

# Terms and Conditions - Germany

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## WESTERN UNION INTERNATIONAL BANK GMBH GERMANY BRANCH

### Standard Terms and Conditions

These Standard Terms and Conditions govern the relations between the Customer and Western Union International Bank GmbH Germany Branch (**WUIB or we**) in relation to the Services that the Customer requests WUIB to execute. Words commencing with a capital letter are defined in clause 25 below.

The Customer acknowledges that WUIB must Process Personal Data in order to perform the Services. The Customer hereby expressly consents to WUIB's collection, Processing, and retention of Personal Data in relation to performing the Services. Furthermore, the Customer agrees that by requesting WUIB to perform a transaction, the Customer is consenting to and authorizing WUIB to collect, Process, and retain all Personal Data necessary to execute the transaction; in the case of a Request, you consent to us Processing and retaining any Personal Data set forth in the Confirmation. For the avoidance of doubt: WUIB does only request these consents mentioned in this clause in order to fulfil Sec. 59(2) ZAG /Art 94 (2) PSD II. This consent has not the purpose to Process Personal Data beyond what is necessary to perform the contracts with you.

The Customer hereby represents and warrants that the undersigned individual executing these Standard Terms and Conditions on Customer's behalf has the capacity and is authorized by the Customer to provide consent on the Customer's behalf, as well as on behalf of any companies, corporations, organizations, or businesses affiliated with the Customer who may make use of or receive the benefit of WUIB's Services.

Customer is allowed to withdraw the Customer's consent in regards to a particular transaction, the Customer agrees that the Cancellation provisions contained in clause 7 constitute the exclusive method for withdrawing the Customer's consent, subject to the restrictions and limitations set forth therein. The Customer acknowledges and agrees that the Customer's withdrawal of consent, even if effective, shall not affect the lawfulness of any Processing that occurred prior to the withdrawal. Furthermore, the Customer acknowledges that the Customer's withdrawal of consent shall not prejudice WUIB's rights to Process, continue Processing, and/or retain Personal Data to the extent permitted by applicable law and/or these Standard Terms and Conditions.

According to the consent Customer has given, Personal Data and any other information WUIB hold may be accessed by the following explicitly mentioned WUIB Affiliates for any purpose set forth in these Standard Terms and Conditions: Custom House Financial (UK) Limited, Western Union Business Solutions (USA), LLC, Western Union Business Solutions (Australia) Pty Limited, Western Union Payment Services Ireland Ltd, Western Union International Limited and Western Union Financial Services, Inc. WUIB will ensure that access by WUIB Affiliates located outside of the EEA is subject to such safeguards as required by applicable data protection law.

The Customer hereby represents and warrants that the Customer is not a consumer. The Customer must immediately inform WUIB if at any time the Customer becomes a consumer.

The contract entered into between the Customer and WUIB will be governed by these Standard Terms and Conditions (or by these Standard Terms and Conditions as modified by WUIB and accepted by the Customer in accordance with the provisions of clauses 21.3 and 21.4 below) and the Services that WUIB perform will be performed on the basis of the details of the instructions given in the Confirmation that WUIB have sent the Customer. These Standard Terms and Conditions, the Written Confirmation, the Request and the Subscription of Services will together constitute the whole of the agreement between the Customer and WUIB, subject to specific agreement(s) between the Customer and WUIB that may be entered into in accordance with the provisions of these Standard Terms and Conditions.

The Customer acknowledge and agree that, for purposes of applicable payment systems law, the Customer's Request to perform a transaction shall constitute the Customer's consent to WUIB executing the transaction as it is reflected in the Written Confirmation. the Customer may withdraw the Customer's consent only as permitted under the Cancellation provisions contained herein, subject to any restrictions or limitations set forth therein.

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According to § 675 e Abs. 4 BGB (German Civil Code) in connection with the legal regulations listed there and further in connection with Article 248 EGBGB (Introductory Law to the Civil Code) the application of the following legal regulations is excluded:

Information obligations with distance selling (Article 248 EGBGB, § 1); pre-contractual information (Article 248 EGBGB, § 4); Access to contract terms and pre-contractual information during the contract period (Article 248 EGBGB, § 5); information before execution of individual payment transactions (Article 248 EGBGB, § 6); information to the payer for individual payment transactions (Article 248 EGBGB, § 7); information to the payee for individual payment transactions (Article 248 EGBGB, § 8); other information during the contractual relationship (Article 248 EGBGB, § 9); deviating agreements (Article 248 EGBGB, § 10); exemptions for small-value instruments and electronic money (Article 248 EGBGB, § 11); particular form for individual payment contracts (Article 248 EGBGB, § 12); pre-contractual information for individual payment agreements (Article 248 EGBGB, § 13); information to the payer after receipt of the payment order (Article 248 EGBGB, § 14); information to the payee after execution of the payment transaction (Article 248 EGBGB, § 15); information for individual payment regulated by payment authentication instruments based on a framework agreement (Article 248 EGBGB, § 16); information obligations of the payee (Article 248 EGBGB, § 17); information obligations of third parties (Article 248 EGBGB, § 18); burden of proof on payment service provider (§ 675 d Abs. 2 BGB); fee for information (§ 675 d Abs. 3 BGB); reporting commitment of the payee (§ 675 d Abs. 4 BGB); claim of payment service provider for additional payment (§ 675 f (4) sentence 2 BGB); amendment of the payment services framework agreement (§ 675 g BGB); proper notice of termination of the payment services framework agreement (§ 675 h BGB); revocation of the payment order approval (§ 675 j Abs. 2 BGB); irrevocability of a payment order (§ 675 t BGB); liability of the payer in case of abusive use of a payment authentication instrument (§ 675v BGB); proof of authentication (§ 675 w BGB); Reimbursement claim for an authorized payment transaction initiated by or via the payee (§ 675 x); liability of payment service providers in the event of non-execution, incorrect or late execution of a payment order; obligation to investigate (§ 675 y); other claims in the event of non-execution, incorrect or late execution of a payment order or in the case of an unauthorized payment transaction (§ 675 z); proof of execution of payment transactions (§ 676 BGB).

### **1 Benefiting from WUIB's Services: the general principles governing WUIB's commercial relations**

- 1.1 The Customer may make a Request by telephone, facsimile, letter, electronic mail or by using the Online System. For the purposes of these Standard Terms and Conditions, a Request shall be deemed a payment order delivered by you for the execution of a payment transaction.
- 1.2 The Customer shall ensure that the information he/she provides concerning the Beneficiary and the payment instructions are correctly transmitted to WUIB, in order to avoid any delay in the Beneficiary's receipt of the payment. WUIB will do everything possible to rectify any error that may occur, but WUIB cannot be held liable for any harm or loss caused by errors or inaccuracies contained in the Customer Request.
- 1.3 WUIB agrees to process transactions for the Customer in accordance with the Customer's Request on the same day of the Request if the Request is received before 3 p.m. on a business day (Central European Time). The deemed time of receipt of the Customer's Request by WUIB shall be as follows: (i) Requests made on the Online System are received at the time that the Request is confirmed on the Online System; (ii) Requests by phone are deemed received at the time a Request is confirmed with the dealer; (iii) Requests by letter are deemed to be received upon the later of (A) receipt of the letter by WUIB at WUIB's offices or (B) three (3) business days after the date of posting if sent by registered post or four (4) business days if sent by standard letter; (iv) Requests by fax are deemed as received at the time the fax is received by WUIB at WUIB's offices; and (v) Requests by email are deemed to be received at the time the email is received by WUIB at the email address notified to the Client. Requests received after the cut-off time of 3 p.m. (Central European Time) or on a day other than a business day will be deemed to have been received on the next business day.
- 1.4 Requests made by letter or fax can be difficult to read, or Requests made by telephone can be difficult to be properly understood. Accordingly, for each Request that the Customer makes by

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letter, fax or phone WUIB will send the Customer a Written Confirmation setting out the relevant details of the instructions that the Customer have given WUIB, as WUIB has understood them, confirming to the Customer both the price applied by WUIB and accepted by the Customer and the charges associated with the Request concerned. For Requests made via the Online System, Confirmations will be sent electronically. Once WUIB has received the Customer's Request, such Request is binding upon the Customer, unless these Standard Terms and Conditions expressly provide otherwise. The agreement between the Customer and WUIB comes therefore into effect upon receipt of the Request unless WUIB does not accept the Customer's request in accordance with the provisions of clause 5 below. WUIB will inform the Customer of the deemed time of receipt of a Request. For the avoidance of doubt, WUIB will not execute a payment transaction for the Customer until a Request has been received, subject to clause 6.

- 1.5 The Confirmation, which does not constitute a commercial letter of confirmation, is an important document by means of which the agreement between the Customer and WUIB is summarized in written form. WUIB requests that the Customer verifies the Confirmation when the Customer receives it and informs WUIB immediately by fax or phone if the Customer considers that any of the details of the Customer's instructions specified in the Confirmation are incorrect. If WUIB does not receive any notification of an error or omission in accordance with the conditions stipulated above from the Customer, WUIB will execute the Customer's Request on the basis of the details of the Customer's instructions set out in the Confirmation.
- 1.5.1 (a) If WUIB receives such a notification from the Customer, WUIB will double-check the details of the Confirmation in relation to its record of the communication whereby the Customer's Request was made, whether a phone recording or any other type of record. WUIB will inform the Customer of the results of the verification and, on request, will provide the Customer a copy of the records of the communications concerned, whether phone recordings or any other type of record. If this new verification shows that the Confirmation is in conformity with the record, whether a telephone recording or any other type of record, of the communication whereby the Request concerned was made, WUIB reserves the right to continue to perform the Services described in the Confirmation. If however the Customer Requests a modified Confirmation, WUIB will do everything that WUIB reasonably can to provide this, but WUIB cannot guarantee in this case that the commercial terms and conditions indicated in the initial Confirmation can be complied with and the Customer alone must bear the financial consequences. If on the contrary, this new verification reveals that the Confirmation did not conform to the record, whether this was a phone recording or any other type of record, of the communication whereby the Request concerned was made, WUIB undertakes to remit to the Customer a modified Confirmation as quickly as possible.
- 1.5.2 With regard to the above provisions concerning Confirmations, WUIB would like to draw the Customer's attention to the fact that telephone conversations with WUIB's clients are recorded, in order to protect both the Customer's interests and WUIB's, in the unlikely event of a disagreement. The length of time for which recordings are kept is limited, however, to the duration that is strictly necessary for verification of the regularity of transactions carried out and their conformity to the Customer's instructions in the event of a disagreement.
- 1.6 If the Customer has not received the Confirmation within twenty-four (24) hours following a Request, WUIB requests the Customer and the Customer undertakes to inform WUIB immediately of this non-receipt by telephone.
- 1.7 It is necessary that the Customer verifies the details of the Customer's instructions set out in WUIB's Confirmation as soon as the Customer receives it. By making payment to WUIB, the Customer confirms that WUIB has correctly understood the Customer's Request as presented in the Confirmation.
- 1.8 For the purposes of this clause 1.8, the time of receipt of a payment order shall be deemed to be either (i) the date of receipt by WUIB of the payment to WUIB's benefit provided for in clause 6.1 below or (ii) the date for delivery of the funds agreed between the Customer and WUIB as indicated in the Confirmation. (in this case, the Customer undertakes to inform WUIB in Writing of the requested value date for delivery of the funds at least three (3) business days before this date. WUIB will inform the Customer of the deemed time of receipt of a payment order. If the Customer does not inform WUIB of the value date for the delivery of the funds within the aforesaid

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timeframe, WUIB shall not be obliged to fulfil the Customer's order and will not incur any liability for failure to comply with the value date that WUIB was notified of late. WUIB wishes to draw the Customer's attention to the provisions of clause 7.2.6 below, which authorise WUIB to cancel any Request under these circumstances. If, however, WUIB chooses to continue to perform the Service and WUIB realises that WUIB is unable to comply with the value date that WUIB was informed of late, WUIB will inform the Customer of this as soon as possible). Subject to the receipt of settlement pursuant to clause 6.1 and 6.2, WUIB will deliver the electronic funds transfer payment(s) requested by the Customer as follows:

- (i) if the payment is to be delivered in the EEA and in euro, payment will be delivered to the account of the Beneficiary's payment services provider by no later than the end of the business day following the time of receipt by WUIB of the payment order;
- (ii) if the payment is to be delivered in any EEA currency other than euro but in the EEA, the payment will be delivered to the account of the Beneficiary's payment services provider by no later than the end of the fourth business day following the time of receipt by WUIB of the payment order; and
- (iii) payment transactions to be delivered outside of the EEA or in any non-EEA currency and payments to be delivered by draft shall be processed and delivered by WUIB in accordance with WUIB's standard processing times. For avoidance of doubt, in the event that funds form part of a Holding Balance, processing times will be measured from the date of delivery requested by the Customer.

1.9 The Customer may instruct a third party to electronically deliver a certain amount of funds for the Customer's benefit into a correspondent bank account designated, owned and maintained by WUIB (the "**Incoming Payment**"). The Customer shall require that the third party sender includes the Customer's name and company ID as designated by WUIB in the memo or reference line of any such Incoming Payment. WUIB may, in its sole discretion, attempt to contact the third party sender to secure any additional information that may be needed to ensure accurate processing of the Incoming Payment. WUIB shall not be liable to the Customer for any loss, damage, cost or expense incurred by the Customer as a result of any delay in delivery of the Incoming Payment which occurs in connection with the receipt by WUIB of incomplete or inaccurate Incoming Payment information. Following WUIB's receipt and confirmation of the Incoming Payment, WUIB will deliver the Incoming Payment to the Customer and WUIB will charge the Customer separately for the fees owed by the Customer in relation to the execution of the Incoming Payment.

