by the MFSA].

## **3. Prepayment**

Subject to the provisions of Clause 5 of this Agreement, the Borrower may prepay the whole or any part of the Loan provided that the written consent of the MFSA to such prepayment is first obtained by the Borrower.

## **4. Repayment of the Loan**

Subject to the provisions of Clause 5 of this Agreement, the Loan shall be repayable provided that prior written notice has been given to the MFSA and the prior written consent of the MFSA to such repayment has been obtained by the Borrower.

## **5. Subordination**

Notwithstanding the provisions of Clauses 3 and 4 of this Agreement, the rights of the Lender in respect of the Loan are subordinated in all respects to all the creditors of the Borrower in respect of amounts outstanding to them payable by the Borrower ("Senior Liabilities") and accordingly payment of any amount of the Loan shall be in all respects conditional on the express prior written consent of the MFSA to such payment provided that payments of interest may be made without such consent at a rate not exceeding the rate provided in the proviso to Clause 2 of this Agreement.

## **6. Payments**

Subject to the provisions of Clause 5 of this Agreement all sums payable by the Borrower hereunder shall be paid in full without set off or counter claim and free and clear of and without deduction or withholding for or on account of any present or future taxes, duties or other charges. If any payment shall be subject to any such tax or if the Borrower shall be required by law to make any such deduction or withholding, the Borrower will pay such tax, will ensure that such payment, deduction or withholding, will not exceed the minimum legal liability therefore and will simultaneously pay to the Lender

such additional amounts as will result in the Lender receiving a net amount equal to the full amount which the Lender would have received had no such payment, deduction or withholding been required.

## **7. Covenants**

- (a) The Borrower hereby undertakes to the MFSA that it will not without the prior written consent of the MFSA:
  - (i) secure all or any part of the Loan;
  - (ii) redeem, purchase or otherwise acquire any of the liabilities of the Borrower in respect of the Loan;
  - (iii) amend or concur in amending the terms of this Agreement;
  - (iv) repay all or any part of the Loan otherwise than in accordance with the terms hereof; or
  - (v) take or omit to take any action whereby the subordination of the Loan or any part thereof as provided for in Clause 5 of this Agreement might be terminated, impaired or adversely affected.
  
- (b) The Lender hereby undertakes to the MFSA that it will not without the prior written consent of the MFSA:
  - (i) assign or purport to assign to any person this Agreement or the whole or any part of its rights against the Borrower in respect of the Loan;
  - (ii) purport to retain or set off at any time any amount of the Loan against any amount otherwise payable by it to the Borrower except to the extent that payment of such amount of the Loan would be permitted at such time by this Agreement;
  - (iii) amend or waive or concur in amending or waiving the terms of this Agreement;
  - (iv) attempt to obtain repayment of the whole or any part of the Loan otherwise than in accordance with the terms of this Agreement;
  - (v) take or omit to take any action whereby the subordination of the Loan or any part thereof as provided for in Clause 5 of this Agreement might be terminated, impaired or adversely affected; or
  - (vi) take any security from any person for all or any part of the Loan and so that the Lender shall, upon obtaining security in breach of this Clause, hold the same for the Borrower.

## **8. Entire Agreement**

The Borrower, the Lender and the MFSA acknowledge that this Agreement forms the entire agreement relating to the Loan. If there are any other terms relating to the Loan existing at the date hereof and not comprised in this Agreement such terms shall be of no further force and effect. Any amendments to this Agreement made or purported to be made without the written consent of the MFSA shall be void.

## **9. Continuing Obligations**

The obligations of the Borrower and Lender hereunder shall be continuing obligations and shall be and remain fully effective until the repayment of the Loan in full in accordance with the provisions of this Agreement.

## **10. MFSA**

The MFSA is party to this Agreement only for the purpose of ensuring the enforceability of the provisions of this Agreement and to satisfy itself that the relevant requirements of the financial resources are met. The MFSA does not have any duty towards and has no obligation of any nature to the other creditors of the Borrower. Both the Lender and the Borrower hereby indemnify the MFSA against all claims, losses, costs, expenses and other liabilities made against or incurred by the MFSA as a consequence of the MFSA being a party to this Agreement as aforesaid or of taking any action hereunder

The parties hereby signify their consent and understanding of the above provisions.





“Financial Resources Requirements” means the financial resources requirements which the Principal is, pursuant to its Registration, required to maintain at any particular time;

