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[...]

1.6 Subpart:  
Clearing Fund

1.6.1 Contribution to the Clearing Fund

1.6.1.1 Calculation of the Contribution to the Clearing Fund

- (1) Irrespective of the provision of other margin, each Clearing Member shall be obligated to pay a contribution to the Clearing Fund. The amount of the contribution to be provided shall be determined by Eurex Clearing AG according to the announced method of calculation for each General Clearing Member or Direct Clearing Member respectively. Basis for the calculation of the contribution to the clearing fund are all transactions of the respective General Clearing Member or Direct Clearing Member and its respective Non Clearing Member in derivatives, securities, Repos and other financial instruments in organized and non-organized markets, on behalf of which Eurex Clearing AG conducts the clearing. Such contribution to the Clearing Fund is not required in the event that the applicant has already paid a respective contribution to the Clearing Fund when applying for a Clearing License for clearing transactions within the meaning of Chapter II (Eurex Bonds GmbH) subsection 1.1.5 and / or Chapter III (Eurex Repo GmbH) subsection 1.1.6.
- (2) The contribution to the clearing fund calculated pursuant to paragraph 1 shall be paid by each General Clearing Member or Direct Clearing Member respectively with the granting of the Clearing License. It will be verified every quarter and adapted if necessary.

1.6.1.2 Provision of the Contribution to the Clearing Fund

This contribution to the clearing fund shall be provided by bank guarantees and / or cash or securities collateral. Chapter I Subsections 1.1.2 paragraph 2, sentence 2 to 4 and sentence 6 to 8 shall apply accordingly. In addition, the bank guarantee must include the absolute obligation of the bank to provide the guaranteed amount upon Eurex Clearing AG's first request on an account named by such company.

- (2) In the case that the relevant Clearing Member should not have replaced a bank guarantee five trading days before the expiration of its effectiveness by another bank guarantee and / or cash or securities collateral pursuant to paragraph 1, Eurex Clearing AG shall collect the contribution to the Clearing Fund determined according to paragraph 1 from the relevant General Clearing Member or Direct Clearing Member respectively within the scope of the ~~mutual~~ daily cash clearing procedure. If it is not possible for Eurex Clearing AG to collect from the relevant Clearing Member the contribution determined pursuant to ~~sentence 1~~ subsection 1.6.1.1 or if such collection fails, the relevant General Clearing Member or Direct Clearing Member automatically defaults according to Chapter I, ~~number~~ subsection 1.7 paragraph 1 of the Clearing Conditions.

#### 1.6.1.3 Contributions of Eurex Clearing AG and of Link Clearing Houses to the Clearing Fund

- (3) Eurex Clearing AG may use funds from its annual surplus to set aside reserves for the Clearing Fund pursuant to paragraph 1 in order to contribute to the fulfilment of the obligations of any Clearing Member that may default on its obligations.
- (4) Link Clearing Houses as Special Clearing Members are not obliged to contribute to the Clearing Fund except as may otherwise provided in the Clearing Link Agreement which is to be concluded with Eurex Clearing AG.

#### 1.6.2 **Realisation of the Clearing Fund**

- (1) The contribution to the Clearing Fund provided by a General or Direct Clearing Member may be used to cover the financial consequences of a default (Chapter I subsection 1.7.1) in the event of non-fulfillment the obligations from clearing transactions by itself or by any other Clearing Member, that is also the Link Clearing House as a Special Clearing Member.
- (2) In case any compensation must be provided for any damage due to a default (Chapter I subsection 1.7.1), Eurex Clearing AG shall realise securities in accordance with the following order of priority:
1. Collateral of the General or Direct Clearing Member obliged to perform other than that indicated in Chapter I subsection 1.6.1,
  2. the contribution to the Clearing Fund of the Clearing Member obliged to perform pursuant to Chapter I subsection 1.6.1,
  3. the reserves of Eurex Clearing AG pursuant to Chapter I subsection 1.6.1 paragraph (2)
  4. the contributions of all other General or Direct Clearing Members to the Clearing Fund which shall be realised on a pro rata basis.