1.10 When WUIB accept an Incoming Payment from a third party and the Incoming Payment is not credited to an account maintained by WUIB for the purposes of executing the Customer's payment transactions, Subject to applicable law, WUIB shall make such Incoming Payment available to the Customer immediately after the Incoming Payment has been received by WUIB in its bank account and the credit value date shall be no later than the business day on which the amount of the Incoming Payment is credited to the correspondent bank account designated, owned and maintained by WUIB. Where the Incoming Payment does not involve a (i) currency conversion; or (ii) involves only a currency conversion between euro and sterling or another EU currency, between sterling or another EU currency, or between two EU currencies, WUIB shall ensure that the Incoming Payment is at the Customer's disposal immediately after it is credited to the correspondent bank account designated, owned and maintained by WUIB.

### 1.11 Auto Convert Service

1.11.1 The provisions of this clause 1.11 shall not apply to Customer if it is a Micro Enterprise.

1.11.2 WUIB shall use its reasonable endeavours to provide the Services in accordance with the Customer's Instructions. However, in the event the Customer provides an Instruction to WUIB for the initiation of a payment in a particular currency (the "**Instruction Currency**") that is different from the local currency used in the jurisdiction where the Beneficiary's payment account is located (the "**Payee Currency**"), the Customer hereby authorises and instructs WUIB to initiate the payment in the Payee Currency and agrees that WUIB shall convert the Instruction Currency into the Beneficiary Currency by applying an exchange rate of 2% above the interbank market rate prevailing at the time the transaction is processed or, if no interbank market rate is available at the

time the transaction is processed or the volume of transactions in that currency is reasonably assessed as insufficient to consider any available interbank market rate of that currency reliable at the time the transaction is processed, such other rate, which is applied to the payment by WUIB's counterparty bank (an "**Automatic Currency Conversion**"). The Customer hereby acknowledges and accepts that this may result in two consecutive currency conversions. Details of the interbank market rate are publicly available online on the trading platforms of the Electronic Broking Services and Thomson Reuters and upon request WUIB shall confirm to the Customer the current interbank market rate or the identity of WUIB's relevant counterparty bank.

- 1.11.3 The Customer is aware that in cases where WUIB executes an Automatic Currency Conversion, the Confirmation provided by WUIB to the Customer will not state the foreign exchange rate applied to the Automatic Currency Conversion, because at the time the Confirmation is issued, WUIB will not be able to predict whether or not an Automatic Currency Conversion will be necessary. It is understood that once WUIB has become aware of the foreign exchange rate to be applied to an Automatic Currency Conversion, WUIB shall be under no obligation to inform the Customer about such foreign exchange rate, unless the Customer requests such information.

## **2 Licence Agreement and Special Terms and Conditions for authorised users of the Online System**

- 2.1 By using the Online System or by making a Request by telephone, facsimile, letter or electronic mail, the Customer agrees to be bound by these Standard Terms and Conditions and to comply with them. WUIB may ask the Customer to sign several forms in order to be authorised to use the Online System. Subject to the Customer's acceptance of these Standard Terms and Conditions and the Customer's compliance with them, WUIB grants the Customer a licence to use the Online System, solely for the purpose of accessing the Services.
- 2.2 The licence that is granted to the Customer is non-exclusive and non-transferable. The Online System must be used only by the Customer and solely for the Customer's internal professional needs.
- 2.3 The Online System and all reproduction rights and other intellectual property rights relating to the Online System are and will remain WUIB's exclusive property.
- 2.4 The Customer can only use the Online System to access the Services as part of normal business activity, in compliance with applicable German laws and regulations and international treaties. The Customer must ensure that access to the Online System is limited to those of the Customer's employees or representatives whose functions require them to access the Online System as part of normal business activity. The Customer must make each of these employees or representatives aware of these Standard Terms and Conditions and ensure that no persons or legal entities permitted to have access to the Online System contravene these Standard Terms and Conditions or allow any other party to contravene them.
- 2.5 Except in circumstances expressly provided for by law, the Customer must not duplicate or modify the Online System or its components; similarly, the Customer must not carry out any decompilation operation on all or part of the Online System, or seek to copy or reproduce its operation or source code by any other means.
- 2.6 The Customer must keep in the Customer's premises a recording of all Requests that are transmitted to WUIB.
- 2.7 WUIB is authorised by the mere fact of receiving a Request from the Customer, and even before receipt by the Customer of a Confirmation, to perform such Request.
- 2.8 The responsibility relating to the transmission of the Request to WUIB lies with the Customer, and the Customer must verify that all the information contained in the Customer's Request is correct before the Request is transmitted to WUIB.
- 2.9 If the Customer discovers an error in the Request after its transmission, the Customer must immediately notify WUIB in Writing.

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- 2.10 Should errors occur in the Online System or in WUIB's systems, resulting in the Online System, the software or the Services no longer being available for use, the Customer must use another method to transmit a Request to WUIB.

### **3 The Customer's use of the Online System**

- 3.1 Unauthorised use on the Customer's part of the Online System will constitute failure to comply with, and breach of, the terms of the licence that was granted to the Customer under the terms of these Standard Terms and Conditions.
- 3.2 By the Customer's agreement to these Standard Terms and Conditions, and in the Customer's capacity as authorised user of the Online System, the Customer confirms that the Customer, the Customer's employees and the Customer's representatives will be bound by and must comply with these Standard Terms and Conditions. The person agreeing to these Standard Terms and Conditions on the Customer's behalf, in the Customer's capacity as authorised user of the Online System, represents and warrants that she/he is the Customer's duly authorised Representative and that she/he has the powers necessary to make undertakings that are binding on the Customer in the Customer's capacity as authorised user of the Online System in respect of these Standard Terms and Conditions.
- 3.3 WUIB shall use the information supplied below by the Customer, in the Customer's capacity as authorised user of the Online System, to create for the Customer an account enabling the authorised user to access the Online System. In the Customer's capacity as authorised user of the Online System, the Customer declares and warrants that the information supplied is accurate, and agrees to inform WUIB of any changes relating to it.
- 3.4 In the Customer's capacity as authorised user of the Online System, the Customer must appoint individuals to act on the Customer's behalf as Security Administrator and Assistant Security Administrator. The Security Administrator is the person who has the power to determine who can access and use the Online System on the Customer's behalf. The Assistant Security Administrator will act as a backup to the Security Administrator if the latter loses or forgets its Online System Access Methods.
- 3.5 WUIB will provide access to account information service providers and payment initiation service providers (each as defined in the Payment Services Supervisory Act and in the Civil Code) ("TPPs") to the Customer's account designated by WUIB for the purposes of executing the Customer's payments to the extent that such account is accessible online on the Online System provided that:
- 3.5.1 the Customer have contracted with a TPP that is appropriately authorised or registered with the Federal Financial Services Supervisory Authority (BaFin) or an equivalent regulator in the EEA;
- 3.5.2 the Customer have expressly consented to such TPP being given such access; and
- 3.5.3 the TPP adheres to any relevant access protocols that WUIB may apply from time to time.

### **4 Support services**

WUIB will provide the Customer with support for the use of the Online System to access the Services by placing at the Customer's disposal WUIB's support staff during office hours. WUIB can be reached by phone at +49 69 8509 8318 and email address [WUBSgermany@westernunion.com](mailto:WUBSgermany@westernunion.com), as stated in clause 20.1

### **5 Circumstances where WUIB cannot accept the Customer's Request**

- 5.1 WUIB cannot accept the Customer's Request in the following circumstances:
- 5.1.1 If the Customer has not complied with these Standard Terms and Conditions or any other agreement or arrangement concluded with WUIB, including but not limited to the non-receipt of the transfer of funds/sums that the Customer owes WUIB;
- 5.1.2 Where accepting and/or executing the Request would, in WUIB's sole discretion, be unlawful or illegal, or would contravene the requirements stipulated by a regulatory body or would, as determined by WUIB in its sole discretion, generate expenses or costs that are unduly high for WUIB, or would otherwise contravene applicable laws;

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- 5.1.3 Where there are reasonable grounds to believe that, for WUIB, executing the Request would constitute a criminal offense;
- 5.1.4 Subject to the mandatory provisions of the German Insolvency Code (*Insolvenzordnung*), if the Customer ceases payments or admits that he/she is generally unable to settle his/her debts when they become due for payment, if the Customer is in a state of insolvency, if the Customer has ceased his/her activities, if the Customer is insolvent or over indebted within the meaning of Sections 17 (2) and 19 of the German Insolvency Code (*Insolvenzordnung*), or if the Customer has requested the commencement of insolvency proceedings or reorganisation proceedings pursuant to the German Insolvency Code (*Insolvenzordnung*), if the Customer has requested the appointment of an insolvency administrator or liquidator, or more generally, if the Customer is the subject of insolvency proceedings, if the Customer is the subject of an order or a resolution for winding up and/or liquidation. If any other company belonging to the Customer's Group has become insolvent or is the subject of one of the measures or proceedings mentioned in this clause 5.1.4; or
- 5.1.5 if WUIB is prevented, by an event or circumstances out of its control, from executing the Request.
- 5.2 If WUIB decides, pursuant to the provisions of clause 5.1, not to accept a Request or not to perform a Service, or decides to delay the handling of a Request or performance of a Service, WUIB will notify the Customer to that effect as soon as possible, save for instances where WUIB is legally restricted from informing the Customer, no later than the following Business Day. WUIB will provide the Customer with the reasons why WUIB did not accept the Customer's Request to the extent WUIB is legally permitted to do so. If WUIB's refusal to deal with The Customer's Request is caused by a material error which can be corrected, WUIB will provide the Customer with the process to be followed by the Customer to correct such material error.

## 6 Payment from the Customer

### *Settlement of Requests by the Customer*

- 6.1 Regardless of whether or not WUIB has issued a Confirmation, unless otherwise agreed in Writing, the Customer must irrevocably transfer the funds (and if relevant with respect to Forward Contracts or Option Contracts, any Advance Payments and Margin Deposits the Customer owes to WUIB with respect to a Request) pursuant to a Request into an account the details of which will be communicated by WUIB to the Customer (by means that WUIB shall have agreed or specified in due time), before WUIB makes any payments in the Customer's name.
- 6.2 If the said funds are not received, WUIB may be led to delay performance of the Services and the Beneficiary may receive the payment due to it late. In this circumstance, WUIB cannot be held liable for any loss, costs, charges or expenses incurred by the Customer or the Customer's Beneficiary insofar as WUIB shall have been put in a position where WUIB was unable to adhere to the value date stated in the Confirmation or that was agreed between the Customer and WUIB in Writing, which could only be adhered to on condition that the funds were received by WUIB in conformity with the provisions of these Standard Terms and Conditions.
- 6.3 Where the Customer place funds with WUIB into an account maintained by WUIB for the purpose of executing the Customer's payment transactions in the same currency as such account, WUIB shall ensure that the amount is made available to the Customer and value dated no later than the end of the next business day after the receipt of the funds.

### *Payment of WUIB's Fees and Charges*

- 6.4 The Customer understand and agree that WUIB will charge certain fees for the Services. These fees shall be set forth in a fee schedule that will be provided to the Customer from time to time or upon the Customer's express request. Unless otherwise agreed in Writing, WUIB may change the fees charged for the Services at any time upon one (1) month notice to the Customer.
- 6.5 Payments that remain due to WUIB from the Customer after the date they are due (without prejudice to WUIB's other rights and without it being possible for this provision to be considered

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as constituting an obligation for WUIB to grant the Customer credit facility) will bear interest at the EONIA ("Euro Over Night Index Average") rate increased by 4% per annum. This interest will start to accrue as from the due payment date and will be calculated on a daily basis.

- 6.6 For the avoidance of doubt, the Customer agree that WUIB may deduct our fees from an Incoming Payment or from any fund delivered to WUIB for the purposes of executing a payment transaction pursuant to a Request.

### 7 Cancellation

#### 7.1 Cancellation on the Customer's initiative

In the event of cancellation by the Customer of a Request (which the Customer can only effect if the Customer's payment order has not yet been received by WUIB as provided for under clause 1.8 and at the latest at the end of the business day preceding the date of execution of the payment, if a payment date has been scheduled, as provided for under clause 1.8) prior to any payment made by WUIB pursuant to these Standard Terms and Conditions. WUIB may have to interrupt any measure that WUIB has initiated in execution of the Customer's Request and the Customer will be required to indemnify WUIB in full for all losses, expenses, damages, costs and disbursements that WUIB has incurred as a result of this interruption or cancellation.

#### 7.2 Cancellation on WUIB's initiative

WUIB shall have the right to cancel and not execute a Request, regardless of whether or not a Confirmation has been issued and whether or not the payment order has been received by WUIB, in any of the following circumstances:

- 7.2.1 If the Customer has not complied with these Standard Terms and Conditions or any other agreement or arrangement concluded with WUIB, including but not limited to the non-receipt of the transfer of funds/sums that the Customer owes WUIB;
- 7.2.2 Where accepting and/or executing the Request would be unlawful or illegal, or would contravene the requirements stipulated by a regulatory body having oversight over WUIB and/or any WUIB Affiliate, or would as determined by WUIB in its sole discretion generate expenses or costs that are unduly high for WUIB or would otherwise contravene applicable laws;
- 7.2.3 Where there are reasonable grounds to believe that, for WUIB, executing the Request would constitute a criminal offence;
- 7.2.4 Where WUIB determines (in its sole discretion acting reasonably) that the Client is using the Services for (or in connection with): (i) gambling, pornography or other similar activities; (ii) purposes that are not in direct relation to the Client's commercial or professional payment requirements; or (iii) speculative ends.
- 7.2.5 Subject to the mandatory provisions of the German Insolvency Code (*Insolvenzordnung*), if the Customer ceases payments or admits that he/she is generally unable to settle his/her debts when they become due for payment, if the Customer is in a state of insolvency, if the Customer has ceased his/her activities, if the Customer is insolvent or over indebted within the meaning of Sections 17 (2) and 19 of the German Insolvency Code (*Insolvenzordnung*), or if the Customer has requested the commencement of insolvency proceedings or reorganisation proceedings pursuant to the German Insolvency Code (*Insolvenzordnung*), if the Customer has requested the appointment of an insolvency administrator or liquidator, or more generally, if the Customer is the subject of insolvency proceedings, if the Customer is the subject of an order or a resolution for winding up and/or liquidation. If any other company belonging to the Customer's Group has become insolvent or is the subject of one of the measures or proceedings mentioned in this clause 7.2.5; or
- 7.2.6 if The Customer omits to inform WUIB of the desired value date pursuant to clause 1.8 above; or
- 7.2.7 if WUIB is prevented, by an event or circumstances out of WUIB's control, from executing the Request.
- 7.3 If WUIB decides, subject to the provisions of clause 7.2, to cancel a Request that was duly accepted, WUIB will notify the Customer as soon as possible.



