

**NAFMII MASTER AGREEMENT  
(2009 VERSION)**

(English Translation)

## **Statement on English Translation**

This English translation is for reference only and is not prepared for the purposes of execution. The copyright statement in the Chinese version of the 2009 NAFMII Master Agreement documentation applies to this English translation. It should be noted that each language has its own grammatical structures and embodies its own legal and cultural concepts. Accordingly, it is not possible to guarantee that the English version is an exact translation of the original Chinese version, and this English translation shall not be relied upon by any person in making any decision or taking any action.

At the instruction of NAFMII, Linklaters , a member of the Drafting Panel for the 2009 NAFMII Master Agreement documentation has prepared the draft English translation and has worked with the representatives from other members of the Drafting Panel, including Allen & Overy LLP, China Foreign Exchange Trade System, Credit Suisse, Deutsche Bank (China) Co. Ltd., Global Law Office, Industrial and Commercial Bank of China, JunZeJun Law Offices, Mallesons Stephen Jaques, and Zhong Yin Law Firm to finalise this English translation.

## Statement

The copyright of this *NAFMII Master Agreement (2009 Version)* (the “**Master Agreement**”) is vested in the National Association of Financial Market Institutional Investors. Except for the purpose of carrying out transactions under this Agreement or conducting teaching or research, without the prior permission in writing of the copyright holder, no person shall reproduce, copy, translate or distribute this Master Agreement in paper, electronic or any other forms.

For the purpose of carrying out transactions under this Agreement, during the course of its use, a user may supplement or amend relevant provisions of the Master Agreement (but shall not amend Section 23 of the Master Agreement) in accordance with the relevant terms of the Master Agreement and based on the user’s independent judgement, and execute the corresponding supplemental agreement, so as to ensure that the final agreement meets with the user’s requirement for risk management.

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# NAFMII MASTER AGREEMENT

For the purpose of facilitating Financial Derivative Transactions, expressly defining the rights and obligations of the Parties and safeguarding the legal rights and interests of the Parties, the Parties have entered into the Master Agreement, in accordance with the *PRC Contract Law* and other laws and regulations, at their own will and on the basis of equality.

## Section 1 Formation of the Agreement and Hierarchy

(I) The agreement between the Parties with respect to the Financial Derivative Transactions consists of the following components:

1. the *NAFMII Master Agreement (2009 Version)* (the “**Master Agreement**”);
2. the *Supplement to the NAFMII Master Agreement (2009 Version)* (the “**Supplement**”, if any);
3. **Effective Transaction Agreements.**

The aforesaid three documents constitute a single and complete agreement between the Parties (“this **Agreement**”).

(II) In the event that there is any inconsistency between the Supplement and the Master Agreement, the Supplement shall prevail; with respect to a specific Transaction, in the event that there is any inconsistency between the Master Agreement, the Supplement and the relevant Effective Transaction Agreement, the priority, in descending order, shall be as follows: the relevant Effective Transaction Agreement, the Supplement, and the Master Agreement.

## Section 2 Application of the Master Agreement

(I) The Master Agreement shall apply to all Financial Derivative Transactions entered into between the Parties after their execution of the Master Agreement.

(II) Unless required by PRC Laws or otherwise agreed by the Parties, the Master Agreement shall not apply to the derivative transactions entered into prior to their execution of the Master Agreement by the Parties.

## Section 3 Representations and Warranties

Each Party makes the following representations and warranties to the other Party at the time of its execution of the Master Agreement and the Supplement (if any), and except for the representation and warranty set out in item 1 which shall be deemed to be repeated on each day after the execution of this Agreement, all other representations and warranties shall be deemed to be repeated on the date on which each Transaction is entered into:

1. it is lawfully incorporated and validly existing under the Laws of its place of incorporation;
2. it has the power and has obtained sufficient and necessary authorisation to execute this Agreement (and any other document in connection with this Agreement to which it is a party) and perform its obligations under this Agreement (and any other document in connection with this Agreement to which it is a party), and such execution and

performance do not violate any Laws applicable to it, its articles of association or any of its agreements;

3. it has already obtained any consents (if applicable) of government authorities and regulators which are necessary for its execution and performance of this Agreement;
4. any person entering into and executing this Agreement in its name has obtained sufficient and necessary authorisation; any person carrying out any Transaction in its name or on its behalf has obtained sufficient and necessary authorisation, and has passed the relevant business training and obtained any qualification certificate issued by any relevant institution, as may be required for the carrying out of the relevant Transaction;
5. its obligations under this Agreement and the Performance Assurance Document to which it is a party constitute legal, valid and binding obligations;
6. no Event of Default or Potential Event of Default with respect to it is continuing, and to its knowledge, no Termination Event with respect to it has occurred and is continuing, and no such event would occur as a result of its entering into or performing its obligations under this Agreement or the Performance Assurance Document to which it is a party;
7. no litigation, arbitration or similar event against it, its Performance Assurance Provider or the Specified Entities designated by it has occurred or is continuing, which would materially and adversely affect the legality, validity or enforceability of this Agreement or the Performance Assurance Document to which it is a party, or its ability to perform its obligations under this Agreement or the Performance Assurance Document to which it is a party;
8. for the purpose of this sub-section, the documents and information that it has provided and identified as being subject to this sub-section in the Supplement or the Effective Transaction Agreement are true, accurate and complete in all substantive aspects;
9. it has the ability to assess the risks of the Transaction, is capable of carrying out an independent investigation and assessment of the legal, financial, tax, accounting and other matters involved in the Transaction (without relying on the opinion of the other Party), is fully aware of and is willing to assume the risks of the Transaction, and enters into the Transaction in accordance with its own interests and on the basis of its own judgment;
10. it is executing this Agreement and entering into Transactions on its own account and not as agent of any third party;
11. other representations and warranties which are agreed between the Parties in the Supplement.

#### **Section 4 Performance of Payment or Delivery Obligations under the Transaction**

- (l) Subject to other provisions of this Agreement, if a Party has an obligation to make a payment to the other Party under a Transaction (being a payment obligation), the payment shall be made by such Party to the other Party in accordance with any terms in relation to time, place, currency, amount, account and payment method etc. as may be agreed between the Parties; if a Party has an obligation to make a physical delivery to the other Party (being a delivery obligation), unless otherwise agreed by the Parties, the delivery shall be made on the agreed date of delivery in accordance with customary industry practice.

(II) Changes to accounts

Unless otherwise agreed, if a Party changes its account, it shall give advance notice in writing to the other Party no later than the tenth Business Day prior to any relevant payment date or the date of delivery. Unless the other Party raises a reasonable objection regarding the change of account no later than the second Business Day prior to such relevant payment date or date of delivery, such change of account shall become effective.

(III) A Party's performance of its payment or delivery obligations in accordance with the terms of the Effective Transaction Agreement shall be subject to the satisfaction of all the following conditions precedent:

1. no Event of Default or Potential Event of Default with respect to the other Party has occurred and is continuing;
2. with respect to a Transaction resulting in such payment or delivery obligation, no Early Termination Date in relation to that Transaction has occurred or has been effectively designated;
3. any other conditions precedent as may be agreed by the Parties.

