

## TERMS AND CONDITIONS FOR SHARE LOANS

Revised as at 7 May 2019

### 1. SCOPE OF THE TERMS AND CONDITIONS

Unless otherwise agreed on in writing, these terms and conditions (the “Terms and Conditions”) shall apply to all share loans entered into between Arctic Securities AS (“the Company”) as lender and the client as borrower (hereinafter jointly referred to as the “Parties”).

The Company may make loans from its own portfolio or act as an intermediary for loans of financial instruments.

The Company’s general business terms and conditions apply unless these have been waived in the Terms and Conditions.

### 2. DEFINITIONS

By “**Loan Object**” is meant the shares that the client borrows from the Company.

By “**Loan Period**” is meant the period that the client can utilise the Loan Object.

By “**Closing Price**” is meant the official closing price of the Oslo Stock Exchange or another relevant market place.

By “**Market Value**” is meant the Closing Price for the stock exchange day in question or, if such does not exist, the most recently listed purchase price in the market place where the financial instrument in question is listed.

By “**Margin Requirement**” is meant the percentage, calculated on the Market Value of the Loan Object, that the parties have agreed is to apply to the individual share loan.

By “**Stock Exchange Day**” is meant a day when Oslo Stock Exchange or another relevant market place is open for ordinary trading.

By “**Office Hours**” is meant 8 am - 4.30 pm.

### 3. WARRANTIES

Each of the Parties warrants that it has the necessary expertise and mandatory authorisations to enter into individual agreements under the Terms and Conditions and to perform the obligations that arise therefrom.

Each of the Parties shall document authorisations, decisions, articles of association, certificates of incorporation and licences from public authorities should the other Party demand that such be presented.

Should the Parties not operate in the same jurisdiction, either of them may demand to be presented with a reasoned legal opinion on the abovementioned warranties before individual agreements are entered into.

### 4. CONCLUSION OF CONTRACT. CONTRACT NOTE. COMPLAINTS

Each individual loan and the conditions for it are to be agreed on separately, either orally or in writing.

Oral contracts are to be confirmed by the Company in a contract note or some other form of confirmation as soon as possible after the contract has been entered into and, if possible, on

the same day. If the client has not received confirmation within two days of a contract being entered into, the Company must be notified of this by the end of the Company's Office Hours on that day.

#### **5. ESTABLISHMENT OF A LOAN**

A loan under the Terms and Conditions is provided by the Loan Object being transferred to the client's securities account with Oslo Børs VPS Holding AS, or alternatively being made available in the client's custody account with the Company.

#### **6. TRANSFER OF THE RIGHT OF OWNERSHIP IN RETURN FOR A CLAIM FOR RETURN**

When a loan is established, the Company transfers the right of ownership in the Loan Object to the client. The Company's right of ownership is replaced by a claim against the client for the return of shares of the same type and number as that stated on the contract note, including any changes and additions.

This means that all the Company's rights linked to the Loan Object, including any voting rights, cease during the Loan Period.

The client's reason for having the loan is of no concern to the Company.

The Company and client agree that the transfer of securities under the Contract is to be regarded as a loan and not as a purchase and sale of the securities in question, and that transactions are to be registered as a loan transaction in the relevant securities register, cf. § 9-11 (4)(c) of the Taxes Act. The client agrees to compensate the Company for all the return (including dividend, pre-emptive rights, subscription rights, etc) that is distributed on the borrowed securities during the Loan Period, cf. § 9-11 (4)(b) of the Taxes Act.

#### **7. DUTY TO PROVIDE INFORMATION AND RIGHT TO INSTRUCT**

Should the client receive an offer or information on a conversion, demerger, merger, redemption, acquisition, exercise of a pre-emptive right to purchase, share issue, demand to pay in share capital or similar event related to the Loan Object during the Loan Period, the client shall immediately submit such information to the Company.

The client undertakes to do that which can reasonably be expected to comply with the Company's instructions regarding the Loan Object in connection with the abovementioned situations provided these instructions are notified to the client in the manner stated in clause 22 below at least three - 3 - Stock Exchange Days before the deadline for exercising the right in question expires.