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7.4 In the event of the cancellation, pursuant to clause 7.2, of a duly accepted Request, WUIB may have to interrupt any measure that WUIB has initiated in the performance of the Customer's Request and the Customer will be required to indemnify WUIB in full for all losses, expenses, damages, costs and disbursements that WUIB has incurred as a result of these measures, this interruption or cancellation.

### **8 Classification as retail client, professional client or qualified counterparty**

8.1 Prior to entering into any Derivative Contract with WUIB, the Customer shall be classified and treated as: (a) a retail client; or (b) a professional client, according to the provisions of § 31a para. 2 sentence 2 of the German Securities Trading Act. Each class is afforded a different level of protection. Within the professional client category, it is relevant whether the Customer will be classified as a professional client: (i) pursuant to § 31a para. 2 no. 1 (af), § 31a para. 2 no. 3 and 4 or § 2 para. 1 No. 12 of the German Securities Trading Act ("Status Professional Client"); or (ii) pursuant to § 31a para. 2 no. 2 of the German Securities Trading Act ("Balance Sheet Critical Professional Client"); or (iii) pursuant to § 31a para. 7 of the German Securities Trading Act ("Professional Client upon Request").

8.2 Before providing to the Customer the Services relating to the Derivative Contracts, WUIB will communicate to the Customer, in a durable medium, the Customer's classification as a retail client or a professional client or a qualified counterparty.

8.3 The Customer may request a different classification from that assigned to him/her. In particular:

8.3.1 if the Customer has been classified as qualified counterparty he/she may request in writing, to be treated as a professional client. The Customer's request must stipulate in relation to which Derivative Contracts and/or investment Services he/she wants to be so treated;

8.3.2 if the Customer has been classified as a professional client (other than a Professional Client upon Request) or as a qualified counterparty, he/she may request to be treated as a retail client. Such request is subject to WUIB's approval. In order to be classified as a retail client, the Customer must conclude a written agreement with WUIB providing in relation to which Derivative Contracts and/or investment Services the treatment as retail client shall apply;

8.3.3 if the Customer has been classified as Professional Client upon Request, he/she may request in writing, to be treated as a retail client; the Customer's request must stipulate in relation to which Derivative Contracts and/or investment Services he/she wants to be so treated;

8.3.4 if the Customer has been classified as a professional client, he/she may request to be treated as a qualified counterparty. The Customer's request must stipulate in relation to which Derivative Contracts and/or investment Services he/she wants to be so treated;

8.3.5 if the Customer has been classified as a retail client he/she may request to be treated as a professional client (Professional Client upon Request), provided that the following criteria and procedures are satisfied and followed: (i) the Customer must communicate to WUIB, in writing his/her intention to be treated as a professional client in relation to your relationship with WUIB or to which Derivative Contracts and/or investment Services the Customer wants to be so treated; (ii) further to the Customer's request, WUIB will answer the Customer in writing indicating the rights and protections he/she will lose further to the requalification as a Professional Client upon Request; and (iii) the Customer shall declare in writing through an attachment to the request that he/she is aware of the consequences of losing such protections. Any request made by the Customer pursuant to this clause 8.3.5 is subject to WUIB's approval. WUIB will only be able to treat the Customer as a professional client if he/she meets the criteria set out in § 31a para. 7 sentence 3 of the German Securities Trading Act.

8.4 When the Customer requests to upgrade his/her classification, WUIB may reject such request because, for example, WUIB deems that the Customer deserves the highest level of protection.

8.5 Furthermore, on WUIB's initiative, WUIB may: (i) treat the Customer as professional client or as retail client notwithstanding that he/she could be classified as qualified counterparty; and (ii) treat the Customer as retail client notwithstanding he/she could be classified as professional client. In such case WUIB will inform the Customer accordingly about the downgrade of his/her

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classification. In such notice WUIB will inform the Customer in relation to which Derivative Contracts and/or investment Services he/she will be so treated.

- 8.6 If the Customer is a Professional Client upon Request he/she must communicate to WUIB changes that could influence his/her/ classification. However, if WUIB becomes aware that the Customer does not satisfy the conditions necessary to be treated as professional client WUIB shall adopt the requisite measures.

### **9 Derivative Contracts**

#### **9.1 Forward Contracts**

- 9.1.1 The Customer may authorise WUIB to enter into a Forward Contract transaction with the Customer by delivering a Request provided that, save as expressly contemplated by any OTM Facility and/or ND Facility WUIB extends to the Customer, the Customer promptly, but no later than by an agreed date, makes an Advance Payment equal to an agreed percentage of the nominal value of the Forward Contract.

- 9.1.2 WUIB shall only be obliged to perform a Forward Contract once WUIB has received from the Customer the outstanding balance of the sums that the Customer owes WUIB under the conditions set out in clause 9.

- 9.1.3 Once the Settlement Amount for a Forward Contract has been received by WUIB, WUIB will deliver the funds into the Customer's Holding Balance or to a Beneficiary in accordance with the Customer's Request(s).

- 9.1.4 If specifically so agreed between the Customer and WUIB, the Customer may Draw Down against a Forward Contract during an agreed Delivery Window; provided, however, WUIB has received settlement in immediately available funds corresponding to the amount of the Draw Down. Notwithstanding any Draw Down, the Customer shall be required to provide full Settlement Amount (or any remaining balance) to WUIB in immediately available funds in connection with a Forward Contract on or before the end of the Maturity Date.

#### **9.2 Option Contracts**

- 9.2.1 The Customer and WUIB may enter into an Option Contract at the Customer's Request. WUIB will enter into an Option Contract with the Customer at the Customer's Request provided that, save as expressly contemplated by any OTM Facility and/or ND Facility WUIB extends to the Customer, the Customer promptly, but no later than by an agreed date, makes an Advance Payment equal to an agreed percentage of the nominal value of the Option Contract.

- 9.2.2 Once the Options Settlement Amount has been received by WUIB, WUIB will deliver the funds into the Customer's Holding Balance; or to the Customer's bank account (the details of which the Customer will supply to WUIB); or to a Beneficiary in accordance with the Customer's Request.

- 9.2.3 The Customer must, where applicable, pay to WUIB the Premium in cleared funds during business hours on the Premium Payment Date in accordance with WUIB's instructions. The Premium is non-refundable. If the Customer fails to pay the Premium in full, WUIB is not obliged to accept exercise or other Requests as advised by the Customer of the Option Contract and may terminate the Option Contract and recover all costs and expenses incurred by WUIB in connection with the Option Contract.

#### **9.2.4 Exercise**

- (a) Where the Customer holds the right to exercise an Option Contract at the Expiration Time on the Expiration Date and if it would be in the Customer's best interest (as determined by WUIB in its sole discretion) to exercise such Option Contract, such Option Contract shall (unless the Customer otherwise instructs WUIB by telephone or by email) be deemed to be exercised on the Expiration Date at the Expiration Time, without the need for the Customer to serve a Notice of Exercise on WUIB.

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- (b) Where the Customer holds the right to exercise an Option Contract and such Option Contract is not deemed to be exercised pursuant to clause 9.2.4(a) of these Terms and Conditions, the Customer may exercise such Option Contract by giving a Notice of Exercise to WUIB on the Expiration Date, not later than the Expiration Time.
- (c) Where WUIB holds the right to exercise an Option Contract at the Expiration Time on the Expiration Date, such Option Contract shall be deemed to be exercised on the Expiration Date at the Expiration Time without the need for WUIB to serve a Notice of Exercise on the Customer.
- 9.2.5 Following the exercise of an Option Contract(s) as specified in clause 9.2.4, each party must pay the currency and amount due to the other party on the Settlement Date. Following such settlement the Option Contract is discharged and all rights and obligations under the Option Contract are terminated.
- 9.2.6 The Buyer of an Option Contract may at any time during the term (the period from the Trade Date to the Expiration Time) notify the Seller of the Option Contract that it intends to surrender or close the Option Contract, provided that the total amount of the Premium has been received by WUIB in cleared funds. Any notice of surrender or closure must be received by WUIB before the Expiration Time. WUIB will establish the close-out strike rate and total premium. The net premium difference (i.e. whether In or Out of the Money) will be passed onto the Buyer.
- 9.2.7 Unless the Option is surrendered or exercised in accordance with the provisions of this clause 9.2, the Option Contract(s) will lapse at the Expiration Time. The Buyer is not required to notify the Seller of the lapse of the Option.
- 9.3 **Provisions applicable to Forward Contracts and Option Contracts**
- 9.3.1 WUIB may, in its sole discretion, limit Forward Contracts and/or Option Contracts ("**Relevant Derivative Contracts**") to a predetermined maximum transaction value that will be expressed in Euro and/or maximum term of the Relevant Derivative Contract (i.e. the period between entering into the Relevant Derivative Contract and its Maturity Date or Expiration Date, as applicable). WUIB will advise the Customer of any limit that applies before WUIB commences providing Services related to Relevant Derivative Contracts to the Customer.
- 9.3.2 Any Advance Payment to the extent not properly applied or set off by WUIB in accordance with these Standard Terms and Conditions, in particular Clause 9.3.5 or 9.5.2, is recoverable by the Customer once the payment obligations of the Relevant Derivative Contract have been discharged in full.
- 9.3.3 During the term of each Relevant Derivative Contract, WUIB may at any time, at WUIB's discretion, ask the Customer to pay an additional amount (a Margin Deposit) as Financial Collateral with respect to the Customer's Relevant Derivative Contracts, for the following reasons: (i) if as a result of any market revaluation WUIB carries out, the Customer's Relevant Derivative Contract moves Out of the Money beyond the Customer's OTM Facility (if any); and/or (ii) a deterioration in the Customer's financial standing or creditworthiness. The amount of any such Margin Deposit shall be determined by WUIB and shall be based on the actual Out of the Money position and/or the adverse change in the Customer's financial standing or creditworthiness. In the case of retail clients, this is so that the relationship between the value of the secured obligations and the value of the pledge created pursuant to the Collateral Addendum is reinstated. If WUIB asks the Customer to make a Margin Deposit, the Customer, agrees to pay within two (2) business days of each such request the relevant Margin Deposit. WUIB may repeatedly request the Customer to make additional Margin Deposits should the Relevant Derivative Contract continue to move further Out of the Money beyond the Customer's OTM Facility (if any) or if the Customer's financial standing and/or creditworthiness further deteriorates.
- 9.3.4 If the Customer has two or more outstanding Relevant Derivative Contracts, each of them will be revalued individually and each Relevant Derivative Contract exposure will be netted with other such Contracts' individual exposures to establish WUIB's overall exposure for the Customer's

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outstanding Relevant Derivative Contracts. Accordingly, WUIB ask the Customer to pay the Margin Deposit if the net mark to market value of all these Contracts moves Out of the Money beyond the Customer's OTM Facility (if any) and/or there is relevant deterioration of the Customer's financial standing or creditworthiness.

- 9.3.5 For professional clients and qualified counterparties, the Advance Payments as well as the Margin Deposits are provided to WUIB by way of full title transfer (Vollrechtsübertragung) to such funds and constitute the Financial Collateral securing the Customer's debts (corresponding to WUIB's claims) from all outstanding Relevant Derivative Contracts at any time. WUIB is entitled to hold the Advance Payments as well as the Margin Deposits received from the Customer in WUIB's ownership and may apply them to satisfy the Customer's total payment obligations owed to WUIB with respect to any outstanding Relevant Derivative Contract on its Maturity Date or any Draw Down, Settlement Date or Premium Payment Date or any other applicable due date.
- 9.3.6 For retail clients, the Advance Payments as well as the Margin Deposits shall be transferred to a bank account specified by WUIB maintained by WUIB for the Customer and other clients. The portion of all credit balances (present and future), including all interest payable thereon, if any, attributable to the Customer which are standing to the credit of such account as well as any repayment claims, including all interest payable thereon, if any, of the Customer against WUIB in respect of any Advance Payments and Margin Deposits will be pledged (*verpfändet*) in WUIB's favour pursuant to the terms of a collateral addendum to be entered into separately (the "**Collateral Addendum**") and constitute the Financial Collateral securing the Customer's debts (corresponding to WUIB's claims) from all outstanding Relevant Derivative Contracts at any time. Subject to the terms of the Collateral Addendum, it is expressly agreed that all the Customer's rights in the Financial Collateral shall remain with the Customer to the outmost extent legally possible. WUIB may apply in lieu of payment (*an Zahlungs statt*) the Advance Payments as well as the Margin Deposits to satisfy the Customer's total payment obligations owed to WUIB with respect to any outstanding Relevant Derivative Contract on its Maturity Date or any Draw Down, Settlement Date or Premium Payment Date or any other applicable due date.
- 9.3.7 In circumstances described in clause 9.3.5 or clause 9.3.6 above or following the Customer's default or in circumstances described in clause 9.5.1, WUIB may satisfy WUIB's claims either by enforcing the pledge in accordance with the terms of the Collateral Addendum (in respect of retail clients only), by setting off the funds held as Financial Collateral against WUIB's claims arising from the Relevant Derivative Contract or by any other possible means as permitted under German law.
- 9.3.8 Following a dispatch of the notice pursuant to clause 9.5.1, the Financial Collateral will be included in the close-out netting arrangement pursuant to clause 9.5 and WUIB's claims will be satisfied by means described in clauses 9.5.1 and 9.5.3 below.
- 9.3.9 If the Customer fails to comply with any of the Customer's obligations set out in this clause 9 or those contained in the provisions of any Relevant Derivative Contract, the Customer will indemnify WUIB in full for all the losses, costs, charges or expenses that WUIB incurs in relation to such failure, including those related to the settlement or continuation of any currency contract that WUIB has entered into with other parties.
- 9.3.9 WUIB may change and/or withdraw any OTM Facility, ND Facility and/or the maximum limits referred to in clauses 9.1.1, 9.2.1 and 9.3.1: (i) based upon WUIB's periodic review in WUIB's sole discretion; (ii) in cases described in the provisions of clause 7.2; or (iii) if there has been material adverse change in the cash flow, business activities, assets, financial (or other) condition or perspectives of the Customer as from the date of the last notification on the relevant limit or, as applicable, the last regular review as per (i) or other detrimental circumstances which in the reasonable opinion of WUIB could have material adverse effect on the Customer's ability to comply with any of the Customer's obligations towards WUIB.