~~The contributions of the other General or Direct Clearing Members to the Clearing Fund shall be realised on a pro rata basis.~~

- (3) If a defaulting Clearing Member (Chapter I subsection 1.7.1) provides the owed payment after Eurex Clearing AG has realised the contributions of other General or Direct Clearing Members to the Clearing Fund (subsection 2, no. 4), Eurex Clearing AG shall replenish the contributions of the other General or Direct Clearing Members with this payment on a pro rata basis, up to the amount of effected realisation at the most.
- (4) Furthermore, the contribution to the Clearing Fund provided by a General or Direct Clearing Member may also be used to cover the financial consequences of a default (~~Chapter II, subsection 2.1.4~~) by itself or by any other Clearing Member with respect to their obligations arising out of the clearing of transactions and also with respect to their obligations arising out of the clearing of transactions in cooperation with the Link Clearing House. The default is based upon the rules of the respective organized and non-organized markets listed in the following:
- Eurex Bonds GmbH (see Chapter II) or, as well,
  - Eurex Repo GmbH (see Chapter III) or, as well,
  - Frankfurt Stock Exchange (see Chapter IV).

~~concluded at Eurex Bonds GmbH (see Chapter II) or, as well, to cover the financial consequences of a default (Chapter III, subsection 2.1.4) by itself or by any other Clearing Member with respect to their obligations arising out of the clearing of transactions concluded at Eurex Repo GmbH (see Chapter III) or, as well, to cover the financial consequences of a default (Chapter IV, subsection 2.1.4) by itself or by any other Clearing Member with respect to their obligations arising out of the clearing of transactions concluded at the Frankfurt Stock Exchange (see Chapter IV) or with regard to the financial obligations of such Clearing Member or other Clearing Members arising out of the clearing of transactions in co-operation with a Link Clearing House.~~

~~In such cases, Chapter I subsection 1.6.2 paragraphs (1) to (3) and subsections 1.6.3 and 1.6.4 shall apply mutatis mutandis.~~

### 1.6.3 Replenishment of Contributions to the Clearing Fund

Any realised contribution to the Clearing Fund shall be raised by the General Clearing Member or Direct Clearing Members to its original amount within ten Exchange days. This requirement shall not apply to any General Clearing Member or Direct Clearing Member that has terminated its Clearing License by means of a written statement to Eurex Clearing AG no later than on the fifth Exchange day following such realisation.

### 1.6.4 Release of the Contributions to the Clearing Fund

- (1) If Eurex Clearing AG or a General Clearing Member or Direct Clearing Member terminates the Clearing Membership, Eurex Clearing AG shall release the contribution of the respective General Clearing Member or Direct Clearing Member to the Clearing Fund one month after

notice is given of such termination, but in any event not earlier than one month after the day upon which all contracts in the accounts for which the respective Clearing Member handles the Clearing have been cleared. The same shall apply mutatis mutandis to collateral pursuant to subsection 1.1.2 paragraph (2).

- (2) If another Clearing Member is in default at the time of the termination of such Clearing Membership, or if another Clearing Member falls into default prior to the date on which a contribution to the Clearing Fund is to be released, the release, contrary to paragraph (1), shall only be effected after all obligations of such defaulting Clearing Member to Eurex Clearing AG have been satisfied.

[...]

