

ISDA

SCHEDULE to the

2002 Master Agreement

[MONTH DAY, DATE]

between

SAXO BANK
tradename of BinckBank N.V. acting through
it's Belgian branch
organised and existing
under the laws of the Netherlands
with company number BE 0842.123.910
("Party A")

and

COMPANY NAME
organised and existing
under the laws of COUNTRY
registration number xxxxxxx
("Party B")

Part 1. Termination Provisions

In this Agreement:

(a) **"Specified Entity"** means in relation to Party A for the purpose of:-

Section 5(a)(v)	None
Section 5(a)(vi)	None
Section 5(a)(vii)	None
Section 5(b)(v)	None

and in relation to Party B for the purpose of:-

Section 5(a)(v)	Any Affiliate of Party B
Section 5(a)(vi)	Any Affiliate of Party B
Section 5(a)(vii)	Any Affiliate of Party B
Section 5(b)(v)	Any Affiliate of Party B

(b) **"Specified Transaction"** will have the meaning specified in Section 14 of this Agreement.

(c) The **"Cross Default"** provisions of Section 5(a)(vi) will apply to Party A
will apply to Party B

Section 5(a)(vi) of this Agreement shall be modified as follows:

- (i) the words ", or becoming capable at such time of being declared," in line nine shall be deleted;
and
- (ii) the following wording shall be added at the end of Section 5(a)(vi): "provided however that an Event of Default shall not occur under (2) above if the failure to pay referred to in (2) is a failure to pay caused by an error or omission of an administrative or operational nature and funds were available to such party to enable it to make the relevant payment when due and

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such payment is in fact made on or before the second Local Business Day following receipt of written notice from the other party of such failure to pay."

For purposes of Section 5(a)(vi), the following provisions apply:

"Specified Indebtedness" shall have the meaning set forth in Section 14 of this Agreement, provided, however, that Specified Indebtedness shall not include deposits received in the course of a party's ordinary banking business.

"Threshold Amount" means:

- (i) with respect to Party A, 2% of that party's shareholders' equity as specified in that party's latest published audited annual accounts, or its equivalent in any other currency; and
 - (ii) with respect to Party B, 2% of that party's shareholders' equity as specified in that party's latest published audited annual accounts, or its equivalent in any other currency.
- (d) The **"Credit Event Upon Merger"** provisions of Section 5(b)(v) of this Agreement: will apply to Party A, and will apply to Party B.
- (e) The **"Automatic Early Termination"** provisions of Section 6(a) will not apply to Party A and [will/will not] apply to Party B.
- (f) **"Termination Currency"** means a freely available currency (i) selected by the party which is not the Defaulting Party or the Affected Party, as the case may be, provided that the Termination Currency shall be one of the currencies in which payments are required to be made in respect of Transactions, or (ii), where there are two Affected Parties, as agreed between the parties; or failing such agreement, or if the selected currency is not freely available, the Termination Currency shall be Euro.
- (g) **"Additional Termination Event"** shall apply. Each of the following shall constitute an Additional Termination Event.
- (i) **Termination of the Institutional Trading Agreement.** The Institutional Trading Agreement (as defined in Part 5(a) below) terminates or fails or ceases to be in full force and effect for any reason. For the purposes of this Additional Termination Event, Party B shall be the sole Affected Party (except for the purposes of Section 6(b)(iv) where both parties shall be Affected Parties) and all Transactions shall be Affected Transactions.
 - (ii) **Party B's Event of Default under the Institutional Trading Agreement.** Any Event of Default (as defined in the Institutional Trading Agreement) occurs in relation to Party B under the Institutional Trading Agreement. For the purposes of this Additional Termination Event, Party B shall be the sole Affected Party and an Additional Termination Event shall only occur in respect of such Transactions (or such portions of Transactions) as determined by Party A in its sole discretion and only such Transactions (or such portions of Transactions) in respect of which such Additional Termination Event has occurred shall constitute Affected Transactions.