(IV) Performance of payment obligations under the same Transaction

Payment netting shall apply to payment obligations in respect of the same Transaction, and shall mean that if on any day an amount is payable by each Party to the other Party in the same currency in respect of the same Transaction entered into between the Parties, a net settlement shall be applied to the amounts that are payable by the Parties. If the amount payable by one Party exceeds the amount payable by the other Party, such Party shall pay to the other Party only the difference between the two amounts. To the extent such Party has paid the difference between the two amounts, the payment obligations of the Parties for that Transaction shall be deemed to be satisfied and discharged on the day the aforesaid payment was made.

(V) Performance of payment obligations under multiple Transactions

The Parties may agree in the Supplement as to whether payment netting shall apply to multiple Transactions. If agreed to be applicable, on any day that an amount is payable by each Party to the other Party in the same currency in respect of two or more Transactions entered into between the Parties, a net settlement shall be applied to the amounts that are payable by the Parties. If the amount payable by one Party exceeds the amount that is payable by the other Party, such Party shall pay to the other Party only the difference between the two amounts. To the extent such Party has paid the difference between the two amounts, the aforesaid payment obligations of the Parties for the relevant Transactions shall be deemed to be satisfied and discharged on the day the aforesaid payment was made.

## **Section 5 Performance Assurance**

The Parties, following mutual consultation, may execute or put in place the following Performance Assurance Documents:

- (I) the *NAFMII Title Transfer Performance Assurance Document*;
- (II) the *NAFMII Pledge Performance Assurance Document*;
- (III) any other assurance arrangement.

## Section 6 Events of Default

The occurrence of any of the following events shall constitute an Event of Default in respect of a Party under this Agreement:

- (I) A Party fails to perform its payment obligations in accordance with the provisions of this Agreement, or fails to perform its delivery obligation in accordance with Section 4(I) of the Master Agreement, and such failure is not remedied by the end of the third Business Day after notice of such failure from the other Party takes effect.
- (II) The Performance Assurance Provider of a Party fails to perform its obligations under the Performance Assurance Document executed or issued by it, and such failure is continuing after any applicable grace period has elapsed; or denies or expressly refuses to perform all or part of its obligations under the Performance Assurance Document executed or issued by it or denies the validity of the Performance Assurance Document; or without the written consent of the other Party, the Performance Assurance Document matures, terminates or is invalidated (save for the maturity, termination or invalidation of such Performance Assurance Document in accordance with its terms) prior to the satisfaction of all obligations of such Party under each Transaction to which such Performance Assurance Document relates.
- (III) A Party denies or expressly refuses to perform all or part of its obligations under this Agreement, or denies the validity of this Agreement.
- (IV) It is proven that any representation or warranty made by a Party under this Agreement or by its Performance Assurance Provider under the Performance Assurance Document on the date such representation or warranty was made or was deemed to be made contains material misrepresentation, misleading information or material omission.
- (V) When a Party or its Performance Assurance Provider is a surviving entity after division, or where it consolidates, amalgamates with, or restructures, or transfers its substantial assets to, another entity and the resulting, surviving or transferee entity fails to perform or expressly indicates that it will not perform the obligations under this Agreement or the original Performance Assurance Document, or without the consent of the other Party, the obligations of such resulting, surviving or transferee entity under this Agreement fail to be secured by the protection given under the original Performance Assurance Document.
- (VI) Cross default  

If a Party, its Performance Assurance Provider or any Specified Entity in respect of such Party designated in the Supplement for the purpose of this sub-section defaults under other debt documents and such failure is not remedied by the end of any applicable grace period, and has resulted in any of the following circumstances, such default shall constitute a default in respect of such Party under this Agreement, i.e., a cross default:

  - 1. the obligation under other debt documents being declared accelerated, or becoming capable of being declared accelerated, and the aggregate principal amount of such debts exceeds the threshold amount for the cross default;
  - 2. a default in payment in respect of any obligation under other debt documents where such obligation is not being accelerated, or is not capable of being accelerated, and the aggregate amount of such defaulted payments exceeds the threshold amount for the cross default;

Unless otherwise agreed by the Parties in the Supplement, "other debt documents" refers to loan agreements, bonds, and security agreements. The threshold amount for the cross default refers to the minimum amount of defaulted payments which will trigger the occurrence of a cross default; the Parties may agree in the Supplement on the threshold amount for the cross default applicable to any Party, and in the absence of such agreement on threshold amount, cross default shall be deemed to be not applicable to such Party.

(VII) Default under Specified Transactions

If the Parties agree in the Supplement that this sub-section applies, the occurrence of any of the following with respect to a Party, its Performance Assurance Provider or any Specified Entity in respect of such Party which is designated in the Supplement for the purpose of this sub-section under any existing effective Specified Transaction shall constitute a default in respect of such Party under this Agreement:

1. it repudiates or expressly refuses to perform the Specified Transaction;
2. it fails to perform its payment obligations and such failure to perform results in the liquidation, or early termination of the Specified Transaction, or acceleration of the obligations thereunder;
3. it fails to perform its payment obligations due on the final payment date of the Specified Transaction, or fails to pay any amount in respect of the early termination of such Specified Transaction, and such failure is not remedied by the end of the applicable grace period;
4. it fails to perform its delivery obligations and such failure is not remedied by the end of the applicable grace period, and such failure to perform results in the liquidation, early termination or acceleration of all the transactions under the agreement applicable to that Specified Transaction;

except where any default under item 2, 3 or 4 above results from the occurrence of the events set out in Section 7(I) or Section 7(III) of the Master Agreement.

(VIII) The occurrence of any of the following with respect to a Party, its Performance Assurance Provider or any Specified Entity in respect of such Party designated in the Supplement for the purpose of this sub-section shall constitute a default in respect of such Party under this Agreement:

1. dissolution (other than pursuant to a consolidation, amalgamation or restructuring);
2. it fails to pay its debts as they become due, and its assets are insufficient to pay all debts or it clearly lacks the capability of paying its debts;
3. it admits in writing its inability to pay its debts as they become due;
4. it enters into a transfer agreement or settlement agreement in relation to all or substantially all of its assets generally for the benefit of its creditors, or it makes an arrangement for or enters into a reconciliation agreement in respect of all or a substantial part of its debts with, its creditors;
5. it institutes or has instituted against it by a regulatory supervisor an administrative or judicial proceeding seeking its official management, bankruptcy or liquidation etc., or has instituted against it by a creditor an administrative or judicial proceeding seeking its official management, bankruptcy or liquidation etc., and

such proceeding results in it being declared bankrupt, wound-up, liquidated or officially managed in accordance with the Laws, or none of the above procedures is dismissed, discharged, stayed or restrained within thirty days of the institution thereof;

6. it passes a resolution for its winding-up, liquidation or application for bankruptcy;
  7. it seeks or becomes subject to the appointment of a provisional liquidator, custodian, trustee, official manager or other similar official for it or for all or substantially all its assets;
  8. a creditor, being a secured party, takes possession of all or substantially all of its assets or has a seizure, execution, attachment, or mandatory enforcement against all or substantially all of its assets, and any such process is not dismissed, discharged, stayed or restrained by the relevant authorities within thirty days thereafter;
  9. any other event that has a similar effect to those specified in items 1 to 8 of this sub-section.
- (IX) A Party fails to perform its other obligations under this Agreement and such failure is not remedied by the end of the thirtieth day after the notice of failure of performance sent out by the other Party becoming effective. However, if a Party fails to serve a notice in respect of any change of its account as agreed in Section 4(II), or a Party, being the Affected Party, fails to perform its obligation of serving notice, confirmation and providing the relevant evidence within the prescribed period as provided in Section 10(I) of the Master Agreement, such failure to perform shall not constitute an Event of Default or a Potential Event of Default.

