

# M

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

# 395

A fee of £10 is payable to Companies House in respect of each register entry for a mortgage or charge.

£10  
NW  
078167

CHFP025

Please do not  
write in  
this margin

Please complete  
legibly, preferably  
in black type, or  
bold block lettering

\*insert full name  
of Company

Pursuant to section 395 of the Companies Act 1985

To the Registrar of Companies  
(Address overleaf - Note 6)

For official use

Company number

01976691

Name of company

\* CANTOR FITZGERALD INTERNATIONAL (referred to in this Form M395 as "the Company")

Date of creation of the charge

31st March, 2000

Description of the instrument (if any) creating or evidencing the charge (note 2)

Member's Agreement dated as of 31st March 2000 (the "Agreement")  
between the Company and Emerging Markets Clearing Corporation ("EMCC"),  
and the Rules of EMCC (the "EMCC Rules")

Amount secured by the mortgage or charge

Any and all obligations and liabilities of the Company to EMCC.

Names and addresses of the mortgagees or persons entitled to the charge

EMERGING MARKETS CLEARING CORPORATION, 55 WATER STREET, NEW YORK, NEW  
YORK 10041, U.S.A.

Postcode

Presentor's name address and  
reference (if any):

Slaughter and May  
35 Basinghall Street  
London  
EC2V 5DB  
(SDXW/TNXP)

3959MBJB

Time critical reference

For official Use  
Mortgage Section

Post room



LD7  
COMPANIES HOUSE

0212  
05/04/00

Short particulars of all the property mortgaged or charged

All assets and property placed by the Company in the possession of EMCC (or its agents acting on its behalf), including all securities and cash on deposit with EMCC or its agents pursuant to Rule 4 of the EMCC Rules.

Please do not write in this margin

Please complete legibly, preferably in black type, or bold block lettering

Particulars as to commission allowance or discount (note 3)

N/A

Signed Slaughter and May

Date 5th April 2000

On behalf of ~~[company]~~ ~~[mortgagee/chargee]~~ †

A fee of £10 is payable to Companies House in respect of each register entry for a mortgage or charge. (See Note 5)

† delete as appropriate

## Notes

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395). If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398). A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the registrar. The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body. A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No. 398 is submitted.
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage" or "Legal charge", etc, as the case may be, should be given.
- 3 In this section there should be inserted the amount or rate per cent. of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his;
  - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
  - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered.
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet.
- 5 Cheques and Postal Orders are to be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is:-  
Companies House, Crown Way, Cardiff CF14 3UZ

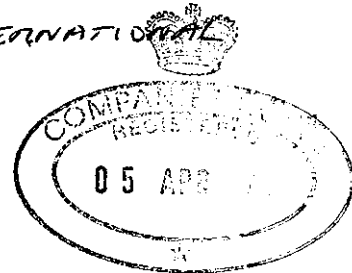
# EMERGING MARKETS CLEARING CORPORATION

55 Water Street -- New York, New York 10041

CANTOR FITZGERALD INTERNATIONAL  
(Firm Name)

## MEMBER'S AGREEMENT

As Provided for in Section 2 of Rule 2



The undersigned hereby makes application to become a Member of Emerging Markets Clearing Corporation (hereinafter called "EMCC") and agrees:

### 1. CLEARANCE AND SETTLEMENT.

The undersigned while a Member will clear or settle through EMCC directly or through another Member every contract and transaction to which the undersigned may be a party and which the rules of EMCC may require to be cleared or settled through EMCC.

### 2. RULES.

(a) The undersigned, while a Member, will abide by the rules of EMCC (the "Rules") and without limiting the foregoing, specifically Rules 4, 7, 8 and 10, and shall be bound by all the provisions thereof, and EMCC shall have all the rights and remedies contemplated by said Rules of EMCC. Notwithstanding that the undersigned may have ceased to be a Member, the undersigned shall continue to be bound by the Rules of EMCC as to all matters and transactions occurring while the undersigned was a Member.

(b) Said Rules of EMCC shall be a part of the terms and conditions of every contract or transaction which the undersigned while a Member may make or have with EMCC and of every

contract or transaction into which the undersigned, while a Member, may enter and which the Rules of EMCC may require to be cleared or settled through EMCC.

(c) The undersigned will not clear or settle through EMCC any contract or transaction unless the Rules of EMCC are a part of the terms and conditions of such contract or transaction.

