



Evaluation License Order Form Eurex Clearing PME

The Eurex Clearing Prisma Margin Estimator is a calculation library which can be integrated into clients' IT infrastructure via an API. It is purpose-built for speedy, accurate and easy margin calculations and supports both listed derivatives and OTC trades, it is as well able to apply the Prisma Cross-Margining methodology. The Prisma Margin Library is based on a joint initiative between Eurex Clearing and OpenGamma.

The Prisma Margin Library, including a documentation package and sample market data set, will be provided on a USB stick and shipped by Eurex Clearing to the client contact details. Two versions are available, one for evaluation and one for production use. Functionally both versions are identical, but the production license includes technical support provided by OpenGamma.

This Order is made and executed under the **SOFTWARE LICENCE AND MAINTENANCE Terms**. By signing this Order you agree in the **"SOFTWARE LICENCE AND MAINTENANCE Terms"** which forms an integral part of this Order.

Please fill in and return.

To: Markets & Vendor Readiness Fax:+ 49-69-211-1 17 01

Email: prisma-calculator@eurexclearing.com

Member ID (if available)	<input type="text"/>
Company Name	<input type="text"/>
Name of Central Coordinator/ Contact Person	<input type="text"/>
Telephone	<input type="text"/>
E-Mail	<input type="text"/>
Shipping Address	<input type="text"/>
City / State / Zip	<input type="text"/>
Country	<input type="text"/>

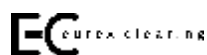
Yes, I order a copy of the Eurex Clearing Prisma Margin Estimator including documentation and sample code and I order a Eurex Clearing Prisma Margin Estimator **Evaluation License**. The Licence Fee amounts to EUR 0,- and the Maintenance Fee amounts to EUR 0,- (free of charge).

I have read the **"SOFTWARE LICENCE AND MAINTENANCE Terms"** and accept the terms and conditions.

The **SOFTWARE LICENCE AND MAINTENANCE Terms** are attached to this Order. Client contact details will be shared with OpenGamma Limited to enable the use of technical support services of Open Gamma Limited..

Date

Signature _____
(By Central Coordinator / SPOC)



SOFTWARE LICENCE AND MAINTENANCE TERMS

THESE SOFTWARE LICENCE AND MAINTENANCE TERMS (THE AGREEMENT)

BETWEEN

Eurex Clearing AG, an affiliated company of Deutsche Börse AG, the parent company of Deutsche Börse Group, a group of affiliated companies within the meaning of Article 15 et seqq. German Stock Corporation Act (*AktG*), whose registered address is 60485 Frankfurt/Main, Germany, with its main office at Mergenthalerallee 61, 65760 Eschborn, Germany, (the “**Licensor**” or “**ECAG**”),

AND

Client as specified in the respective Order based on the Order Form attached as Annex 4 (the “**Licensee**” or “**Client**”),

the Licensor and the Licensee are hereinafter individually referred to as a “**Party**” and collectively as the “**Parties**”.

WHEREAS

- (A) the Licensee intends to acquire a licence from the Licensor on a software application programme, as described in Annex 1 (the “**Software**”), for its business needs (the “**Licence**”);
- (B) the Licensee has requested the Licensor, and the Licensor has agreed, to provide to it, maintenance services (the “**Maintenance**”) and user technical support (the “**Technical Support**”) concerning the Software;
- (C) the Parties intend to set out the conditions applicable to the granting of the Licence by the Licensor to the Licensee in the present Agreement.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS

- 1.1 In this Agreement the following expressions bear the following meanings unless the context otherwise requires:

“**Agreement**” means the present Agreement, including the Annexes hereto;

“**Annex**” means an annex to this Agreement; Annexes form an integral part of the Agreement;

“**BaFin**” means the German regulator (*Bundesanstalt für Finanzdienstleistungsaufsicht*) or its successors;

“**Business Day**” means any day of the year other than Saturday, Sunday or any public holiday in England and Wales, the State of New York or Germany;

“**Calendar Day**” means any day of the year including Saturdays, Sundays or any public holiday in any jurisdiction;

“**Clause**” means a clause of the Agreement;

“**Customer**” means a person, whether natural or legal, which receives trading or clearing services from the Licensee;

“Confidential Information” means any document, data and/or information relating to one Party (including its employees) (the **“Disclosing Party”**) which is made available in connection with the Agreement to the other Party (including its employees) (the **“Receiving Party”**) by the Disclosing Party, whether before, on or after the Effective Date,