## **Section 7 Termination Events**

The occurrence of any of the following events with respect to a Party shall constitute a Termination Event:

- (I) After a Transaction has been entered into, if, by reason of a change in applicable Laws, with respect to a Party (the "**Affected Party**"):ol style="list-style-type: none;">  - 1. its continued performance of the payment or delivery obligations under this Transaction becomes illegal, or its acceptance of payment or delivery in respect of such Transaction becomes illegal, or its continued compliance with other material terms under this Agreement in relation to such Transaction becomes illegal; or
  - 2. its or its Performance Assurance Provider's continued performance of any material obligations under the Performance Assurance Document in relation to such Transaction becomes illegal.
- (II) If the Parties have agreed in the Supplement that this sub-section is applicable to a Party, despite a merger event specified in the Supplement having occurred in respect of a Party, its Performance Assurance Provider or any Specified Entity in respect of such Party designated in the Supplement, which for the purpose of this sub-section does not constitute an Event of Default pursuant to Section 6(V) of the Master Agreement, the credit standing of the surviving, succeeding or transferee entity, after taking into account any applicable Performance Assurance Document, is materially weaker immediately after the occurrence of such merger event than that of the original Party, its Performance

Assurance Provider or Specified Entity (as the case may be) immediately prior to the occurrence of such merger event (such Party, or the surviving, succeeding or transferee entity being the "**Affected Party**").

- (III) After a Transaction is entered into, due to the occurrence of a Force Majeure event, it becomes impossible or impracticable for a Party (the "**Affected Party**") to perform payment or delivery obligations in relation to such Transaction, or to accept any payment or any delivery in respect of such Transaction, or to comply with any other material terms of this Agreement in relation to such Transaction, or it becomes impossible or impracticable for such Party or its Performance Assurance Provider to perform the material obligations specified in the relevant Performance Assurance Document in relation to such Transaction, and the aforesaid circumstance is still continuing after three Business Days from the date of occurrence of such circumstances.
- (IV) If any additional Termination Events are agreed to by the Parties and the relevant Affected Party is designated, the occurrence of any such event shall constitute a Termination Event.

## **Section 8 Hierarchy of Events**

If any event occurs which would otherwise constitute or give rise to a Termination Event as specified in Section 7(I) or Section 7(III), but such event is relating to a failure to make payment or delivery or a failure to comply with any other material provision of this Agreement and also constitutes or gives rise to an Event of Default or a Potential Event of Default under Section 6(I), Section 6(II) or Section 6(IX) of the Master Agreement, such event shall be treated as a Termination Event. However, the circumstance set out in Section 7(III) of the Master Agreement resulting from a Force Majeure event shall not constitute a Potential Event of Default within three Business Days after the occurrence of such circumstance.

Except in the circumstances set out above, if any event or circumstance occurs which would otherwise constitute or give rise to a Termination Event as specified in Section 7(I) or Section 7(III) of the Master Agreement, and also constitutes or gives rise to an Event of Default (or other Termination Events), such event or circumstance shall be treated as an Event of Default (or such other Termination Events).

## Section 9 Handling of Events of Default

### (I) Determination of Early Termination Date

1. When an Event of Default specified in Section 6 of the Master Agreement occurs and is continuing, the Non-defaulting Party shall give the Defaulting Party a notice in writing (only in the manner set out in Section 19(I) of the Master Agreement) concerning the occurrence of such Event of Default, and shall designate an Early Termination Date. The Early Termination Date shall be a Business Day within 15 Business Days from the effective date of the notice, and the designation of the Early Termination Date is irrevocable and cannot be changed. All the Terminated Transactions shall terminate on the Early Termination Date.
2. If the Parties have agreed in the Supplement that "Automatic Early Termination" is applicable to a Party, (A) then all the Terminated Transactions will immediately and automatically be terminated on the Early Termination Date being the date of the occurrence with respect to a Party of an Event of Default specified in items 1, 4, 6, 7 or, to the extent analogous thereto, 9 of Section 6(VIII) of the Master Agreement; or (B) if an Event of Default specified in item 5 or, to the extent analogous thereto, 9 of Section 6(VIII) of the Master Agreement occurs in respect of a Party, the Early Termination Date shall be the date of the institution of the relevant proceeding or the presentation of the relevant petition and all Terminated Transaction will automatically be terminated immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition.
3. Upon the effective designation or occurrence of an Early Termination Date, close-out netting shall apply to all Terminated Transactions between the Parties under this Agreement, which means that neither Party will have any obligation to perform payment or delivery obligations under the Terminated Transactions pursuant to Section 4 of the Master Agreement, instead, an Early Termination Payment Amount shall be paid which shall be calculated on the basis of the net position of the fair market value of the Terminated Transactions in accordance with sub-section (II) and sub-section (III).

### (II) Calculation of Early Termination Payment Amount following an Event of Default

After the determination of an Early Termination Date, the Non-defaulting Party shall be the Close-out Netting Calculation Party and shall calculate, on the basis of the Basis Date, the Early Termination Payment Amount, according to the following specific principles and methods:

1. The Close-out Netting Calculation Party shall calculate the Early Termination Payment Amount in good faith and in a commercially reasonable manner without any duplication.
2. The calculation formula

The calculation formula for the Early Termination Payment Amount is as follows:

Early Termination Payment Amount = the termination currency equivalent of the aggregate amount of the fair market value of all Terminated Transactions + the termination currency equivalent of Unpaid Amounts payable to the Non-defaulting Party – the termination currency equivalent of Unpaid Amounts payable to the Defaulting Party.

If the aforesaid amount is a positive figure, it shall be paid by the Defaulting Party to the Non-defaulting Party; if the aforesaid amount is a negative figure, it shall be paid by the Non-defaulting Party to the Defaulting Party.

3. The calculation of the fair market value of the Terminated Transactions

The Parties may choose one of the following methods in the Supplement to calculate the fair market value of the Terminated Transactions, (if no choice is made, the replacement transaction method shall apply):

(1) Replacement transaction method

If applying this method, the fair market value of a Terminated Transaction or a group of Terminated Transactions will be its Termination Amount which is determined by the Close-out Netting Calculation Party in accordance with the following information:

- (a) quotations provided by a third party in relation to the replacement transaction for each Terminated Transaction, and the creditworthiness of the Close-out Netting Calculation Party can be taken into account for the purpose of providing such quotation;
- (b) financial market data provided by a third party in relation to the Terminated Transaction, including interest rate, currency rate, price, yield curves, spreads etc;
- (c) if the Close-out Netting Calculation Party believes, on a reasonable basis, that the information or data specified in item (a) and item (b) are not available, or applying such information or data may lead to commercially unreasonable results, the information generally used internally by the Close-out Netting Calculation Party when calculating the value of similar transactions can be used.