Any portion of Transactions which are not Affected Transactions pursuant to this Additional Termination Event shall continue in accordance with the provisions of this Agreement and the Notional Amount (as defined in the Confirmation in respect of each relevant Transaction) or equivalent term, howsoever described, in respect of any Transaction terminated in part, will be reduced to reflect such partial termination. Following a partial termination, the terms of all Transactions, as so reduced, shall continue to apply in accordance with their respective terms, mutatis mutandis.

Part 2. Tax Representations

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- (a) **Payer Representations.** For the purpose of Section 3(e) of this Agreement, Party A and Party B will make the following representation:

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 9(h) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on

- (i) the accuracy of any representations made by the other party pursuant to Section 3(f) of this Agreement;
- (ii) the satisfaction of the agreement contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement; and
- (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement,

except that it will not be a breach of this representation where reliance is placed on clause (ii) above and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.

- (b) **Payee Representations.** For the purpose of Section 3(f) of this Agreement, Party A and Party B do not make any representations.

Part 3. Agreement to Deliver Documents

For the purpose of Section 4(a) of this Agreement, each party agrees to deliver the following documents as applicable:

- (a) Tax forms, documents or certificates to be delivered are:-

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered
Party A and Party B	Any form/document/certificate required or reasonably requested to allow the other party to make payments under this Agreement or any Credit Support Document without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of the party in receipt of such demand).	By Party A: Upon reasonable request by Party B. By Party B: If applicable, promptly upon execution of this Agreement and promptly upon discovering that any form previously provided by Party B has become obsolete or incorrect.

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(b) Other documents to be delivered are:-

Party required to deliver document	Form/Document/ Certificate	Date by which to be delivered	Covered by Section representation	3(d)
Party A and Party B	Evidence reasonably satisfactory to the other party as to the names, true signatures and authority of the officers signing this Agreement, any Credit Support Document and each Confirmation.	By Party A: Promptly upon request. By Party B: Upon execution of this Agreement and thereafter promptly upon request.	Yes	
Party B	Evidence reasonably satisfactory to the other party as to its capacity to enter into the Agreement, any Credit Support Document and each Confirmation, including any certificate of incorporation or certificate of registration certifying the incorporation.	Upon execution of this Agreement and any Credit Support Document and promptly following any amendment of any such document or agreement. With regard to Confirmations upon request in connection with each Confirmation.	Yes	
Party B	Evidence as to the authority of such party and, if applicable, any agent on its behalf, to enter into the Agreement, any Credit Support Document and each Confirmation.	Upon execution of this Agreement and any Credit Support Document, and promptly following any amendment of any such document or agreement. With regard to Confirmations upon request in connection with each Confirmation.	Yes	
Party A and Party B	A copy of the most recent annual report, including audited consolidated financial statements for such fiscal year certified by independent public accountants and prepared in accordance with accounting principles that are generally accepted in the country in which the entity is incorporated.	By Party A: Upon request by Party B (whether via the world wide web or otherwise). By Party B: Upon request by Party A and as soon as practicable after becoming publicly available (whether via the world wide web or otherwise).	Yes provided that the words in Section 3(d): "is, as of the date of the information, true, accurate and complete in every material respect" are deleted and replaced with the words " gives a true and fair view in relation to the relevant financial period" in relation to such annual reports.	

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Party required to deliver document	Form/Document/Certificate	Date by which to be delivered	Covered by Section representation	3(d)
Party B	Any Credit Support Document.	Upon execution of the Agreement.	Yes	
Party B	Such other financial and other information as Party A may reasonably request.	Upon reasonable request by Party A.	Yes	

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Part 4. Miscellaneous

- (a) **Addresses for Notices.** For the purpose of Section 12(a) of this Agreement:

Address for notices or communications to Party A:-

For all matters:

Saxo Bank
Italiëlei 124
2000 Antwerp
Belgium

Telephone No.: +32 3 500 52 30 E-mail address: iamamsant@saxobank.com

& [isda-](#)

notices@saxobank.com

And, for all matters in relation to Sections 5 or 6, with a copy to:

Saxo Bank
Italiëlei 124
2000 Antwerp
Belgium

Attention: Head of Legal

Telephone No.: +31 (0) 20 225 60 90

E-mail address: legal@saxobank.com

Address for notices or communications to Party B:-

Address: **[ADDRESS]**

Attention: **[CONTACT PERSON]**

Telephone No.: **[TEL NO.]**

Facsimile No: **[FAX NO.]**

E-mail address: **[E-MAIL ADDRESS]**

Electronic Messaging System Details: the Trading Platform, as defined in the Institutional Trading Agreement.