**1.9 Subpart:  
Legal Relationships between Eurex Clearing AG, General Clearing Members (GCM), Direct Clearing Members (DCM) and Non-Clearing Members (NCM) as well as with Link Clearing Houses and their Clearing Members**

**1.9.1 Rights and Obligations of Non-Clearing Members of General or Direct Clearing Members of Eurex Clearing AG**

1.9.1.1 General Provisions

- (1) A Non-Clearing Member may enter into and submit to Eurex Clearing AG a "Clearing Agreement (Eurex Clearing AG/ Non Clearing Member/ Clearing Member)" (in the following: NCM-GCM Clearing Agreement or NCM-GCM Clearing Agreement) NCM-GCM Clearing Agreement with a Clearing Member holding a General Clearing License or enter into and submit to Eurex Clearing AG a NCM-DCM Clearing Agreement with an affiliated Clearing Member holding a Direct Clearing License. A Non-Clearing Member must, in accordance with the NCM-GCM Agreement or in accordance with the NCM-DCM Agreement, clear all its transactions only through this General Clearing Member or affiliated Direct Clearing Member.

1.9.1.2 Change of the General Clearing Member or Direct Clearing Member

- (1) The Non-Clearing Member may apply to Eurex Clearing AG for ~~Any~~ change of the General Clearing Member or Direct Clearing Member handling ~~the~~its transactions in accordance with the NCM-GCM Clearing Agreement or in accordance with the NCM-DCM Clearing Agreement. The change -requires the prior consent of Eurex Clearing AG.
- (2) A Non-Clearing Member may apply to Eurex Clearing AG for a change of the General Clearing Member or affiliated Direct Clearing Member handling its transactions. After the granting of admission pursuant to paragraph 1 Eurex Clearing AG shall ~~thereupon~~ transfer open positions to the new General Clearing Member after the Post-Trading Full Period if the General Clearing Members or Direct Clearing Members involved confirm the request for the

transfer of the positions and if a valid NCM-GCM Clearing Agreement or NCM-DCM Clearing Agreement exists between Eurex Clearing AG, the Non-Clearing Member and the General Clearing Member or the Direct Clearing Member to which the positions are to be transferred. ~~Any such transfer of positions will not affect any rights or obligations arising out of exercised, allocated or assigned positions.~~

- (3) A Non-Clearing Member may apply to Eurex Clearing AG for a complete transfer of its positions from a General Clearing Member or Direct Clearing Member respectively to a Clearing Member of the Link Clearing House as a Special Clearing Member. The same applies for the General Clearing Member or Direct Clearing Member which transfers the clearing of specified products to a Clearing Member of the Link Clearing House as Special Clearing Member of Eurex Clearing AG. Paragraph 1 sentence 2 apply mutatis mutandis. Paragraph 2 applies accordingly provided that the Special Clearing Member confirms the request for position transfer for its Clearing Member to that effect that it may carry out in the future the clearing for the Non Clearing Member and the General Clearing Member or the Direct Clearing Member respectively.
- (4) If open positions during a position transfer pursuant to paragraph 3, in particular for reasons des auf das zukünftig mit dem Clearing beauftragte Clearing Mitglied anzuwendenden Rechtsvorschriften are not transferable to the Clearing Member of the Link Clearing House as a Special Clearing Member of Eurex Clearing AG, Eurex Clearing AG reserves the right to transfer these positions to another General Clearing Member or Direct Clearing Member of Eurex Clearing AG or to close these positions.
- (5) The position transfer according to paragraph 2 and 3 shall have no effect on contracts and neither on rights and obligations of exercised and assigned positions.
- ~~(3) Transfers of positions shall have no effect on the contracts concerned.~~

### 1.9.2 Rights and Obligations of General Clearing Members of Eurex Clearing AG

- (1) General Clearing Members are required to enter into a NCM-GCM Clearing Agreement with Non-Clearing Members who meet the other prerequisites for admission to trading on Eurex Deutschland and Eurex Zürich.
- (2) Each General Clearing Member is required to effect any payment or delivery arising out of any transaction entered into according to the NCM-GCM Agreement by any of the Non-Clearing Members whose transactions the General Clearing Member handles.
- (3) If a Non-Clearing Member fails to provide the margin fixed by its General Clearing Member or to effect any daily settlement payment in a timely manner, the Non-Clearing Member may be excluded from trading at Eurex Deutschland and Eurex Zürich or may be restricted to the trading of specified products for the duration of such failure by a decision of the Boards of Management of Eurex Deutschland and Eurex Zürich.

If a Non-Clearing Member fails to pay to its General Clearing Member any premiums and fees owed to it under these Conditions or the Conditions for Trading at Eurex Deutschland and

Eurex Zürich in a timely manner, Eurex Deutschland and Eurex Zürich may, at the request of the General Clearing Member, exclude such Non-Clearing Member from trading at Eurex Deutschland and Eurex Zürich for the duration of the non-payment or it may restrict such Non-Clearing Member to the trading of specified products. Any such request made by telephone must promptly be confirmed in writing.

- (4) General Clearing Members themselves may not exercise or close positions opened by their Non-Clearing Members.

If a Non-Clearing Member has been excluded from options and futures trading, at Eurex Deutschland and Eurex Zürich or has been restricted to the trading of specified products the General Clearing Member may request that Eurex Clearing AG close all positions of such Non-Clearing Member.

- (5) If a General Clearing Member fails to make any payments or deliveries due to Eurex Clearing AG, Eurex Deutschland and Eurex Zürich may exclude such General Clearing Member, as well as the Non-Clearing Members represented by it, upon request of Eurex Clearing AG from trading for the duration of such failure or may restrict it to the trading of specified products; Clearing AG reserves the right to also close positions in all accounts for the Clearing of which the General Clearing Member is responsible, according to -subsection 1.8.1. Eurex Clearing AG shall not be liable for any losses suffered by a Non-Clearing Member due to the exclusion of its General Clearing Member from trading or due to a restriction of its General Clearing Member to specified products.
- (6) Eurex Clearing AG shall inform a General Clearing Member of any measures taken with respect to one of its Non-Clearing Members to the extent that such measures may affect the risk assessment of such Non-Clearing Member.

### **1.9.3 Termination of NCM-GCM Clearing Agreements**

- (1) Eurex Clearing AG may terminate any NCM-GCM Clearing Agreement with immediate effect in the event that the Non-Clearing Member or General Clearing Member concerned has violated the Clearing Conditions despite receiving notice concerning the violation. If a NCM-GCM Clearing Agreement is terminated by Eurex Clearing AG, the Non-Clearing Member concerned may not enter new orders or quotes, must cancel all outstanding orders and quotes, and must close all existing positions or transfer such positions to another General Clearing Member. If the closing and transfer of positions, respectively, has not been concluded within a period fixed in particular cases by Eurex Clearing AG, Eurex Clearing AG may exercise the closing pursuant to subsection 1.8.1. The General Clearing Member concerned is required to fulfill all obligations under any remaining contracts of such Non-Clearing Member.

- (2) A General Clearing Member may terminate a NCM-GCM Clearing Agreement at any time upon one month's notice. Upon the expiration of such notice period, the Non-Clearing Member must cancel all outstanding orders and quotes and must close or transfer to another General Clearing Member all existing positions or – if the clearing of positions in the respective contracts is, according to the regulations of the home country, permissible - transfer it to this Clearing Member; such Non-Clearing Member may thereafter enter no new orders or quotes that would be cleared through the terminating General Clearing Member. Paragraph (1) sentence 3 and 4 shall apply mutatis mutandis.
- (3) A Non-Clearing Member may terminate a NCM-GCM Clearing Agreement at any time, provided that such Non-Clearing Member has closed or transferred all open positions, canceled all orders and quotes and fulfilled all obligations to the General Clearing Member concerned and Eurex Clearing AG.
- (4) The termination of a NCM-GCM Clearing Agreement shall become effective only upon the receipt of a notice of termination in writing by the other two parties.

#### **1.9.4 Clearing Services by Direct Clearing Members of Eurex AG for Affiliated Companies**

Subsections 1.9.2 and 1.9.3 shall apply to the legal relationship between affiliated Non-Clearing Members and Direct Clearing Members of Eurex AG mutatis mutandis.

#### **1.9.5 Rights and obligations of Link Clearing Houses as Special Clearing Members of Eurex Clearing AG**

- (1) The legal relationship between Eurex Clearing AG and the Link Clearing House as its Special Clearing Member is determined by the provisions of the Clearing Link Agreement which is to be concluded. The Special Clearing Member simultaneously enters into transactions with its Clearing Member and Eurex Clearing AG. There is no legal relationship between Eurex Clearing AG and the Clearing Members of the Link Clearing House.
- (2) The legal relationship between the respective Link Clearing House and its Clearing Members as well as Non-Clearing Members is determined by the rules and regulations of the respective Link Clearing House as Special Clearing Member.
- (3) If a Clearing Member of the Link Clearing House fails to ~~maintain~~ provide in due time
  - (a) the daily adjustment payment in accordance with the deadlines determined by the Link Clearing House as Special Clearing Member, and/or
  - (b) the required premiums and fees due to the Link Clearing House on the basis of these conditions or the Conditions for Trading on Eurex Deutschland and Eurex Zürich,

**Clearing Conditions for Eurex Clearing AG**

the Clearing Member can be excluded from trading on Eurex Deutschland and Eurex Zürich for the duration of its non-performance or may be restricted to the trading of specified products subsequent to a ~~upon~~ request by the Link Clearing House and on the basis of a decision by the Boards of Management of Eurex Deutschland and Eurex Zürich. Eurex Clearing AG will forward the request by the Link Clearing House without delay to Eurex Deutschland and Zürich. If the request was made by telephone, it has to be confirmed in writing by the Link Clearing House. ~~The same conditions apply for cases where a Clearing Member fails to pay timely the required premiums and fees due to the Link Clearing House on the basis of these Conditions or the Conditions for trading on Eurex Deutschland and Eurex Zürich.~~

~~(3)~~ (4) — If a Non-Clearing Member fails to ~~maintain~~ provide in due time

(a) the daily adjustment payment to its Clearing Member of the Link Clearing House ~~on~~ time ~~and/or~~

(b) the required premiums and fees due to the Clearing Member of the Link Clearing House on the basis of these conditions or the conditions for trading on Eurex Deutschland and Eurex Zürich

the Non-Clearing Member can be excluded from trading on Eurex Deutschland and Eurex Zürich for the duration of its non-performance or be restricted to the trading of specified products subsequent to a request by the Clearing Member and on the basis of a decision by the Boards of Management of Eurex Deutschland and Eurex Zürich. The Clearing Member shall request the exclusion from the Link Clearing House, which will at its own discretion forward the request in its own name to Eurex Clearing AG, confirming it in writing if required. Eurex Clearing will forward the request to Eurex Deutschland and Eurex Zürich without delay.

~~The same conditions apply for cases where a Non-Clearing Member fails to pay timely the required premiums and fees due to the Clearing Member of the Link Clearing House on the basis of these Conditions or the Conditions for trading on Eurex Deutschland and Eurex Zürich.~~

## 1.10 Subpart: Clearing of Off-Exchange Options and Futures Transactions

### 1.10.1 General Provisions

Eurex Clearing AG shall handle the performance and maintenance of margin (Clearing) in respect of all transactions carried out at Eurex Deutschland and Eurex Zürich. Furthermore, Eurex Clearing AG shall handle the clearing of options and futures transactions entered into off the Exchange, to the extent that the contract specifications of such transactions correspond to those contracts admitted for trading at Eurex Deutschland and Eurex Zürich. In this respect, the provisions set forth in Chapter I sections 1 and 2 shall apply mutatis mutandis.



## 1.11 Subpart: Transmission of information by Eurex Clearing AG

### 1.11.1 Transmission of information to Clearing Members or Non-Clearing-Members of Eurex Clearing AG to a Third Party

- (1) Eurex Clearing AG treats all data and information which relate to its Clearing Members confidentially. Customer-related informations may only be passed on by Eurex Clearing AG if they are already publicly available or if they are legally required or if the Clearing Member has agreed to it.
- (2) ~~Irrespective of the provisions in paragraph 1~~ Eurex Clearing AG shall be entitled to pass on the following information to the trading platforms for which the Clearing Member has applied for, ~~and, as far as legally required, to the surveillance authorities or other third parties entitled at home and abroad:~~
- ~~1-(a)~~ Granting of a Clearing License (Chapter I subsection 1.1.1)
  - ~~2-(b)~~ Termination and Suspension of a Clearing License (Chapter I subsection 1.1.4)
  - ~~3-(c)~~ Delay of the Clearing Member (Chapter. I subsection 1.7.1)
  - ~~4-(d)~~ Termination of the NCM-GCM Clearing Agreement (Chapter I subsection 1.9.3)
- (3) Irrespective of the provisions in paragraph 1 Eurex Clearing AG shall also be entitled to transmit or to request all data and information which refer to the Clearing Member and which are necessary for the orderly conduct of clearing or the orderly settlement of cash and securities transactions, to the clearing and settlement institutions, which are subject to Secrecy Rules comparable to those of Eurex Clearing AG.
- (4) ~~Paragraph 2 and 3 shall apply accordingly to any Link Clearing House as a Special Clearing Member affected by any of the transaction events stipulated therein. Also~~ Besides, Eurex Clearing AG may transfer other clearing members' data and information to a Special Clearing Member Link Clearing House required for risk management purposes with regard to ~~by means of a~~ the clearing link existing between them, and to the extent as set forth in paragraph 1 its other Clearing Members' data necessary for the clearing.

### 1.11.2 Transfer of Information about Clearing Members or Non-Clearing Members of Eurex Clearing AG to an Supervisory or Regulatory Authority

- (1) Eurex Clearing AG shall be entitled within the scope of the law applied on its Clearing Members or on itself to provide information to the responsible Supervisory Authority or other entitled third parties, domestic or foreign, which are subject to Secrecy Rules comparable to those of Eurex Clearing AG.

## 1.12 Subpart Fulfillment and partial Outsourcing of a Clearing Members' Functions

- (1) General Clearing Members or Direct Clearing Members have to perform themselves and on their own responsibility all functions incumbent on them in the context of transactions included in the clearing by Eurex Clearing AG especially risk management. This applies independent of the clearing procedure being technically conducted via the Eurex Clearing System or via the Link Clearing House.
- (2) Upon request of a General Clearing Member or a Direct Clearing Member Eurex Clearing AG may give the Clearing Member the consent to outsource specific clearing or risk management functions to a third party, provided that the outsourcing General Clearing Member or Direct Clearing Member of Eurex Clearing AG designates a qualified contact person and the third party who takes over the specified clearing functions of Eurex Clearing AG
- (a) is designated in writing by the General Clearing Member or Direct Clearing Member and
- (b) this enterprise has the right for supervision pursuant to Chapter I subsection 1.1.1 paragraph 3 Lit.a or b and
- (c) the prerequisites for the orderly conduct of the clearing are fulfilled. It shall prove especially:
- that a qualified employee in the back office is appointed; Chapter I subsection 1.1.1 paragraph 3 Lit. g applies mutatis mutandis,
  - the securing of the access at any time of the outsourcing General Clearing Member or Direct Clearing Member respectively to the outsourced clearing functions of the relevant systems of the storing third party
  - the securing of the orderly recording, management and deposit of money and securities stocks (holdings) according to the rules of the Banking Act or comparable rules of the country of origin of the depositing enterprise.

Further details may be determined by Eurex Clearing AG and notified to the General Clearing Members or Direct Clearing Members.

- (3) In case of outsourcing of specific clearing functions pursuant to paragraph 2 the General Clearing Member or the Direct Clearing Member will remain responsible and liable towards Eurex Clearing AG for the orderly conduct in the scope of the clearing process.
- (4) Eurex Clearing AG reserves the right to require in individual cases further information and evidence concerning the orderly conduct of clearing functions by the General Clearing Member or Direct Clearing Member or the third party to which the clearing functions have been outsourced. Furthermore, Eurex Clearing AG may in individual cases at any time and at its own expense authorise an independent auditor to check documents and processes related to the clearing in the business premises of the General Clearing Member or Direct Clearing Member and the third party that has taken over specific clearing functions.

[...]

2. Clearing Agreement (Eurex Clearing AG / Non Clearing Member / Clearing Member)

2.1 NCM CM Clearing Agreement

NCM-CM Agreement

between

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as Clearing Member (hereinafter referred to as the "CM")

and

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as Non-Clearing Member (hereinafter referred to as the "NCM")

and

Eurex Clearing AG (hereinafter referred to as "AG"), Frankfurt/Main.

1. Applicable Legal Provisions

The respective rights and obligations of AG, the CM and the NCM are set forth in the Clearing Conditions of AG; the Clearing Conditions in the respective German version valid at the time are an integral part of this Agreement. Furthermore, the rules and regulations set forth in the Appendix hereto shall apply.

2. Legal Relationships; Liability

- (1) All entries made by the NCM into the trading system shall in accordance with Chapter II of the attachment to the NCM-CM-Clearing Agreement be directly binding for and against the CM. If an order or quote entered by the NCM is matched with another order or quote, a transaction shall be effected thereby between the NCM and the CM and a further, equivalent transaction shall be effected thereby between the CM and Eurex Clearing AG.
- (2) The CM is required to notify the management of the respective Exchange or trading platform, as the case may be, promptly if a Non-Clearing Member represented by it fails to meet its margin requirements in a timely manner.

- (3) Neither AG nor the CM shall be liable for any losses incurred by the NCM due to interruption of its operations as a consequence of force majeure, riot, acts of war or natural disasters or other events for which either AG or the CM, as the case may be, is not responsible (e.g., strikes, lock-outs, disruption of communications) or that may result from the actions of domestic or foreign governmental authorities. For damages suffered by the NCM or the CM as a consequence of technical problems or of the full or partial unavailability of the EDP devices or EDP system of the Exchange(s) or of the operator of the trading platform used by such NCM or CM, AG or the CM shall be liable to the extent that intentional misconduct or gross negligence by AG or the CM or third parties assisting in their performance can be demonstrated, unless the damage has resulted from a culpable breach by AG or the CM of their principal duties. The liability of AG or the CM shall be limited, however, in such a case if only ordinary negligence occurred to the amount of damages typically foreseeable at the time of execution of the agreement.

### 3. Netting Procedure in the Relationship between CM and its NCM

The CM and the NCM hereby agree on the following netting procedure:

- (1) At the end of each trading day, the CM shall net against the NCM its claims and liabilities regarding cash payments or securities transfers arising out of transactions of the NCM, in the clearing process of which the CM is involved pursuant to the Clearing Conditions for Eurex Clearing AG and this Clearing Agreement. Such netting procedure shall result in one net claim or liability, with the consequence that there is only one such net claim or liability regarding a cash payment or securities transfer in the relationship between CM and NCM.
- (2) The netting of the cash payments and securities transfers pursuant to paragraph (1) shall be made separately with respect to the transactions as set forth in the individual chapters of the Clearing Conditions for Eurex Clearing AG, in the clearing process of which the CM is involved. The claims or liabilities regarding cash payments and securities transfers resulting from such netting shall not be netted against each other.
- (3) The netting procedure pursuant to paragraphs (1) and (2) shall be conducted separately with respect to transactions on Principal Position Accounts and Agent Position Accounts.

### 4. Term

This Agreement shall remain in effect until it is terminated by one of the parties thereto in accordance with subsection 1.9.3 of the Eurex Clearing Conditions.

### 5. Governing Law; Place of Performance

This Agreement shall be governed by, and construed in accordance with, German law. The place of performance and the jurisdiction for any legal proceedings shall be Frankfurt/Main.

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6. Saving Clause

If individual provisions are invalid or unenforceable, this shall not affect the validity of the Agreement as a whole. If this Agreement contains an invalid or unenforceable provision or an omission, the invalid provision should be replaced with an appropriate provision which corresponds as closely as possible to the economic content of the invalid provision; in the case of an omission, the omission should be rectified with a provision which most closely corresponds to that which the contractual parties would have intended had they considered the point in question.

Place and Date

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On behalf of the CM

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On behalf of the NCM

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On behalf of AG

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Appendix/Appendices

## 2.2 Appendix to the NCM-CM Clearing Agreement

Appendix to the NCM-CM Agreement between Eurex Clearing AG, [Company/NCM] and [Company/CM] dated [Date]

In addition to the above-mentioned Clearing Agreement, the following shall apply:

### Chapter I: NCM-DCM Relationship

To the extent that an NCM-CM Agreement shall be entered into by an NCM and a DCM, this is only permissible if the NCM is, in relation to the DCM, an affiliated company. The type and scope of the group of affiliated companies shall be determined by the Executive Board of AG. The CMs shall be notified thereof. NCM and DCM shall be obligated to inform the Executive Board of AG promptly in the event that they cease to meet such prerequisites.

### Chapter II: Transactions Included in the NCM-CM Agreement

#### Clearing of transactions concluded at Eurex Deutschland and Eurex Zürich

##### a) Scope of Entries into the Trading System by the NCM

The NCM may enter, with immediate effect, on behalf of the CM into the trading system of Eurex Deutschland and Eurex Zürich.

[Please tick what is applicable]

all tradable products

all tradable products except products approved by the Commodity Trading Futures Commission (CTFC), USA

##### a) Applicable Legal Provisions

Furthermore, the Exchange Rules for Eurex Deutschland and Eurex Zürich, the Conditions for Trading at Eurex Deutschland and Eurex Zürich and all other regulations of Eurex Deutschland and Eurex Zürich shall apply in the respective German version valid at the time.

##### b) General Obligations

If an affiliated NCM is also an Exchange Participant at Eurex Zürich, any obligation to be fulfilled vis-à-vis the Board of Management of Eurex Deutschland pursuant to the Clearing Conditions shall also be fulfilled vis-à-vis the Board of Management of Eurex Zürich. In this case, the transmission of a notification regarding the fulfilment of such obligation to Eurex Deutschland or Eurex Zürich shall be deemed sufficient.

Clearing of transactions concluded at Eurex Bonds GmbH

a) Applicable Legal Provisions

Furthermore, the Terms and Conditions for Participation and Trading on Eurex Bonds GmbH shall apply in the respective German version valid at the time.

Clearing of transactions concluded at Eurex Repo GmbH

a) Applicable Legal Provisions

Furthermore, the Terms and Conditions for Participation and Trading on Eurex Repo GmbH shall apply in the respective German version valid at the time.

b) Legal Relationships

A Repo Transaction designates a purchase/sale of securities and their simultaneous forward resale/repurchase. Thus, it consists of a purchase agreement ("Front Leg") and the simultaneous repurchase agreement ("Term Leg") for securities at a set date.

Clearing of transactions concluded at the Frankfurt Stock Exchange and included in the Clearing

a) Applicable Legal Provisions

Furthermore, the rules and regulations of the Frankfurt Stock Exchange shall apply in the respective German version valid at the time.

Place and Date

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On behalf of the CM

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On behalf of the NCM

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On behalf of AG

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