(2) Market quotation method

If applying this method, the fair market value of a Terminated Transaction or a group of Terminated Transactions shall be determined by the Close-out Netting Calculation Party in accordance with the Market Quotation of the Terminated Transaction (whether a positive number or a negative number). If the Close-out Netting Calculation Party fails to determine the Market Quotation of the Terminated Transaction or it believes in good faith that a commercially reasonable result will not be obtained based on the relevant Market Quotation, the replacement transaction method specified in part (1) shall be used.

(III) Calculation report

The Close-out Netting Calculation Party shall submit (only in the manner as set out in Section 19(l) of the Master Agreement) a calculation report to the other Party within 20 days from the Early Termination Date (or where “automatically early termination” is applicable, the date on which the occurrence of the Early Termination Date is known or should be known by it). Such calculation report should clearly set out the Party who should make payment on early termination and the Early Termination Payment Amount, with the details and basis of the calculation. The Party who should make payments on early termination shall pay the Early Termination Payment Amount referred to in the calculation

report, and the interest thereof, on the Payment Date of Early Termination Payment Amount. The Payment Date of Early Termination Payment Amount provided under this sub-section shall be the date the calculation report is effective.

(IV) Adjustment of automatic early termination

Where an Early Termination Date occurs as a result of the application of “automatic early termination” to a Party, the Early Termination Payment Amount calculated in accordance with item 2 of Section 9(II) of the Master Agreement shall be accordingly adjusted, so as to reflect any payment or delivery which is paid or made by a Party to the other Party under this Agreement and is retained by such other Party, during the period from the applicable Early Termination Date to the Payment Date of Early Termination Payment Amount as referred to in Section 9(III).

## **Section 10 Handling of Termination Events**

(I) Notice

After the Affected Party becomes aware of a Termination Event, it shall immediately notify the other Party of the occurrence of such Termination Event and the details of all Affected Transactions, and shall provide relevant evidence within 15 Business Days after sending out the notice.

If the Non-affected Party becomes aware of a Termination Event and it has not received any notice from the Affected Party regarding the Termination Event, the Non-affected Party is entitled to notify the Affected Party; the Affected Party shall reply within 2 Business Days of the notice becoming effective and shall provide the relevant evidence within 15 Business Days of the notice becoming effective.

(II) Consultations

The Parties may hold consultations after the Termination Event notice becoming effective so as to avoid the early termination of the Affected Transactions.

(III) Designation of Early Termination Date

1. If the Parties are unable to come to any agreement with respect to the handling of the Termination Event by consultation and such Termination Event is still continuing then, the Party specified in the following provisions shall have the right to give a notice in writing (in the manner as set out in Section 19(I) of the Master Agreement only) to the other Party specifying the Early Termination Date of the Affected Transactions:

- (1) where a Termination Event specified in Section 7(I) or Section 7(III) of the Master Agreement occurs, any one of the Parties;
- (2) where a Termination Event specified in Section 7(II) of the Master Agreement occurs, the Non-affected Party;
- (3) where a Termination Event specified in Section 7(IV) of the Master Agreement occurs, the Non-affected Party as agreed by the Parties in the Supplement.

2. The Early Termination Date shall be a Business Day falling within 15 Business Days from the effective date of the notice. All Affected Transactions shall be terminated on that Early Termination Date. If both Parties are entitled to send out

the written notice, then the Early Termination Date shall be the date designated in the notice which is effective first.

3. Upon the effective designation of the Early Termination Date, close-out netting shall apply to all Affected Transactions between the Parties under this Agreement, which means that neither Party shall have payment or delivery obligations under the Terminated Transactions pursuant to Section 4 of the Master Agreement; instead the Early Termination Payment Amount shall be calculated and paid on the basis of the net position of the fair market value of the Terminated Transactions in accordance with item 1 of Section 10(IV).

(IV) Calculation and payment of Early Termination Payment Amount following Termination Events

1. The Close-out Netting Calculation Party shall calculate the Early Termination Payment Amount in accordance with Section 9 (II) and Section 9 (III) of the Master Agreement. If the Non-affected Party is the Close-out Netting Calculation Party, the “Non-defaulting Party” and the “Defaulting Party” as referred to in item 2 of Section 9(II) shall be the Non-affected Party and the Affected Party, respectively; if both Parties are Close-out Netting Calculation Parties, the “Non-defaulting Party” referred to in that item shall be the Party itself who conducts the calculation, and the “Defaulting Party” shall be the other Party.
2. If the Non-affected Party is the Close-out Netting Calculation Parties, the Payment Date of Early Termination Payment Amount applicable to this Section shall be the third Business Day after the date on which the calculation report becomes effective. If both Parties are the Close-out Netting Calculation Party and there is no dispute in relation to the calculation result, the Payment Date of Early Termination Payment Amount shall be the third Business Day from the later of the dates the two calculation reports become effective.
3. If both Parties are Close-out Netting Calculation Parties and there are disputes in relation to the calculation result, the Parties may, by consultation, determine the Early Termination Payment Amount, or jointly appoint a third party to act as the calculation agent to calculate the Early Termination Payment Amount in accordance with the provisions set out in Section 9(II) and Section 9(III) of the Master Agreement within a time period agreed by the Parties. If the Parties fail to reach an agreement through consultation, or cannot agree on the appointment of a calculation agent or the time period for the calculation, or if a Party disputes the result of the calculation conducted by the calculation agent, such disputes can be submitted by any Party to the agreed arbitration or litigation in accordance with Section 18 of the Master Agreement.

## Section 11 Interest

### (I) No occurrence or designation of Early Termination Date

Where there is no occurrence or designation of an Early Termination Date, the interest in respect of the payment and delivery obligations shall be calculated in accordance with the method agreed in this sub-section:

1. Calculation of interest in respect of suspension of payment due to failure to satisfy conditions precedent to performance of obligations by the other Party:

If the other Party fails to satisfy the conditions precedent to performance of obligations under Section 4(III) of the Master Agreement, and such failure results in a Party suspending the performance of its payment obligation under Section 4(I) of the Master Agreement, upon the request of the other Party (and after the circumstance for suspension of the performance of its payment obligation ceases to exist), such Party shall pay interest to the other Party in the same currency as the currency of the payment amount. The interest period shall be from (and including) the date on which such Party should have otherwise performed the payment obligation up to (but excluding) the date on which such Party actually performs the payment obligation after the above circumstance ceases to exist. The applicable interest rate shall be the Inter-bank Rate.

2. Calculation of interest in respect of failure to perform payment obligations in time:

If a Party fails to perform any payment obligations in time under this Agreement (other than in the situations described in item 1 of this sub-section), upon the request of the other Party, such Party shall pay interest to the other Party in the same currency as the currency of the payment amount. The interest period shall be from (and including) the date on which such payment amount becomes due and payable up to (but excluding) the date on which such payment amount is actually paid. The applicable interest rate shall be the Default Rate. However, if such Party fails to perform the aforesaid obligation due to the occurrence of a circumstance described in Section 7(I) or Section 7(III) of the Master Agreement, the applicable interest rate in relation to such amount for the period from (and including) the date on which the such Party fails to perform the aforesaid payment obligation due to such event or circumstance, up to (but excluding) the date on which such event or circumstance ceases to exist shall be the Inter-bank Rate.