Should an act in accordance with the abovementioned instructions mean that the client must pay a monetary amount, the client is not obliged to do so according to the above unless the client has received the necessary monetary amount from the Company in advance.

#### **8. REGARDING RETURNS, SHARE ISSUES, REDUCTIONS IN CAPITAL AND STRUCTURAL CHANGES, ETC**

The following applies to the returns etc, on the borrowed financial instruments:

On the due date for the loan, the client shall pay the Company an amount that is equal to the dividend, interest or other regular payments on the borrowed financial instruments plus interest calculated from the date when the Company would have received the money if it had had the financial instruments in question in its own possession.

Should any drawings or suchlike take place during the Loan Period, the amount drawn is to be repaid to the Company plus interest calculated from the date when the Company would have received the money if it had had the financial instruments in question in its own possession. The

same applies if a cash repayment is made during the Loan Period through redemptions, reductions in capital, mergers or demergers of shares or the sale of subscription rights linked to the borrowed financial instruments.

Should a bonus issue be carried out, scrip dividends be distributed, shares be merged or split, or shares be converted in the case of acquisitions, mergers or demergers during the Loan Period, the borrower shall, on the due date for the loan, also hand back the number of the new financial instruments which equals the number the Company would have received if it had had the borrowed financial instruments in its own possession.

Should a rights issue of shares or other financial instruments be carried out during the Loan Period, the borrower shall free of charge deliver to the Company the number of subscription rights that would have become the property of the Company if it had had the financial instruments in question in its own possession. Delivery is to take place as quickly as possible and at the latest on the third Stock Exchange Day after the subscription rights became available for trading. If such subscription rights are not marketable, a separate payment is to be agreed on to cover the Company's rights.

In the case of a redemption, liquidation, debt negotiations, bankruptcy or suchlike during the Loan Period which means that the financial instrument in question cannot be returned, the borrower is to compensate the Company for the market value of the financial instrument in question calculated on the due date for the loan.

Should a suspension of the financial instruments from listing on the stock exchange in question or another regulated market place, or other force-majeure-like events of a similar nature, make a return in accordance with the Contract impossible or very difficult, the return date is to be suspended for up to the number of days that the suspension is maintained on the stock exchange or regulated market place in question. In the case of a delisting or temporary delisting, the borrower will have a deadline of a further 21 Stock Exchange Days from the delisting to return the instruments, counted from the date of the decision to delist.

The client is not entitled to borrow shares in Norwegian companies over the turn of the year period (31 December to 1 January), cf. § 9-11 (5) of the Taxes Act. The same applies in other cases where lending over the turn of the year period will have tax-related consequences for the Company.

## 9. SECURITY

The client shall provide security for its obligations under the Terms and Conditions before the Loan Object is transferred to the client.

This security must at least and at all times meet the margin requirement as this is calculated by the Company. The margin requirement shall also at least meet the security requirements stipulated in the regulations governing the margin requirement when arranging loans of financial instruments and lending financial instruments from the Company's own portfolio, dated 14 October 1996.

In general, the Company will accept security in the form of

- Government bonds/certificates
- Shares listed on a regulated market,
- Other financial instruments, including shares listed on other stock exchanges, may in special cases be assigned a collateral value following prior agreement with the Company.
- Derivatives on the above, issued and cleared by the Company and regulated by terms and conditions governing trading in non-standardised derivatives, entered into between the client and Company.
- Cash

Securities provided as security will be assigned a value measured as a percentage of their market value. This percentage is called the *collateral value*. The collateral value is determined individually for each of the securities. The Company may reduce the collateral value for individual securities or in special market situations, on an independent basis and in a way that is binding for

the client. The Company is also entitled to reduce the collateral value of shares for individual clients, for example due to a large concentration of exposure in few securities.

Collateral values are determined by the Company and are subject to general revision at all times.

The client agrees that all the client's share loan positions are to have a charge created on them in favour of the Company, so that added value in a share loan position can be used to cover a shortfall in value in other positions that the client may have in relation to the Company.

The client agrees that cash security which has been paid in is **not** to be treated as client funds, but instead as a credit amount that falls due for payment at the same time as the positions for which it has been provided as security are covered/closed and settled.