- (b) **Process Agent.** For the purpose of Section 13(c) of this Agreement:

Party A appoints as its Process Agent: Saxo Capital Markets Ltd, 40 Bank Street, Canary Wharf, London E14 5DA, United Kingdom.

Party B appoints as its Process Agent: **[please provide English process agent]**

- (c) **Offices.** The provisions of Section 10(a) will apply to this Agreement.

- (d) **Multibranch Party.** For the purpose of Section 10(b) of this Agreement:

Party A is not a Multibranch Party.

Party B is [not] a Multibranch Party [and may act through any of the following Offices: [insert location(s) of office(s)]]. **[delete relevant wording]**

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- (e) **Calculation Agent.** The Calculation Agent will be Party A unless otherwise specified in a Confirmation in relation to the relevant Transaction. The Calculation Agent's calculations and determinations shall be conclusive and binding in the absence of manifest error.
- (f) **Credit Support Document.** Means with respect to Party A, none, and with respect to Party B, any form of credit support provided in favour of Party A at any time in the form of a guarantee, letter of support, letter of credit or other security, including, but not limited to, any margin provided pursuant to the terms of the Institutional Trading Agreement (as defined in Part 5(a) below).
- (g) **Credit Support Provider.**
- Credit Support Provider means in relation to Party A, None.
- Credit Support Provider means in relation to Party B, any person providing a Credit Support Document in respect of Party B's obligations.
- (h) **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of England and Wales.
- (i) **"Netting of Payments".** "Multiple Transaction Payment Netting" will not apply for the purposes of Section 2(c) of this Agreement provided, however, the parties shall use reasonable endeavours to agree to apply Multiple Transaction Payment Netting if it is reasonably practicable to do so.
- (j) **"Affiliate"** will have the meaning specified in Section 14 of this Agreement.
- (k) **Absence of Litigation.** For the purpose of Section 3(c):
- "Specified Entity" means in relation to Party A, none, and in relation to Party B, any Affiliate of Party B.
- (l) **No Agency.** The provisions of Section 3(g) will apply to this Agreement.
- (m) **Additional Representation** will apply. For the purpose of Section 3 of this Agreement, the following will constitute an Additional Representation:
- (i) **Relationship Between Parties.** Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):
- 1) **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction, it being understood that information and explanations related to the terms and conditions of a Transaction will not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party will be deemed to be an assurance or guarantee as to the expected results of that Transaction.
 - 2) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.
 - 3) **Status of Parties.** The other party is not acting as a fiduciary for or an adviser to it in

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respect of that Transaction.

- (n) **Recording of Conversations.** Each party (i) consents to the recording of telephone conversations (or any other applicable means of communication) between the trading, marketing, back-office and other relevant personnel of the parties in connection with this Agreement or any potential Transaction, (ii) agrees to obtain any necessary consent of, and give any necessary notice of such recording to, its relevant personnel and (iii) agrees, to the extent permitted by applicable law, that recordings may be submitted in evidence in any Proceedings.