WUIB will notify the Customer in Writing on any change or withdrawal of any OTM Facility, ND Facility and/or the maximum limits referred to in clauses 9.1.1, 9.4.1 and 9.3.1 pursuant to previous

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sentence; these may be further changed based on a Written agreement between the Customer and WUIB.

- 9.3.11 Until any payments or deliveries due on any date from the Customer to WUIB in respect of any Relevant Derivative Contracts have been satisfied in full, including by way of the set-off described in clause 22.1.7, WUIB may, in its discretion, withhold any payment or delivery due from, or incurred by, WUIB to the Customer on that date under or pursuant to the Relevant Derivative Contracts.

### 9.4 Future Payments Transactions

- 9.4.1 The Customer may authorise WUIB to enter into a Future Payments Transaction by delivering a Request. WUIB may, in its sole discretion limit the provision of Future Payments Transactions to the Customer to a predetermined maximum transaction value that will be expressed in Euros for each Future Payments Transaction. WUIB will advise the Customer of any limit that applies before WUIB commences providing Future Payments Services to the Customer.

- 9.4.2 The Customer must deliver the Settlement Amount to WUIB in the same currency as the currency specified by the Customer in the Customer's Request to WUIB for Future Payments Transactions.

- 9.4.3 Once the Settlement Amount has been received by WUIB, WUIB will release the payment in accordance with the Customer's Request. WUIB may charge a fee for the transfer of the funds as set out in the fee schedule.

- 9.4.4 In the event that the Customer desires to change the Release Date of the Future Payments Transactions, or any portion thereof, before the Release Date, the Customer may do so subject to WUIB's express agreement; provided, however, that the maximum length of any amendment to the Release Date shall not exceed one hundred and twenty (120) days after the Contract Date of the Future Payments Transactions unless WUIB in its sole discretion extend the term of the Future Payments Transactions.

- 9.4.5 The Customer may amend its release instructions prior to the Release Date by submitting a Request to WUIB not to release the full amount of the funds on the Release Date. In such case, the Customer may instruct WUIB to immediately resell the excess funds at the current market exchange rate or otherwise WUIB will place the balance of the excess funds in a Holding Balance in accordance with clause 10 below. The Customer will remain liable for the full amount of the funds to WUIB. Once the funds have been placed in a Holding Balance, if WUIB does not receive a timely Request for the disposition of such funds prior to the expiry of ninety (90) days, the funds will be converted to the Customer's home currency at the then prevailing exchange rate and returned to the Customer as indicated in clause 10 below.

### 9.5 Provisions applicable to Forward Contracts, Options Contracts and Future Payments

- 9.5.1 Where transactions have been entered into and not yet fully settled, the Agreement can only be terminated by either party for material reason. It is, for instance, a material reason if the Customer fails to provide the Financial Collateral required in relation to a Forward Contract or an Option Contract (in the form of an Advance Payment or Margin Deposit) at the latest on the due date or, communicates to WUIB an intent not to provide the Financial Collateral, or disputes the validity or existence of a Forward Contract, an Option Contract and/or a Future Payment transaction (the "**Relevant Transactions**") or default, or communicates the Customer's intent to default on any of the Customer's obligations, or admits that the Customer is generally unable to settle the Customer's debts when they become due for payment, if the Customer is in a state of insolvency, if the Customer has ceased the Customer's activities, if the Customer is insolvent or over indebted within the meaning of Sections 17 (2) and 19 of the German Insolvency Code (*Insolvenzordnung*), or if the Customer has requested the commencement of insolvency proceedings or reorganisation proceedings pursuant to the German Insolvency Code (*Insolvenzordnung*), if the Customer has requested the appointment of an insolvency receiver (*Insolvenzverwalter*) or liquidator, or more generally, if the Customer is the subject of insolvency proceedings, if the Customer is the subject of an order or a resolution for winding up and/or liquidation. WUIB may then terminate and unwind, without any notice to the Customer, the Relevant Transactions and/or take any other steps that WUIB deems appropriate

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(pursuant to clause 7) to mitigate the potential loss(es) caused by the Customer's failure to honour the Customer's contractual obligations under the Relevant Transaction(s). In the event of termination upon notice by either party or upon insolvency (hereinafter called "**Termination**"), neither party shall be obliged to make any further payment or perform any other obligation which would have become due on the same day or later; the relevant obligations shall be replaced by compensation claims in accordance with Clauses 9.5.2 and 9.5.3.

- 9.5.2 If WUIB terminates the Agreement pursuant to clause 9.5.1, WUIB shall send the Customer a notice describing the respective event for termination, date of dispatch of the notice and the Termination Amount (as defined below; if already calculated at such date). The Customer may send an informal notice. The Agreement shall terminate, without notice, in the event of insolvency. In the event of Termination, the party giving notice or the solvent party, as the case may be, (hereinafter called "**Party Entitled to Damages**") shall be entitled to claim damages. Damages shall be determined on the basis of replacement transactions, to be effected without undue delay, which provide the Party Entitled to Damages with all payments and the performance of all other obligations to which it would have been entitled had the Agreement been properly performed. Such party shall be entitled to enter into contracts which, in its opinion, are suitable for this purpose. If it refrains from entering into such substitute transactions, it may base the calculation of damages on that amount which it would have needed to pay for such replacement transactions on the basis of interest rates, forward rates, exchange rates, market prices, indices and any other calculation basis, as well as costs and expenses, at the time of giving notice or upon becoming aware of the insolvency, as the case may be. Damages shall be calculated by taking into account all Relevant Transactions; any financial benefit arising from the Termination of Relevant Transactions (including those in respect of which the Party Entitled to Damages has already received all payments and performance of all other obligations by the other party) shall be taken into account as a reduction of damages otherwise determined. If the Party Entitled to Damages obtains an overall financial benefit from the Termination of Relevant Transactions, it shall owe the other party a sum corresponding to the amount of such benefit, but not exceeding the amount of damages incurred by the other party.
- 9.5.3 Unpaid amounts and any other unperformed obligations, and the damages which are payable, shall be combined by the Party Entitled to Damages into a single compensation claim denominated in Euro (the "**Termination Amount**"), for which purpose a money equivalent in Euro shall be determined in respect of claims for performance of such other overdue obligations. On, or as soon as practicable after, the date of dispatch of the notice pursuant to clause 9.5.2 or the date of insolvency, WUIB shall notify the Customer of the Termination Amount (if any) to be received or paid by the Customer. The Termination Amount shall come into existence at the time of the entering into these Standard Terms and Conditions, including the Collateral Addendum (where applicable), but shall be subject to the condition precedent of a Termination. The Termination Amount shall be calculated as of the date of dispatch of the notice pursuant to clause 9.5.2 or the date of insolvency as a difference between present values of: (i) all the Customer's claims; and (ii) WUIB's claims under the Relevant Transaction(s) and/or related to these Relevant Transaction(s) (including without limitation any Advance Payments and Margin Deposit, funds pursuant to clause 6.1, damages, losses and expenses pursuant to clause 9.5.1 or 9.2). The Termination Amount shall be denominated in Euro. For the purpose of its calculation, the foreign exchange rate published by the Deutsche Bundesbank as of the date of dispatch of the notice pursuant to clause 9.5.2 shall apply. A compensation claim against the Party Entitled to Damages shall become due and payable only to the extent that such party does not, for any legal reason whatsoever, have any claims against the other party ("**Counterclaims**"). If Counterclaims exist, their value shall be deducted from the total amount of the compensation claim in order to determine the portion of the compensation claim that is due and payable. For the purpose of calculating the value of the Counterclaims, the Party Entitled to Damages shall (i) to the extent that they are not payable in Euro, convert such Counterclaims into Euro at a selling rate to be determined, if possible, on the basis of the official foreign-exchange rate applicable on the day of computation, (ii) to the extent that they are not claims for the payment of money, convert them into a claim for damages expressed in Euro and (iii) to the extent that they are not yet due and payable, take them into account at their present value (also having regard to interest claims). The Party Entitled to Damages may set off the compensation claim of the other Party against the counterclaims. To the extent that it fails to do so, the compensation claim shall become due and payable as soon as and to the extent that it exceeds the aggregate amount of Counterclaims.

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### 9A. INVESTMENT ADVICE

#### 9A.1. General

9A.1.1. WUIB is authorised to provide the Customer with Investment Advice.

9A.1.2. The Customer's personal needs and situation shall be established based on information the Customer provides to WUIB including information contained in the Customer Profile Document. WUIB will not be able to provide the Customer with Investment Advice unless the Customer has provided WUIB with all information required under the Customer Profile Document.

9A.1.3. The Customer acknowledges that WUIB may rely on and treat any information provided to WUIB in the Customer Profile Document or otherwise as true, accurate and up to date until the Customer informs WUIB that any information so provided is no longer true, accurate or up to date.

#### 9A.2. How WUIB provides Investment Advice

9A.2.1. WUIB may provide the Customer with Investment Advice either at the Customer's own initiative or at WUIB's initiative. WUIB may also refuse to provide the Customer with Investment Advice requested by the Customer for any reason without justification.

9A.2.2. WUIB provides Investment Advice on a non-independent basis as WUIB only advises in relation to products it issues, namely WUIB's Derivative Contracts.

9A.2.3. WUIB may provide the Customer with Investment Advice either in written or in oral form. If in written form, Investment Advice shall be provided in a Statement of Advice. If in an oral form, each piece of Investment Advice will be followed by a Statement of Advice documenting the Investment Advice provided to the Customer in oral form.

9A.2.4. A statement of advice is a document prepared for the Customer by WUIB covering, amongst other things: (i) Investment Advice; (ii) a merit justification of the Investment Advice; (iii) information about the sources used to prepare the Investment Advice; and (iv) information about the period of time the Investment Advice remains valid ("**Statement of Advice**").

9A.2.5. If for any reason Investment Advice provided to the Customer in oral form is not properly reflected in a Statement of Advice or if the Customer has not received a Statement of Advice following being provided with oral Investment Advice, the customer may contact WUIB and request a Statement of Advice correctly reflecting the oral Investment Advice previously given to the Customer to be delivered.

9A.2.6. WUIB does not provide ongoing periodic statements of the suitability of the financial instruments recommended to the Customer.

#### 9A.3. No fees payable for Investment Advice

WUIB does not charge fees for the Investment Advice provided to the Customer.

#### 9A.4. Responsibility for taking investment decisions

9A.4.1. The Customer is not obliged to follow any Investment Advice WUIB provides to the Customer.

9A.4.2. The Customer acknowledges that the Customer is exclusively responsible for taking the Customer's investment decisions and for any consequences of the Customer's investment decisions irrespectively of whether the Customer has followed WUIB's Investment Advice or not.

9A.4.3. WUIB is liable for any consequences of the Customer's investment decisions whether taken as a result of the WUIB's Investment Advice or not unless these consequences are due to WUIB's gross negligence or willful misconduct when providing Investment Advice to the Customer.

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- 9A.4.4. Subject to any mandatory provisions of law to the contrary, the Customer should not disclose the Investment Advice WUIB has provided to the Customer to any third party without WUIB's prior consent.

### **10 Holding Balances**

- 10.1 Funds may be maintained in a Holding Balance for a maximum of ninety (90) days. The funds maintained in a Holding Balance will bear no interest. The Customer shall be responsible for all risks (including without limitation, fluctuations in the value of the currency held) associated with maintaining Holding Balances in one or more foreign currencies. If WUIB does not receive a timely Request for the disposition of such funds prior to the expiry of the ninety (90) day period, the funds will be converted to the Customer's home currency at the then prevailing exchange rate(s) and returned to the Customer.
- 10.2 WUIB will not use the funds provided by the Customer. The funds received by the Customer will be deposited in a specific account.

### **11 Standing Order Instructions**

- 11.1 If the Customer submits a Standing Order Instruction to WUIB, the Customer authorises WUIB to accept and act in accordance with the Standing Order Instruction. Each Standing Order Instruction shall be effective only after WUIB has received it and have had a commercially reasonable opportunity to act upon it. Each Standing Order Instruction must set out the currency, the amount, the Standing Order Effective Period and delivery instructions (if any). Standing Order Instructions are accepted on business days between 9 am and 3 pm (Central European Time). Standing Order Instructions placed outside of this time shall be deemed to be received at 9 am (Central European Time) the following business day.
- 11.2 If the Target Rate becomes Sustainable and Purchasable during the Standing Order Effective Period, WUIB will execute the Standing Order Instruction and send the Customer a Confirmation. For the avoidance of doubt, unless the Customer cancels the Standing Order Instruction in accordance with clause 11.3 below, the Standing Order Instruction will be binding on the Customer once the Target Rate becomes Sustainable and Purchasable during the Standing Order Effective Period and the Customer will be liable to WUIB for the full amount payable pursuant to the Standing Order Instruction. The Customer agrees to promptly review each Confirmation for accuracy and immediately advise WUIB of any error or discrepancy therein.
- 11.3 Standing Order Instructions may not be cancelled by the Customer at any time after the Target Rate has become Sustainable and Purchasable. In order to cancel a Standing Order Instruction during the Standing Order Effective Period, WUIB must receive from the Customer an instruction, either in Writing or through the Online System, directing cancellation and such cancellation shall be effective once WUIB will have had a commercially reasonable opportunity to act upon such instruction. In the absence thereof, WUIB shall act in accordance with the Standing Order Instruction and the Customer shall be liable for the amount payable pursuant to the Standing Order Instruction.
- 11.4 If the Target Rate does not become Sustainable and Purchasable during the Standing Order Effective Period, the Standing Order Instruction shall automatically expire at the end of the Standing Order Effective Period. Unless otherwise stated in the Standing Order Instruction, Standing Order Instructions shall remain in effect until 11:59 pm (Central European Time) on the last day of the Standing Order Effective Period.