3. Calculation of interest in respect of delivery obligations

If the other Party fails to satisfy the conditions precedent to performance of obligations under Section 4(III) of the Master Agreement, and such failure results in a Party suspending the performance of its delivery obligation under Section 4(I) of the Master Agreement, such Party shall, in respect of the fair market value as of the scheduled delivery date of the items to be delivered, make calculation and payment of the interest to the other Party in good faith and in accordance with the terms of item 1 of this sub-section.

In other circumstances, if a Party fails to perform its delivery obligations under this Agreement, the Party shall, in respect of the fair market value as of the scheduled delivery date of the items to be delivered, make calculation and payment of the

interest to the other Party in good faith and in accordance with the terms of item 2 of this sub-section.

(II) The occurrence or designation of Early Termination Date

Upon the occurrence or designation of an Early Termination Date, the interest in respect of the payment and delivery obligation shall be calculated in accordance with the method set out in this sub-section:

1. Interest on Unpaid Amounts

In relation to an Unpaid Amount under Section 9(II) and Section 10(IV) of the Master Agreement, interest will be calculated in the same currency as the currency of the Unpaid Amount. The interest period shall start from (and including) the date on which the payment is required to be made and shall end on (but excluding) the Early Termination Date. The applicable interest rate shall be determined as follows:

- (1) in respect of the payment obligation that should have been paid by the Defaulting Party, the applicable interest rate shall be the Default Rate;
- (2) in respect of the payment obligation that should have been performed by the Non-defaulting Party, the applicable interest rate shall be the Inter-bank Rate;
- (3) in respect of the payment obligation that should have been performed by the Affected Party or the Non-affected Party, the applicable interest rate shall be the Inter-bank Rate;

2. Interest on Early Termination Payment Amount

In respect of the Early Termination Payment Amount which must be paid by a Party according to Sections 9(II), 9(III) and 10(IV) of the Master Agreement, interest on such amount shall be calculated in the termination currency according to the following principles:

- (1) For the period from (and including) the Early Termination Date up to (but excluding) the Payment Date of Early Termination Payment Amount, the applicable interest rate shall be determined as follows:
  - (a) in respect of payment made by the Defaulting Party, the applicable interest rate shall be the Default Rate;
  - (b) in respect of payment made by the Non-defaulting Party, the applicable interest rate shall be the Non-default Rate;
  - (c) in respect of payment made by the Affected Party or the Non-affected Party, the applicable interest rate shall be the Inter-bank Rate.
- (2) For the period from (and including) the Payment Date of Early Termination Payment Amount up to (but excluding) the date on which the payment is actually made, the applicable interest rate shall be determined as follows:
  - (a) except as provided in item (b) below, the interest rate shall be the Default Rate;

- (b) if the failure to pay a part of the Early Termination Payment Amount is due to the occurrence of any event or circumstance described in Section 7(I) or Section 7(III) of the Master Agreement or due to a reason that is not attributable to the Party who has the obligation to pay, the applicable interest rate in relation to such amount for the period from (and including) the date on which that portion of amount is not paid due to such circumstance up to (but excluding) the date on which such circumstance ceases to exist shall be the Inter-bank Rate.
- (3) Interest rate provided in this Section shall be calculated on the basis of daily compounding.

## **Section 12 Contract Currency and Termination Currency**

### **(I) Contract currency**

Contract currency refers to, where this Agreement is performed in its due course, the currency in which the Parties have agreed that payments under this Agreement shall be made. If payment is made in a currency other than the contract currency, the Party receiving such payment reserves the right not to accept the payment. Where there are provisions in the PRC Laws prescribing otherwise, such provisions shall apply.

### **(II) Termination Currency**

Termination currency refers to, where an early termination has occurred, the currency in which the Early Termination Payment Amount is calculated. The Close-out Netting Calculation Party shall, in good faith, convert the amount under the Terminated Transactions into the termination currency equivalent.

Where the contract currency for the Terminated Transaction includes RMB, RMB shall be the termination currency. Other currencies shall be converted into RMB based on the mid-price of the exchange rate for RMB published by, or published under the authorisation of, the People's Bank of China on the Early Termination Date (if not available, the method as otherwise agreed by the Parties shall apply) and be included in the Early Termination Payment Amount. Where there are provisions in the PRC Laws otherwise governing the exchange and conversion of foreign currencies, such provisions shall apply.

Where the contract currency for the Terminated Transaction does not include RMB, the termination currency shall be the currency as agreed by the Parties in the Supplement. To the extent not contravening the PRC Laws, conversion between various currencies shall be carried out in accordance with the agreement of the Parties.

## **Section 13 Set Off**

In circumstances where there is a Defaulting Party or where there is only one Affected Party in a Termination Event whereby all outstanding Transactions under this Agreement become Terminated Transactions, the Non-defaulting Party or the Non-affected Party has the option to set off the Early Termination Payment Amount payable to one Party by the other Party against any other amounts payable to the second Party by the first Party. The Non-defaulting Party or the Non-affected Party shall promptly give notice to the Defaulting Party or the Affected Party of any set-off effected under

this Section. The notice shall only be made in the manner as set out in Section 19(I) of the Master Agreement.

#### **Section 14 Transfer**

Without prior written consent of the other Party, a Party may not transfer any rights or obligations under this Agreement to any other person; but a Party may transfer to a third party, without consent of the Defaulting Party, all or any part of its rights of and interest in any Early Termination Payment Amount payable to it by the Defaulting Party, together with the interest on the relevant portion of the Early Termination Payment Amount payable pursuant to Section 11 of the Master Agreement.

#### **Section 15 No Waiver of Rights**

Any failure or delay in exercising, or the partial exercise of, any right with respect to this Agreement shall not be deemed to be a waiver of that right.

#### **Section 16 Telephone Recording**

Unless otherwise agreed by the Parties, a Party may record telephone conversations between them with respect to Transactions or any potential Transactions under this Agreement, and to the extent this does not contravene PRC Laws, such recording may be submitted as evidence in any dispute resolution process.

#### **Section 17 Confidentiality and Information Disclosure**

(I) Confidentiality

Without prior written consent of the other Party, a Party shall not disclose to any person any information concerning the other Party which relates to this Agreement and Transactions under this Agreement, except for disclosure made pursuant to sub-section (II) of this Section.

(II) Statutory Information Disclosure

This Section does not restrict a Party in respect of its disclosure of any information relating to this Agreement and Transactions under this Agreement, of which the disclosure is made as required by applicable Laws.

#### **Section 18 Dispute Resolution**

(I) Governing Law

This Agreement is governed by and construed in accordance with PRC Laws.

(II) Dispute Resolutions

The Parties may resolve, by consultation, any disputes, claims or disagreements under or in connection with this Agreement.