- (a) including:
 - (i) any information, analysis or specifications derived from, containing or reflecting such information (but except any computation results created out of the Software);
 - (ii) the Software Materials and the Specifications; and
 - (iii) the terms of the Agreement (including the Annexes);

but

- (b) excluding information which:
 - (i) is publicly available at the time of its disclosure or becomes publicly available (other than as a result of disclosure by the Receiving Party contrary to the terms of the Agreement); or
 - (ii) was lawfully in the possession of the Receiving Party (as can be demonstrated by its written records or other reasonable evidence) free of any restriction as to its use or disclosure prior to its being so disclosed; or
 - (iii) following such disclosure, becomes available to the Receiving Party (as can be demonstrated by its written records or other reasonable evidence) from a source other than the Disclosing Party, such source not being bound by any duty of confidentiality owed, directly or indirectly, to the Disclosing Party in relation to such information;

“Contractor” means OpenGamma Limited, a company incorporated under the laws of England and Wales with company registration number 6989069, whose registered office is at 185 Park Street, London, SE1 9BL (a) which provided the Licensor with the Software and granted to Licensee the Licence, and/or (b) to which the Licensor outsources or subcontracts the performance of the Maintenance, the Technical Support or any of the Licensor’s obligations hereunder, in whole or in part;

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, through the ownership of 30 per cent or more of the voting securities, and the terms **“Controlling”** and **“Controlled”** have meanings correlative thereto;

“Corrective Maintenance” means the acts and operations necessary to (1) remove a Defect from the Software, or (2) allow the Software to remain compatible with equipment, applications used on Platforms whether at the Effective Date or thereafter;

“Eurex Clearing AG” or **“ECAG”** means Eurex Clearing AG, an *Aktiengesellschaft* (stock corporation) incorporated under the laws of Germany, with registered seat at 60485 Frankfurt/Main, Germany;

“Disclosing Party” has the meaning set out in the definition of Confidential Information;

“Effective Date” means the date of execution of the Agreement;

“Force Majeure Event” means any cause beyond a Party’s reasonable control which affects the performance by this Party of its obligations under the Agreement and arises directly from, without limitation, flood, explosion, accident, war, strike, insurrection, civil or military conflict, sabotage, labour unrest, water damage, embargo, lock-out, act of terrorism, riot, malicious acts of damage, governmental requirement, civil or military authority or Act of God;

“Insolvency Event” means a situation where a Party (1) is unable to pay its debts and to obtain any additional credit or (2) is the subject of any liquidation proceedings or has notified any regulator of its intention to voluntarily wind up (otherwise than in the course of a restructuring or reorganisation); or (3) has an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer appointed over all or any substantial part of its assets; or (4) enters into or proposes any composition or arrangement with its creditors generally; or (5) is the subject of any events or circumstances or analogous to the foregoing in any applicable jurisdiction;

“Intellectual Property” means all algorithms, APIs, apparatus, circuit designs and assemblies, concepts, data, databases and data collections, designs, diagrams, documentation, drawings, flow charts, formulae, ideas and inventions (whether or not patentable or reduced to practice), know-how, materials, marketing and development plans, marks (including registered and unregistered trademarks and service marks, brand names, product names, logos and slogans), methods, models, network configurations and architectures, procedures, processes, protocols, schematics, semiconductor devices, software code (in any form including source code and executable or object code), specifications, subroutines, techniques, test vectors, tools, uniform resource identifiers, user interfaces, websites, works of authorship, and other forms of technology and intellectual property;

“Intellectual Property Rights” means all past, present and future rights in or to Intellectual Property, which may exist or be created under the laws of any jurisdiction in the world, including but not limited to (1) rights associated with works of authorship, including exclusive exploitation rights, copyrights and moral rights; (2) trademark and trade name rights and similar rights; (3) trade secret rights and rights in relation to breach of confidence; (4) patents and industrial property rights; (5) other proprietary rights in Intellectual Property of every kind and nature; and (6) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in subsections (1) through (5) of this sentence;

“Library” means a collection of binary computer code and resources which is providing a specific functionality as defined in Annex 2, such functionality can be accessed by an application programming interface which allows the library to be integrated into executable application or services; the library itself (i) can not be executed standalone, but must be embedded into an application, (ii) includes the source code that was used to create the binary computer code which can be integrated into applications; (iii) includes the documentation for the application programming interface, architecture, installation and user guide with examples how the integration of the library can be implemented.

“Licence” has the meaning set forth in Clause 2.1;

“Licensee Affiliate” means any corporation, firm, partnership or other entity anywhere in the world which, whether on the Effective Date or thereafter, is directly or indirectly controlled by or is under common Control of the Licensee;

“Licence Fee” means the fee for the License as detailed in Clause 6.1;

“Maintenance” means Corrective Maintenance carried out by or on behalf of the Licensor pursuant to this Agreement;

“Maintenance Fee” means the fee for the Corrective Maintenance as detailed in Clause 6.2;

“**Order**” means an individual agreement that is made on the basis of the Order Form, incorporating the terms of this Agreement;

“**Order Form**” means the respective form included in Annex 4 to this Agreement;

“**Platform**” means the IT technical infrastructure used by each of the Licensee and the Licensee Affiliates to operate the Software;

“**Receiving Party**” has the meaning set out in the definition of Confidential Information;