### **12 Cashing of a cheque denominated in a foreign currency**

- 12.1 If the Customer receives cheques denominated in a foreign currency and requests WUIB to cash them and convert them into Euros or another currency of the Customer's choice, and if WUIB has agreed to this, WUIB will proceed as follows:
- 12.1.1 The Customer will send WUIB a Request to cash cheques denominated in a foreign currency and convert them into a foreign currency, together with the cheques concerned.



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- 12.1.2 WUIB will verify the validity of all the cheques that the Customer presents to WUIB – any cheques that WUIB considers to be invalid will be returned to the Customer as quickly as possible.
- 12.1.3 All cheques shall be endorsed by the Customer, to the benefit of Western Union International Bank GmbH, and shall bear the signature of one of the Customer's authorised representatives.
- 12.1.4 The value date for settlement to the Customer's benefit in euro or in a foreign currency will correspond to WUIB's usual practices in this field, and will depend on the currency concerned and the country where the cheque was issued. The multiplicity of scenarios renders it impossible to determine it in advance, but WUIB can provide the Customer with any relevant information at the time of receipt of the Customer's Request.
- 12.1.5 The Customer agrees to pay all the charges relating to cashing and currency conversion, which WUIB shall invoice the Customer for. It is possible that the Customer will not be able to obtain a precise figure for these charges on the date of the Customer's Request, insofar as it is possible that WUIB shall not know on that date the exchange rate terms and charges that will be re-invoiced to WUIB by the bank on which the cheque is drawn, and in some cases the clearing agent, or the date on which payment will be made. In general, the exchange rate and the charges and commissions applied will be calculated and The Customer will be informed on the day of receipt by WUIB of the clearing agent's clearing statement. WUIB will keep at the Customer's disposal, in return for payment of a flat-rate commission, a copy of the documentary evidence relating to the charges invoiced to WUIB by its correspondents.
- 12.2 All cheques that are returned to WUIB unpaid or classified as non-negotiable or non-bankable will be returned to the Customer immediately, and the Customer agrees to reimburse WUIB upon receipt for all costs incurred to WUIB. The Customer also agrees to reimburse WUIB for all the charges invoiced to WUIB by the entity that returned the cheque that WUIB have had to pay.
- 12.3 The Customer will be informed of any case of loss, theft or destruction of the cheque during its transfer within 24 hours of WUIB being notified of this. WUIB will send the Customer a request for compensation in which WUIB confirms that WUIB has not received from any bank involved in the clearing or payment of the cheque the sum corresponding to the value of the said cheque. The Customer hereby agrees to immediately reimburse to WUIB the amount corresponding to this value if it has already been paid to the Customer by WUIB.
- 13 Indemnification relating to a cheque denominated in a foreign currency drawn by WUIB on the Customer's account held with one of WUIB's correspondents**
- 13.1 If a cheque denominated in a foreign currency issued by WUIB further to the Customer's instructions is not received by the Beneficiary the Customer has designated, for any reason whatsoever, including without limitation the loss, theft or destruction of the said cheque, the Customer agrees to inform WUIB as soon as the Customer receives notice that the cheque has not been received by the Beneficiary.
- 13.2 As soon as the Customer has notified WUIB of the non-receipt of the cheque in accordance with the provisions of clause 13.1 above, WUIB will do everything possible to stop the cheque as quickly as possible. The Customer cannot however hold WUIB liable for delays in stopping, or failure to stop, the cheque if WUIB has done everything reasonably possible to stop the said cheque as quickly as possible. The Customer is also to consider with attention the provisions of clause 13.6 below.
- 13.3 WUIB agrees to issue a new cheque in replacement or to reimburse the Customer at an appropriate exchange rate, once WUIB has first been able to stop the cheque concerned. WUIB may however make the replacement or reimbursement of the cheque contingent on the prior provision by the Customer of a bank guarantee guaranteeing WUIB against any cashing of the cheque initially issued by a third party, despite the stop that WUIB has placed on it. The Customer agrees not to hold WUIB in any way liable and to indemnify WUIB for any losses, costs, claims, damages and expenses that WUIB incurs or are the subject of, as a result of the stopping of the cheque initially issued and its replacement or reimbursement.
- 13.4 If the cheque that was initially issued comes into the Customer's possession or into the possession of the Beneficiary at any time after a stop has been put on it, the Customer hereby undertakes to

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ensure that no attempt will be made to cash this cheque, that it will be returned to WUIB as soon as possible, and that it will be held on WUIB's behalf while WUIB awaits receipt of it.

- 13.5 WUIB shall not be under any obligation to issue a replacement cheque or make a reimbursement in the event of WUIB being able to establish that the cheque initially issued was cashed before a stop was put on it.
- 13.6 If it can be established that the cheque that was initially issued was cashed before it was possible to put a stop on it, but (i) the Customer informed WUIB as soon as the Customer became aware that the cheque had not been received, and (ii) the Customer has adequately demonstrated to WUIB that the loss, theft or destruction of the cheque was in no way due to negligence on the Customer's part or failure to exercise due care when sending the cheque, or in respect of any other operation involving the cheque, WUIB may issue a replacement cheque or make a reimbursement at an exchange rate that WUIB considers appropriate, it being understood however that the replacement or reimbursement of the cheque may be contingent on the prior provision of a bank guarantee by the Customer which secures WUIB against the event that it is impossible to obtain reimbursement of the cheque that was initially issued by the bank that was to clear/pay this cheque. In the light of the facts set out above, the Customer hereby agrees to reimburse WUIB the value of the cheque initially issued in the event it is impossible for WUIB to obtain its reimbursement from the bank that was to clear/pay the cheque or in the event of it being established that the Customer, the Beneficiary or any other party known to the Customer or the Beneficiary, cashed this cheque. WUIB undertakes to take all necessary steps to obtain reimbursement from the bank that was to clear/pay the cheque. If it is established that the cheque was cashed by the Customer, the Beneficiary or any other party known to the Customer or the Beneficiary, WUIB will have the right to immediately stop, at the Customer's expense, the cheque issued in replacement, and any sums that have been reimbursed to the Customer must be repaid to WUIB immediately.

### **14 Indemnification and limitation of liability**

- 14.1 The Customer shall indemnify and hold WUIB harmless from any and all liabilities, claims, costs, expenses and damages of any nature, including, but not limited to, reasonable legal fees and any other compensable fees and expenses incurred in connection with litigation, arising out of or relating to the Customer's negligence or willful misconduct, the violation of any Law by the Customer, or the breach by the Customer of any provision of these Standard Terms and Conditions. In case of contributory negligence of the parties liability shall be allocated according to the individual level of default. The Customer also agrees to promptly pay to WUIB all damages, costs and expenses, including reasonable legal fees and expenses, incurred by WUIB in the enforcement of any of the provisions of these Standard Terms and Conditions. The Customer's obligations under this Clause shall survive the termination of this Agreement.
- 14.2 Unless stipulated otherwise in these Standard Terms and Conditions, all representations, warranties, conditions or other terms provided for by law are set aside to the maximum extent permitted by law.
- 14.3 WUIB shall not be liable towards the Customer and cannot be considered as having failed to perform its obligations on the basis of these Standard Terms and Conditions in the case of a delay in executing, or the failure to execute, a Request that was duly accepted if the delay or non-execution is attributable either in full or in part to any event ascribable to the Customer or to a third party, or owing to an event having the nature of *force majeure*, namely any event that is totally impossible to prevent, even if foreseeable and/or resulting from internal circumstances, including any interruption of services resulting from strikes, accidents of any kind, difficulties affecting the transmission network, or any virus likely to affect the computer networks or systems; or any fault on the part of the managers of these networks or systems.
- 14.4 WUIB's liability to the Customer and anyone claiming through the Customer hereunder for a breach these Standard Terms and Conditions by WUIB shall be limited to the foreign currency value of the transaction relating to the claim, determined as at the value date. WUIB shall not be liable for any claim of the Customer for economic loss or consequential damages. NOTWITHSTANDING ANYTHING IN THESE STANDARD TERMS AND CONDITIONS TO THE CONTRARY, THE CUMULATIVE AGGREGATE LIABILITY OF WUIB UNDER THESE STANDARD TERMS AND CONDITIONS SHALL BE LIMITED TO A MAXIMUM

AGGREGATE IN DIRECT DAMAGES SUFFERED IN THE AMOUNT AS CALCULATED ABOVE. IN NO EVENT SHALL WUIB, OR ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, IN THE ABSENCE OF GROSS NEGLIGENCE OR WILLFULL MISCONDUCT, BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR LOST PROFITS, PUNITIVE, EXEMPLARY, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SIMILAR DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- 14.5 The Customer expressly agrees that any unauthorised or incorrectly executed payment transaction and any claim for damages or losses of any kind whatsoever arising hereunder must be notified to WUIB as soon as the Customer is aware of such unauthorised or incorrectly executed payment transaction or claim and in any case within two (2) months of the circumstances that allegedly caused the incident giving rise to the unauthorised or incorrectly executed payment transaction or claim. Notwithstanding any other provision in these Standard Terms and Conditions to the contrary, provided that the notification requirements in this clause 14.5 have been met, should any payment be made by WUIB after receipt of such notification, pursuant to a Request which has not been authorised by the Customer then WUIB shall forthwith refund the amount of the payment delivered to the Beneficiary in the currency of the payment so delivered as if the unauthorised or incorrectly executed payment transaction had never occurred no later than the end of the business day following the day on which WUIB become aware of the unauthorised or incorrectly executed payment transaction. The credit value date of the refund shall be no later than the date on which the unauthorised or incorrectly executed transaction was debited (and where delivered to the Beneficiary in the currency of the payment so delivered). Nothing in this Section 14.5 shall be construed to limit the Customer's liability for any and all losses incurred in respect of an unauthorised payment transaction where the Customer have acted fraudulently or has with intent or gross negligence: (a) failed to comply with these Standard Terms and Conditions; (b) failed to notify WUIB without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use of the Services; or (c) failed to take all reasonable steps to keep Online Systems Access Methods or other personalised security features secure
- 14.6 This clause 14.6 shall apply solely to the remittance of electronic funds transfer payments delivered by WUIB in euro, sterling or another currency of an EEA State that has not adopted the euro as its currency and within the EEA where the Customer is a Micro-Enterprise. For avoidance of doubt, in no event shall anything in this clause 14.6 be construed as limiting any liability or obligation of a Micro-Enterprise to WUIB arising pursuant to these Standard Terms and Conditions (or otherwise at law) in connection with foreign currency exchange transactions. Notwithstanding any other provision in these Standard Terms and Conditions to the contrary, provided that the notification requirements in clause 1.8 have been met, should any payment be made by WUIB, pursuant to a Request which has not been authorised by the Customer or which was not correctly executed by WUIB, then WUIB shall forthwith refund the amount of the payment (and where delivered to the Beneficiary in the currency of the payment so delivered), or at the Customer's option re-execute the payment. Provided that the Customer has not acted fraudulently and that the Customer has notified WUIB in accordance with clause 1.8, the Customer shall not be liable for any losses (excluding foreign exchange losses) incurred by either Party in respect of such unauthorised payment transaction which arise following notification made pursuant to clause 1.8. The Client shall be liable to WUIB up to a maximum of fifty (50) euro for any losses incurred by the Customer or WUIB prior to notification to WUIB, as required pursuant to clause 1.8, where the Customer has failed to keep Online System Access Methods or any other security features used in submitting Instructions safe and secure. Nothing in this clause 14.6 shall be construed to limit the Customer's liability for any and all losses incurred in respect of an unauthorised payment transaction where the Customer have acted fraudulently or has with intent or gross negligence: (a) failed to comply with these Standard Terms and Conditions; (b) failed to notify WUIB without undue delay on becoming aware of the loss, theft, misappropriation or unauthorised use of the Services; or (c) failed to take all reasonable steps to keep Online Systems Access Methods or other personalised security features secure.

