



Version: July 2011

## CUSTODY MODULE

### 1. SCOPE

- 1.1 **Appointment of Custodian:** You agree that we act as custodian of your assets which we may from time to time safeguard and administer under this Agreement.
- 1.2 **Types of accounts:** We shall open in your name one or more custody accounts recording any shares, stocks, debentures, bonds, securities, or other similar property (including evidence of or title to securities and all rights in respect of securities) deposited or transferred by you or on your behalf with or to us or our sub-custodian or collected by us or our sub-custodian for your account ("Custody Assets"). We at all times reserve the right to reverse any provisional or erroneous entries (including reversals necessary to reflect adjustments by our sub-custodian to its records as a result of bad deliveries) to the custody accounts with effect back-valued to the date upon which the final or correct entry (or no entry) should have been made. These custody terms do not apply to any commodity or warehouse warrant, and any such property held by us for you does not constitute Custody Assets.

### 2. ARRANGEMENTS FOR CUSTODY

- 2.1 **Registration:** Custody Assets which are in registrable form may be registered in your name or in the name of a nominee company. You agree that registrable Custody Assets may also be registered in the name of a third party or in our name, but only if the particular Custody Asset is subject to the law or market practice of an overseas jurisdiction and due to the nature of the law or market practice of that overseas jurisdiction, it is in your best interests or is not feasible to do otherwise.

### 3. SUB-CUSTODIANS<sup>1</sup>

- 3.1 **Use of Third Parties:** We may from time to time delegate to sub-custodians, nominees, agents, depositories, clearing houses and clearing systems inside or outside the United Kingdom, which may include entities within the same group as us, any of our duties under these custody terms including (without limitation) the safekeeping of the Custody Assets (together "Third Parties"). We are not generally liable for acts or omissions of any Third Party. Consequently, if the Third Party becomes insolvent, there may be some risk to your Custody Assets.
- 3.2 **Custody Assets held by Third Parties:** Your Custody Assets may be held overseas by a third party on our behalf. Furthermore:
  - (a) Your Custody Assets may be held in an omnibus account by the third party,<sup>2</sup> and there is a risk that your Custody Assets could be withdrawn or used to meet obligations of other persons, or that the balance of assets held by the

- third party does not reconcile with the quantity which the third party is required to hold, and you may not in such circumstances receive your full entitlement of Custody Assets;
- (b) In some jurisdictions it may not be possible to identify separately the Custody Assets which a third party holds for clients from those which it holds for itself or for us, and there is a risk that your Custody Assets could be withdrawn or used to meet the obligations of the third party, or lost altogether if the third party becomes insolvent;
  - (c) Legal and regulatory requirements may be different from those applying in the United Kingdom particularly where an account containing your Custody Assets is subject to the laws of a non-EEA jurisdiction.

***Liens and set-off rights:*** A depositary may have a security interest or lien over, or right of set-off in relation to, your Custody Assets.

- 3.3 ***Third Parties in Non-EEA States:*** We may use a Third Party in a country which is not an EEA state and where the holding and safekeeping of financial instruments is not regulated. We will only do so when the nature of the financial instruments or of the other services provided to you requires them to be deposited with such a Third Party or where we consider that this course of action is consistent with our obligations and services to you.

## 4. INSTRUCTIONS

- 4.1 ***Authorised Persons:*** You shall provide us with a list of the officers, employees or agents who are authorised, either alone or with others, to act on your behalf in the giving of Instructions (as defined below) and performance of any other acts, discretions or duties under these custody terms ("Authorised Person(s)") together with specimens of their signatures if written instructions are to be given. We shall be entitled to rely upon the continued authority of an Authorised Person for those purposes until we receive notice from you to the contrary.
- 4.2 ***Instructions:*** Notwithstanding any agreement between you and us, we may act upon instructions ("Instructions") in respect of the safe custody service provided by us to you under these custody terms from an Authorised Person received by us via telephone, facsimile transmission or other teleprocess or electronic instruction system acceptable to us and transmitted with such testing or authentication as we may specify. Instructions shall continue in full force and effect until cancelled or superseded. If any instructions are received by us by telephone you shall confirm them before the close of business on the same day by another method acceptable to us. We shall be authorised to follow Instructions notwithstanding your failure to confirm them in writing.
- 4.3 ***Acting on Instructions:*** We may in our absolute discretion refuse to act on Instructions. If any Instructions are incomplete, unclear, ambiguous, and/or in conflict with others we may in our absolute discretion and without any liability on our part, act upon what we believe in good faith them to be or refuse to act on them until any incompleteness, unclarity, ambiguity or conflict has been resolved to our satisfaction. Any Instruction shall be conclusively deemed to be a valid Instruction from you to us