“**Regulator**” means such authority having regulatory or supervisory authority over any part of the Maintenance, the Technical Support or the Parties’ business, including without limitation the BaFin;

“**Regulatory Requirements**” mean all statutory and/or regulatory requirements (including the construction thereof by the BaFin or any other Regulator) that are applicable to either of the Parties, and all applicable rules, regulations, statements, codes and other requirements made under this act or made or imposed by the BaFin or any relevant regulator;

“**Request**” means a report sent by e-mail by Client to the Technical Support whereby the Client:

- (i) reports a Defect; or
- (ii) requests an act of Maintenance;

“**Severity 1**”, “**Severity 2**”, “**Severity 3**” and “**Severity 4**” have the meaning set forth in Clause 5.2;

“**SLA**” means the service level agreement annexed in Annex 3 to this Agreement;

“**Software**” means the software product (executable code only), comprising the Library, provided by the Licensor to the Licensee as detailed in Annex 1;

“**Software Documentation**” means the documentation relating to the Software;

“**Software Materials**” means the Software and the Software Documentation;

“**Technical Support**” means the service maintained by the Licensor, either directly or through the Contractor, and which allows the Client to obtain information and assistance (including Maintenance) on the Software remotely by means of electronic communications as detailed in Annex 3;

“**Technical Support Hours**” means the hours during which the Technical Support is available in accordance with Annex 3;

“**Term**” means the term of this Agreement as specified in section 13;

“**Third Party**” means any natural person or legal entity who is not a Party or a Licensee Affiliate;

1.2 Other terms and abbreviations may be defined and/or used in the Agreement and the Annexes.

1.3 The words “include”, “includes” and “including” mean “include without limitation”, “includes without limitation” and “including without limitation”. The use of the word “including” followed by a specific example shall not be construed as limiting the meaning of the general wording preceding it.

2. LICENCE

2.1 Under the terms and conditions of the Agreement the Licensor hereby grants as of the Effective Date and for the Term a non-exclusive licence to the Licensee:

- (i) to use the Software for Licensee's and the Licensee Affiliates' internal business needs;
- (ii) to use the Software to the extent necessary to provide services to Customers;
- (iii) to integrate into its own environments and configure the Software insofar as necessary for its own business needs and/or to allow the Licensee and/or the Licensee Affiliates to use the Software in accordance with the Documentation;
- (iv) to grant Customers access to the results of the Software via their client portals; and
- (v) to make a minimum of five (5) copies of the Software for security, availability and back-up purposes;

(the "**Production Licence**"), and/or, as the case may be,

- (i) to use the Software for evaluation purposes, but always excluding any production use (including but not limited to any use for clearing purposes);

(the "**Evaluation Licence**", Production Licence and Evaluation Licence together also referred to as the "**Licence**").

2.2 The Licence covers:

- (a) the Software as delivered; and
- (b) any subsequent version of the Software resulting from:
 - (i) the modification, update (including by the application of patches) or evolution of the Software resulting from the acts of Maintenance; and
 - (ii) any subsequent version or release of the Software delivered by the Licensor in the context of this Agreement.

2.3 The Licence is valid in all countries in which the Licensee or the Licensee Affiliates are currently or will be located and/or have currently or will have permanent establishments or activities after the Effective Date.

2.4 The Licence encompasses the right for the Licensee and the Licensee Affiliates

- (a) to test, backup and archive environments without limitation; and
- (b) with respect to the Production Licence only, to install the Software in a production mode on all Platforms supported by Licensor.

3. DELIVERY AND INSTALLATION OF SOFTWARE MATERIALS

- 3.1 The Licensor shall 14 Business Day after the Effective Date, deliver to the Licensee one (1) copy of the Software and one (1) set of the Software Documentation.

4. MAINTENANCE AND TECHNICAL SUPPORT

- 4.1 Client requests the Licensor, which accepts, to provide, either directly or through the Contractor, the Maintenance and the Technical Support to the Client. The Maintenance and the Technical Support also apply to future versions of the Software or updated versions which may be made available by the Licensor and licensed to Client from time to time.
- 4.2 The Maintenance and the Technical Support shall be provided by the Licensor (either directly or through the Contractor) in the conditions and within the service levels set forth in the SLA. If and to the extent the Technical Support is provided through the Contractor, such Technical Support shall only apply to Software licensed as Production Licence. Client shall not be entitled to claim any representations, warranties or other legal remedies resulting from a breach of service levels. Any such representations, warranties and other legal remedies available to Licensee under applicable law are hereby expressly excluded to the extent permitted by applicable law.
- 4.3 Where Client considers that an act of Maintenance is necessary, the Client sends a Request to the Licensor. The Parties consider that a written report sent by e-mail by Client to the Technical Support at the details (or by any other means of communication) mentioned in, or determined in accordance with the terms of Annex 3, constitutes a valid notification of a Request. The date and hour of the Request shall be:
- (a) the date and hour of sending of the Request as evidenced by Client's logfiles; or
 - (b) if the Request is sent outside of Technical Support Hours or less than thirty (30) minutes before the end of Technical Support Hours for a particular Business Day, the date and hour of opening of the Technical Support on the next Business Day.

