



{FORM 1}

{NON CORPORATE}

JOINT MEMORANDUM FOR LIEN

The Managing Director
Central Securities Clearing System Plc
Stock Exchange House
2/4 Customs Street
Lagos

All information/data to be typewritten please

Dear Sir,

Use of Securities in CSCS Depository as Collateral for Loan Facility

JOINT MEMORANDUM FOR LIEN ('JML')

THIS AGREEMENT is dated the day of.....
20_____

BETWEEN of.....
{Hereinafter referred to as the "Borrower/Shareholder/Bondholder"}

AND

....., a company incorporated in Nigeria and having its
registered office at {Hereinafter referred to as
the "Lender"}.

Both Lender and Borrower are also referred to herein as 'Party' individually and 'Parties' jointly.

In consideration of the sum of =N= which the Lender granted to the
Borrower/Shareholder/Bondholder pursuant to a loan agreement between them dated [insert date]
("Loan Agreement"), we hereby jointly agree as follows:

- 1. This Joint Memorandum for Lien (otherwise referred to as 'JML') is made in fulfilment of the requirements of Central Securities Clearing System Plc {"hereinafter referred to as "CSCS Plc"} for the use of securities as collateral for loan facility.

2. Upon placement of Lien on securities, the particulars of the account wherein the collateralized securities is held shall bear the title Lender/Borrower in view of the equal interest held by the Borrower and Lender in respect of the securities during the Lien period.
3. **CSCS Plc is hereby authorised to place a lien on the following securities in its Depository until it receives a written authorisation “notice of release” from the Lender stating that the Borrower/Shareholder/Bondholder has fully paid or liquidated his/her/its outstanding debt to the Lender and accordingly, CSCS Plc should lift the lien on the securities.**

<u>Security</u>	<u>Volume</u>	<u>CSCS Plc Investor’s A/C No.</u>
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- i. *Please note that this list is not exhaustive and may be extended to accommodate all the securities which Parties have agreed should be placed under lien.*
- ii. *Parties may agree to accept the use of amortized bonds as collateral for lien and therefore are hereby notified that CSCS shall accept this class of securities on ‘as it is’ basis and shall not bear any responsibility for any diminution in the value of the securities during the pendency/at the expiration of the lien placement, but shall only notify the lender of the tenor of the securities prior to placement of the lien.*
- iii. *CSCS shall not accept any bond(s) whose maturity date is shorter than the tenor of lien being placed at the Depository.*

4. **After CSCS Plc has placed a lien on the securities, CSCS Plc shall write to the parties informing them that a lien has been placed accordingly. Note: if the securities placed on lien is/are FGN bond(s), CSCS Plc shall also notify/update the CBN, who is the Registrar, of the lien placement.**

5. (a) **Duration:** The lien shall be in place effective from.....20... for a maximum period of 2 (two) years in the first instance and may be renewed for a subsequent

period of 2 (two) years after which a notice of release or a notice to effect sale shall be presented to the CSCS by the Lender.

(b) **Draw Down:** The draw down date is as contained in the loan agreement executed by the parties and dated [insert date] and shall be deemed the effective date of this lien

(c) **Due Date:** The lien due/expiration date is..... (dd/mm/yyyy)

(d) Notwithstanding clause (c) above, the due date may be abridged and the Lien terminated if:

- i. the Borrower has repaid the Loan sum to the Lender and both Parties thereafter forward a letter duly signed by both of them informing CSCS that the Borrower has repaid the Loan and that the securities placed on Lien be released to the Borrower.
- ii. the Borrower seeks to liquidate part of the securities in furtherance of repayment of the Loan with the consent of the Lender.
- iii. the Borrower defaults in payment of its outstanding debt to the Lender and the Lender exercises its power of sale in accordance with the provisions of Paragraph 6 below.

6. The Borrower/Shareholder/Bondholder hereby undertakes to fully redeem **his/its/their outstanding debt or other** financial obligations to the Lender in accordance with the terms of the loan agreement.

7. The Lender reserves the right to sell the securities or any part thereof upon the occurrence of an event of default as contained in the aforementioned loan agreement by the Borrower/Shareholder/Bondholder at the expiration of or the abridgment of the loan due date, without recourse to the latter provided that the following conditions have been satisfied by the Lender:

(a) In the course of placing the Lien, the Lender must furnish CSCS with copies of duly executed JML by both Parties which are also stamped at the High Court whilst it obtains a copy of an undated letter from the Borrower/Shareholder/Bondholder authorizing the Lender to sell the securities in the event of a default in payment by the Borrower;

Please note that the Lender is required to hold on to the undated letter and shall subsequently date same whilst presenting it to CSCS as proof of Lender's authority to sell the securities where the Borrower defaults in payment.

(b) Prior to sale of the securities, the Lender must show proof of a formal letter of demand to the Borrower stating that the Loan has fallen due and the Borrower needs to repay the loan within 15 [fifteen] Business Days or risk sale of the securities by the Lender.

(c) Where the Lender is desirous of exercising the option of sale as stated above, CSCS shall require a letter from the Lender instructing CSCS Plc to move the securities to a designated Stock Brokerage Firm or Primary Dealer Market Maker (PDMM) to effect sale.

8. Upon the occurrence of an event of default, the Lender shall ensure that its right of sale shall be exercised only on the portion of the collateral securities equal to the total value of the outstanding debt obligations and required to repay same.
9. The Borrower shall grant the Lender the right to pledge any of the collateral securities for the purpose of purchasing or selling any assets pursuant to any agreements with any party, in each case without notice to the Borrower but with notice to CSCS Plc.