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- 14.7 WUIB will indemnify the Customer for any damages, costs and disbursements that the Customer is sentenced to pay by a court on the grounds that the Customer's use of the Online System in accordance with the provisions of these Standard Terms and Conditions constitutes a breach of the intellectual property rights of a third party, provided that:
- 14.7.1 The Customer notifies WUIB promptly of any claim or action, or risk of a claim or action, that is being or may be made or brought by a third party in relation to the Online System;
- 14.7.2 WUIB has control over all actions, claims or proceedings relating to the Online System;
- 14.7.3 The Customer does not accede to the request and the Customer does not admit to any responsibility or liability whatsoever in the context of these actions, claims or proceedings without WUIB's Written approval; and
- 14.7.4 The Customer cooperates fully with WUIB in the context of these actions, claims or proceedings relating to the Online System.
- 14.8 With the exception of what is provided for in clause 14.5, to the fullest extent permitted by law, WUIB cannot accept any liability in relation to any claims made against the Customer by any third party. In particular, WUIB will not be a party to any commercial dispute that may arise between the Customer and the Beneficiary.
- 14.9 WUIB agrees to do all that WUIB reasonably can, within the limits of the state of the art, to ensure the correct operation of the Online System under optimum conditions, and to execute the Requests that are transmitted to WUIB through the Online System. Accordingly, all personal information, and in particular banking data, codes and Online System Access Methods that the Customer enters will be systematically encrypted. However, WUIB will, in the absence of gross negligence or wilful misconduct, not assume any liability with regard to the circulation and conservation of data or its transformation or use by third parties and will not accept any liability for any losses or costs that the Customer may incur or bear as a result of:
- 14.9.1 malfunctioning of the Online System, of WUIB's or the Customer's telecommunications systems or networks, resulting in it being impossible to use all or part of the functions that they should offer;
- 14.9.2 unavailability of all or part of the Service caused by a malfunction of the Online System, of WUIB's or the Customer's systems, of any ancillary equipment or telecommunications networks, or any other circumstance;
- 14.9.3 delay or error in the performance of a Service or the execution of a Request caused by the Online System, WUIB's or the Customer's systems, any ancillary equipment or telecommunications networks, or any other circumstance.
- 14.10 The Customer acknowledges that:
- 14.10.1 the security of information transmitted through electronic means cannot be guaranteed and the transmission of Requests and Confirmations takes place at the Customer's risk. The Customer authorises WUIB to act in conformity with the Requests, in the format and in accordance with the content that WUIB receives; and
- 14.10.2 the right to use the Online System is granted to the Customer subject to compliance with the provisions of these Standard Terms and Conditions.
- 14.11 Notwithstanding the other exclusions and limitations of WUIB's liability provided for in these Standard Terms and Conditions, any liability that WUIB incurs in relation to the Services performed or due to be performed by WUIB in accordance with these Standard Terms and Conditions will be limited to the value in euro of the transaction concerned on the value date of the said transaction or, if no value date has been agreed, on the date of the Request concerned.
- 14.12 Any complaint concerning WUIB's Services, WUIB's performance or WUIB's failure to perform, WUIB's team or any of WUIB's sub-contractors should be addressed to WUIB by registered post at the address mentioned in clause 20.1 below.

### 15 Representations and warranties

By accepting these Standard Terms and Conditions in writing, the Customer makes the following representations and undertakes that, both on the date of accepting these Standard Terms and Conditions in writing and on the date of any Requests made by the Customer:

- 15.1 The Customer has the capacity, and have received all the necessary authorisations, to subscribe to the Services and make Requests;
- 15.2 The Representative(s) signing the Requests and Confirmations in accordance with these Standard Terms and Conditions are duly authorised to do so by virtue of the powers of attorney attached to this document, which the Customer may modify whenever deletions or additions become necessary. Such modifications must be confirmed in Writing by an existing authorised signatory;
- 15.3 The Customer's Requests, and all payments to which they pertain are made in conformity with these Standard Terms and Conditions, constitute for the Customer a binding commitment, are enforceable against the Customer, and will not contradict or breach the terms of any contract or agreement that the Customer has concluded;
- 15.4 All Requests made by the Customer, and all payments to which they pertain, are legal, in direct relation to the Customer's commercial or professional payment requirements, and are not made for speculative ends;
- 15.5 The Customer has the necessary authorisations and agreements to make the payments that are the subject of each Request made by the Customer;
- 15.6 All Requests made by the Customer is **not** made in connection with gambling or pornography;
- 15.7 The funds provided by the Customer as Advance Payments and Margin Deposits as well as the Secured Assets (as such term is defined in the Collateral Addendum) are unencumbered, not subject to any security interest, preference, quasi security interest, claw back, preferential arrangement, retention of title provisions or a third party right;
- 15.8 The Customer has taken and will take all appropriate measures to protect the data and/or software stored or loaded in the Customer's computer equipment from contamination by viruses and intrusion attempts;
- 15.9 The Services are being used by the Customer solely for business/commercial purposes and that each use of the Services by the Customer is exercised to manage the risk associated with an asset or liability owned or incurred in the conduct of the Customer's business;
- 15.10 The Customer acts as principal and has legal title to all funds used in connection with the Services, and that any transaction conducted with WUIB is being undertaken in accordance with applicable law. The Customer also confirms that you will not act on the account of a third party.
- 15.11 At the time of entering into these Standard Terms and Conditions and immediately before entering into any transaction contemplated by these Standard Terms and Conditions, the Customer represents and warrants to WUIB that:
  - (a) If the Customer is a natural person, the Customer is of sound mind, enters into this agreement for the sole purpose of conducting its own business and acting in its own interest, is at least 18 years of age, and possesses full legal competence;
  - (b) If the Customer is not a natural person,
    - (i) the Customer is duly organized and validly existing under the applicable laws of the jurisdiction of its organisation and enters into this agreement for the sole purpose of conducting its own business and acts in its own interest; and
    - (ii) each person executing and delivering this Agreement and all other transactions contemplated under it on behalf of the Customer, performing the obligations contemplated under this Agreement and any other transaction contemplated under it on behalf of the Customer, has been duly authorised by the Customer to do so.

### 16 Indemnification relating to faxes and other means of telecommunication

- 16.1 The Customer agrees to indemnify WUIB, and discharge WUIB from all liability, in respect of any action, proceedings, liability, responsibility, claims, requests for damages, costs, losses and

expenses that may be the consequence of the execution of instructions transmitted by fax or any other telecommunication means coming, apparently, from the Customer or the Customer's representatives, managers, employees or authorised agents.

- 16.2 The Customer agrees, at WUIB's request, to send WUIB the Customer's Written confirmation for all instructions sent by fax or by any other means of telecommunication to enable verification by telephone or any other means acceptable to WUIB; in any case however, the absence of a Written confirmation or verification, or any difference between a Written Confirmation and the instructions originally received by fax cannot in any way reduce WUIB's rights to indemnification or to recover sums due, in application of the provisions of clause 16.1.

### **17 Compliance with the regulations relating to exchange control, anti-money laundering and FATCA**

- 17.1 The Customer understands that WUIB takes appropriate measures to ensure that WUIB is not participating or assisting in money laundering or terrorist financing. The Customer undertakes to comply with all the laws and regulations applicable to exchange control and anti-money laundering in relation to any Request and undertake to respect WUIB's own obligations with regard to such laws and regulations. In particular, the Customer guarantees that all information contained in the Customer's Subscription to the Services and in the Customer's Request is accurate and that the transfer of funds will not constitute a breach of the laws or regulations applicable to exchange control and anti-money laundering. The Customer agrees that WUIB, at WUIB's sole discretion, may in order to satisfy WUIB's legal obligations under applicable law, including, but not limited to, anti-money laundering, trade and economic sanctions laws and/or regulations, or as may otherwise be required by law or court order, communicate any transaction related information that the Customer has given WUIB to any correspondent bank, German or foreign regulatory or judicial authority, at WUIB's discretion, if WUIB considers it necessary or desirable to do so. Furthermore, such disclosure may be made to any governmental agency, body or department that exercises regulatory or supervisory authority with respect to WUIB's operations, where such disclosure is made to satisfy routine governmental audit or examination requirements or as part of informational submissions required to be made to such governmental entities in the ordinary course of business. By signing the form "Subscription for Services", the Customer expressly agrees, for the purposes of this clause 17.1, to release WUIB from its obligations relating to banking secrecy.
- 17.2 Additionally, in order to carry out the transactions described in these Standard Terms and Conditions, WUIB has recourse to various entities in WUIB's group through outsourcing agreements. For that purpose, WUIB may communicate to these entities any information that the Customer transmits to WUIB, in conformity with the terms and conditions of the said outsourcing agreements. By signing the form "Subscription for Services", the Customer expressly agrees, under the terms of this clause 17.2, to release WUIB from its obligations relating to banking secrecy.
- 17.3 At any time, the regulatory authorities may request that additional information be sent to them concerning the Customer's organisation or specific transactions. The Customer agrees to provide, at any time, the information that WUIB or any regulatory authority may Request from him/her and/or that WUIB may be obliged to forward in relation to the Customer and/or the Customer's Request.
- 17.4 If the Customer breaches these laws or regulations, the Customer agrees that WUIB will retain all sums or funds that have been remitted to WUIB in compliance with these Standard Terms and Conditions and/or that WUIB shall not execute a Request if WUIB is ordered by any regulatory authority (including any foreign regulatory authority) not to execute it; these funds will not bear interest that will be due by WUIB.
- 17.5 The Customer understands, acknowledges and agrees that all transactions, wherever originated, may be processed by WUIB or may be processed on WUIB's behalf by one or more of its affiliated group companies, one or more of which may be located outside of Germany and the European Union. As such, all transactions, wherever originated, shall be processed in accordance with the laws and regulations of the jurisdiction where the transaction is being processed, including but not limited to, those laws and regulations relating to anti-money laundering, anti-terrorism and foreign asset control. Personal data can be processed only in accordance with conditions set out in clause 23.

17.6 The United States have recently implemented the Foreign Account Tax Compliance Act ("FATCA"), a law that affects Foreign Financial Institutions globally. The aim of FATCA is to keep U.S. persons from hiding income and assets overseas. WUIB is a Participating Foreign Financial Institution as defined in the United States Internal Revenue Code sections 1471 through 1476. Following the above WUIB will be subject to FATCA and will have to comply with its rules. As such, WUIB has added this clause in the event that the United States Internal Revenue Code applies to your company's transactions made through WUIB to your company's beneficiaries. Transactions that could be subject to these rules are generally U.S. sourced fixed, determinable, annual or periodic income (e.g., dividends, interest, and royalties). WUIB would have no way of knowing if the U.S. rules noted above would apply to your specific transactions, thus WUIB is not responsible for withholding on any payments you transmit to your beneficiaries through WUIB's Western Union Business Solutions. Generally, U.S. withholding is relevant if your transaction is of U.S. sourced income that is being transferred to non-U.S. persons. If U.S. withholding may be relevant for your transactions, we recommend that you seek legal advice in order to fully understand your U.S. tax obligations. Therefore, the parties acknowledge and agree that it is the Customer's responsibility to comply with the Customer's obligations under U.S. law, to determine the source of the payment(s) and status of the Beneficiary in accordance with United States Internal Revenue Code, and that the parties' expectation is that WUIB would not know or have reason to know of the source of the payment(s) and the withholding status of a payment to a Beneficiary. Accordingly, the Customer represents and warrants to WUIB that, to the extent the U.S. regulations apply to the Customer's transaction, the Customer has determined the status of the Beneficiary in accordance with FATCA, and the regulations promulgated thereunder, and has withheld the appropriate amount, if any, required. The Customer shall indemnify and hold WUIB harmless from and against any claims by the U.S. Internal Revenue Service (**IRS**) for tax, interest, and penalties, and expenses incurred by WUIB arising out of or in respect of the Customer's under-withholding or other noncompliance with respect to the IRS withholding rules, including but not limited to FATCA. This indemnity will survive the completion of any payment and the termination of these Standard Terms and Conditions.

### **18 The security of the Online System Access Methods**

- 18.1 A Request will be considered to have been authorised by the Customer if it was transmitted using the Online System Access Methods, subject to the transmission containing the amounts, currencies, and payment details. The Customer agrees to be solely responsible for the protection of the Online System Access Methods and agrees that the use of the Online System Access Methods constitutes a valid instruction from the Customer, whether it was authorised or not. The Customer agrees to notify WUIB immediately if an Online System Access Method has been disclosed, or if this is suspected, and the Customer agrees to indemnify WUIB and discharge WUIB from all liability of any kind that WUIB may incur or bear as a result of such disclosure.
- 18.2 The Customer's Security Administrator must keep an up-to-date list of authorised users of the Online System. WUIB will have the right to consider that any user of the Online System is a user authorised by the Customer.
- 18.3 The Customer's Assistant Security Administrator must give WUIB his personal Online System Access Methods if the Security Administrator requires a new Online System Access Method.
- 18.4 The Customer accepts that, once a Request has been transmitted, WUIB has the right to take it into account and execute the Request made on the Online System immediately.

### **19 Confidentiality**

- 19.1 Subject to the provisions of clauses 17 and 23, the parties agree to protect the integrity and confidentiality of all the information and the Online System supplied or made available to the other party, and agree only to make such information or Online System available to personnel that need to be able to have access to it or them in relation to the Services.
- 19.2 The duty to maintain confidentiality defined above will not apply to any information that:
- 19.2.1 was already in the possession of the said other party and was lawfully obtained, on the date of its transmission, and this can be proven by Written documentation;

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- 19.2.2 comes into the possession of the said other party, in good faith, via an independent third party after the date of its transmission; or
- 19.2.3 has become public information without any breach of this confidentiality undertaking having taken place.

### 20 Notices – Regulatory information

- 20.1 Any notice to be given to WUIB under these Standard Terms and Conditions shall be in Writing and shall be deemed duly given if delivered to WUIB at the fax number, e-mail address or mail address set out below or any other fax number or address notified by WUIB to the Customer for the purposes of these Standard Terms and Conditions:

Western Union International Bank GmbH, Niederlassung Deutschland  
Solmsstrasse 18,  
60486 Frankfurt am Main,  
Germany

Attention: Legal Department

Tel.: +49 (0) 69-8 509 8318

Fax: +49 (0)69 85098399

Email : [WUBSGermany@westernunion.com](mailto:WUBSGermany@westernunion.com)

- 20.2 Western Union International Bank GmbH Niederlassung Deutschland is a branch of Western Union International Bank GmbH, which is a licensed credit institution (*Kreditinstitut*) according to Section 1 of the Austrian Banking Act (*Bankwesengesetz*) and is authorised by the Austrian Financial Market Authority (**FMA**). The Customer may request any regulatory information concerning WUIB from the following regulatory authorities: .