Part 5. Other Provisions

- (a) **Institutional Trading Agreement.** The parties have entered, or intend to enter, into an institutional trading agreement (based on a form initially prepared by Party A) (the "**Institutional Trading Agreement**") in support of the online investment trading platform made available to Party B by Party A (the "**Trading Platform**").
- (b) **Third Party Rights.** A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Agreement.
- (c) **2002 Master Agreement Protocol.** Upon entering into this Agreement, the parties shall be deemed to have adhered to the 2002 Master Agreement Protocol and all Annexes thereto as published by the International Swaps and Derivatives Association, Inc. on 15 July 2003 and shall be bound by its terms and conditions.
- (d) **Equity Derivative Transactions.** Unless the parties expressly agree otherwise:
- (i) a "Transaction" (as defined in the 2002 ISDA Equity Derivatives Definitions published by ISDA as amended or supplemented from time to time, the "**Equity Derivatives Definitions**") shall, for the purposes of this Agreement, constitute a "Transaction".
 - (ii) The definition of "Transaction" in the Equity Derivatives Definitions shall be amended to include any transaction that is a contract for difference providing a party with a synthetic long or short exposure to a security, basket of securities, a securities index or a basket of securities indices and the value of which is derived from the fluctuation in value of such security, basket of securities or securities index (a "**CFD Transaction**").
 - (iii) any Confirmation made by the parties in relation to a Transaction which is a "Transaction" as defined in the Equity Derivatives Definitions shall be deemed to incorporate the Equity Derivatives Definitions.
- (e) **Platform Transactions.** In respect of Transactions entered into by Party B accessing and trading on the Trading Platform (such Transactions, "**Platform Transactions**"), Section 9(e)(ii) of this Agreement shall be deleted and replaced by the following:

"(ii) The parties intend that they are legally bound by the terms of each Platform Transaction upon Party B entering economic and other relevant trade details of a transaction on the Trading Platform and those details being accepted by Party A via the Trading Platform, as reflected either in a Pop-up Image (as defined below) or in the Trade Statement (as defined below) issued by Party A on the Trading Platform.

Upon the coming into existence of a Platform Transaction, it is envisaged that a pop up image will appear on the screen page of the Trading Platform accessed by Party B, containing certain key economic terms of the transaction entered into (such image, a "**Pop-up Image**"). The Trading Platform permits Party B to disable the function producing the Pop-up Image, but if Party B elects to do so,

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Party B shall bear any loss or costs incurred by it associated with the fact that Party B may not have notice that an attempted Platform Transaction was not successfully completed.

If, for any reason the system supporting the Trading Platform fails to accept Party B's proposed terms of an attempted Platform Transaction (as reflected by the fact that the attempted Platform Transaction neither appears in a Pop-up Image (where not disabled by Party B) nor in Party B's Trade Statement (as defined below)), Party A shall not be bound by Party B's proposed terms, regardless of whether or not Party B was aware thereof, and no Platform Transaction shall have been entered into.

When the economic and other relevant trade details of a Platform Transaction have been accepted via the Trading Platform and have been made available on Party B's trade statement found on the Trading Platform (the "**Trade Statement**"), such transaction shall constitute a "Transaction" for the purposes of this Agreement and such Trade Statement shall, even if not expressly specified therein, constitute a valid "Confirmation" for the purposes of this Agreement, sufficient for all purposes to evidence a binding supplement to this Agreement. There is no further requirement for such Confirmation or any other Confirmation to be signed or exchanged by the parties.

Should Party B detect any error or omission in a Trade Statement, it shall notify Party A promptly upon the Trade Statement becoming available on the Trading Platform. Failure of Party B to respond promptly shall be deemed to be an affirmation and acceptance of the terms of the Confirmation."

(f) **Limitation of Liability.** Section 9(d) of this Agreement is disappplied in respect of Party B, and Party B shall have no further rights against Party A other than those which are explicitly set out in the Agreement.

(g) **Early Termination: Close-out Netting.** For the purposes of the Additional Termination Event set out in Part 1(g)(ii) only, Section 6(b)(iv)(1) of this Agreement shall be deleted and replaced by the following:

"(1) Party A may, if the relevant Additional Termination Event is then continuing, terminate the Affected Transactions without providing prior notice to Party B designating an Early Termination Date. Party A may provide notice to inform Party B that it has terminated the Affected Transactions."

(h) **Early Termination: Close-out Netting.** For the purposes of the Additional Termination Event set out in Part 1(g)(ii) only, Section 6(c)(i) of this Agreement shall be deleted and replaced by the following:

"(i) The Early Termination Date shall occur on the date on which the termination of the Affected Transactions is effected by Party A."