If the Parties do not carry out such consultation or no agreement is reached from such consultation, the Parties may agree to submit such disputes, disagreements or claims to China International Economic and Trade Arbitration Commission for arbitration to be conducted in Beijing in accordance with the *Arbitration Rules of China International Economic and Trade Arbitration Commission* then in effect; the arbitral tribunal shall

consist of three arbitrators, and the arbitration award shall be final and binding on the Parties.

Where the Parties have agreed on other arbitration institutions for dispute resolution, such arbitration institution shall be arbitration institutions lawfully registered or incorporated within the territory of the People's Republic of China (which, for the purpose of this Agreement, does not include the Hong Kong Special Administrative Region, the Macao Special Administrative Region or Taiwan area), and the place of arbitration shall be located within the territory of the People's Republic of China (which, for the purpose of this Agreement, does not include the Hong Kong Special Administrative Region, the Macao Special Administrative Region or Taiwan area).

Where the Parties have agreed to resolve disputes not through arbitration but by litigation, each Party may only initiate the legal proceeding at the people's court.

## **Section 19 Method and Effectiveness of Notices**

- (I) If given in person or by courier, a notice shall be effective on the date of receipt that is marked on the delivery acknowledgement; but where the recipient, the agent of the recipient or the person exercising the power of a bankruptcy administrator of the recipient refuses to acknowledge the receipt on the delivery acknowledgement, the sender may give effective notice through service by notarization or, pursuant to the agreement by the Parties in the Supplement, through service by public announcement or service by leaving the notice on the premises of the recipient, and the notice which is effective through service by notarization, service by public announcement or service by leaving the notice on the premises of the recipient shall be regarded as having the same effect in all aspects as the notice which is effective through the original service method.
- (II) If sent by registered mail, a notice shall be effective on the date of acknowledged receipt.
- (III) If sent by facsimile transmission, a notice shall be effective on the date the recipient acknowledges that it has received a legible copy of the transmission.
- (IV) If sent by electronic messaging system, a notice shall be effective on the date that such notice enters into the system designated by the recipient for receiving electronic information.
- (V) If sent by any other method, a notice shall be effective at a time agreed by the Parties.

If any date mentioned above is not a Business Day, or a notice is delivered, received or enters into the relevant system after the close of business on a Business Day, such notice shall be deemed effective on the Business Day immediately following that date.

## **Section 20 Expenses**

Without affecting the agreement reached in any Performance Assurance Document in respect of the expenses for realising the credit rights and without resulting in any duplicated calculation, a Defaulting Party shall, on demand by the Non-defaulting Party, indemnify the Non-defaulting Party for and against all reasonable fees and other expenses incurred by such Non-defaulting Party by reason of the protection and enforcement of its rights under this Agreement or any Performance Assurance Document, as well as all reasonable fees and other expenses incurred by the Non-defaulting Party by reason of the early termination of any Transaction under this Agreement.

## **Section 21 Headings**

The name of this Agreement and the headings set out in this Agreement are for convenience of reference only, and are not to affect the structure of, or to be construed into this Agreement.

## **Section 22 Remedies Cumulative**

Except as otherwise provided in this Agreement, the rights and remedies provided and recognized in this Agreement are cumulative and do not exclude any rights or remedies provided and recognized by PRC Laws.

## **Section 23 Amendment of this Agreement**

To the extent not contravening PRC Laws, the Parties may come to specific agreement in the Supplement or the Effective Transaction Agreement on relevant provisions of the Master Agreement, or agree in the Supplement or the Effective Transaction Agreement on the matters which are not addressed in the Master Agreement, but the following content contained in the Master Agreement shall not be amended or excluded:

- (I) Section 2;
- (II) the second paragraph of Section 12(II);
- (III) Section 18(I), the third paragraph of Section 18(II), and the fourth paragraph of Section 18(II);
- (IV) this Section 23;
- (V) the second paragraph of Section 24; and
- (VI) the definition of "PRC Laws" provided in Section 25.

## **Section 24 Execution of this Agreement**

The Master Agreement shall be binding on the Parties after the signing and affixation of seals by the Parties. The Parties may execute the Supplement according to their needs.

The Parties shall, according to the requirements of PRC Laws, deliver the Master Agreement and the Supplement (and its amendments) to the National Association of Financial Market Institutional Investors for record.

## **Section 25 Definitions**

In this Agreement, the following terms shall be defined as:

**"Terminated Transaction"** means with respect to an Early Termination Date, if resulting from an Event of Default, all Transactions under this Agreement which are outstanding on that date; if resulting from a Termination Event, all Affected Transactions under this Agreement which are outstanding on that date.

**"Force Majeure"** means any objective circumstance which is unforeseeable, unavoidable and cannot be overcome, including, but not limited to the following events: natural disasters, breakdowns in transportation or communications, and other events which are of a similar nature.

**"Reference Market Maker"** means, under the "market quotation method" specified in item 3 of Section 9(II) of the Master Agreement, dealers in the relevant market selected in good faith by the

Close-out Netting Calculation Party (if selected in the Chinese interbank market, the dealers should be financial institutions which have the qualification of a market maker for that market). The Close-out Netting Calculation Party shall, in the relevant market, choose from among dealers of the highest credit standing and, to the extent practicable, from among such dealers having an office in the same city.

**“Contract Note”** means the evidence in written form which is generated from the trading system of the China Foreign Exchange Trade System & National Interbank Funding Center after a Transaction is entered into between the Parties through such trading system, which confirms the transaction conditions of that Transaction.

**“Laws”** means the constitution, treaties, laws, statutory regulations, ordinances, rules, regulations, provisions and any order, interpretation, permission, notice, judgment, decision, injunction etc. issued by an authority having legislative, judicial or administrative power or authority, pursuant to the applicable governing law, which has universal binding authority.

**“Non-affected Party”** means, if there is only one Affected Party under Section 7 of the Master Agreement, the other Party.

**“Basis Date”** means the Early Termination Date. If the Close-out Netting Calculation Party believes in good faith that it is not commercially reasonable to use the Early Termination Date as the base for calculation of all Terminated Transactions under this Agreement, the Basis Date shall be the earliest date or dates following the Early Termination Date on which calculation can be made in a commercially reasonable manner.

**“Transaction Confirmation”** means the documents or other written evidence confirming or evidencing a Transaction exchanged by the Parties, including but not limited to Contract Notes, e-mails, telegrams, telexes, facsimile transmissions, agreements and letters.

**“Parties”** means the two parties under a specific Transaction that are bound by this Agreement.

**“Party”** means any one of the Parties.

**“Effective Transaction Agreement”** means a legally binding agreement (including, but not limited to, a Transaction Confirmation) entered into in respect of each of the specific Transactions.

**“Financial Derivative Transaction (the “Transaction”)** means, with respect to this Agreement, the financial derivative agreements that are concluded between the Parties on a one-on-one basis and governed by the Master Agreement as required by PRC Laws, having their terms tailored in accordance with the specific requirements of the Parties, and other financial agreements as agreed by the Parties to be governed by the Master Agreement, including but not limited to interest rate derivative transactions, currency derivative transactions, bond derivative transactions, credit derivative transactions, gold derivative transactions, and any combination of such transactions which fulfil the aforesaid conditions.