5. CORRECTIVE MAINTENANCE

- 5.1 In the event where a Request relates to or entails an act of Corrective Maintenance, the Licensor shall communicate to said Client a report detailing (i) the issue or defect identified, (ii) the likely cause(s) of such issue, and (iii) the proposed solution(s).
- 5.2 Defects are classified as follows:
- (a) **Severity 1**, if the Software runs with errors that lead or could lead to:
 - (i) a total failure of the system; or
 - (ii) a critical disturbance of the data integrity; or
 - (iii) the system not being usable for technical or functional reasons; and
 - (iv) if a work-around on the Client side cannot be utilised with reasonable effort for any such situation (i, ii, iii);

- (b) **Severity 2**, if the Software runs with error and its usability:
 - (i) is or could be limited; or
 - (ii) the error may lead to a downtime or a serious disturbance of the data integrity; and
 - (iii) if a work-around on the Client side cannot be utilised with reasonable effort so that limitation, disturbance or downtime can be avoided;
 and
- (c) **Severity 3**, if the Software runs with error and its usability:
 - (i) is not limited; or
 - (ii) is not limited because a work-around on the Client side can be utilised with reasonable effort; and
 - (iii) the error does not lead to a downtime or to a serious disturbance of the data integrity.
- (d) **Severity 4**, is an enquiry and can be classified as a general question or as a request for information and advice. No contemplated Software modifications are associated with these issues.

5.3 The Licensor shall communicate the report, as set out in Clause 5.1, within:

- (a) two (2) Business Day of the Request's date and hour for defects classified as Severity 1;
- (b) four (4) Business Day of the Request's date and hour for defects classified as Severity 2; and
- (c) twenty (20) Business Days of the Request's date and hour for defects classified as Severity 3 or Severity 4.

If the Licensor concludes that no act of Maintenance is necessary, the report should mention this.

5.4 Client shall decide in its sole discretion whether an act of Corrective Maintenance, a patch, update or similar item or any new release or amended version of the Software will be installed on its systems and/or be put in production. In this case however, the Licensor will be released from its warranties hereunder insofar as the relevant defect is concerned. Upon Client request, the Licensor will provide Client with the technical information and assistance necessary to allow Client to install patches and updates by itself.

6. LICENCE FEE, MAINTENANCE FEE

- 6.1 The Licence Fee is specified in the respective Order, excluding relevant taxes (if applicable).
- 6.2 The Maintenance Fee is specified in the respective Order, excluding relevant taxes (if applicable).

7. WARRANTY

7.1 Licensor shall provide the Maintenance and Technical Support with due and reasonable care in compliance with generally accepted technical and engineering standards. Licensor does not issue any

guarantee or take on any other strict liability. The warranty set out in this Clause 7.1 is the only warranty made by Licensor under this Agreement and all other representations, warranties or legal remedies available to Licensee under applicable law are hereby expressly excluded to the extent permitted by applicable law.

- 7.2 In the event of any default in performance in, including but not limited to non-performance, material malperformance and delay, Licensee shall be entitled to terminate this Agreement according to Clause 13.3. Claims for damages against Licensor and reimbursements of any expenses shall be exclusively governed by Clause 8.
- 7.3 This Clause 7 states Licensee's sole and exclusive remedy and Licensor's entire liability for claims and expenses resulting from any default in performance.

8. LIMITATION OF LIABILITY

- 8.1 Licensor shall be liable without limitations (i) for any damages with respect to injury to life, personal injury or injury to health of Licensee caused at least negligently on the part of Licensor, its legal representatives or vicarious agents, (ii) for any other damages caused intentionally or as a result of gross negligence on the part of Licensor, its legal representatives or vicarious agents, and (iii) for damages arising from a breach of a guarantee or mandatory legal provisions of the German Product Liability Act (Produkthaftungsgesetz) or the German Telecommunications Act (*Telekommunikationsgesetz*).
- 8.2 In all other respects any liability of Licensor shall be excluded.
- 8.3 Notwithstanding the foregoing, Licensor shall not be liable for any damages resulting from a Force Majeure Event" or other events beyond their control (e. g. strikes, lock-outs, traffic disruption and dispositions of domestic or foreign powers) as well as non-culpably caused technical problems, such as problems in connection with the computer system. Computer viruses and intentional attacks of "hackers" on the computer systems are considered as force majeure, provided that reasonable security measures have been taken.
- 8.4 Claims for damages shall expire after three (3) years unless otherwise agreed upon in this Agreement and unless such claims are based on death, bodily injury or injury of freedom and/or a result of wilful default, wilful misconduct or fraud.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 The Licensee acknowledges that all Intellectual Property Rights in the Software Materials are vested, and shall remain vested, in the Licensor.
- 9.2 Save to the extent permitted by applicable legislation, the Licensee shall not decompile, disassemble or reverse engineer the object code of the Software nor attempt to do any of these things.
- 9.3 The Licensee shall not alter, obscure, remove, interfere with or add to any of the trade marks, trade names, markings or notices affixed to or contained in the Software Materials.