In situations where there is excess security, the client is not entitled to have such excess security disbursed to it unless the total remaining cash security after any disbursement exceeds the proceeds from the short sale of the Loan Object. However, this provision does not prevent the client and Company from agreeing otherwise in each individual case.

#### **10. THE LOAN PERIOD**

The Loan is in force until further notice unless a time-limited Loan Period is agreed on.

#### **11. RIGHT OF RETURN DURING THE LOAN PERIOD**

If it has been agreed that the Loan Period is until further notice, the Company is entitled, by giving notice, to demand the return of all or parts of the Loan Object. The client, on its part, may decide to return all or parts of the Loan Object.

Should the Company demand a return, the return date cannot be less than three Stock Exchange Days from the date when the notice was given. Attempts shall be made to impart the notice as quickly as possible, preferably in a taped telephone call, and it shall then be confirmed in writing as quickly as possible and by the end of the same Stock Exchange Day if it is first given verbally.

Any return pursuant to this clause shall take place in accordance with clause 12.

#### **12. RETURN OF THE LOAN OBJECT**

When returning the Loan Object, the client shall, at the latest by 11 am on the last day in the Loan period, return shares of the same type and number as the Loan Object, with the exceptions stated in clause 8.

The Financial Instruments which are returned are to be free from liens, charges and encumbrances and without limitations or restrictions on their use.

Return is to be regarded as having taken place when the transfer of the abovementioned financial instruments is registered in VPS or in a corresponding other securities depository for financial instruments that are not registered with the Central Securities Depository (VPS).

Should no return have taken place by the deadline, the Company is entitled, but not obliged, to itself carry out the return at the borrower's expense by making a cover purchase of the financial instruments in question in the market place that the Company finds appropriate.

Should a return be impossible for reasons over which the client has no control, the client shall, following a demand by the Company, instead pay to the Company an amount equal to the relevant financial instruments' average price plus interest equal to the statutory interest on overdue payments calculated from the last day of the Loan Period until payment takes place. The Company may under all circumstances demand such compensation once 15 Stock Exchange Days have elapsed since the expiry of the Loan Period. The average price is to be regarded as

being the average value of the first five Stock Exchange Days' trading in the relevant Financial Instruments after the expiry of the Loan Period. The average value is to be calculated as the average of the highest and lowest purchase prices each day according to the price list on which the financial instrument in question is noted. Should the purchase price not be noted on one or more of the abovementioned days, such a day is to be disregarded when calculating the average price. If the average price cannot be calculated according to the above rules, the Parties shall agree on the compensation amount within fifteen Stock Exchange Days from the expiry of the Loan Period. Should no such agreement be reached, the compensation amount is to be determined by a court appraisal pursuant to the rules stipulated in the Norwegian Act no. 1 of 1 June 1917 relating to appraisements and expropriation cases. The Company may alternatively carry out a cover purchase for the client's account and risk and may use the security provided by the borrower for this purpose.

Should a return not take place for reasons other than those mentioned in the above paragraph, the client may be made responsible for the full loss incurred by the Company as a result of the failure to return.

### **13. BORROWING COST**

The payment date and size of the borrowing cost that the client is to pay to the Company are to be stated in the contract note or other confirmation.

Should the Loan Object be returned after the expiry of the Loan Period, the borrowing cost is to be calculated until the Loan Object is actually returned.

The borrowing cost for the period from the expiry of the Loan Period until the Loan Object is actually returned may be calculated according to a rate that is two - 2 - per cent higher than the rate that has been agreed if it has been agreed that a commission is to be calculated according to a percentage rate and no force majeure situation exists. The borrowing cost agreed on as a percentage rate is to be calculated according to the actual number of days the loan is in existence, based on a 360-day year. The Company is entitled to operate with a minimum borrowing cost.

The borrowing cost is to be transferred in the way in which the Parties have agreed.

### **14. INTEREST ON OVERDUE PAYMENTS**

In the case of the overdue payment of any amount that the Parties are to pay each other under these Terms and Conditions, interest is payable according to the rate stipulated pursuant to the Norwegian Act no. 100 of 17 December 1976 relating to overdue payments, etc.

### **15. TAXES, ETC**

Each of the Parties is liable for its own taxes and other costs that the party in question incurs in connection with the loan of financial instruments in accordance with these Terms and Conditions.