Provided that CSCS remains indemnified from any claims, liabilities, costs etc which may arise from the Lender's right in this Paragraph.

10. Upon a written demand for withdrawal from the Borrower to CSCS Plc stating that the collateral securities exceed the debt obligations to the Lender, the Borrower may withdraw part of the collateral securities to maintain a value commensurate with its debt obligations provided that the following conditions have been satisfied:
 - a. The Borrower must provide evidence of the values of the collateral securities,
 - b. A letter of notice to withdraw must be delivered to the Lender;
 - c. A letter of approval must be received from the Lender.
11. Upon a written demand for substitution from the Borrower to CSCS Plc stating that the Borrower intends to substitute the collateral securities with another set of securities, the Borrower may substitute all or part of the collateral securities provided that the following conditions have been satisfied:
 - a. The Borrower must provide proof of ownership of substitute securities which should be confirmed by its/his/her Stock Brokers;
 - b. A letter of notice to substitute must be delivered to the Lender;
 - c. A letter of approval must be received from the Lender.

Provided that a substitution of securities shall not be made until the Borrower furnishes the substitute securities to CSCS Plc.

12. **Upon receipt of a notice of release from the Lender to lift the lien on the securities, CSCS Plc shall proceed to lift the lien without recourse to the Borrower/Lender/Bondholder and is free from any liability for so doing. Note: if the securities for which the lien has been placed and now subsequently being lifted is/are FGN bond(s), CSCS Plc shall also notify/update the CBN, who is the Registrar, of the lifting of the lien.**
13. CSCS Plc is not obliged to obey/recognize any instruction/agreement/arrangement which is not part of this memorandum.

CSCS shall not bear any responsibility whatsoever where any or both Parties fail to fulfil conditions precedent prior to the Lien placement.

14. **That the Lender/Borrower/Bondholder hereby agree to INDEMNIFY AND HOLD HARMLESS CSCS Plc from any and all liabilities, costs and claims, asserted by, through or under the Lender/ Borrower/Bondholder and arising either directly or indirectly from any breach of the terms of this JML or the Loan Agreement executed by the parties thereto.**
15. **The Borrower hereby confirms that the Borrower/Shareholder/Bondholder is the owner of the securities and/or has received valid authorisation from a related party or entity for the securities used as collateral to secure the loan and that the securities are genuine. In the event that CSCS Plc acts on this representation to its detriment, both**

parties hereby absolve CSCS Plc of any liability that may arise as a result of CSCS Plc so acting.

16. **Prior to the exercise of the Lender's right of sale the beneficial interest in the securities shall remain in the Borrower and shall not be considered as property of CSCS Plc or the Lender.**
17. **In the event that a party either as plaintiff/claimant or defendant/counterclaimant (the 'Responsible Party') applies to the Court to join CSCS as a party to any dispute, claim or action arising out of, or in relation to, the interpretation or execution of this JML, the Responsible Party shall defray any and/or every costs, losses and liabilities of CSCS (including defraying CSCS Plc's counsel's fees reasonably incurred and incidental expenses such as filing fees, cost of obtaining certified true copies of documents, cost of transportation, bailiff's fees etc) which are directly incurred by CSCS Plc (the 'Costs') as a result of being joined as a party.**

Consequently:

- (a) **Whenever a bill for professional fees and expenses is served on CSCS Plc by its counsel, CSCS Plc shall pass same onto the Responsible Party for payment. Upon receipt of the bill, the Responsible Party is under obligation to make payment directly to CSCS Plc's counsel within 30 days from the day the bill is received.**
 - (b) **Where the Responsible Party fails, refuses or neglects to pay the bill within the time frame stipulated above, CSCS Plc shall:**
 - i. **forthwith cease to render services to the Responsible Party until such a time that it receives notification/confirmation from its counsel that the bill has been paid;**
 - ii. **in the first instance apply to the Court where the matter has been instituted against itself, praying same Court to make a suitable order obligating the Responsible Party to defray its counsel's fees as provided for above before CSCS Plc can continue to appear in the matter.**
18. **The Parties hereby confer on CSCS Plc an enforceable right of action against either or both of the Lender or Borrower/Shareholder/Bondholder in the event of a breach of all clauses in this Agreement particularly clauses 9, 10, 11 and 12 of this JML. Hence the common law doctrine of privity of contract is inapplicable to this JML and cannot operate to deprive CSCS Plc of any or all of the rights conferred on it by this JML.**
 19. **The Parties hereby undertake that where e-bonus shares occur during the pendency of the Lien placement of specific shares, same e-bonus shares shall not form part of the Lien and therefore should not be lodged in the said Lien Account for any reason whatsoever.**
 20. **The obligations of the Lender and Borrower under this JML are several. Failure of both Parties to perform their respective obligations under this JML does not affect the other Party's obligations.**
 21. **If any one or more of the paragraphs in this JML shall be held wholly or partly invalid, illegal or unenforceable for any reason whatsoever, then those paragraphs shall be deemed severable from the remaining paragraphs of this JML and shall in no way affect the validity, legality or enforceability of this JML.**

22. This JML is governed by Nigerian law.

23. This JML replaces/amends all previous copies of JML issued by CSCS.

Dated thisday of.....20.....

SIGNED by the within named Borrower/Shareholder/Bondholder:

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In the presence of: (*Details of Witness for the Borrower/Shareholder/Bondholder*)

Name.....

Signature.....

Address.....

Date.....

The common seal of the within named Lender is hereby affixed in the presence of:

.....
DIRECTOR

.....
SECRETARY

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Commissioner for Stamp Duties/Commissioner for Oaths