- 9.4 The Licensee shall not disclose or publish any information in relation to benchmarking of the Software Materials or its performance without the prior written approval of the Contractor.

10. CONFIDENTIALITY

- 10.1 The Receiving Party may only use the Confidential Information for the purposes of and in accordance with this Agreement. The Receiving Party shall ensure that all users of the Confidential Information are bound to hold all Confidential Information in confidence to the standard required under this Agreement.

- 10.2 Each Party (in such capacity, the “**Receiving Party**”) acknowledges and agrees to maintain the confidentiality of Confidential Information provided by the other Party (in such capacity, the “**Disclosing Party**”) hereunder. The Receiving Party shall not disclose or disseminate the Disclosing Party’s Confidential Information to any person other than:

- (a) where the Licensor is the Receiving Party, those employees, agents and contractors; or
- (b) where the Licensee is the Receiving Party, those employees, agents, Licensee Affiliates, Licensee Affiliates’ employees and agents;

who have a need to know the said Confidential Information in order to assist the Receiving Party in performing its obligations, or to permit the Receiving Party to exercise its rights under this Agreement and who are bound by law or contract to keep the Confidential Information confidential. The Receiving Party may only use the Confidential Information for the purposes of and in accordance with this Agreement. The Receiving Party shall ensure that all users of the Confidential Information are bound to hold all Confidential Information in confidence to the standard required under this Agreement. In addition, the Receiving Party:

- (c) shall take all reasonable steps to prevent unauthorised access to the Disclosing Party’s Confidential Information;
- (d) shall not use the Disclosing Party’s Confidential Information, or authorise other persons or entities to use the Disclosing Party’s Confidential Information, for any purposes other than in connection with performing its obligations or exercising its rights hereunder;
- (e) shall, upon the request of the Disclosing Party and a reasonable opportunity to comply, comply with any legal and/or Regulatory Requirements applicable to the Disclosing Party regarding security and data protection (and in such cases, the Disclosing Party will reimburse the Receiving Party for the reasonable, actual additional costs, if any, incurred by the Receiving Party in complying with such requirements); and
- (f) shall promptly advise the Disclosing Party in the event it learns that any of the Disclosing Party’s Confidential Information in the Receiving Party’s possession has been revealed or improperly acquired by any Third Party, and shall assist the Disclosing Party in its efforts to retrieve the material and mitigate the effects of the exposure or loss.

As used herein, “reasonable steps” means steps that a Party takes to protect its own, similarly confidential or proprietary information, which steps shall in no event be less than a reasonable standard of care.

- 10.3 The term “**Confidential Information**”, as used herein, shall mean all business, technical, proprietary, trade secret, and other information that the Disclosing Party (and its affiliates,

subsidiaries, parent and related companies) discloses before or after the Effective Date in writing, orally, or in any other form, tangible or intangible, including, but not limited to, that which relates to processes, methodologies, data, knowledge, know-how, patents, patent applications, research, product plans, product developments, inventions, designs, formulae, markets, software (including source and object code), algorithms, information relating to each party's planned or existing computer systems and systems architecture, methods of processing and operational methods, business plans, customers, marketing, sales, financial information, and business strategies, of the Disclosing Party, except any computation results created out of the Software. For the avoidance of doubt, Confidential Information might, but will not necessarily,

- (a) bear the mention "Confidential" or a similar mention; or
- (b) be communicated to the Receiving Party with a specific statement to the end that such document or information is Confidential Information.

10.4 The provisions of this Clause 10 shall not apply to the extent, but only to the extent, that such Confidential Information is:

- (a) already known to the Receiving Party free of any restriction at the time it is obtained from the Disclosing Party;
- (b) subsequently learned from an independent third party free of any restriction and without breach of this provision;
- (c) is or becomes publicly available through no wrongful act of the Receiving Party or any third party;
- (d) is independently developed by the Receiving Party without reference to or use of any Confidential Information of the Disclosing Party; or
- (e) is required to be disclosed pursuant to an applicable law, rule, regulation, Regulatory Requirement, government requirement, an order from a regulatory body or court order, or the rules of any stock exchange or commercial bank (provided, however, that the Receiving Party shall advise the Disclosing Party of such required disclosure promptly upon learning thereof in order to afford the Disclosing Party a reasonable opportunity to contest, limit and/or assist the Receiving Party in crafting such disclosure).