2. (a) In consideration of the MFSA agreeing to take this Undertaking into account for the purpose of determining compliance by the Principal with its Financial Resources Requirements, the Guarantor HEREBY UNDERTAKES with and to the MFSA and the Principal that at any time after the occurrence of any Event of Default specified below and notwithstanding that any other Event of Default may have occurred prior thereto the Guarantor will on demand in writing made upon it by the MFSA pay to the Principal the sum of [       ] into such account of the Principal as the MFSA may specify.
- (b) The following shall be Events of Default for the purposes of this Agreement:
  - (i) the Principal is unable or admits its inability to pay its debts as they fall due or makes a general assignment for the benefit of, or a composition with, its creditors;
  - (ii) a liquidator or curator in bankruptcy or administrator, or similar officer is appointed, of all or any part of the undertaking or assets of the Principal;
  - (iii) the Principal shall, in the opinion of the MFSA, be in breach of its Financial Resources Requirements and, in the opinion of the MFSA, shall not have remedied such breach within 5 working days after being required by the MFSA to restore the deficiency.
3. The MFSA may without notification to or the consent of the Guarantor and without affecting or discharging the Guarantor's liability or releasing the Guarantor from its obligations from time to time waive or omit or fail to exercise or delay exercising its rights in respect of any Event of Default and any such waiver, omission, failure or delay shall not prejudice or affect the MFSA's rights in this Agreement in respect of that Event of Default (except in the case of a waiver) or any other or further Event of Default.
4. This Undertaking shall be a continuing undertaking and shall apply irrespective of, and shall not be affected or discharged by, any matter relating to the compliance at any time by the Principal with its Financial Resources Requirements or that the Principal at any time complies or is able to comply with the Financial Resources Requirements without making use of this Undertaking or taking the same into account for the purposes of its Financial Resources Requirements.

5. This Undertaking shall apply in relation to any Event of Default occurring at or before the close of business on the termination date, being a date specified by the Guarantor giving the MFSA not less than six months' written notice of its desire to terminate this Undertaking. Such notice shall only be able to be given on or after the second anniversary of the signing of this Undertaking.

Provided that no demand may be made upon the Guarantor under this Agreement later than midnight on the thirtieth Business Day after the Termination Date.

6. If the MFSA requires the Principal to remedy a breach of its Financial Resources Requirements as referred to in paragraph 2(b)(iii) hereof, it shall notify the Guarantor thereof as soon as reasonably practicable thereafter.
7. The rights of the Guarantor to repayment of any sums paid to the Principal under the terms of this Undertaking are subordinated to the other Liabilities and accordingly repayment of any such sums is conditional upon the prior payment of the other Liabilities.
8. This Undertaking forms the entire Agreement as to the agreement of the Guarantor to provide an undertaking in relation to the Principal's Financial Resources Requirement. If there are any other terms relating thereto existing at the date hereof and not comprised in this Undertaking such terms shall be of no further force and effect. No variation of or amendment to this Undertaking shall be of any effect unless it is in writing subscribed by all the parties hereto. Any amendment to this Undertaking made or purported to be made without the consent of MFSA shall be void.

The parties hereby signify their consent and understanding of the above provisions.

Note:-

Where the Principal is not a company, the provisions of the Undertaking should (in agreement with the MFSA) be amended as appropriate to reflect the legal status of the Principal.

**SPECIMEN BANK GUARANTEE**

**[To be addressed to MFSA by the Bank, with a copy of same to the applicant/  
Registered Person]**

**The Malta Financial Services Authority and the Registered Person**

Dear Sirs,

Our guarantee No. \_\_\_\_\_ for € \_\_\_\_\_  
Account: \_\_\_\_\_ (Name of third party provider of security)

In consideration of Malta Financial Services Authority (hereinafter referred to as “MFSA”) agreeing to take this Bank guarantee into account for the purposes of determining compliance by \_\_\_\_\_ (name of registered person not provider of security) (hereinafter referred to as the “Registered Person”) with its Financial Resources Requirement for the issue/maintenance of its Registration, we hereby guarantee the payment to the Registered Person of the maximum sum of € \_\_\_\_\_ on receipt of a first demand in writing by both MFSA and Registered Person jointly or by MFSA solely in which second case the claim must be accompanied by MFSA’s written declaration stating the Registered Person is in breach of its Financial Resources Requirements.

This guarantee becomes payable on first demand and it shall not be incumbent upon us to verify whether such demand is justified. This guarantee shall be payable into the Registered Person’s account with us unless the claim effected as aforesaid directs otherwise.

We undertake not to seek reimbursement for any payment effected under this guarantee from the Registered Person.

This guarantee shall continue in force irrespective of any waiver MFSA may concede to the Registered Person in respect of any breach of its Financial Resources Requirements from time to time.

This guarantee remains in force up to \_\_\_\_\_ but will be extended by us automatically for further periods of one year each unless returned to us for cancellation before that date. Our liability hereunder may be determined by notice in writing advised to both Registered Person and MFSA whereupon this guarantee will expire six months after date of receipt of such notice by MFSA. Any demand made hereunder for payment must be received at this Office in writing not later than either the expiry date aforementioned or the expiry date of an extension period as the case may be.

This document should be returned to us for cancellation on utilisation or expiry or in the event of the guarantee being no longer required.

After the expiry date and in the absence of a written demand being received by us before such expiry date, this guarantee shall be null and void, whether returned to us for cancellation or not, and our liability hereunder shall terminate.

This guarantee is not assignable.

Yours faithfully,

\_\_\_\_\_  
**MANAGER**

\_\_\_\_\_  
**COUNTERSIGNED**