### 3. AMENDMENT TO RULES.

The undersigned will be bound by any amendment to the Rules of EMCC with respect to any transaction occurring subsequent to the time such amendment takes effect as fully as though such amendment were now a part of the Rules of EMCC; provided, however, that no such amendment shall affect the undersigned's right to cease to be a Member or alter the provisions of Rule 4 of EMCC unless before such amendment becomes effective the undersigned is given an opportunity to give written notice to EMCC of the undersigned's election that EMCC shall cease to act for the undersigned.

### 4. REVIEW OF RULES.

The undersigned acknowledges that it has reviewed the Rules of EMCC as in effect at the date hereof, including the provisions of EMCC Rule 4 relating to the Clearing Fund and the use thereof by EMCC for the purposes of EMCC's business.

### 5. COMPLIANCE WITH LAWS.

With respect to all services that may be available to the undersigned as a result of its membership in EMCC (the "Services"), including such services that may be provided now or

hereafter by or through any Qualified Securities Depository, as defined in EMCC Rule 1, the undersigned acknowledges that such Services may be subject to certain domestic and foreign laws, rules, regulations and treaties, and the undersigned agrees to submit securities or other documents, give instructions and otherwise use such services only in accordance with any such laws, rules, regulations and treaties.

6. TAXES.

The undersigned shall assume full responsibility for the payment of any registration or transfer taxes, stamp duties, franchise taxes, withholding taxes, excise taxes or similar levies or the taking of any other actions (including the delivery by the undersigned of share certificates with any tax stamps or required certificates and the preparation and delivery of any certificates and other documents required by any governmental authority, any bank or withholding agent or any other person with respect to the applicability of any withholding taxes or reporting requirements) that the undersigned may be obligated to pay or take, as the case may be, under applicable law in connection with any transfers, deposits, shipments or deliveries of securities by or through EMCC as a result of the undersigned's use of the Services. If EMCC pays an amount in respect of any taxes, duties, levies, penalties or interest on behalf of the undersigned, whether or not requested to do so, the undersigned shall, upon demand, reimburse EMCC.

7. FEES AND CHARGES.

The undersigned will pay to EMCC the assessments, fees and charges provided for by the Rules of EMCC for clearing and other Services rendered to the undersigned while a Member and

such fines as may be imposed in accordance with such Rules of EMCC for the failure of the undersigned while a Member to comply therewith.

Additionally, the undersigned will pay to EMCC any assessments, fees or charges that EMCC may be obligated to pay to any Qualified Securities Depository in connection with the undersigned's use of the Services.

#### 8. CLEARING FUND.

(a) The undersigned will pay to EMCC any amounts which, pursuant to the provisions of EMCC's Rule 4, shall become payable by the undersigned to EMCC.

(b) The determination by the Board of Directors of EMCC of all questions affecting the charges to which the undersigned's contribution to the Clearing Fund are or may be subject shall be final and conclusive.

#### 9. BOOKS AND RECORDS.

The undersigned's books and records shall at all times be open to the inspection of the duly authorized representatives of EMCC, and EMCC shall be furnished with all such information in respect of the undersigned's business and transactions as it may require; provided, however, that if the undersigned shall cease to be a Member, EMCC shall have no right to inspect the undersigned's books and records or to require information relating to transactions wholly subsequent to the time when the undersigned ceases to be a Member.

10. LIABILITY.

(a) Except as set forth in the next sentence, EMCC shall not be subject to any liability under this agreement, including, without limitation, liability with respect to any failure by EMCC or any Qualified Securities Depository to (i) perform any of the services hereunder or in EMCC's Rules or (ii) perform fully or completely any such Service in a timely manner or in the manner that EMCC or such Qualified Securities Depository has agreed to perform such Service, except for losses, costs or expenses resulting from EMCC's gross negligence, criminal act or willful misconduct in connection with its duties hereunder or in carrying out instructions given pursuant hereto by the undersigned. Notwithstanding the previous sentence and solely in connection with the safeguarding of securities or funds within its custody or control, EMCC shall not be subject to any liability under this agreement for any act or omission in connection with the safeguarding of securities or funds within its custody or control, including, without limitation, liability with respect to any failure by EMCC or any Qualified Securities Depository to perform fully or completely, in a timely manner or in the manner that EMCC or such Qualified Securities Depository has agreed to perform, except for losses, costs or expenses resulting from EMCC's negligence, criminal act or willful misconduct.