10.5 The Receiving Party shall advise its employees, agents, and contractors, and shall require:

- (a) for the Licensee and the Licensee Affiliates; and
- (b) for the Licensor, its agents, employees, directors, the contractors and the contractor's agents, employees and directors

to comply with the Receiving Party's obligation of confidentiality and non-use under this Clause 10, and shall be responsible for ensuring compliance with the requirement of this Clause 10 by all persons and entities who are provided access to the Disclosing Party's Confidential Information. In addition, the Receiving Party shall require all persons and entities that are provided access to the Disclosing Party's Confidential Information to execute confidentiality or non-disclosure agreements containing provisions substantially similar to those set forth in this Clause 10. The Receiving Party shall promptly notify the Disclosing Party (either by e-mail or by sending a registered letter at the Disclosing Party's address as mentioned above) upon learning of any unauthorised disclosure or use of the Disclosing Party's Confidential Information by such persons or entities.

- 10.6 Upon the Disclosing Party's written request at any time, including following the expiration or termination of this Agreement, the Receiving Party shall promptly cease to use the Confidential Information and, to the extent permitted under applicable Regulatory Requirements and if reasonably possible, return to the Disclosing Party or destroy all Confidential Information of the Disclosing Party provided under or in connection with this Agreement and shall provide the Disclosing Party with a written statement certifying that all such material has been returned or destroyed. However, the Receiving Party shall not be required to return reports, notes or other material prepared by it or on its behalf which incorporate Confidential Information provided that such material is kept confidential.
- 10.7 The provisions of this Clause 10 shall survive the termination of this Agreement without limitation in time.

11. DATA PROTECTION

- 11.1 The Licensor shall arrange that it and all persons employed by it comply with the aforementioned regulations and are obligated to maintain data secrecy within the meaning of Section 5 of the Federal Data Protection Act (Bundesdatenschutzgesetz, BDSG) and that they are informed that they may not process, use, disclose to third parties or otherwise exploit the information obtained from Licensee's operations and the knowledge gained from this order for any other purposes than those necessary for execution of the contract. For the avoidance of doubt, third parties are not companies of Licensee's group of companies acc. to §§ 15 AktG (German Stock Companies Act).
- 11.2 Insofar as the Licensor's activity in accordance with the object of the contract consists of storing and processing personal data on behalf of Licensee such contract data processing shall take place solely within the context of the data processing agreement between the Licensor and Licensee.
- 11.3 The Licensee information provided in the order form are disclosed to the Contractor.

12. CONTACT PERSONS

- 12.1 Each of Client and the Licensor shall appoint a Contact Person who shall be the person responsible for addressing strategic relationship issues between the Parties . Each Contact Person shall possess or be able to obtain the requisite corporate power and authority to negotiate and implement, on behalf of the applicable Party, a settlement of any dispute between the Parties hereunder that is brought to its attention to resolve.
- 12.2 Client and the Licensor shall each have the right, from time to time, and upon prior notice to the other Party, to change their respective Contact Person.

13. TERM, TERMINATION

- 13.1 This Agreement shall become effective on the Effective Date and shall remain in effect until the licence agreement and maintenance agreement Licensor and Contractor entered into terminate.
- 13.2 Notwithstanding the foregoing, Licensor shall be entitled to terminate the Agreement for convenience at any time by providing three (3) month's prior written notice to Licensee.

- 13.3 Without prejudice to any other right or remedy it may have, either Party may terminate this Agreement for cause at any time by notice in writing to the other Party (“**Other Party**”), such notice to take effect as specified in the notice, e.g. in the event:
- (a) the Other Party is in material breach of this Agreement and, in the case of a breach capable of remedy within 30 days, the breach is not remedied within 30 days of the Other Party receiving notice specifying in reasonable detail the breach and requiring it to be remedied; or
 - (b) if the Other Party becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Other Party (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Other Party’s assets or business, or if the Other Party makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.

14. MISCELLANEOUS

- 14.1 **Prevailing character.** The Parties hereby expressly agree that, in the event of a discrepancy or contradiction between this Agreement and the Licensor’s own terms and conditions or contractual materials, the provisions of this Agreement will prevail.
- 14.2 **Annexes.** Annexes form an integral part of the Agreement, and are only valid in connection with the Agreement and will remain in force as long as the Agreement remains in force. In case of contradiction or discrepancies between the Agreement and the Annexes, the Agreement shall prevail.
- 14.3 **Assignability.** Neither Party may transfer or otherwise dispose of this Agreement or any interest hereunder except with the prior written consent of the other Party and save that either Party may transfer or otherwise dispose of this Agreement (in whole or in part) at any time to any affiliate or to any successor of the Party’s operations or business or to any successor of any affiliate’s operations or business.
- 14.4 **Entire Agreement.** The Agreement constitutes the entire agreement between the Parties and supersedes all prior understandings, oral or written, between the Parties with respect to the subject matter thereof.
- 14.5 **Relationship of the Parties.** In all matters relating to the Agreement, each Party is an independent contractor and neither Party will have or represent that it has the right, power or authority to bind, contract or commit the other Party or to create any obligation on behalf of the other Party. Nothing in the Agreement and no action taken by the Parties pursuant to the Agreement shall constitute or be deemed to constitute between the Parties a partnership, association, joint venture, or other cooperative entity.
- 14.6 **Amendment, Waiver.** The Agreement (in whole or in part) may be amended or supplemented only by a written notice signed by authorised representatives of each Party. Failure by a Party to require performance of any provision thereof shall not affect the right of such Party to enforce the same, nor shall any waiver of a breach be deemed a waiver of any other breach.
- 14.7 **Governing Law and Jurisdiction.** The Agreement shall be governed by and construed in accordance with the laws of the Federal Republic of Germany. Subject to compulsory jurisdiction, the courts of Frankfurt/Main, Germany, shall have exclusive jurisdiction over this Agreement.