**“Performance Assurance Provider”** means an entity (which can be a Party) which provides the assurance under the Performance Assurance Document, including, but not limited to, a security provider.

**“Performance Assurance Documents”** means the legal documents specified in the Supplement which set out the specific arrangements to assure the performance of the Transaction, including, but not limited to, the *NAFMII Title Transfer Performance Assurance Document*, the *NAFMII Pledge Performance Assurance Document*, and other performance assurance arrangement documents.

**“Potential Event of Default”** means any event which, with the giving of notice or lapse of time, would constitute an Event of Default.

**“Market Quotation”** means with respect to a Terminated Transaction or a group of Terminated Transactions and a Close-out Netting Calculation Party, an amount determined on the basis of the quotations provided by the Reference Market Makers. Each quotation will be an amount, if any, that would be paid to such Close-out Netting Calculation Party (expressed as a negative number) or by such Close-out Netting Calculation Party (expressed as a positive number) for entering into a Transaction (the “Replacement Transaction”) between such Close-out Netting Calculation Party (taking into account any existing Performance Assurance Document with respect to the obligations of such Close-out Netting Calculation Party) and the Reference Market Maker. The Replacement Transaction, subject to the terms as agreed by such Close-out Netting Calculation Party and Reference Market Maker in good faith, shall have the effect of preserving for the Close-out Netting Calculation Party the economic equivalent of any payment or physical delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of all applicable conditions precedent) by the Parties under Section 4 of the Master Agreement in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required after that date. For this purpose, Unpaid Amounts in respect of the relevant Terminated Transactions are to be excluded. However, Market Quotation shall include, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of all applicable conditions precedent) after that Early Termination Date. The Close-out Netting Calculation Party (or its agent) shall endeavour to request at least four Reference Market Makers to provide their respective quotation on the Basis Date, and, to the extent reasonably practicable, as of the same day and time (without regard to different time zones). The day and time as of which those quotations are to be obtained is selected in good faith by the Close-out Netting Calculation Party. If not less than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values; if more than one quotation have the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction cannot be determined.

**“Non-default Rate”** means the rate reasonably proved by the Non-defaulting Party to be a rate offered to the Non-defaulting Party by a major bank in a relevant interbank market for overnight lending in the applicable currency, such bank to be selected by the Non-defaulting Party, however such rate should be a rate that will reasonably reflect the borrowing cost of the Non-defaulting Party prevailing at the time in that relevant market. If the Non-default Rate is higher than the Inter-bank Rate, the Inter-bank Rate shall apply in place of the Non-default Rate.

**“Affected Party”** means the Party specified as such in Section 7 of the Master Agreement.

**“Affected Transactions”** means with respect to the occurrence of any Termination Event specified in Section 7(I) or Section 7(III) of the Master Agreement, all outstanding Transactions under this Agreement at the time of the Termination Event which are affected by such Termination Event; and with respect to the occurrence of all other Termination Events, unless otherwise agreed by the Parties, means all outstanding Transactions under this Agreement at the time of such other Termination Events.

**“Specified Transaction”** means bond repurchase transactions and bond lending transactions now existing or hereafter entered into between one Party (or any of its Performance Assurance Providers or applicable Specified Entities) and the other Party (or any of its Performance

Assurance Providers or applicable Specified Entities) and any other transactions as agreed by the Parties which are not governed by the Master Agreement.

**“Specified Entity”** means any company, enterprise or entity specified as such in the Supplement.

**“Early Termination Date”** means a date as determined in accordance with Section 9(I) or Section 10(III) on which a Terminated Transaction is early terminated.

**“Early Termination Payment Amount”** means the amount derived from the calculation in accordance with the formula set out in item 2 of Section 9(II) of the Master Agreement.

**“Payment Date of Early Termination Payment Amount”** means a date provided under Section 9(III) or item 2 of Section 10(IV) of the Master Agreement on which the Early Termination Payment Amount and its interest shall be paid.

**“Unpaid Amount”** means with respect to an Early Termination Date, the amount that has become payable but remains unpaid to a Party includes the following amounts:

1. any amount that is payable under each Terminated Transaction by the other Party in accordance with Section 4 of the Master Agreement which remains unpaid as of the Early Termination Date, and the fair market value on the scheduled delivery date of each item which has become deliverable under each Terminated Transaction but remains undelivered (the fair market value will be determined by the Close-out Netting Calculation Party in good faith and in a commercially reasonable manner; if both Parties are Close-out Netting Calculation Parties, the fair market value will be the average of the values determined by both Parties), and without duplication of calculation, the interest amount that is payable as calculated in accordance with item 1 of Section 11(II) of the Master Agreement should be included in any of the aforesaid situations;
2. if all Transactions under this Agreement become Terminated Transactions on such Early Termination Date, any Early Termination Payment Amount that is payable but remains unpaid, and without duplication of calculation, any interest payment amount in respect of the Early Termination Payment Amount calculated in accordance with item 2 of Section 11(II) of the Master Agreement.

**“Defaulting Party” / “Non-defaulting Party”**: in accordance with Section 6 of the Master Agreement, a Party in relation to whom an Event of Default has occurred is the Defaulting Party; in respect of that Event of Default, the other Party is the Non-defaulting Party.

**“Default Rate”** means unless otherwise agreed by the Parties, a rate per annum equal to the reasonable funding cost which may be incurred to the relevant Party who will receive a payment, as reasonably proved by it, if it were to fund the same amount of that payment, plus 1% per annum.

**“Event of Default”** means any event which is determined to be an “Event of Default” pursuant to Section 6 of the Master Agreement and the Supplement.

**“Inter-bank Rate”** means with respect to each interest date, unless otherwise agreed by the Parties, in relation to Renminbi, the overnight rate for Shanghai Interbank Offered Rate (Shibor) published by the National Interbank Funding Center pursuant to the authorisation from the People’s Bank of China; in relation to United States Dollars, the Effective Federal Funds Rate; in relation to Euro, the Euro Overnight Index Average (EONIA); in relation to British Pound Sterling, the Sterling Overnight Index Average (SONIA); in relation to any other freely convertible currency, the interbank lending interest rate as quoted by leading banks for the overnight deposit in that currency at the relevant place of payment.

**“Business Day”** means unless otherwise agreed by the Parties, the following days: with respect to any payments, a day on which commercial banks in the place where the relevant account is located are open for business (not including statutory festivals and holidays); with respect to any delivery, a day on which the depository and settlement institutions in the place where the delivery takes place are open for business (not including statutory festivals and holidays); with respect to any notices or communications, a day on which commercial banks in the city that is specified in the address of the notice and as provided by the receiving Party are ordinarily open for business (not including statutory festivals and holidays).

**“PRC Laws”** means the laws, regulations and rules that are promulgated and have taken effect within the territory of the People’s Republic of China (which, for the purpose of this Agreement, does not include the Hong Kong Special Administrative Region, the Macao Special Administrative Region or Taiwan area) and any regulatory document issued by an authority having legislative, judicial or administrative power which has universal binding authority.

**“Close-out Netting Calculation Party”** means the Non-defaulting Party in the case of an Event of Default; the Non-affected Party in the case of a Termination Event (if both Parties are Affected Parties, any Party).