(b) EMCC shall not be liable for any action or inaction taken by it in good-faith reliance upon the information received from the undersigned. EMCC may rely and shall be protected in acting upon any telephonic or written notice, order, request, direction or other document reasonably believed by it to be genuine and to have been signed or presented by an authorized representative of the undersigned. The undersigned hereby authorizes EMCC to act in accordance with instructions received by it unless EMCC prior to so acting shall receive different

telephonic instructions, in which case EMCC shall be authorized to act upon such different instructions.

(c) It is the express intention of EMCC and the undersigned that only EMCC and the undersigned shall have any rights and obligations under this Agreement. Neither the customers of the undersigned nor the legal or beneficial owners of any securities processed, handled, shipped, cleared or compared by EMCC or any Qualified Securities Depository in connection with performing the Services shall have any rights or obligations under this Agreement, and it is intended that no such person shall be entitled to claim to be a third party beneficiary of this Agreement or of any of the covenants hereunder.

(d) EMCC shall not be liable to the undersigned for any consequential or special damages which may result from EMCC's failure to perform its obligations or its delay in performing its obligations under this Agreement in accordance with the terms hereof.

(e) The limitations of EMCC's liabilities enumerated in this Agreement shall be deemed to be in addition to, and not as substitution for, any limitations of EMCC's liabilities contained in the Rules of EMCC or under any other agreement or applicable law.

#### 11. EFFECTIVE DATE; SUCCESSORS AND ASSIGNS.

The undersigned will be bound by all the provisions of this Agreement immediately upon the approval by EMCC of this application and Agreement in accordance with the provisions of EMCC Rule 2. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.



12. CHOICE OF LAW.

THIS AGREEMENT AND ALL TRANSACTIONS EFFECTED BY THE UNDERSIGNED WITH ANY OTHER PARTY, OR TO WHICH THE UNDERSIGNED IS A PARTY, UNDER THE RULES OF EMCC OR THROUGH THE FACILITIES OF EMCC, THE UNDERSIGNED'S MEMBERSHIP IN EMCC AND THE USE OF THE SERVICES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED WHOLLY THEREIN AS IF BOTH PARTIES WERE RESIDENTS OF THE STATE OF NEW YORK.

13. JURISDICTION.

(a) IN THE EVENT THAT A QUALIFIED SECURITIES DEPOSITORY BRINGS ANY ACTION OR PROCEEDING AGAINST EMCC IN THE COURTS OF ANY OTHER COUNTRY OR JURISDICTION IN CONNECTION WITH THE SERVICES, AND THE COURTS OF SUCH COUNTRY OR JURISDICTION OBTAIN JURISDICTION OVER EMCC, THE UNDERSIGNED HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF EACH SUCH COURT IN THE EVENT THAT EMCC JOINS OR SEEKS TO JOIN THE UNDERSIGNED IN SUCH ACTION OR PROCEEDING.

(b) THE UNDERSIGNED HEREBY IRREVOCABLY SUBMITS FOR ALL PURPOSES OF OR IN CONNECTION WITH THIS AGREEMENT AND THE RULES OF EMCC OR ANY TRANSACTION HEREUNDER OR THEREUNDER TO THE

**JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE  
UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW  
YORK.**

(c) Any judgment obtained in an action or proceeding brought under this Agreement or the Rules of EMCC may be enforced in the courts of any jurisdiction where the undersigned or any of its property may be found, and the undersigned hereby irrevocably submits to the jurisdiction of each such court in respect of any such action or proceeding.

(d) The undersigned agrees that, to the fullest extent permitted by law, any judgement shall be obtained in the currency in which a default of payment under this Agreement has occurred and that payment of such judgment shall be in such currency. If under the law of the jurisdiction in which judgment is obtained, judgment is not obtainable in the currency in which a default of payment occurred, or if the judgment amount is required to be converted to another currency (which shall be only U.S. dollars) on a date other than the date of payment, then notwithstanding any such judgment or requirement and as a separate obligation, the undersigned shall indemnify EMCC against any exchange loss, and EMCC shall remit to the undersigned any exchange gain, between such other date and the date of payment. Any exchange loss or exchange gain shall be measured by using the prevailing currency exchange rates on the respective dates, net of premiums and costs of exchange payable in connection with the conversion. It is also the intention of the undersigned and EMCC that any judgment for damages shall be in the currency in which the damage is suffered and that payment of such judgement shall be governed by the foregoing provisions of this Section 13 (d).

14. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS.

The undersigned agrees that if it is accepted as a Member under Section 1(ii) or (iv) of EMCC's Rule 2, it will appoint a Person (as defined in the Rules of EMCC) acceptable to EMCC as its agent to receive on its behalf service of process.

15. CURRENCY

The undersigned agrees that all payments made in respect of obligations arising under this Agreement or under the Rules of EMCC shall be made in the currency of the United States of America.

16. WAIVER OF IMMUNITY.

The undersigned hereby waives, to the fullest extent permitted by applicable law, all immunity (whether on the basis of sovereignty or otherwise) from jurisdiction, attachment (both before and after judgment) and execution to which it might otherwise be entitled in any action or proceeding in any county or jurisdiction, relating in any way to the agreement or to any transaction, and agrees that it will not raise, claim or cause to be pleaded any such immunity at or in respect of any such action or proceeding.

17. RESEARCH REPORTS.

The undersigned agrees to provide, upon the request of and at no charge to EMCC,

research that it provides to any of its customers relating to EMCC Eligible Instruments (as defined in the Rules of EMCC) and events or conditions which might affect the price of EMCC Eligible Instruments.

#### 18. SINGLE AGREEMENT

The undersigned acknowledges that, it has entered here into and will enter into each transaction hereunder and under the Rules of EMCC in consideration of and in reliance upon the fact that, all transactions hereunder and thereunder constitute a single business and contractual relationship and have been made in consideration of each other. Accordingly, the undersigned agrees (i) to perform all of its obligations in respect of each transaction hereunder and thereunder, and that a default in the performance of any such obligations shall constitute a default by it in respect of all transactions hereunder and thereunder, (ii) that EMCC shall be entitled to set off claims and apply property held by it in respect of any transaction against obligations owing to it in respect of any other transactions hereunder or thereunder and (iii) that payments, deliveries and other transfers made by either of them in respect of any transaction shall be deemed to have been made in consideration of payments, deliveries and other transfers in respect of any other transactions hereunder or thereunder, and the obligations to make any such payments, deliveries and other transfers may be applied against each other and netted.

#### 19. SURVIVAL.

Notwithstanding any termination or purported termination of this Agreement, the rights and obligations of each of EMCC and the undersigned hereunder shall survive as to all matters

and transactions occurring while this agreement was in effect. The obligations of each EMCC and the undersigned under Sections 2, 4, 5, 6, 7, 10, 12, 13, 15 and 16 hereof shall survive the termination of the other obligations hereunder.

20. SEVERABILITY.

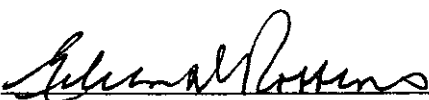
Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of that prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity of enforceability of that provision in any other jurisdiction.

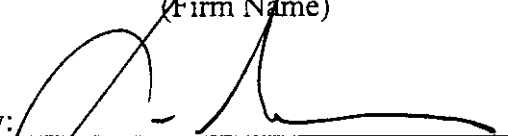
Dated as of  
31.3.00

(Seal)

Approved

EMERGING MARKETS CLEARING CORPORATION

By:   
(Firm Signature -- Authorized Officer)

CANTOR FITZGERALD INTERNATIONAL  
(Firm Name)  
By:   
(Firm Signature -- Authorized Officer)  
LEE AMAITIS  
CHIEF EXECUTIVE

G:\LEGSHARE\EMCC\MEMBERAG\REVMEMB.828

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 401(2) of the Companies Act 1985

COMPANY No. 01976691

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A MEMBERS AGREEMENT DATED THE 31st MARCH 2000 AND CREATED BY CANTOR FITZGERALD INTERNATIONAL FOR SECURING ANY AND ALL OBLIGATIONS AND LIABILITIES OF THE COMPANY TO EMERGING MARKETS CLEARING CORPORATION WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 5th APRIL 2000.

GIVEN AT COMPANIES HOUSE, CARDIFF THE 10th APRIL 2000.



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



COMPANIES HOUSE

*Tw 4c*