- 14.8 **Severability.** If any provision of the Agreement is declared or found to be void, illegal or unenforceable in any respect under any applicable law, then:
- (a) such provision will be amended to the extent necessary to make it legal and enforceable while preserving its original intent as closely as possible; and
 - (b) the validity, legality or enforceability of any other provision will not be impaired as long as the economic or legal substance of the relationship contemplated hereby is not affected in any manner adverse to both Parties.
- 14.9 **Force Majeure.** The Parties shall not be liable for failure or delay in the performance of any provision of the Agreement if this failure or delay is attributable to a Force Majeure Event. Any such delay or failure shall suspend the Agreement until the Force Majeure Event ceases. The duration of the Agreement shall not be extended by the length of the suspension. The defaulting Party shall promptly notify the other Party in writing of the occurrence of a Force Majeure Event and provide details on the circumstances of such Force Majeure Event.
- 14.10 **References, Announcements.** Subject to Clause 10, either Party may refer to the name of the other Party in any marketing materials, press releases or similar announcements only with the prior written consent of an authorised signatory of the other Party.
- 14.11 **Headings and Contents.** Headings of Clauses and Annexes are exclusively provided for ease of reference purposes and shall not be taken into account when interpreting the Agreement.

ANNEX 1 SOFTWARE LICENCE

1. ECAG Margining and the ECAG Eurex Clearing Module (Eurex Clearing PME API) , Version 1.8.x with execution of this Agreement and all subsequent Versions for the Term

ANNEX 2 SPECIFICATIONS

Exhibit 3: Eurex Clearing Prisma Margin Estimator fact sheet

ANNEX 3 SLA (SERVICE LEVEL AGREEMENT)

TECHNICAL SUPPORT HOURS AND RESOLUTION TIME

Defect Level	Level Available	Target Resolution Time
Severity 1 / Severity 2	09:00 – 17:00 (CET) on Eurex Clearing business days	5 days.
Severity 3	09:00 – 17:00 (CET) on Eurex Clearing business days	Eurex will provide a fix with the next release.
Severity 4	09:00 – 17:00 (CET) on Eurex Clearing business days	Eurex will evaluate the issues and provide a resolution as reasonably required.

TECHNICAL SUPPORT CONTACT

Trading & Clearing Services at e-mail: prisma-calculator@eurexclearing.com

ANNEX 4 ORDER FORM

Exhibit 1: Evaluation license order form

Exhibit 2: Production license order form

Exhibit 3

clear to trade



E u r e x C l e a r i n g A G

Eurex Clearing Prisma Margin Estimator

Fact sheet

Final Version

October 2015

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1 Supported Use Cases

1.1 MarginCalculation

- User wants to calculate margin requirements for ETD, OTC, or mixed portfolios based on Eurex Clearing Prisma margin methodology.
- User wants to calculate margin requirements for additional trades based on a portfolio already cleared at ECAG.
- User wants to identify potential trades that could be cleared through ECAG that might result in margin reduction.
-
- User wants to determine potential benefit of cross-margining, combining OTC and ETD products in the same portfolio for clearing purposes.
- User wants an independent implementation of the ECAG margin calculations for use in auditing or dispute resolution.

1.2 MarginDrilldown

- User wants to drill down into portfolio margin results to see all relevant interim calculation results, including but not limited to PnL vectors, sensitivities, and all required add-ons.
- User wants to drill down into portfolio margin results to see relevant calculations at all required aggregation levels.
- User wants to drill down into portfolio margin results to see relevant calculations for all OTC trades and all ETD positions.

2 Library

2.1 Functional Specification

2.1.1 Margin Methodology Versions

- Eurex PRISMA Methodology Release 4 and following releases in updated versions
- EurexOTC Methodology Release 6 and following releases in updated versions
- Full support for fixed income ETD/OTC cross margining and following releases in updated versions

2.1.2 Supported Product Scope

OTC Derivatives	Exchange Traded Derivatives
<ul style="list-style-type: none"> • All EurexOTC Clear eligible products as defined at Eurex clearing website www.eurexclearing.com under Cleared Markets >EurexOTC Clear 	<ul style="list-style-type: none"> • All Prisma-eligible exchange traded derivatives, see reference in document Liquidation Groups on the Eurex Clearing website www.eurexclearing.com under: Risk management > Risk parameters

2.1.3 Supported inputs and outputs

To perform a margin calculation with the Eurex Clearing PME, the user needs to specify the portfolio, the path to the Eurex Clearing Transparency Enabler (TE) files and OTCClear report files as well as interest rate fixings and calendars via the API to the library

User Defined Input	Content	Format
Trades	Trades	Eurex Clearing CSV, OpenGamma XML, FIXML, FPML, on-the-fly trade creation via API
	Sensitivities	CSV, OpenGamma XML
Holiday Calendars	Target, London, NY, etc.	OpenGamma CSV
Interest Rate Fixings	Euribor, Libor, etc.	OpenGamma CSV

The API returns the following results as Java objects which can be converted to OpenGamma XML or CSV (examples included in the delivered software package):

API Output	Data
Trade/Position-level measures	Base NPV, Scenario NPVs, DV01s
Portfolio-level measures	DV01, NPV, PnL Time Series, and all initial margin components

2.2 Non-Functional Specification

2.3 API Description

- The API allows loading all relevant data either using the file formats specified in section 2.1.3, or via OpenGamma's programmatic APIs. This data is loaded into a Market Data Environment, which contains the following types of data:
 - Base market data
 - Historical scenarios
 - FX rates
 - Margin Calculation Parameters

- Documentation will indicate how to load data into a Market Data Environment
- The API allows constructing a replication request:
 - The replication request allows specification of the valuation date (independently from the market data date).
 - The replication request allows requesting trade-level measures such as PV
 - The replication request allows requesting portfolio-level measures such as IM
 - The replication request allows requesting IM components such as Market Risk, Correlation Break Adjustment, Liquidity Add-on, etc.
- The API allows submitting a replication request for calculation.
 - These requests are synchronous in nature.
 - Multiple concurrent requests can be run using the same market data environment with different calculation options or portfolios.
 - Multiple concurrent requests can be run using different market data environments, although each market data environment loaded will consume additional RAM
- The API allows analyzing results in a drill-down fashion

2.4 Integration Considerations

- Logging at multiple levels is performed using the industry-standard SLF4J library, which allows clients to control log levels and destinations using any standard logging framework, including Logback, AVSL, and Java14 Logging.
- The delivery will contain all dependent 3rd party libraries (open source) which are used by the library. For the integration it might be necessary to use different versions of the library. Ensuring the proper function of the Library within this changed dependencies is at the discretion of the client. Proper function of the library was quality assured by the delivered version of the dependencies.

2.5 Performance

- The library will be able to run in no more than 8GB of RAM with a single market data environment configured
- The library will automatically use multiple threads for parallelizable portions of the calculation if run on a machine with multiple CPUs or cores. The number of threads will be auto-determined by the library based on the number of CPUs determined by the Java Virtual Machine executing the library. The number of threads can be overridden.

2.6 Client Requirements

- The library requires Java 7 (or later) be installed on any machine to use the library
- The library will run on multiple operating systems:
 - Apple Mac OS X (Yosemite and later)
 - Microsoft Windows 7 and later
 - Microsoft Server 2008 R2 and later
 - Linux (Fedora 21 or later; CentOS XX or later).

2.7 Accuracy and restrictions

- The Library will not operate as a stand-alone application. Clients will be able to create their own stand-alone applications incorporating the functionality in the library.
- The Library will not have any network connectivity. Clients will be able to create their own applications exposing the functionality in the library via remote network interfaces.
- The Library will not have built-in support for persistent storage of input data or results.

- The Library will not be able to automatically scale calculations to multiple computers for additional performance. Clients will be able to build their own multiple-computer scale-out application using job distribution technologies of their choice.
- Eurex Clearing PME is an estimation facility replicating the Prisma methodology. In general, the library calculated initial margins especially for ETDs should be very accurate or even exact. Due to approximations for OTC transactions there is a deviation of up to ~5 percent possible. Moreover, Eurex Clearing PME is not a validation solution for checking OTC trade eligibility for clearing.
- Clearing eligibility checks are only provided by the Eurex Clearing production system.

3 Delivery

3.1 Library

- The Library will be delivered as a ZIP archives
- The ZIP archives will have the following items:
 - A single Java Archive (JAR) file containing the Library itself
 - 3rd party open source libraries on which the java library is depending.
 - Javadocs for the Library API in a single ZIP archive
 - Documentation for Eurex Clearing PME as HTML files
 - Examples of OpenGamma's CSV format for Historical Fixings and Holiday Calendars
 - Example of EurexOTC Clear reports
 - Example of Prisma transparency enabler reports
 - Example set of consistent input data and resulting output for the example market data files included.