FINANZMARKTAUFSICHT

Department Banking Supervision

Otto-Wagner-Platz 5

1090 Vienna, Austria

Telephone: + 43 1 249 59 0

WUIBbsite: [www.fma.gv.at](http://www.fma.gv.at)

The Customer should raise any complaints directly with WUIB. WUIB will always try to resolve concerns by the close of the third business day. Where this is not possible, WUIB will acknowledge the complaint within 5 business days of the date of receipt of such complaint. WUIB will investigate any complaint and will send a reply to the Customer within 15 business days of the date of receipt. If WUIB are unable to provide a full response within 15 business days of receipt for reasons beyond its control, it shall send a holding reply, clearly indicating the reason for the delay and specifying a deadline for a full reply, which will be no later than 35 business days after receipt of the complaint. WUIB is entitled to communicate with the Customer in the English language. The communication will be carried out in electronic form via e-mail on the part of WUIB. Besides that, the Customer may contact the FINANZMARKTAUFSICHT or the arbitration board of the Deutsche Bundesbank. Any complaint is then to be addressed in written form to the

Schlichtungsstelle bei der Deutschen Bundesbank

Postfach 11 12 32

60047 Frankfurt am Main

Fax: +49 69 2388 1919

Email: [schlichtung@bundesbank.de](mailto:schlichtung@bundesbank.de)

### 21 General provisions

- 21.1 These Standard Terms and Conditions, any non-contractual obligations arising in this respect as well as the validity, interpretation or performance of the Standard Terms and Conditions, will be governed by German law (however excluding the German conflict of laws rules) and shall be subject to the exclusive jurisdiction of the court of Frankfurt/Main.
- 21.2 The Customer cannot under any circumstances transfer the Customer's rights and/or obligations under these Standard Terms and Conditions without WUIB's prior agreement in Writing. WUIB



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may transfer its rights and/or obligations under these Standard Terms and Conditions and/or any transaction entered into pursuant to a Request to any person, subject to prior notification in Writing sent to the Customer by WUIB.

- 21.3 These Standard Terms and Conditions may be modified by WUIB subject to WUIB sending the Customer the text of the said modifications, signed by one of WUIB's authorised representatives, at least one (1) month before they come into force. Any written notification required or permitted under these Standard Terms and Conditions must be issued:
- 21.3.1 five (5) days after receipt of a registered letter sent by WUIB to the Customer at the Customer's business address or sent by the Customer to WUIB at its business address as indicated in these Standard Terms and Conditions;
- 21.3.2 upon receipt by the addressee in the case of a fax or e-mail, subject to the said notification being sent during the addressee's office hours; if the notification is sent out of office hours, it will be considered to have been received on the addressee's next working day.
- 21.4 If, after the Customer has been notified by WUIB of any modification made to these Standard Terms and Conditions pursuant to clause 21.3 above, the Customer uses or continues to use WUIB's Services, the Customer will be considered to have accepted the modified Standard Terms and Conditions. WUIB shall expressly draw the Customer's attention to this consequence.
- 21.5 The Customer understands and agrees that, to the extent possible, WUIB will respond to any reasonable request for copies of historical transaction or other similar information (*e.g.*, a copy of a cashed cheque). The Customer acknowledges and agrees that any costs associated with retrieving and providing such information will be billed to and payable by the Customer.
- 21.6 The Customer may terminate these Standard Terms and Conditions at any time, by giving WUIB a one (1) month's prior notice. Termination for any reason including a breach of these Standard Terms and Conditions by WUIB shall not affect the Customer's obligation to pay any sums due to WUIB or other outstanding or accrued liabilities owed to WUIB at the time of termination. WUIB may terminate these Standard Terms and Conditions by giving the Customer at least two (2) months' notice. The provisions relating to indemnification in clauses 7.1 and 7.4, reimbursement obligations in clauses 12.2 and 12.3, and all of clauses 13, 14, 15, 16, 18, 21 and 23 shall survive completion by WUIB of the Services and termination of these Standard Terms and Conditions.
- 21.7 Notwithstanding Clause 8.3.1 these Standard Terms and Conditions may be instantly terminated by either party for material reason, without the notice period stipulated in clause 21.6; for instance: (i) if there is continued non-use of the Services by the Customer for a period of one (1) year; (ii) if a Change of Control occurs; (iii) if the Customer breaches the terms of the Agreement; (iv) if the Customer breaches or fails to comply with any law and/or applicable regulation; (v) if WUIB is required to do so to comply with any law or regulation applicable to WUIB and/or any WUIB Affiliate; and/or (vi) if WUIB determines (in its sole discretion acting reasonably) that the Customer is using the Services for (or in connection with): (A) gambling, pornography or other similar activities; (B) purposes that are not in direct relation to the Customer's commercial or professional payment requirements; and/or (C) speculative ends.
- 21.8 Should the Customer wish to submit an instruction after termination resulting from continued non-use of Services, the Customer will be required to accept the version of the Standard Terms and Conditions then in force and undergo a full accreditation in line with WUIB's accreditation and other policies in force at that time.

## 22 Set-off

- 22.1 WUIB will be entitled to set off any sums that WUIB has received from the Customer or that WUIB holds on the Customer's behalf or are otherwise due to the Customer from WUIB against any sums that are due to WUIB in relation to the Services governed by these Standard Terms and Conditions, including, amongst other things:
- 22.1.1 any sums that are due to WUIB pursuant to clause 6.1 above;
- 22.1.2 any interest that becomes due to WUIB pursuant to clause 6.3 above;

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- 22.1.3 any sums that become due to WUIB in relation to compensation pursuant to the provisions of clauses 7.1 and/or 7.4 above in the event of the cancellation of any Request on the Customer's part;
- 22.1.4 any sums that become due to WUIB in relation to compensation pursuant to the provisions of clause 9.3.3;
- 22.1.5 any charges/expenses which are due to WUIB pursuant to clauses 12.1.5 and/or 12.2;
- 22.1.6 any sums that become due to WUIB in relation to compensation pursuant to the provisions of clauses 13.3, 12.6, 14.1, 16.1 and/or 18.1;
- 22.1.7 in relation to Relevant Derivative Contracts, WUIB shall be entitled to set off any sums that would otherwise be payable in respect of two or more Relevant Derivative Contracts by WUIB to the Customer or by the Customer to WUIB (irrespective of whether the set off sums relate to Option Contracts, Forward Contracts or both).
- 22.2 WUIB cannot be held liable for any loss or expenses that may be incurred by the Customer when WUIB exercises its right to offset sums due to WUIB under the conditions set forth in this clause 22.
- 22.3 The Customer agrees that WUIB may perform the set-off pursuant to clause 22.1 against any of the Customer's claims against WUIB, irrespective whether these are due or not and irrespective of their currency. In order to perform the set-off where the respective claims are denominated in different currencies, the Customer agrees that WUIB may convert one currency into another at the relevant exchange rate published by the Deutsche Bundesbank.

### **23 Data Protection**

- 23.1 *Personal Data Necessary to Services; Controllorship.* WUIB must collect and Process Personal Data in order to perform the Services. Such Personal Data may be provided by the Customer, such as when you provide beneficiary details, and may also be collected by WUIB, such as in cases where WUIB collects supplementary information to verify information the Customer have provided. The Customer understands that WUIB are an independent service provider who separately controls Personal Data that the Customer provides or that WUIB collects, obtains, and/or Processes in connection with providing the Services. WUIB will Process Personal Data obtained in connection with the Services in a manner consistent with these Standard Terms and Conditions including this clause 23, as otherwise expressly agreed between the Customer and WUIB in writing, or as is otherwise necessary in light of any Request the Customer make which WUIB accepts.
- 23.2 *Representations and Warranties.* The Customer guarantees WUIB that when the Customer communicates Personal Data to WUIB or when the Customer asks WUIB to perform the Services, the Customer is acting in compliance with the laws and regulations applicable to the Customer. In particular (and without limitation), you represent and warrant that (a) any Personal Data the Customer provides to WUIB has been lawfully collected and Processed; (b) the Customer has collected all necessary consents and/or authorizations, provided all necessary notices, and done all such other things as are required under applicable law for the Customer to lawfully disclose Personal Data to WUIB for purposes of any transaction you request and any Processing permitted under these Standard Terms and Conditions; and (c) the Processing the Customer is requesting WUIB to perform in relation to any Personal Data is lawful. The Customer agrees to indemnify WUIB in respect of any claim that may be filed against WUIB by a third party (including any governmental or supervisory agency) in the event of any breach by the Customer of the laws or regulations applicable to the Customer, or in respect of any claim filed against WUIB by a third party (including any governmental or supervisory agency) that arises out of or relates to a breach of the representations and warranties set forth herein.
- 23.3 *Information Security.* WUIB will implement technical and organisational measures designed to protect Personal Data against unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. Such measures shall be appropriate to the harm that might result from unauthorised or unlawful Processing or accidental loss, destruction or damage to Personal Data, and to the nature of the Personal Data to be protected.

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- 23.4 *Permitted Data Processing.* WUIB Processes Personal Data consistent with and to the extent permitted by the provisions of applicable data protection law applicable to data controllers. Personal Data that WUIB processes includes information the Customer provide to WUIB, as well as information we may obtain from other Western Union programs or services, WUIB affiliates, third-party individuals or entities, or from publicly available sources. The manner in which we Process Personal Data obtained in connection with the Services is set forth in the applicable privacy notice. WUIB will reasonably ensure that the applicable privacy notice accurately reflects how Personal Data is processed in connection with the Services, and will provide reasonable notice of any modifications.
- 23.5 *Third Parties and Transfers.*
- 23.5.1 WUIB may disclose Personal Data to third parties, including vendors, contractors, and/or business partners, for any purpose or Processing permitted under these Standard Terms and Conditions. These third parties may be located outside the European Economic Area (EEA), including in countries outside the EEA whose privacy laws may not provide the same level of data protection as the law in force within the EEA. WUIB ensures that third parties who receive Personal Data are subject to contractual terms and that transfers to third parties outside of the EEA are subject to such safeguards as required by applicable data protection law. Where required by applicable law, WUIB will request the Customer's express consent.
- 23.5.2 WUIB may disclose Personal Data or any other information we hold to law enforcement authorities or other government officials if required to do so by domestic or foreign law or legal process, or as needed to assert or defend WUIB's rights or interests or those of others. For the sake of clarification: This clause is only for your information and shall not be interpreted as a declaration of consent.
- 23.6 *Notification and Cooperation.* Each Party shall notify the other promptly upon receiving a request for information, claim, complaint or allegation relating to the other Party's compliance with applicable data protection and/or information security law in relation to Personal Data Processed in connection with this agreement. Each Party shall provide the other Party with all such assistance in dealing with and responding to such Enquiry as the other party shall reasonably request.

## 24 EMIR Requirements

### 24.1 Timely Confirmation of Derivative Contracts

- 24.1.1 The terms of each Derivative Contract shall be confirmed in the Confirmation delivered by WUIB to the Customer under these Standard Terms and Conditions.
- 24.1.2 WUIB will deliver a Confirmation in respect of each Derivative Contract to the Customer as soon as possible and at the latest by the Confirmation Delivery Deadline.
- 24.1.3 The parties agree in respect of each Derivative Contract that if WUIB delivers a Confirmation to the Customer by the Confirmation Delivery Deadline and the Customer does not deliver to WUIB a Not Confirmed Notice by the Timely Confirmation Deadline, the Customer agrees to the terms of the Confirmation and confirms the Confirmation at the Timely Confirmation Deadline.
- 24.1.4 If the Customer delivers a Not Confirmed Notice to WUIB by the Timely Confirmation Deadline, WUIB and the Customer will use reasonable efforts, acting in good faith and a commercially reasonable manner, to attempt to resolve the difference and agree a modified Confirmation in respect of the Derivative Contract as soon as possible.

### 24.2 Portfolio Reconciliation

- 24.2.1 WUIB and the Customer agree to reconcile portfolios as required under EMIR.
- 24.2.2 On each Data Delivery Date, WUIB will provide Portfolio Data to the Customer.
- 24.2.3 On each PR Due Date, the Customer will perform a Data Reconciliation.
- 24.2.4 If the Customer identifies one or more discrepancies which the Customer determines, acting reasonably and in good faith, are material to the rights and obligations of WUIB and the Customer in respect of one or more Derivative Contracts, the Customer will notify WUIB in writing as soon as

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reasonably practicable and WUIB and the Customer will consult with each other in an attempt to resolve such discrepancies in a timely fashion for so long as such discrepancies remain outstanding, using, without limitation, any applicable updated reconciliation data produced during the period in which such discrepancy remains outstanding.

24.2.5 The parties agree that if the Customer does not notify WUIB that the Portfolio Data contains discrepancies by close of business Frankfurt time on the business day following the later of the PR Due Date and the date on which WUIB provided such Portfolio Data to the Customer, the Customer affirms such Portfolio Data.

### 24.3 Dispute Resolution

24.3.1 The parties agree that they will use the following procedure to identify and resolve Disputes between them:

- (i) WUIB or the Customer may identify a Dispute by sending a Dispute Notice to the other party;
- (ii) on or following the Dispute Date, WUIB and the Customer will consult in good faith in an attempt to resolve the Dispute in a timely manner including, without limitation, by identifying and using any Agreed Process which can be applied to the subject of the Dispute or, where no such Agreed Process exists or the parties agree that such Agreed Process would be unsuitable, determining and applying a resolution method for such Dispute; and
- (iii) WUIB and the Customer shall refer any Dispute that is not resolved within five Business Days of the Dispute Date internally to appropriately senior members of staff.

24.3.2 The parties agree that with respect to differences in the valuation of Collateral or a Derivative Contract, a difference between the lower valuation and the higher valuation of less than 10 percent of the higher valuation shall not be deemed a discrepancy that gives rise to a Dispute.