if we believe it to be genuine. You are responsible for any loss, claim or expense incurred by us for following or attempting to follow any Instructions.

4.4 ***Actions not requiring Instructions:*** You agree that we may without any further Instructions from you carry out the following actions relating to the Custody Assets:

- (a) collect and receive, for your account, any payments (whether income or capital) and distributions in respect of the Custody Assets, and take any action necessary and proper in connection with them, including (without limitation) the presentation of coupons and other interest items, the endorsement for collection of cheques, drafts and other negotiable instruments and the deduction or withholding of any sum on account of any tax (i) required (or which in our view is required) to be so deducted or withheld or (ii) for which we are, in relation to your account, liable or accountable by law or practice of any relevant revenue authority of any jurisdiction;
- (b) execute in your name such ownership and other certificates as may be required to obtain payment in respect of the Custody Assets; and
- (c) exchange interim or temporary documents of title to Custody Assets for definitive ones.

5. **SCOPE OF OUR RESPONSIBILITY**

5.1 ***Dividends and other income:*** We shall as soon as reasonably practicable pay to you all dividends, interest payments or other entitlements accruing to you in relation to the Custody Assets, subject to deductions and to the exercise of any of our rights under these custody terms.

5.2 ***Corporate actions:*** Provided we receive the relevant information, we will use reasonable endeavours to notify you of all matters in respect of which you have voting rights and of all calls for redemption, grants or expirations of conversion rights, takeovers, grants or expirations of subscription rights, mergers, offers, consolidations, reorganisations and capitalisations or such other corporate actions or any other administrative or supervisory matters affecting the Custody Assets. Unless otherwise agreed with you in writing, we will not take any action in relation to such matters except in accordance with Instructions.

6. **LIEN**

6.1 ***General lien over Custody Assets:*** In addition to any general lien or other rights to which we may be entitled under any applicable law, we shall have a general lien over the Custody Assets until the satisfaction of all liabilities and obligations (whether actual or contingent) owed by you to us (whether under these custody terms or otherwise). The lien is a continuing security regardless of any intermediate payment or settlement of account.

6.2 ***Realising Custody Assets:*** If you fail to pay any sum or liability you owe to us, we are entitled at any time, without notice to you and without prejudice to any other right or remedy which we may have, to sell all or any of the Custody Assets in such manner and at such price as we may deem expedient without being responsible for any loss

and to apply the net proceeds thereof in or towards payment or discharge of any sum or liability as we may think fit. The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to these custody terms or to any exercise by us of our power of sale.

- 6.3 **Further Assurance:** You agree to execute such further documents and to take such further steps as we may reasonably require to perfect our security interest over, be registered as owner of or obtain legal title to Custody Assets, secure further liabilities and obligations (whether actual or contingent) owed by you to us and enable us to exercise our rights.

## 9. UNCLAIMED CUSTODY ASSETS

9.1 ***Unclaimed Custody Assets:*** You agree that we may, in our sole discretion, decide to (i) liquidate any unclaimed Custody Asset at market value, and pay away the proceeds, or (ii) pay away any such unclaimed Custody Asset, in either case to a registered charity of our choice if we have held the relevant Custody Asset for at least twelve years; in the twelve years preceding the divestment of that Custody Asset we have not received instructions relating to any Custody Asset from you or on your behalf; and we have been unable to contact you having taken reasonable steps in accordance with the Custody Rules to trace you and return the Custody Asset, in which case we shall cease to treat such assets as Custody Assets. In such circumstances, we (or a member of our group) will unconditionally undertake to pay you a sum equal to the value of the Custody Asset at the time it was liquidated or paid away in the event that you seek to claim the Custody Asset in future.

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