**“Termination Event”** means any event which is determined as a “Termination Event” pursuant to Section 7 of the Master Agreement and the Supplement.

**“Termination Amount”** means with respect to a Terminated Transaction or a group of Terminated Transactions and a Close-out Netting Calculation Party, the loss and cost (expressed as a positive number) incurred or to be incurred or gains (expressed as a negative number) realised or to be realised, as determined in a commercially reasonable manner by such Close-out Netting Calculation Party in good faith on the Basis Date, resulting from having to replace the major terms of the Terminated Transaction (including any Unpaid Amount or any undelivered items that would otherwise be paid or delivered by the Parties after the Early Termination Date in accordance with Section 4 of the Master Agreement (assuming that all of the conditions precedent under Section 4(III) of the Master Agreement have been satisfied) but being not paid or not delivered resulting from the occurrence of the Early Termination Date) or having to obtain the same economic equivalent of the major terms of the Terminated Transaction under the then prevailing circumstances. Termination Amount does not include the Unpaid Amount in respect of a Terminated Transaction or a group of Terminated Transactions, and also does not include any expenses referred to under Section 20 of the Master Agreement. Without duplication of calculation, the cost of financing, the loss and costs (or any gains) reasonably incurred or realised as a result of terminating, liquidating or re-establishing any hedging arrangement in relation to a Terminated Transaction or a group of Terminated Transactions may be included by the Close-out Netting Calculation Party in calculating the relevant Termination Amount.

**Signing Block**

**Party A:**

**Party B:**

**Authorized person of Party A**

**Authorized person of Party B**

Name:

Name:

Signature:

Signature:

**Chop of Party A**

**Chop of Party B**

(Date)

(Date)

**SUPPLEMENT TO NAFMII MASTER AGREEMENT  
(2009 VERSION)**

(English Translation)\*

This Supplement is entered into by and between

\_\_\_\_\_ (“Party A”)

and

\_\_\_\_\_ (“Party B”)

on, and becomes effective as of, \_\_\_\_\_.

Whereas Party A and Party B have both executed the *NAFMII Master Agreement (2009 Version)* (the “**Master Agreement**”), in order to further define the rights and obligations of the Parties, the Parties hereby execute this Supplement on the basis of the Master Agreement, and make supplemental or specific agreements in respect of the following matters.

Unless otherwise specified in the Supplement, a definition provided in this Supplement shall have the meaning specified in the Master Agreement for the same definition.

**1 Section 2 “Application of the Master Agreement”**

Whether the Master Agreement will apply to derivative transactions entered into prior to the execution of the Master Agreement and subsisting as of the execution of this Supplement:

[Applicable] / [Not applicable]

**2 In relation to “Representations and Warranties”**

For the purpose of item 8 of Section 3, the documents and information applicable to a Party are as follows:

Party A:

Party B:

\* This English translation is for reference only and is not prepared for the purposes of execution. The copyright statement in the Chinese version of the 2009 NAFMII Master Agreement documentation applies to this English translation. It should be noted that each language has its own grammatical structures and embodies its own legal and cultural concepts. Accordingly, it is not possible to guarantee that the English version is an exact translation of the original Chinese version, and this English translation shall not be relied upon by any person in making any decision or taking any action. At the instruction of NAFMII, Linklaters, a member of the Drafting Panel for the 2009 NAFMII Master Agreement documentation has prepared the draft English translation and has worked with the representatives from other members of the Drafting Panel, including Allen & Overy LLP, China Foreign Exchange Trade System, Credit Suisse, Deutsche Bank (China) Co. Ltd., Global Law Office, Industrial and Commercial Bank of China, JunZeJun Law Offices, Mallesons Stephen Jaques, and Zhong Yin Law Firm to finalise this English translation.

For the purpose of item 11 of Section 3, other representations and warranties are as follows:

**3 In relation to “Specified Entities”**

The Specified Entities of Party A are:

- (i) Under item 7 of Section 3 of the Master Agreement:
- (ii) Under Section 6(VI) of the Master Agreement:
- (iii) Under Section 6(VII) of the Master Agreement:
- (iv) Under Section 6(VIII) of the Master Agreement:
- (v) Under Section 7(II) of the Master Agreement:

The Specified Entities of Party B are:

- (i) Under item 7 of Section 3 of the Master Agreement:
- (ii) Under Section 6(VI) of the Master Agreement:
- (iii) Under Section 6(VII) of the Master Agreement:
- (iv) Under Section 6(VIII) of the Master Agreement:
- (v) Under Section 7(II) of the Master Agreement:

**4 Payment netting for multiple Transactions under Section 4(V)**

[Applicable] / [Not applicable]

If applicable, the agreement of payment netting shall be applicable to the following Transaction or group of Transactions:

**5 Performance Assurance**

The Performance Assurance Document applicable to Party A is:

The Performance Assurance Document applicable to Party B is:

Other assurance arrangements are:

**6 “Cross default” under Section 6(VI)**

[Applicable] / [Not applicable]

If applicable, the threshold amount for the cross default is,

in relation to Party A:

in relation to Party B:

The definition of “other debt document” is: [as specified in the Master Agreement]

**7 “Default under Specified Transactions” under Section 6(VII)**

[Applicable] / [Not applicable]

If applicable, "other transactions as agreed by the Parties which are not governed by the Master Agreement" in the definition of Specified Transactions is: [as specified in the Master Agreement]

**8 In relation to Section 6 "Events of Default"**

**9 "Termination Events" under Section 7(II)**

[Applicable] / [Not applicable]

If applicable, for the purpose of such sub-section, the "merger event" means:

**10 In relation to "additional Termination Events"**

For the purpose of Section 7(IV), the "additional Termination Events" includes the following events:

**11 "Automatic Early Termination" under item 2 of Section 9(I)**

[Applicable] / [Not applicable]

**12 Calculation method for the fair market value of the Terminated Transactions**

For the purpose of item 3 of Section 9(II) and item 1 of Section 10(IV), the [replacement transaction method] / [market quotation method] shall apply.

**13 In relation to "termination currency" under Section 12(II)**

Where the contract currency of the Terminated Transaction does not include Renminbi, the termination currency shall be \_\_\_\_\_, and the conversion between the currencies shall be carried out pursuant to the method as follows:

**14 In relation to "Dispute Resolution" under Section 18**

**15 Details for Notice**

The details for notice to Party A pursuant to Section 19(I), (II), (III) and (IV) include:

Address:

Attention:

Postal code:

Telephone:

Facsimile:

Electronic messaging system:

The details for notice to Party B pursuant to Section 19(I), (II), (III) and (IV) include:

Address:

Attention:

Postal code:

Telephone:

Facsimile:

Electronic messaging system:

The agreement of the parties in relation to service by public announcement and service by leaving the notice on the premise of the recipient is as follows:

The agreement of the parties in relation to other details for notice and the effective time of notice is as follows:

**16 Other supplemental agreement**

**Signing Block**

**Party A:**

**Party B:**

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Signature of authorized representative:

---

Signature of authorized representative:

Title of authorized representative:

Title of authorized representative:

Company chop:

Company chop: