



eurex clearing circular 127/15

Date: 30 October 2015
Recipients: All Clearing Members, Non-Clearing Members and Registered Customers of Eurex Clearing AG and Vendors
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Amendments to the Clearing Conditions and other related documents for Eurex Clearing AG

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Content may be most important for:

☞ All departments

Attachments:

- 1a./1b. Amended sections of the Clearing Conditions for Eurex Clearing AG
2. Amended sections of the Conditions for Utilization of the Eurex Trade Entry Services (General Conditions for Participation)
3. Amended sections of the General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement)

Summary:

This circular contains information with respect to amendments to the Clearing Conditions and other related documents for Eurex Clearing AG regarding the following topics:

1. Agreements required for most frequent change cases (replacement of Clearing Member and Clearing Model Change).
2. Determination of Daily Settlement Price for Index Dividend Futures contracts and Volatility Index Futures contracts.
3. Decrease of Minimum Block Trade Size for Flexible Contracts on MDAX[®], TecDAX[®] and DivDAX[®] indices.
4. Changes to the General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement).

The amended sections of the Clearing Conditions and other related documents, as decided by the Executive Board of Eurex Clearing AG, are attached to this circular.

The amendments related to topics 1.-3. will come into effect on **7 December 2015**, the amendments related to topic 4. will come into effect on **11 January 2016**.



**Amendments to the Clearing Conditions and other related documents
for Eurex Clearing AG**

This circular contains information with respect to amendments to the Clearing Conditions of Eurex Clearing AG (Clearing Conditions) and other related documents for Eurex Clearing AG regarding the following topics:

1. Agreements required for most frequent change cases (replacement of Clearing Member and Clearing Model Change).
2. Determination of Daily Settlement Price for Index Dividend Futures contracts and Volatility Index Futures contracts.
3. Decrease of Minimum Block Trade Size for Flexible Contracts on MDAX[®], TecDAX[®] and DivDAX[®] indices.
4. Changes to the General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement) (hereafter referred to as: General Terms and Conditions to the Connection Agreement).

The amended sections of the Clearing Conditions and other related documents, as decided by the Executive Board of Eurex Clearing AG, are attached to this circular.

The amendments related to topics 1.-3. will come into effect on 7 December 2015, the amendments related to topic 4. will come into effect on 11 January 2016.

1. Agreements required for most frequent change cases (replacement of Clearing Member and Clearing Model Change)

As part of the ongoing simplification of the Clearing Agreements, Clearing Conditions and related documents, the focus is on increasing the user-friendliness of agreements required for the most frequent changes (replacement of Clearing Member and Clearing Model Change). The affected agreements for replacement of Clearing Member and Clearing Model Change are no appendices to the Clearing Conditions.

The revision of the agreements is implemented on documentation level and does not include changes to the operation of the transfer mechanism as such or to the underlying legal concepts in general. Most changes relate to the consolidation of clauses and/or to the transfer of clauses from the agreements into the Clearing Conditions.

The following provisions in the Clearing Conditions will be amended:

- Chapter I Part 1 Number 8
- Chapter I Part 2 Number 9, Part 3 Subpart A Number 13 and Part 4 Number 9

2. Determination of Daily Settlement Price for Index Dividend Futures contracts and Volatility Index Futures contracts

In order to reflect the applied procedure for the determination of the Daily Settlement Price for Index Dividend Futures contracts and Volatility Index Futures contracts in the Clearing Conditions, amendments are required.

In case the Daily Settlement Price cannot be determined according to the procedures described in the Clearing Conditions, Chapter II, Part 2.1.2, Paragraph 2 (a), it is determined on the basis of the mean bid-ask spread in the orderbook before the point in time for reference price determination. In case this procedure cannot be applied, the daily settlement price may be determined by Eurex Clearing at its equitable discretion.

The following provision in the Clearing Conditions will be amended:

- Chapter II Part 2 Number 2.1.2

3. Decrease of Minimum Block Trade Size for Flexible Contracts on MDAX[®], TecDAX[®] and DivDAX[®] indices

Effective 14 September 2015, the minimum number of Block Trades for MDAX[®], TecDAX[®] and DivDAX[®] equity index derivatives was decreased. The minimum number of Block Trades for Flexible Options and Flexible Futures for these products has to be aligned accordingly in the Conditions for Utilization of the Eurex Trade Entry Services (General Conditions for Participation).

The following provision in the Conditions for Utilization of the Eurex Trade Entry Services (General Conditions for Participation) will be amended:

- Number 9.6

4. Changes to the General Terms and Conditions to the Connection Agreement

The contractual parties of the General Terms and Conditions to the Connection Agreement will be required to participate in simulations prior to the implementation of an update or amendment of the clearing EDP (so-called releases) provided that participation in the simulation is specified mandatory for the relevant customer group in the respective Release Notes.

Each party for which the participation in the simulation was mandatory or which participated voluntarily shall provide Eurex Clearing with a written statement prior to the first use of the clearing EDP after the implementation of the release confirming to Eurex Clearing that (a) the release successfully passed internal test procedures, and (b) the Participant software is ready and compatible to the release ("Readiness Statement").

The following provision in the General Terms and Conditions to the Connection Agreement will be amended:

- Segment A §§ 2, 6, 9 and 10

The amended sections of the Clearing Conditions, Conditions for Utilization of the Eurex Trade Entry Services (General Conditions for Participation) and General Terms and Conditions to the Connection Agreement, as decided by the Executive Board of Eurex Clearing AG, are attached to this circular.

As of 7 December 2015, the amended Clearing Conditions and Conditions for Utilization of the Eurex Trade Entry Services (General Conditions for Participation) will be available for download on the Eurex Clearing website www.eurexclearing.com under the following link:

Resources > Rules and regulations

Pursuant to Chapter I Part 1 Number 17.2.3 of the Clearing Conditions, the changes and amendments to the Clearing Conditions communicated with this circular are deemed to have been accepted by each Clearing Member, Non-Clearing Member and each Registered Customer unless they object in writing to Eurex Clearing prior to the actual effective date of such change and amendment of the Clearing Conditions. The right to terminate the Clearing Agreement or the Clearing License according to Chapter I Part 1 Number 2.1.4 Paragraph 2 Number 7.2.1 Paragraph 4 and Number 13 of the Clearing Conditions remains unaffected.

As of 11 January 2016, the amended General Terms and Conditions to the Connection Agreement will be available for download on the Eurex Clearing website under the following link:

Resources > Forms

Pursuant to Segment A § 15 of the General Terms and Conditions to the Connection Agreement, the changes and amendments to the General Terms and Conditions to the Connection Agreement communicated with this circular are deemed to have been accepted by each Clearing Member, Non-Clearing Member and each Registered Customer unless they object in writing to Eurex Clearing prior to the actual effective date of such change and amendment of the General Terms and Conditions to the Connection Agreement.

If you have any questions or require further information, please contact Trading & Clearing Services at tel. +49-69-211-1 17 00 or send an e-mail to memberservices@eurexclearing.com.

30 October 2015

Attachment 1a to Eurex Clearing circular 127/15	Eurex04e
Clearing Conditions for Eurex Clearing AG	As of 07.12.2015
	Page 1

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

[...]

Chapter I General Provisions

[...]

Part 1 General Clearing Provisions

[...]

Chapter 1 Part 1 Number 8 shall be replaced as follows:

~~8~~ **Replacement of Clearing Member**

~~The Non-Clearing Member or Registered Customer, respectively, may effect a replacement of its Clearing Member in accordance with Number 9 of the Elementary Clearing Model Provisions, Subpart A Number 13 of the Individual Clearing Model Provisions or Number 9 of the Net Omnibus Clearing Model Provisions.~~

8. Change of Clearing Member and Clearing Model Change

8.1 Change of Clearing Member

A Non-Clearing Member or Registered Customer may effect a change of its Clearing Member (“**Current Clearing Member**”) with respect to one or more Transaction Types as specified in an agreement to be concluded between itself, a new Clearing Member (“**New Clearing Member**”) and Eurex Clearing AG in the form published by Eurex Clearing AG on its websites (www.eurexclearing.com) (the “**Clearer Change Agreement**”), subject to the prior conclusion of a Clearing Agreement between itself, Eurex Clearing AG and the New Clearing Member. Whenever the Current Clearing Member, the New Clearing Member and the Non-Clearing Member/Registered Customer enter into such Clearer Change Agreement, the following conditions under this Number 8.1 shall apply.

8.1.1 Conditions of a Change of a Clearing Member

By entering into a Clearer Change Agreement and as per the end of the Business Day as specified therein (in this Number 8.1 and the Clearer Change Agreement the “**Change**”

Date”), the Non-Clearing Member/Registered Customer changes the Current Clearing Member with the New Clearing Member with effect as of the beginning of the Business Day immediately following the Change Date (in this Number 8.1 and the Clearer Change Agreement the “**Transfer Effective Date**”) and the Current Clearing Member transfers to the New Clearing Member all its Transactions with Eurex Clearing AG that are NCM-Related Transactions, RC-Related Transactions or Covered Transactions, as applicable, of the Transactions Types as specified in the Clearer Change Agreement, in each case under their relevant Standard Agreement (in this Number 8.1 “**Respective Transactions**”), as well as the relevant (i) corresponding Transactions, (ii) Corresponding Covered Transactions or (iii) Client Clearing Transactions, as applicable, (in this Number 8.1 “**Respective Corresponding Transactions**”), together with all (i) Redelivery Claims or (ii) Relevant Redelivery Claims that relate to the Eligible Margin Assets specified by the Non-Clearing Member/Registered Customer in a notice to Eurex Clearing AG with a copy to the other parties of the Clearer Change Agreement no later than on the Change Date (in this Number 8.1 “**Respective Redelivery Claims**”). However, all claims resulting from such Respective Transactions or such Respective Corresponding Transactions, respectively, and such Respective Redelivery Claims which, in each case, are due and payable but not satisfied between Eurex Clearing AG and the Current Clearing Member or between the Current Clearing Member and the Non-Clearing Member/Registered Customer, respectively, until and including the Transfer Effective Date, shall be fulfilled under the terms of the relevant Clearing Agreement or, as applicable, the Client Clearing Agreement relating to the Clearing Agreement and shall not be transferred or amended hereunder (together with transactions of the Current Clearing Member with Eurex Clearing AG that are NCM-Related Transactions, RC-Related Transactions or Covered Transactions, respectively, of the Transactions Types (i) Chapter III Transactions at Eurex Bonds GmbH (Eurex Bonds) and (ii) Chapter V Part 2 Transactions Concluded at the Frankfurter Wertpapierbörse the “**Excluded Claims**” for the purpose of Number 8.1).

8.1.2 For such purpose, the Current Clearing Member and the New Clearing Member agree to transfer by way of novation (*Novation*), except for the Excluded Claims, from the Current Clearing Member to the New Clearing Member as of the Transfer Effective Date

- (1) all existing Respective Transactions between Eurex Clearing AG and the Current Clearing Member,
- (2) the Current Clearing Member's claims and obligations vis-à-vis Eurex Clearing AG with respect to the Respective Redelivery Claims,
- (3) the Respective Corresponding Transactions (with respect to the Respective Transactions pursuant to Paragraph (1) above), and
- (4) the Current Clearing Member's claims and obligations vis-à-vis the Non-Clearing Member/Registered Customer with respect to the Respective Redelivery Claims,

(the rights, claims and obligations pursuant to Paragraph (1) and (2) together the “**Transferred Assets**” and the rights, claims and obligations pursuant to Paragraph (3) and (4) the “**Corresponding Transferred Assets**”). The Transactions resulting from the novation (*Novation*) shall not depend on the valid existence of the original Respective Transactions (*abstract novation*). Eurex Clearing AG consents to such transfers of the

Transferred Assets. The Non-Clearing Member/Registered Customer acknowledges such transfers of the Transferred Assets.

8.1.3 As of the Transfer Effective Date,

- (1) (i) the Current Clearing Member and Eurex Clearing AG, as well as (ii) the Current Clearing Member and the Non-Clearing Member/Registered Customer, shall be released from their obligations to each other under the Respective Transactions, Respective Corresponding Transactions and Respective Redelivery Claims, respectively, (provided that any Excluded Claims shall continue to exist in accordance with the contractual provisions applicable to the Respective Transactions, Respective Corresponding Transactions or Respective Redelivery Claims, respectively, under the relevant Clearing Agreement or, if applicable, Client Clearing Agreement, respectively);
- (2) (i) Transactions and Redelivery Claims between the New Clearing Member and Eurex Clearing AG as well as Corresponding Transactions and Corresponding Redelivery Claims, (ii) Corresponding Covered Transactions and Corresponding Redelivery Claims or (iii) Client Clearing Transactions and Corresponding Redelivery Claims between the New Clearing Member and the Non-Clearing-Member/Registered Customer shall be established on terms identical to the Respective Transactions, Respective Corresponding Transactions and Respective Redelivery Claims, respectively;
- (3) the Current Clearing Member will cease to have any other rights and claims against and obligations towards Eurex Clearing AG under or in connection with the Transferred Assets (except for the Excluded Claims which shall continue to exist under the contractual provisions applicable to the Respective Transactions under the relevant Clearing Agreement);
- (4) The Current Clearing Member may request the release of Eligible Margin Assets in accordance with Number 6.7 of the Elementary Clearing Model Provisions or the Net Omnibus Clearing Model Provisions, if applicable;
- (5) Eurex Clearing AG shall make corresponding records in the accounts of the Current Clearing Member and the New Clearing Member,

provided that if the Respective Corresponding Transactions and Respective Redelivery Claims are subject to an Client Clearing Agreement, the release set out in Paragraph (1) (ii) shall only apply if such release is not provided for by the Client Clearing Agreement; and if the New Clearing Member and the Non-Clearing Member/Registered Customer have entered into a New Client Clearing Agreement, the establishment of corresponding Client Clearing Transactions set out in Paragraph (2) (ii) shall only apply if such establishment is not provided for by the New Client Clearing Agreement.

8.1.4 The Current Clearing Member agrees to carry out, upon Eurex Clearing AG's written instructions, and at the Non-Clearing Member/Registered Customer's costs all such further acts and make all further declarations which Eurex Clearing AG deems necessary to achieve a full transfer of the Transferred Assets and Corresponding Transferred Assets

to the New Clearing Member in accordance with the Clearer Change Agreement. To the extent the Individual Clearing Model Provisions under Client Clearing Documentation (ICM-CCD, as defined in Chapter 1 Part 3 Number 2) apply and the Corresponding Transferred Assets are, or, following the novation, will be, governed by English law, each of the Current Clearing Member, the New Clearing Member and the Non-Clearing Member/Registered Customer shall undertake all further actions required or expedient to give effect to Number 8.1.3.

8.1.5 The Current Clearing Member and the Non-Clearing Member/Registered Customer agree and represent by way of an independent guarantee and irrespective of fault (*selbständiges, verschuldensunabhängiges Garantieversprechen*) to Eurex Clearing AG that any of the existing Respective Transactions and Respective Corresponding Transactions that cannot be transferred to the New Clearing Member due to the New Clearing Member not being appropriately licensed pursuant to the Clearing Conditions shall be closed by inverse transactions or otherwise as of the Transfer Effective Date.

8.1.6 Following the transfer the New Clearing-Member will be exclusively responsible for compliance with the rules of the Client Assets Sourcebook (CASS) in the Financial Conduct Authority Handbook in relation to any Respective Transactions that are Net Omnibus Transactions.

8.1.7 **Change of the Clearing Model under a Clearer Change**

(1) Eurex Clearing AG, the Transferree Clearing Member and the Non-Clearing Member/Registered Customer agree that, if necessary and except for the Excluded Claims, the Respective Transactions and the Respective Corresponding Transactions shall be amended so that these Transactions shall become subject to the relevant New Clearing Model Provisions (as selected with respect to the relevant Transaction Type(s) in the Clearer Change Agreement) with effect as of the Transfer Effective Date and (a) the Respective Transactions shall be included in the relevant Standard Agreement between Eurex Clearing AG and the New Clearing Member established by the relevant New Clearing Agreement and (b) the Respective Corresponding Transactions shall be included in the relevant Standard Agreement between the New Clearing Member and the Non-Clearing Member/Registered Customer established by the relevant New Clearing Agreement or, if the Individual Clearing Model Provisions under ICM-CCD apply, in the relevant New Client Clearing Agreement between the New Clearing Member and the Non-Clearing Member/Registered Customer relating to the Clearing Agreement, provided that if the New Clearing Member and the Non-Clearing Member/Registered Customer have entered into a New Client Clearing Agreement, the inclusion of the Respective Corresponding Transactions in the New Client Clearing Agreement shall only occur pursuant to this Number 8.1.7 (1) if such effect is not provided for by the New Client Clearing Agreement.

(2) To the extent the Individual Clearing Model Provisions under ICM-CCD apply and the Respective Corresponding Transactions are, or, following the novation, will be, governed by English law, each of the Current Clearing Member, the New

Clearing Member and the Non-Clearing Member/Registered Customer shall undertake all further actions required or expedient to give effect to the amendment of the Respective Corresponding Transactions under Number 8.1.7 (1).

8.1.8 Margin, Redelivery Claims

- (1) If the relevant New Clearing Agreement (to which the relevant Transferred Assets are subject following the amendments pursuant to Number 8.1.7) is an agreement pursuant to the Elementary Clearing Model Provisions, the New Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG in respect of the Elementary Omnibus Margin and the Elementary Omnibus Variation Margin in accordance with the Elementary Clearing Model Provisions immediately following the amendments pursuant to Number 8.1.7.
- (2) Subject to Paragraph (4) below, if the relevant New Clearing Agreement (as defined in the Clearer Change Agreement and to which the relevant Transferred Assets are subject following the amendments pursuant to Number 8.1.7) is an agreement pursuant to the Individual Clearing Model Provisions, immediately following the amendments pursuant to Number 8.1.7
 - a) the New Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG, and
 - b) the Non-Clearing Member/Registered Customer shall be obliged to provide cover for the relevant Respective Corresponding Transactions to the New Clearing Member, subject, if the Individual Clearing Model Provisions under ICM-CCD apply, to the terms of the New Client Clearing Agreement relating to the New Clearing Agreement

in respect of the Segregated Margin and the Segregated Variation Margin or, as applicable, Credit Support Margin or Credit Support Variation Margin in accordance with the Individual Clearing Model Provisions.
- (3) If the agreement under the Current Clearing Model Provisions is a Clearing Agreement pursuant to the Individual Clearing Model Provisions, immediately following the Transfer Effective Date the Current Clearing Member is entitled to assert any Redelivery Claims (that are not subject to the transfer by novation set out in the Clearer Change Agreement) in respect of the Segregated Margin and the Segregated Variation Margin in accordance with the Individual Clearing Model Provisions.
- (4) If and to the extent that either the Current Clearing Model Provisions are the Individual Clearing Model Provisions under ICM-CCD and the New Clearing Model Provisions are the Individual Clearing Model Provisions under Eurex Clearing AG Documentation or the Current Clearing Model Provisions are the Individual Clearing Model Provisions under Eurex Clearing AG and the New

Clearing Model Provisions are the Individual Clearing Model Provisions und ICM-CCD.

(a) the Segregated Margin and Segregated Variation Margin provided by the Clearing Member to Eurex Clearing AG pursuant to the relevant Clearing Agreement shall constitute Segregated Margin and Segregated Variation Margin, respectively, pursuant to the relevant New Clearing Agreement; and

(b) if the Individual Clearing Model Provisions under ICM-CCD apply, Credit Support Margin and Credit Support Variation Margin shall be deemed to have been provided under the terms of the New Client Clearing Agreement relating to the New Clearing Agreement accordingly.

(5) If the relevant New Clearing Agreement (to which the relevant Transferred Assets are subject following the amendments pursuant to Number 8.1.7) is an agreement pursuant to the Net Omnibus Clearing Model Provisions, the New Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG in respect of the Net Omnibus Margin and the Net Omnibus Variation Margin in accordance with the Net Omnibus Clearing Model Provisions immediately following the amendments pursuant to Number 8.1.7.

8.1.9 Representations

(1) Each of the Current Clearing Member, the New Clearing Member and the Non-Clearing Member/Registered Customer, severally, makes the representations and warranties set out in Chapter 1 Part 1 Numbers 1.1.7 and 1.7, providing that each reference therein to a Clearing Agreement shall be construed as a reference to the Clearer Change Agreement.

(2) If the agreement under the Current Clearing Model Provisions is a Clearing Agreement pursuant to the Elementary Clearing Model Provisions, the Current Clearing Member represents and warrants by way of an independent guarantee and irrespective of fault (selbständiges, verschuldensunabhängiges Garantieverprechen) to Eurex Clearing AG that at the time it enters into the Clearer Change Agreement no security interest has been granted over any of its Transferred Assets.

(3) Moreover, if the agreement under the Current Clearing Model Provisions is a Clearing Agreement pursuant to the Individual Clearing Model Provisions, the Current Clearing Member represents and warrants by way of an independent guarantee and irrespective of fault (selbständiges, verschuldensunabhängiges Garantieverprechen) to Eurex Clearing AG that, as at the Transfer Effective Date, it has passed on all cash amounts, securities and any other assets received from the Non-Clearing Member/Registered Customer or, as the case may be, Eurex Clearing AG in accordance with Subpart A Number 9 of the Individual Clearing Model Provisions, and each of the Current Clearing Member and the Non-Clearing Member/Registered Customer, severally, but not jointly,

represents and warrants by way of an independent guarantee and irrespective of fault (selbständiges, verschuldensunabhängiges Garantieverprechen) to Eurex Clearing AG that, as at the Transfer Effective Date, the Respective Transactions and the Respective Corresponding Transactions are, except as provided for in the Clearing Conditions, identical as to its terms and conditions and no security interest has been granted over any of its Transferred Assets or Corresponding Transferred Assets, as applicable.

8.1.10 Indemnification by the Non-Clearing Member/Registered Customer

Subject to any mandatory provision of German law, the Non-Clearing Member/Registered Customer shall indemnify Eurex Clearing AG against damages (*Schäden*) and losses, including properly incurred legal fees (including any applicable VAT) resulting from a non-payment or non-delivery by the Current Clearing Member with respect to any Excluded Claim, provided that no indemnification shall be made to the extent such damages or losses result from Eurex Clearing AG's gross negligence (*grobe Fahrlässigkeit*) or wilful misconduct (*Vorsatz*).

8.1.11 Effectiveness of the Clearer Change

- (1) A change of a Clearing Member shall only be effective,
- (a) if Eurex Clearing AG has received all of the documents set out in Paragraph (2) below in form and substance satisfactory to it (provided that, where Eurex Clearing AG itself would be required to become a party to any such document for it to become effective, nothing in this Number 8.1.11 shall prejudice Eurex Clearing AG's decision whether or not to do so), and
 - (b) subject to the condition subsequent that Eurex Clearing AG has not notified the relevant parties in writing, by e-mail or fax that the change of the Clearing Member shall not take place.
- (2) Copies of the following documents shall be provided to Eurex Clearing AG:
- (a) Clearer Change Agreement in the form published by Eurex Clearing AG on the Eurex Clearing AG website (www.eurexclearing.com);
 - (b) Clearing Agreement with the New Clearing Member; and
 - (c) any other document which Eurex Clearing AG reasonably considers to be necessary or useful (if it has notified the relevant parties accordingly) in connection with such transfer,

duly executed, in each case, by or on behalf of all parties required to execute it.

8.2 Clearing Model Change (while retaining the Current Clearing Member)

- (1) By entering into a clearing model change agreement in the form published by Eurex Clearing AG on its websites (www.eurexclearing.com) ("**Clearing Model Change Agreement**") as per the end of the Business Day specified therein (in

Number 8.2 and the Clearingmodel Cange Agreement the "**Change Date**") the Parties amend

- (a) All NCM-Related Transactions or RC-Related Transactions, respectively, of the Clearing Member with Eurex Clearing AG of the Transaction Type(s) as specified in the Clearing Model Change Agreement, in each case under their relevant Standard Agreement formed by the relevant Clearing Agreement as specified in the Clearing Model Change Agreement (or, in the case of an Elementary Omnibus Standard Agreement or a Net Omnibus Standard Agreement, that are part of such Elementary Omnibus Standard Agreement or such Net Omnibus Standard Agreement, respectively) (in Number 8.2 the "**Respective Transactions**") as well as the relevant corresponding Transactions or, if and to the extent that the Current Clearing Model Provisions include the ICM-CCD, the corresponding Client Clearing Transactions, of the Clearing Member with the Non-Clearing Member/Registered Customer which are currently subject to the relevant Current Clearing Model Provisions (in Number 8.2 the "**Respective Corresponding Transactions**") so that (a) the Respective Transactions shall become subject to the relevant Standard Agreement formed by the relevant New Clearing Agreement (provided that if, under the relevant New Clearing Agreement, the Clearing Member maintains more than one Elementary Omnibus Standard Agreement or more than one Net Omnibus Standard Agreement with Eurex Clearing AG, respectively, (A) all Respective Transactions pursuant to the Elementary Clearing Model Provisions shall become subject to the Elementary Omnibus Standard Agreement between the Clearing Member and Eurex Clearing AG that is identified in the systems of Eurex Clearing AG with the identifier as specified in the Clearing Model Change Agreement and (B) all Respective Transactions pursuant to the Net Omnibus Clearing Model Provisions shall become subject to the Net Omnibus Standard Agreement between the Clearing Member and Eurex Clearing AG that is identified in the systems of Eurex Clearing AG with the identifier as specified in the Clearing Model Change Agreement, respectively), and (b) the Respective Corresponding Transactions shall become subject to the relevant Standard Agreement between the Clearing Member and the Non-Clearing Member/Registered Customer formed by the relevant New Clearing Agreement or, if and to the extent that the ICM-CCD applies, to the relevant New Client Clearing Agreement (in each case, as selected with respect to the relevant Transaction Type(s) in the Clearing Model Change Agreement) and, in each case, to the relevant New Clearing Model Provisions; and
- (b) if and to the extent that either (A) the Current Clearing Model Provisions include the ICM-CCD and the New Clearing Model Provisions include the Eurex Clearing AG Documentaion (ICM-ECD, as defined in Chapter 1 Part 3 Number 1) or (B) the Current Clearing Model Provisions include the ICM-ECD and the New Clearing Model Provisions include the ICM-

CCD - all Redelivery Claims relating to the Segregated Margin or Segregated Variation Margin (in case of a ICM Clearing Agreement pursuant to the Individual Clearing Model Provisions) between Eurex Clearing AG and the Clearing Member under their relevant Standard Agreement formed by the relevant Clearing Agreement or, if the ICM-CCD applies, relevant ICM Clearing Agreement, as well as (a) all Redelivery Claims between the Clearing Member and the Non-Clearing Member/Registered Customer relating to the Segregated Margin or Segregated Variation Margin (in case of a Clearing Agreement pursuant to the Individual Clearing Model Provisions) under their relevant Standard Agreement formed by the relevant Clearing Agreement and (b), if and to the extent that the Current Clearing Model Provisions include the ICM-CCD, all claims between the Clearing Member and the Non-Clearing Member/Registered Customer for the return of Credit Support Margin or Credit Support Variation Margin arising under the Client Clearing Agreement relating to the (ICM) Clearing Agreement (in this Number 8.2 the "**Respective Redelivery Claims**") so that (x) the Respective Redelivery Claims between Eurex Clearing AG and the Clearing Member shall become subject to the relevant New (ICM) Clearing Agreement, respectively, and (y) the Respective Redelivery Claims between the Clearing Member and the Non-Clearing Member/Registered Customer shall become subject to the relevant New Clearing Agreement or, if and to the extent that the ICM-CCD applies, the relevant New Client Clearing Agreement.

in each case with effect as of the beginning of the Business Day immediately following the Change Date (in this Number 8.2 the "**Effective Date**").

- (2) Amendments pursuant to Paragraph (1) and the Clearing Model Change Agreement shall, however, not take place if Eurex Clearing AG notifies the relevant parties no later than on the Change Date in writing, by e-mail or fax therof.
- (3) (i) All Respective Redelivery Claims under the relevant Standard Agreement formed by the relevant Clearing Agreement and, if the ICM-CCD applies, all claims for the return of Credit Support Margin or Credit Support Variation Margin arising under the Client Clearing Agreement relating to the ICM Participation Agreement and (ii) all claims resulting from the Respective Transactions and the Respective Corresponding Transactions which, in each case (i) and (ii) are due and payable but not satisfied between Eurex Clearing AG and the Clearing Member or between the Clearing Member and the Non-Clearing Member/Registered Customer, respectively, until and including the Effective Date shall be fulfilled under the terms of the relevant Clearing Agreement or, as applicable, the Client Clearing Agreement relating to the ICM Clearing Agreement and shall not be amended (in this Number 8.2 the "**Excluded Claims**").
- (4) The Clearing Member will remain exclusively responsible for compliance with the rules of the Client Assets Sourcebook (CASS) in the Financial Conduct Authority

Handbook in relation to any Net Omnibus Transactions following the amendments.

8.2.1 Margin, Redelivery Claims

- (1) If the relevant New Clearing Agreement is an agreement pursuant to the Elementary Clearing Model Provisions, the Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG in respect of the Elementary Omnibus Margin and the Elementary Omnibus Variation Margin in accordance with the Elementary Clearing Model Provisions immediately following the amendments pursuant to Number 8.2.
- (2) Subject to Paragraph (5) below, if the relevant New (ICM) Clearing Agreement is an agreement pursuant to the Individual Clearing Model Provisions, immediately following the amendments pursuant to Number 8.2
 - (a) the Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG, and
 - (b) the Non-Clearing Member/Registered Customer shall be obliged to provide cover for the relevant Respective Corresponding Transactions to the Clearing Member, subject, if the ICM-CCD applies, to the terms of the New Client Clearing Agreement relating to the New Clearing Agreement

in respect of the Segregated Margin and the Segregated Variation Margin or, as applicable, Credit Support Margin or Credit Support Variation Margin in accordance with the Individual Clearing Model Provisions.
- (3) If the agreement under the Current Clearing Model Provisions is either a Clearing Agreement pursuant to the Individual Clearing Model Provisions, immediately following the amendments pursuant to Number 8.2 the Current Clearing Member is entitled to assert any Redelivery Claims (that are not subject to the amendments set out in the Clearing Model Change Agreement) in respect of the Segregated Margin and the Segregated Variation Margin in accordance with the Individual Clearing Model Provisions.
- (4) If and to the extent that either (A) the Current Clearing Model Provisions are subject to the ICM-CCD and the New Clearing Model Provisions are subject to the ICM-ECD or (B) the Current Clearing Model Provisions are subject to the ICM-ECD and the New Clearing Model Provisions are subject to the ICM-CCD,
 - (1) the Segregated Margin and Segregated Variation Margin provided by the Clearing Member to Eurex Clearing AG pursuant to the relevant ICM Clearing Agreement shall constitute Segregated Margin and Segregated Variation Margin, respectively, pursuant to the relevant New (ICM) Clearing Agreement; and
 - (2) if ICM-CCD applies, Credit Support Margin and Credit Support Variation Margin shall be deemed to have been provided under the terms of the

New Client Clearing Agreement relating to the New (ICM) Clearing Agreement accordingly.

- (5) If the relevant New Clearing Agreement is an agreement pursuant to the Net Omnibus Clearing Model Provisions, the Clearing Member shall be obliged to provide cover for the relevant Respective Transactions to Eurex Clearing AG in respect of the Net Omnibus Margin and the Net Omnibus Variation Margin in accordance with the Net Omnibus Clearing Model Provisions immediately following the amendments pursuant to Clause 2.1 of the Clearing Model Change Agreement.

8.2.2 Representations

Each of the Clearing Member and the Non-Clearing Member/Registered Customer, severally, makes the representations and warranties set out in Chapter 1 Part 1 Numbers 1.1.7 and 1.7, providing that each reference therein to a Clearing Agreement shall be construed as a reference to the Clearing Model Change Agreement.

Part 2 Elementary Clearing Model Provisions

[...]

~~9 Replacement of Clearing Member~~[deleted]

~~Subject to the special provisions of the Elementary Clearing Model Provisions, a Non-Clearing Member and/or Registered Customers may effect a replacement of its Clearing Member in accordance with this Number 9 with respect to one or more Transaction Types only with the prior written consent of Eurex Clearing AG, the respective Clearing Member and a replacement Clearing Member and subject to the prior conclusion of a Clearing Agreement between Eurex Clearing AG, the Non-Clearing Member and/or Registered Customers and the replacement Clearing Member. In order to effect such replacement of a Clearing Member on a Business Day, the relevant Transactions (being Eurex Transactions, ISE Transactions, and/or OTC Interest Rate Derivative Transactions) of the relevant Clearing Member with Eurex Clearing AG and the relevant claims and obligations vis-à-vis Eurex Clearing AG with respect to the Redelivery Claims relating to the relevant Variation Margin with respect to such Transactions shall be transferred to the replacement Clearing Member only by way of a transfer by novation (*Novation*) by the relevant Clearing Member to the replacement Clearing Member. The Non-Clearing Member and/or Registered Customers, the transferor Clearing Member and the replacement Clearing Member shall further separately agree on a transfer by way of novation from the transferor Clearing Member to the replacement Clearing Member of the related Transactions between the transferor Clearing Member and the Non-Clearing Member and/or Registered Customers as well as the relevant claims and obligations with respect to the redelivery claims in respect of variation margin and any other collateral delivered as cover for such Transactions between the transferor Clearing Member and the Non-Clearing Member and/or Registered Customers.~~

~~Such transfer shall become effective only upon Eurex Clearing AG having received all of the documents set out below in form and substance satisfactory to it (provided that, where Eurex Clearing AG itself would be required to become a party to any such document for it to become effective, nothing in this Number 9 shall prejudice Eurex Clearing AG's decision whether or not to do so). Eurex Clearing AG shall notify the relevant parties in writing promptly upon being so satisfied and specify a transfer date binding on all relevant parties in such notice.~~

~~Original copies of the following documents shall be provided to Eurex Clearing AG:~~

- ~~(i) a transfer agreement in the form published by Eurex Clearing AG on the Eurex Clearing AG website (www.eurexclearing.com);~~
- ~~(ii) a Clearing Agreement with the replacement Clearing Member; and~~
- ~~(iii) any other document which Eurex Clearing AG reasonably considers to be necessary or useful (if it has notified the relevant parties accordingly) in connection with such transfer,~~

~~duly executed, in each case, by or on behalf of all parties required to execute it.~~

[...]

Part 3 Subpart A: General Provisions for ICM-ECD and ICM-CCD

[...]

13 ~~Replacement of Clearing Member~~[deleted]

~~Subject to the special provisions of the Individual Clearing Model Provisions, a ICM Client may effect a replacement of its Clearing Member in accordance with this Number 13 with respect to one or more Transaction Types only with the prior written consent of Eurex Clearing AG, the respective Clearing Member and a replacement Clearing Member and subject to the prior conclusion of an ICM Clearing Agreement between Eurex Clearing AG, the ICM Client and the replacement Clearing Member. In order to effect such replacement of a Clearing Member on a Business Day, the relevant Covered Transactions (being Eurex Transactions, ISE Transactions and/or OTC Interest Rate Derivative Transactions) of the relevant Clearing Member with Eurex Clearing AG and the relevant claims and obligations with respect to the Redelivery Claims relating to the Segregated Margin and the Segregated Variation Margin under the relevant Standard Agreement shall be transferred to the relevant replacement Clearing Member only by way of a transfer by novation (*Novation*) by the relevant Clearing Member to the replacement Clearing Member.~~

~~Such transfer shall become effective only upon Eurex Clearing AG having received all of the documents set out below in form and substance satisfactory to it (provided that, where Eurex Clearing AG itself would be required to become a party to any such document for it to become effective, nothing herein shall prejudice Eurex Clearing AG's decision whether or not to do so). Eurex Clearing AG shall notify the relevant parties in writing promptly upon being so satisfied and specify a transfer date binding on all relevant parties in such notice.~~

~~Original copies of the following documents shall be provided to Eurex Clearing AG:~~

- ~~(i) a transfer agreement in the form published by Eurex Clearing AG on the Eurex Clearing AG website (www.eurexclearing.com);~~
- ~~(ii) the ICM Clearing Agreement with the replacement Clearing Member; and~~
- ~~(iii) any other document which Eurex Clearing AG reasonably considers to be necessary or useful (if it has notified the relevant parties accordingly) in connection with such transfer,~~

~~duly executed, in each case, by or on behalf of all parties required to execute it.~~

[...]

Part 4 Net Omnibus Clearing Model Provisions

[...]

9 ~~Replacement of Clearing Member~~[deleted]

~~Subject to the special provisions of the Net Omnibus Clearing Model Provisions, a Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer may effect a replacement of its Clearing Member in accordance with this Number 9 with respect to all Net Omnibus Transactions related to it only (i) with the prior written consent of Eurex Clearing AG, the Clearing Member and a replacement Clearing Member and (ii) subject to the prior conclusion of a Clearing Agreement between Eurex Clearing AG, the Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer and the replacement Clearing Member. In order to effect such replacement of the Clearing Member on a Business Day, the relevant Net Omnibus Transactions of the Clearing Member with Eurex Clearing AG and the relevant claims and obligations vis-à-vis Eurex Clearing AG with respect to the Redelivery Claims relating to the Net Omnibus Variation Margin with respect to such Net Omnibus Transactions shall be transferred to the replacement Clearing Member only by way of a transfer by novation (Novation) by the Clearing Member to the replacement Clearing Member. The Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer, the transferor Clearing Member and the replacement Clearing Member shall further separately agree on a transfer by way of novation from the transferor Clearing Member to the replacement Clearing Member of the related transactions between the transferor Clearing Member and the Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer as well as the relevant claims and obligations with respect to the redelivery claims in respect of variation margin and any other collateral delivered as cover for such transactions between the transferor Clearing Member and the Net Omnibus Non-Clearing Member or Net Omnibus Registered Customer.~~

~~Such transfer shall become effective only upon Eurex Clearing AG having received all of the documents set out below in form and substance satisfactory to it (provided that, where Eurex Clearing AG itself would be required to become a party to any such document for it to become effective, nothing herein shall prejudice Eurex Clearing AG's decision whether or not to do so). Eurex Clearing AG shall notify the relevant parties in writing promptly upon being so satisfied and specify a transfer date binding on all relevant parties in such notice.~~

~~Original copies of the following documents shall be provided to Eurex Clearing AG:~~

- ~~(i) a transfer agreement in the form published by Eurex Clearing AG on the Eurex Clearing AG website (www.eurexclearing.com);~~
 - ~~(ii) a Clearing Agreement with the replacement Clearing Member; and~~
 - ~~(iii) any other document which Eurex Clearing AG considers to be necessary or useful (if it has notified the relevant parties accordingly) in connection with such transfer,~~
- ~~duly executed, in each case, by or on behalf of all parties required to execute it.~~

[...]

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

[...]

Chapter II Transactions Concluded at Eurex Deutschland and Eurex Zürich (Eurex Exchanges)

[...]

Part 2 Clearing of Futures Contracts

2.1 General Provisions

[...]

2.1.2 Daily Settlement Price

[...]

- (2) Eurex Clearing AG determines the daily settlement price according to the true market conditions of the respective contract and under consideration of its risk assessment.

[...]

- (g) The daily settlement price for

- FX Futures contracts
- Index Dividend Futures contracts
- Volatility Index Futures contracts

shall be determined according to the procedures described in Paragraph (a). In the case that no daily settlement price can be determined according to aforementioned procedures, the daily settlement price shall be determined on the basis of the mean bid-ask spread in the orderbook before the reference point in time.

[...]

AMENDMENTS ARE MARKED AS FOLLOWS:

INSERTIONS ARE UNDERLINED

DELETIONS ARE CROSSED OUT

[...]

9 Admitted Products, Combinations and Combination Transactions Option-Share

[...]

9.6 Flexible Options and Flexible Futures Trade Service

Eurex Clearing AG has admitted the following products to the Flexible Options and Flexible Futures Trade Service. Eurex Clearing AG can in individual cases, depending on the type of settlement of the respective contracts, suspend the admission to or limit the availability of these facilities for certain products.

I. Flexible Eurex Option Contracts	Minimum number of contracts to be traded
------------------------------------	--

[...]

Options Contracts on the DAX [®] Index (ODAX)	500
Options Contracts on the DivDAX [®] (ODIV)	250 <u>100</u>
Options Contracts on the MDAX [®] (O2MX)	400 <u>50</u>
Options Contracts on the TecDAX [®] Index (OTDX)	250 <u>100</u>

[...]

II. Flexible Eurex Futures Contracts	Minimum number of contracts to be traded
--------------------------------------	--

[...]

Futures Contracts on the DAX [®] Index (FDAX)	250
Futures Contracts on the DivDAX [®] -Index (FDIV)	250 <u>100</u>

I. Flexible Eurex Option Contracts	Minimum number of contracts to be traded
Futures Contracts on the MDAX [®] -Index (F2MX)	400 <u>50</u>
Mini-Futures Contracts on the DAX [®] Index (FDXM)	500
Futures Contracts on the TecDAX [®] Index (FTDX)	250 <u>100</u>
[...]	

Allgemeine Geschäftsbedingungen zum Vertrag über die technische Anbindung an die Clearing-EDV der Eurex Clearing AG (Anschlussvertrag)

General Terms and Conditions to the Agreement on Technical Connection to the Clearing EDP of Eurex Clearing AG (Connection Agreement)

ABSCHNITT A WIRD GEÄNDERT.

PART A WILL BE AMENDED.

ÄNDERUNGEN SIND WIE FOLGT KENNTLICH GEMACHT:

AMENDMENTS ARE MARKED AS FOLLOWS:

ERGÄNZUNGEN SIND UNTERSTRICHEN,

INSERTIONS ARE UNDERLINED,

LÖSCHUNGEN SIND DURCHGESTRICHEN.

DELETIONS ARE CROSSED OUT.

A – Allgemeine Vorschriften

A – General Provisions

[...]

§ 2 Definitionen

§ 2 Definitions

[...]

(11) „Geschäftstag“: bezeichnet jeden Tag (außer Samstags und Sonntags) an dem Geschäftsbanken in Frankfurt am Main, Deutschland, für den allgemeinen Geschäftsbetrieb geöffnet sind.

(11) “Business Day”: means any day (other than a Saturday or a Sunday) on which commercial banks in Frankfurt am Main, Germany, are open for general business.

[...]

§ 6 Nutzung der Clearing-EDV

§ 6 Utilization of Clearing EDP

(1) Die Eurex Clearing ist verpflichtet, während der Dauer des Anschlussvertrages die erforderlichen Maßnahmen zu treffen, um die vertragsgemäße Nutzung der Clearing-EDV nach Maßgabe der Regelungen der Eurex Clearing, dieses Anschlussvertrages, des technisch Möglichen und des wirtschaftlich Zumutbaren zu ermöglichen.

(1) Eurex Clearing shall be obligated for the duration of the Connection Agreement and subject to the technical feasibility and economic reasonableness to take appropriate measures to enable the contractual utilization of the Clearing EDP according to the regulations of Eurex Clearing and this Connection Agreement.

(2) Die Eurex Clearing ist jederzeit und nach eigenem Ermessen berechtigt, die Clearing-EDV zu aktualisieren und anzupassen („**Release**“). Die Eurex Clearing AG wird den Vertragspartner über jedes Release im Voraus informieren („**Release Notes**“).

(2) Eurex Clearing is entitled to update or amend the Clearing EDP (a “**Release**”) at any time upon its sole discretion. However, Eurex Clearing shall notify the Contractual Party on any Release in advance (“**Release Notes**”).

(32) Die Eurex Clearing ist berechtigt, zur Abwendung von Schäden an der Clearing-EDV die technische Anbindung unter angemessener Berücksichtigung der Interessen des Vertragspartners vorübergehend zu unterbrechen. Die Eurex Clearing wird, den Vertragspartner über eine beabsichtigte Unterbrechung vorab benachrichtigen. Ist dies nicht möglich, ist die Eurex Clearing verpflichtet, die Benachrichtigung unverzüglich nachzuholen.

(32) In order to avoid damages of the Clearing EDP, Eurex Clearing is authorised to interrupt the technical connection, while taking into consideration the interests of the Contractual Party. Eurex Clearing shall notify the contractual party of an intended interruption in advance. If this is not possible, Eurex Clearing is obligated to submit this notification immediately afterwards.

(43) Die Eurex Clearing ist berechtigt, bei allen mit der Erfüllung des Anschlussvertrages erforderlichen Aufgaben Dritte zu beauftragen. Die Eurex Clearing ist in diesen Fällen zur sorgfältigen Auswahl und Unterweisung des Dritten verpflichtet.

(43) Eurex Clearing shall be entitled to assign the performance of all tasks necessary to fulfil the Connection Agreement to third parties. In such cases, Eurex Clearing shall be obligated to exercise prudence in its choice and instruction of third parties.

[...]

§ 9 Teilnehmer-Systeme

(1) Die Eurex Clearing kann Teilnehmer-Systemen Konfigurationsparameter zuweisen. In diesem Fall ist der Vertragspartner verpflichtet, ausschließlich mit den zugewiesenen Konfigurationsparameter mit der Clearing-EDV zu kommunizieren.

§ 9 Participant Systems

(1) Eurex Clearing may assign Configuration Parameter to Participant Systems. In this case, the Contractual Party shall be obligated to communicate with the Clearing EDP exclusively by means of the assigned Configuration Parameter.

(2) Die Eurex Clearing stellt für den Zugang zu Clearing-Daten Schnittstellen- und ~~Systembeschreibungen~~ Systemspezifikationen zu Verfügung. Die ~~Schnittstellen- und Systembeschreibungen~~ Systemspezifikationen können im Internet unter www.eurexclearing.com eingesehen und heruntergeladen werden. Der Vertragspartner ist verpflichtet, die von der Eurex Clearing veröffentlichten Schnittstellen- und ~~Systemspezifikationenbeschreibungen~~ für eine Anbindung an die Clearing-EDV zu nutzen. Jede elektronische Kommunikation, die an die Clearing-EDV übermittelt wird, muss den Schnittstellen- und Systemspezifikationen entsprechen.

(2) For the access to clearing data Eurex Clearing provides interface ~~descriptions~~specifications and system ~~descriptions~~specifications. The interface ~~descriptions~~specifications and system ~~descriptions~~specifications may be viewed and downloaded at www.eurexclearing.com. The Contractual Party shall be obligated to use the interface ~~descriptions~~specifications and system ~~descriptions~~specifications published by Eurex Clearing to connect to the Clearing EDP. All electronic communication sent to the Clearing EDP by the Contractual Party must conform with the interface specifications and system specifications.

(3) Verwendet der Vertragspartner auf dem Teilnehmer-System eigene Software oder die Software von einem Drittanbieter des Teilnehmers, die auf dem Teilnehmer-System zur Kommunikation mit der Clearing-EDV eingesetzt wird („Teilnehmer-Software“), muss diese Teilnehmer-Software vollständig kompatibel mit der Clearing-EDV sein und muss mit der Clearing-EDV fehlerlos und ohne Unterbrechungen zusammenwirken. Die Teilnehmer-Software muss durch den Vertragspartner vor ihrem

(3) If the Contractual Party uses its own sSoftware or software of a third-party of the participant run on the Participant System that communicates with the Clearing EDP (“Participant Software”), such Participant Software needs (a) to be fully compatible with the Clearing EDP and (b) to interact with the Clearing EDP without any error or interruption. The Participant Software shall be ~~must be~~ sufficiently tested by the Contractual Party prior to its first use. ~~utilisation~~. Eurex Clearing may request from the

ersten Gebrauch ausreichend getestet werden. Die Eurex Clearing kann von dem Vertragspartner einen Nachweis über die Durchführung des Tests verlangen, der von dem Vertragspartner unverzüglich vorzulegen ist, vor ihrem Gebrauch ausreichend durch den Vertragspartner getestet sein. Sollte die Teilnehmer-Software Störungen in der Clearing-EDV verursachen, kann die Eurex Clearing die Nutzung der Teilnehmer-Software mit sofortiger Wirkung untersagen.

Contractual Party an evidence of the completion of such test, which the Contractual Party shall provide without undue delay. If the Participant Software causes problems within the Clearing EDP, Eurex Clearing may prohibit the utilisation of the Participant Software with immediate effect.

- (4) Der Betrieb des Teilnehmer-Systems liegt im Verantwortungsbereich des Vertragspartners. Der Vertragspartner ist verpflichtet, die für die Beschaffung, Installation, Konfiguration, Betrieb und Wartung des Teilnehmer-Systems anfallenden Kosten zu tragen.

- (4) The Contractual Party shall be responsible for the operation of the Participant System. The Contractual Party shall be obligated to bear the costs caused by the acquisition, operation, and maintenance of the Participant System.

[...]

§ 10 Weitere Pflichten des Vertragspartners

§ 10 Additional obligations of the Participant

- (1) Der Vertragspartner ist verpflichtet, jede missbräuchliche, insbesondere der Ordnungsmäßigkeit des Clearings und der Abwicklung zuwider laufende Nutzung der Clearing-EDV zu unterlassen.
- (2) Der Vertragspartner ist verpflichtet, bei der Erbringung der Leistungen im Rahmen des Anschlussvertrages mitzuwirken und eine telefonische Erreichbarkeit sicherzustellen. Zudem ist der Eurex Clearing ein Ansprechpartner des Vertragspartners oder eines von ihm beauftragten Dritten für den Fall von Störungen technischer Anbindungen, die im Verantwortungsbereich der Eurex Clearing liegen (z.B. von Eurex Clearing bereitgestellte Standleitung) zu benennen.
- (3) Der Vertragspartner ist weiterhin verpflichtet, die folgenden Pflichten einzuhalten:
- (i) Bietet die Eurex Clearing in Bezug auf ein Release eine Simulations- und Testphase an („Simulation“), ist der Vertragspartner verpflichtet, an der Simulation teilzunehmen, wenn in den Release Notes die Teilnahme an der Simulation für den Vertragspartner als verpflichtend vorgesehen wurde. Wird die Teilnahme an der Simulation für den Vertragspartner in den Release Notes nicht als verpflichtend vorgesehen, kann der Vertragspartner auch freiwillig an der Simulation teilnehmen. Stellt der Vertragspartner während der Simulation einen Fehler oder eine

- (1) The Contractual Party shall be obligated to refrain from any misuse of the Clearing EDP, in particular omitting any utilisation of the Clearing EDP contravening its orderly clearing and settlement.
- (2) The Contractual Party shall be obligated to co-operate performance of services under the Connection Agreement and to ensure availability by telephone. Furthermore, the Contractual Party or its assigned third party shall provide a contact person for Eurex Clearing in case of problems with technical connections provided by Eurex Clearing (e.g. leased lines provided by Eurex Clearing).
- (3) The Contractual Party shall further be obliged to perform the following obligations:
- (i) Whenever Eurex Clearing provides for a simulation and testing phase with respect to a Release (“Simulation”), the Contractual Party shall participate in such Simulation, provided that participating in such Simulation is specified as ‘mandatory’ for the Contractual Party in the Release Notes. In case the participation in the Simulation is not specified as mandatory for the Contractual Party, the Contractual Party may also participate in the Simulation. If any error or malfunction of the Clearing EDP occurs during the Simulation, the Contractual Party shall inform Eurex Clearing

- Fehlfunktion der Clearing-EDV fest, ist der Vertragspartner verpflichtet, die Eurex Clearing über einen solchen Fehler oder eine solche Fehlfunktion unverzüglich zu informieren.
- (ii) Der Vertragspartner hat der Eurex Clearing vor der erstmaligen Nutzung der Clearing-EDV nach der Einführung eines Release eine schriftliche Erklärung zu übermitteln, in der er gegenüber der Eurex Clearing AG bestätigt, dass (a) die aktualisierte Clearing-EDV erfolgreich einem Testverfahren unterzogen wurde, und (b) dass das Teilnehmer-System und die Teilnehmer-Software mit der Clearing-EDV fehlerlos und ohne Unterbrechungen zusammenwirken ("**Readiness Statement**"). Ein Formular des Readiness Statement kann auf der Homepage von Eurex Clearing heruntergeladen werden (www.eurexclearing.com).
- (iii) Sollte ein Release die Anpassung, Aktualisierung oder Änderung des Teilnehmer-Systems oder der Teilnehmer-Software erfordern, wird der Vertragspartner (a) das Teilnehmer-System oder die Teilnehmer-Software entsprechend anpassen, aktualisieren oder ändern, um sicherzustellen, dass das Teilnehmer-System und die Teilnehmer-Software fehlerlos und ohne Unterbrechungen mit der Clearing-EDV zusammenwirken, und (b) die Funktionsfähigkeit des Teilnehmer-Systems und der Teilnehmer-Software vor deren erstmaliger Nutzung ausreichend testen.
- (iv) Eine Erklärung, dass die Clearing-EDV nach der Einführung des Release fehlerlos und ohne Störung mit dem Teilnehmer-System und der Teilnehmer-Software zusammenwirkt, gilt als durch den Vertragspartner abgegeben, wenn der Vertragspartner (a) entweder mit der Nutzung der Clearing-EDV nach der Einführung des Release beginnt, oder (b) die Eurex Clearing nicht innerhalb einer Frist von 15 Geschäftstagen nach der Einführung des Release über den Eintritt von Fehlern oder Störungen in Bezug auf das Zusammenwirken der Clearing-EDV mit dem Teilnehmer-System und der Teilnehmer-Software informiert. Die Eurex Clearing wird den Vertragspartner auf diese Rechtsfolge ausdrücklich in den Release Notes hinweisen.
- (ii)(v) Im Falle einer Unterbrechung oder Fehlfunktion der Clearing-EDV befolgt der Vertragspartner jede Anweisung, die ihm durch die Eurex Clearing erteilt wird.
- about such error or malfunction without undue delay.
- (ii) The Contractual Party shall provide Eurex Clearing, prior to the first use of the Clearing EDP after a Release had been implemented, with a written statement confirming to Eurex Clearing that (a) the updated Clearing EDP successfully passed internal test procedures, and (b) the Participant System and the Participant Software interact with the updated Clearing EDP without any errors or interruptions. ("**Readiness Statement**"). A form of the Readiness Statement can be downloaded from the website of Eurex Clearing (www.eurexclearing.com).
- (iii) If a Release also requires an adaption, update or amendment of the Participant System or the Participant Software, the Contractual Party shall (a) adapt, update, or amend its Participant System or Participant Software accordingly to ensure that the Participant System and Participant Software interact with the Clearing EDP without any error or interruption, and (b) sufficiently test the functioning of the Participant System and the Participant Software prior to the first use.
- (iv) A declaration by the Contractual Party stating that the Clearing EDP interacts with the Participant System and the Participant Software without any errors or malfunctions after the implementation of the Release shall be deemed to have been made, if the Contractual Party (a) either commences with the use of the Clearing EDP after the implementation of the Release, or (b) fails, within a period of 15 Business Days after the implementation of the Release, to inform Eurex Clearing about the occurrence of any errors or malfunctions with respect to the interaction of the Participant System and the Participant Software with the Clearing EDP. Eurex Clearing shall expressly draw the Contractual Party's attention to such legal consequence in the Release Notes.
- (v) In case of any disruption or malfunction of the Clearing EDP, the Contractual Party shall comply with any instruction given by Eurex Clearing.

(43) Der Vertragspartner teilt der Eurex Clearing oder den von ihr beauftragten Dritten auf Anfrage alle für die Vertragsdurchführung erforderlichen Informationen mit und gibt alle dazu erforderlichen Erklärungen ohne schuldhaftes Zögern ab.

Der Vertragspartner ist verpflichtet bei Störungen der Clearing-EDV die Eurex Clearing unverzüglich zu informieren, sobald sie durch den Vertragspartner erkannt werden. Der Vertragspartner ist verpflichtet, bei Störungen der Clearing-EDV den Weisungen der Eurex Clearing Folge zu leisten, soweit sie zu deren Beseitigung erforderlich sind. Die Eurex Clearing ist verpflichtet, bei Erteilung von Weisungen die berechtigten Interessen des Vertragspartners zu berücksichtigen.

Soweit dies zur Beseitigung von Störungen der technischen Anbindungen, die im Verantwortungsbereich der Eurex Clearing liegen (z.B. von Eurex Clearing bereitgestellte Standleitung), ist der Eurex Clearing sowie den von ihr beauftragten Dritten im Einvernehmen mit dem Vertragspartner Zutritt zu Räumlichkeiten des Vertragspartners oder des von dem Vertragspartner beauftragten Dritten zu gewähren.

(54) Kommt der Vertragspartner seinen Mitwirkungspflichten nicht nach, kann die Eurex Clearing ihre Leistungen zurückbehalten, soweit die Leistungserbringung ohne Erfüllung der Mitwirkungspflichten nicht möglich ist. Weitere Rechte der Eurex Clearing bleiben hiervon unberührt.

[...]

(43) The Contractual Party shall communicate the necessary information to Eurex Clearing or to the third party assigned by Eurex Clearing and give all the necessary explanations without undue delay.

In the case of problems with the Clearing EDP, the Contractual Party shall be obligated to inform Eurex Clearing immediately as soon as the Contractual Party becomes aware of the problems and to act according to the orders of Eurex Clearing, as far as they are necessary in order to dissolve the problems. When giving orders, Eurex Clearing shall consider the Contractual Party's interests.

As far as this is necessary in order to remedy problems regarding technical connections provided by Eurex Clearing (e.g. leased lines provided by Eurex Clearing) Eurex Clearing as well as a third party assigned by Eurex Clearing shall have access to the locations of the Contractual Party or an assigned third party, in consultation with the Contractual Party.

(54) If the Contractual Party does not fulfil its cooperation duties, Eurex Clearing may retain its services, as far as the performance of services is not possible without the Contractual Party fulfilling its cooperation duties. Further rights of Eurex Clearing shall remain unaffected thereby.