(i) **Notices.** Section 12 of this Agreement is deleted and replaced by the following:

(a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner described below to the address or number or in accordance with the electronic messaging system or e-mail details provided (see the Schedule) and will be deemed effective as indicated: -

(i) if in writing and delivered in person or by courier, on the date it is delivered;

(ii) if sent by telex, on the date the recipient's answerback is received;

(iii) if sent by facsimile transmission, on the date it is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);

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(iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date it is delivered or its delivery is attempted;

(v) if sent by electronic messaging system, on the date it is received; or

(vi) if sent by e-mail, on the date it is delivered.

(b) **Change of Details.** Either party may by notice to the other change the address, telex or facsimile number or e-mail details at which notices or other communications are to be given to it. Only Party A may by notice to Party B change the electronic messaging system at which notices or other communications are to be given to Party B.

Part. 6 FX and Currency Options Transactions

(a) **1998 ISDA FX and Currency Option Definitions.** The 1998 ISDA FX and Currency Option Definitions published by the International Swaps and Derivatives Association, Inc., as amended from time to time (the "**FX Definitions**"), are incorporated by reference into this Agreement and into the terms of any FX Transaction or Currency Option Transaction (as defined in the FX Definitions) now existing or hereafter entered into between the parties, except as otherwise specifically provided herein or in the relevant Confirmation. In the event of any inconsistency between the FX Definitions and this Schedule, the Schedule shall prevail.

(b) **Amendment to the 1998 ISDA FX and Currency Option Definitions.** The following amendment is to be made to the 1998 ISDA Definitions: Section 3.6(a) is amended by deleting in its entirety the final sentence thereof and adding in its place the following:

"A Currency Option Transaction may be exercised in whole or in part. If a Currency Option Transaction is exercised in part, the unexercised portion shall not be extinguished thereby but shall remain a Currency Option Transaction to the extent of such unexercised portion until the earlier of: (i) the expiration of the Currency Option Transaction; or (ii) an exercise of the Currency Option Transaction that leaves no unexercised portion thereof."

(c) **Confirmations.** Any FX Transaction or Currency Option Transaction into which the parties may before the date of this Agreement have entered, or may in the future enter, where the relevant confirmation on its face does not expressly exclude the application of this Agreement, shall (to the extent not otherwise provided for in this Agreement) be subject to, governed by and construed in accordance with this Agreement (in substitution for any existing terms, if any, whether express or implied). Each such FX Transaction and Currency Option Transaction shall be a "Transaction", and the documents and other confirming evidence (including electronic messages on an electronic messaging service) exchanged between the parties confirming such FX Transaction or Currency Option Transaction shall each be a "Confirmation" (even where not so specified therein), for the purposes of this Agreement.

(d) **Discharge and Termination of Currency Option Transactions.** Unless otherwise agreed, any Call or any Put written by a party will automatically be terminated and discharged, in whole or in part, as applicable, against a Call or a Put, respectively, written by the other party, such discharge and termination to occur automatically upon the payment in full of the last Premium payable in respect of such Currency Option Transactions; provided that such termination and discharge may only occur in respect of Currency Option Transactions:

- (i) each being with respect to the same Put Currency and the same Call Currency;
- (ii) each having the same Expiration Date and Expiration Time;

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- (iii) each being of the same style, i.e., both being American Style Options, both being European Style Options or both being Bermuda Style Options;
- (iv) each having the same Strike Price;
- (v) neither of which shall have been exercised by delivery of a Notice of Exercise;
- (vi) which are entered into by the same Offices of the Parties; and
- (vii) which are otherwise identical in terms that are material for the purposes of offset and discharge;

and, upon the occurrence of such termination and discharge, neither party shall have any further obligation to the other party in respect of the relevant Currency Option Transactions or, as the case may be, parts thereof so terminated and discharged. In the case of a partial termination and discharge (i.e., where the relevant Currency Option Transactions are for different amounts of the Currency Pair), the remaining portion of the Currency Option Transaction which is partially discharged and terminated shall continue to be a Currency Option Transaction for all purposes hereunder.

Please confirm your agreement to the terms of this Agreement by signing below.

Saxo Bank

[NAME OF INSTITUTIONAL CLIENT]

Name.....

Name.....

Title.....

Title.....

Date:

Date:

Saxo Bank

[NAME OF INSTITUTIONAL CLIENT]

Name.....

Name.....

Title.....

Title.....

Date:

Date:

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