### **16. GUARANTEE**

Each of the Parties hereby guarantees that, when handing over financial instruments in accordance with these Terms and Conditions, it is entitled to dispose of the same and that they are not subject to any lien, charge or encumbrance and that there are no restrictions of any kind on the right to use them.

### **17. CANCELLATION**

The Terms and Conditions may be cancelled by either Party giving fourteen - 14 - days' written notice, counted from the date of the notice sent in accordance with clause 22.

However, the Terms and Conditions do not cease to apply until all the loans covered by them are finally settled.

#### **18. BREACH OF CONTRACT**

A breach of contract is considered to exist if the borrower:

- does not fulfil the margin requirement by the stipulated deadline,
- does not pay by the settlement deadline for monetary claims,
- otherwise breaches one or more of its obligations pursuant to the Terms and Conditions and the breach is fundamental,
- breaches another contract or payment obligation it has with the Company and the breach is fundamental,
- is subject to a significant negative change in its financial position,
- suspends its payments, declares in writing that it is unable to pay its obligations as they fall due, must be regarded as being illiquid or insolvent, starts debt negotiations of any kind with any of its creditors, has bankruptcy proceedings initiated against it, or is placed under public administration,
- becomes subject to the enforced winding up of all or parts of its operations or loses necessary licences, authorisations, etc, or it is discovered that these do not exist.

#### **19. GENERAL REMEDIES FOR BREACH OF CONTRACT**

In the case of a breach of contract, the Company may:

- i. regard requests for loans or contracts for loans that have not been carried out as being cancelled,
- ii. with immediate effect cancel individual or all contracts for loans of financial instruments,
- iii. cancel the framework contract as from the date when all individual loans have been finally settled,
- iv. offset amounts and prepare final accounts in accordance with clause 21,
- v. realise financial security,
- vi. demand compensation for estimated financial losses due to the breach of contract, and include this claim in the amounts offset or the final accounts.

#### **20. LIABILITY. DAMAGES**

The Company is not liable in damages for any loss the client may suffer as a result of factors linked to the Terms and Conditions provided the Company has acted with due care. The Company is under no circumstances liable for indirect losses.

#### **21. OFFSETTING. FINAL ACCOUNTS (NETTING)**

The Company may in whole or in part choose to settle any obligation under these Terms and Conditions on the ordinary due date, in the case of a default in payment or in the case of any other breach of contract by offsetting this amount against the security provided for the performance of the Terms and Conditions. Should the security be in the form of financial instruments, the settlement shall take place based on a valuation on market terms of the financial instrument in question on the valuation date. The Company shall conduct valuations in accordance with the Terms and Conditions. Should the client wish to reject a valuation, the client must complain in writing by the end of the first Stock Exchange Day after the accounts have been prepared and notified to the client in a contract note.

#### **22. NOTICES**

The Parties' written notices are to be sent by letter, fax or in some other electronic manner that has been agreed on between the Parties.

**23. COMPANY ILLEGALITY**

Should it become illegal for the Company to provide or maintain all or some loans of Financial Instruments (either in whole or part), including if Finanstilsynet (the Financial Supervisory Authority of Norway) revokes its approval of the Terms and Conditions, the Company shall immediately notify the client, the Loan Period shall immediately expire for the loans in question, and the client shall immediately return the Loan Object and pay all the amounts outstanding under the these Terms and Conditions for such loans.

**24. PUBLIC LAW CLAIMS, ETC.**

Where a duty is stipulated in an Act, statutory instrument or other public law regulation, the party on which such duty rests is to carry out the necessary acts, usual reporting, the provision of notification or submission of an application to a public authority or regulated market place.

**25. TRANSFER**

Rights and obligations under these Terms and Conditions may not be transferred without the written consent of the other Party.

**26. AMENDMENTS**

The Company reserves the right to amend the Terms and Conditions. Significant amendments take effect as from the date when they are notified in writing to the Client. The Client is regarded as having agreed to receive notification of amendments by e-mail if he/she/it has informed the Company of his/her/its e-mail address. Other amendments come into force from the date when they are published on the Company's website. Amendments will not affect orders, trades, transactions, etc., that are entered into or completed prior to the date when the amendments are notified.