24.3.3 The right of both parties to approach ordinary courts is not affected.

### 24.4 Reporting

24.4.1 Notwithstanding anything to the contrary in these Standard Terms and Conditions or in any non-disclosure, confidentiality or other agreement between the parties, each party hereby consents to the disclosure of information:

- (i) to the extent required or permitted under, or made in accordance with, the provisions of EMIR and any applicable supporting law, rule or regulation (“**EMIR and Supporting Regulation**”) which mandate reporting and/or retention of transaction and similar information or to the extent required or permitted under, or made in accordance with, any order or directive in relation to (and including) EMIR and Supporting Regulation regarding reporting and/or retention of transaction and similar information issued by any authority or body or agency in accordance with which the other party is required or accustomed to act (“**Reporting Requirements**”); or
- (ii) to and between the other party's head office, branches or affiliates, or any persons or entities who provide services to such other party or its head office, branches or affiliates, in each case, in connection with such Reporting Requirements.

Each party acknowledges that pursuant to EMIR and Supporting Regulation, regulators require reporting of trade data to increase market transparency and enable regulators to monitor systemic risk to ensure safeguards are implemented globally.

Each party further acknowledges that disclosures made pursuant hereto may include, without limitation, the disclosure of trade information including a party's identity (by name, address, corporate affiliation, identifier or otherwise) to any Trade Repository or one or more systems or services operated by any such Trade Repository and any relevant regulators (including without limitation, ESMA and national regulators in the European Union) under EMIR and Supporting Regulation and that such disclosures could result in certain anonymous transaction and pricing data becoming available to the public. Each party further acknowledges that, for purposes of complying with regulatory reporting obligations, a party may use a third party service provider to

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transfer trade information into a Trade Repository and that a Trade Repository may engage the services of a global trade repository regulated by one or more governmental regulators. Each party also acknowledges that disclosures made pursuant hereto may be made to recipients in a jurisdiction other than that of the disclosing party or a jurisdiction that may not necessarily provide an equivalent or adequate level of protection for personal data as the counterparty's home jurisdiction. For the avoidance of doubt: (i) to the extent that applicable nondisclosure, confidentiality, bank secrecy, data privacy or other law imposes non-disclosure requirements on transaction and similar information required or permitted to be disclosed as contemplated herein but permits a party to waive such requirements by consent, the consent and acknowledgements provided herein shall be a consent by each party for purposes of such law; (ii) any agreement between the parties to maintain confidentiality of information contained in this agreement or in any non-disclosure, confidentiality or other agreement shall continue to apply to the extent that such agreement is not inconsistent with the disclosure of information in connection with the Reporting Requirements as set out herein; and (iii) nothing herein is intended to limit the scope of any other consent to disclosure separately given by each party to the other party.

24.4.2 The Customer acknowledges that WUIB is required, or may be requested, under EMIR to report to WUIB's national competent authority

- (i) any Derivative Contracts the Confirmations in respect of which are outstanding for more than five business days after the expiry of the relevant confirmation deadline imposed by EMIR; and
- (ii) any Dispute relating to a Derivative Contract, its valuation, or the exchange of Collateral for an amount or a value higher than EUR 15 million and outstanding for at least fifteen business days,

and, accordingly, the Customer consent to such disclosure.

24.4.3 The Customer acknowledges that for the purposes of making any report under clause 24.4.2(i) above, WUIB shall assume that the most stringent confirmation deadlines under EMIR are applicable to the Customer.

### *Reporting the Required Data*

24.4.4 The Customer hereby instructs and authorises WUIB to report the Required Data to the Relevant Trade Repository.

24.4.5 Subject to clauses 24.4.8 to 24.4.12 (inclusive) below, WUIB will report the Required Data to the Relevant Trade Repository by the Reporting Deadline in accordance with the Reporting Obligation.

24.4.6 The Customer will not report or arrange the reporting of the Required Data to a Trade Repository and will notify WUIB immediately if the Customer has reported or arranged the reporting of the Required Data to a Trade Repository contrary to this clause 24.4.6.

24.4.7 In respect of each Relevant Transaction, WUIB will determine in its sole and absolute discretion whether the Reporting Obligation has arisen, the characterisation of the Relevant Transaction and the Common Data. If unique reference(s) need to be generated for inclusion in the Required Data, the Customer agrees that WUIB may generate such unique references.

### *Conditions Precedent to Reporting*

24.4.8 The Customer agrees that it will deliver to WUIB any information required by WUIB (in form and substance satisfactory to WUIB) in time for WUIB to comply with WUIB's obligations under clause 24.4.5 above and the delivery of such information shall be a condition precedent to the performance of WUIB's obligations under clause 24.4.5 above.

24.4.9 Data provided pursuant to clause 24.4.8 above shall be provided in such format and via such communication channel as WUIB may specify to the Customer from time to time by reasonable notice.

24.4.10 The Customer agrees to provide or complete such documentation and perform such acts as WUIB requires in connection with the performance by WUIB of its obligations under clause 24.4.5 above.

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24.4.11 The Customer acknowledges that WUIB is under no obligation to verify any information provided by the Customer under clause 24.4.8 above and that WUIB may include such information in Reports unless notified to the contrary by the Customer.

24.4.12 It is a condition precedent to WUIB's obligations under clause 24.4.5 above that WUIB has received all fees payable pursuant to these Standard Terms and Conditions and that the Customer is not in breach of any provision of these Standard Terms and Conditions. WUIB may waive the requirement for such condition precedent to be fulfilled in its sole and absolute discretion.

### *WUIB of Third Parties*

24.4.13 The parties agree that WUIB may utilise the services of a Third Party Service Provider to facilitate the submission of Required Data under these Standard Terms and Conditions or other performance by WUIB of its reporting obligations under these Standard Terms and Conditions (including but not limited to any platform, system, interface or other technology developed by such Third Party Service Provider for such purpose).

24.4.14 Where the Third Party Service Provider is a WUIB Affiliate, the provisions of clauses 24.4.1 to 24.4.3 (inclusive) and 24.4.15 to 24.4.17 of these Standard Terms and Conditions apply in respect of such Third Party Service Provider as if such Third Party Service Provider were WUIB.

### *Liability*

24.4.15 WUIB shall, at all times, perform its obligations and exercise its discretion under this clause 24.4 with reasonable care, provided that WUIB shall not be required to do or cause to be done anything which: (i) is not permitted or is otherwise contrary to or inconsistent with the operating procedures of any Third Party Service Provider or the Relevant Trade Repository (including any decision by a Third Party Service Provider or the Relevant Trade Repository not to permit WUIB to submit Required Data in accordance with this clause 24.4); or (ii) is contrary to any law, rule or regulation or WUIB is otherwise prevented from doing so by any law, rule or regulation.

24.4.16 Notwithstanding any other provision of these Standard Terms and Conditions but subject to the remaining provisions of clauses 24.4.16, 24.4.17 and 24.4.18, WUIB, each WUIB Affiliate and its directors, officers, employees, contractors and agents and of each WUIB Affiliate shall not have any liability to the Customer (or any person claiming under or through the Customer) whether in contract, tort (including negligence), breach of statutory or regulatory duty or otherwise, for:

- (i) any Losses arising directly from, or in connection with:
  - a. WUIB's provision of, or the Customer's use of, the services agreed to be provided by WUIB under this clause 24.4;
    - any acts, omissions or failures of any third party, including but not limited to any Third Party Service Provider or the Relevant Trade Repository (including any decision by a Third Party Service Provider or the Relevant Trade Repository not to permit WUIB to submit Required Data via the Third Party Service Provider or to the Relevant Trade Repository on the Customer's behalf);
  - b. WUIB's performance of its obligations or exercise of its rights under this clause 24.4 (including, without limitation, WUIB's rights under clause 24.4.7 and/or the use by WUIB of a platform, system, interface or other technology provided by any Third Party Service Provider);
    - a. the failure of any platform, system, interface or other technology, including any internal platform, system, interface or other technology, which WUIB uses or intends to use in the performance of its obligations or exercise of its rights under this clause 24.4; or
    - b. a third party accessing or intercepting any information or data of the Customer, except to the extent that such Losses are due to the gross negligence, wilful default or fraud of WUIB, any WUIB Affiliate or any director, officer, employee, contractor or agent of WUIB or any WUIB Affiliate; or
- (ii) any indirect or consequential loss or damage or for any direct or indirect loss of business, profits, anticipated savings or goodwill.

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24.4.17 The parties agree that clauses 24.4.15 to 24.4.17 (inclusive) represent a fair and equitable position. Nothing in clauses 24.4.15 to 24.4.17 (inclusive) will exclude or limit any duty or liability which may not be excluded or limited under applicable law or regulation.

24.4.18 The Customer agrees to indemnify and hold WUIB harmless for any Losses incurred by WUIB in connection with the performance of its obligations under this clause 24.4 unless such Losses are caused by its gross negligence or intentional misconduct.

### *Force Majeure*

24.4.19 If WUIB is prevented, hindered or delayed from or in performing any of its obligations under this clause 24.4 as a result of a Force Majeure Event, such obligation(s) shall be suspended for so long as that Force Majeure Event continues.

### *Correction of Errors*

24.4.20 If the Customer identifies an error in any information previously provided to WUIB which is material to the Reporting Obligation, the Customer will notify WUIB as soon as reasonably practicable and both parties will use reasonable efforts to resolve such error.

24.4.21 Any information provided to a Trade Repository for the purposes of complying with the Reporting Obligation is provided without prejudice to any present or future dispute between the parties in relation to the information provided. Any failure or delay in exercising any right, power or privilege in respect of this clause 24.4 will not be presumed to operate as a waiver in respect of any Dispute between the parties and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise of that right, power or privilege or the exercise of any other right, power or privilege in respect of any Dispute between the parties.

### Legal Entity Identifier.

24.4.22 The Customer shall obtain and maintain, at the Customer's own expense, a legal entity identifier (provisionally referred to as a "pre-LEI") issued by an endorsed pre-LOU (Local Operating Unit) of the Global Legal Entity Identifier System, and shall provide such legal entity identifier to WUIB.

24.4.23 The Customer acknowledges that its legal entity identifier may be provided by WUIB, or a Third Party Service Provider, to the Relevant Trade Repository.

24.4.24 The Customer understands that WUIB and/or a Third Party Service Provider will have no ability to ensure whether the Relevant Trade Repository maintains the Customer's legal entity identifier on a confidential basis and the Customer hereby indemnifies WUIB and /or any Third Party Service Provider from any disclosure of the Customer's legal entity identifier by the Relevant Trade Repository or any party acting on its behalf.

### *Changes to the Reporting Obligation*

24.4.25 The Customer agrees that should WUIB notify the Customer of any guidance or information given by ESMA or another regulatory body, or any change in operational requirements (including the requirements of the Relevant Trade Repository) which WUIB considers will affect the Reporting Obligation and these Standard Terms and Conditions, the Customer shall enter into such changes to these Standard Terms and Conditions as WUIB considers to be appropriate in order to address such guidance or information.

### *Fees*

24.4.26 The Customer shall pay such fees in respect of the services provided by WUIB under this clause 24.4 as shall be notified by WUIB to the Customer from time to time.

### *Third Party Rights*

24.4.27 The parties acknowledge and agree that nothing in these Standard Terms and Conditions shall exclude any rights that the WUIB Affiliates are granted under clause 24.4 of these Standard Terms and Conditions.

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### 24.5 Customer Representations

- 24.5.1 The Customer is deemed to represent to WUIB on both on the date of its signature of the Subscription to the Services and on the date of any Requests made by the Customer that:
- (i) the Customer is either: (A) a non-financial counterparty (as such term is defined in EMIR) or (B) an entity established outside the European Union that, to the best of its knowledge and belief, having given due and proper consideration to its status, would constitute a non-financial counterparty (as such term is defined in EMIR) if it were established in the European Union; and
  - (ii) the Customer is not subject to a clearing obligation pursuant to EMIR (or, in respect of an entity under clause 24.5.1(i) above, would not be subject to the clearing obligation if it were established in the European Union) in respect of the Derivative Contracts outstanding between WUIB and the Customer. For the purposes of this subparagraph (ii) of this representation, it is assumed that the Derivative Contracts are of a type that have been declared to be subject to the clearing obligation in accordance with Article 5 of EMIR and are subject to the clearing obligation in accordance with Article 4 of EMIR (whether or not in fact this is the case), and that any transitional provisions in EMIR are ignored.
- 24.5.2 Should the Customer's status under EMIR change after the date of the Customer's signature of the Subscription to the Services, such that the Customer is no longer able to give the representation in clause 24.5.1(ii) above, the Customer shall immediately notify WUIB of such change in status and with effect from such date and on each subsequent date on which the Customer submits Requests to WUIB, the Customer shall be deemed to make only the representation in clause 24.5.1(i) above.
- 24.5.3 Should the Customer be unable to give the representation in clause 24.5.1(ii) above on the date of the Customer's signature of the Subscription to the Services, the Customer shall notify WUIB prior to the Customer's signature of the Subscription to the Services. Provided the Customer has given such notification, the Customer shall be deemed to make only the representation in clause 24.5.1(i) above on the date of the Customer's signature of the Subscription to the Services and on each subsequent date on which the Customer submits Requests to WUIB.
- 24.5.4 If clause 24.5.2 or 24.5.3 above applies to the Customer, the Customer may notify WUIB should the Customer's status under EMIR change after the date of the Customer's signature of the Subscription for Services such that the Customer is able to give the representation in clause 24.5.1(ii) above and with effect from such date and on each subsequent date on which the Customer submits Requests to WUIB, the Customer shall be deemed to make the representation in clause 24.5.1(i) and 24.5.1(ii) above.
- 24.5.5 In circumstances where the Customer gives a notification under clause 24.5.2, 24.5.3 or 24.5.4 of the Standard Terms and Conditions, WUIB may notify the Customer of a new PR Due Date.
- 24.5.6 On each occasion on which the Customer delivers information to WUIB under clause 24.4 of these Standard Terms and Conditions, the Customer represents to WUIB that the information the Customer delivers is, at the time of delivery, true, accurate and complete in every respect.
- 24.5.7 The Customer acknowledges and agrees that, notwithstanding clause 24.4 of these Standard Terms and Conditions, the Customer remains responsible under Article 9 of EMIR for reporting the Relevant Transactions.
- 24.5.8 The Customer acknowledges and agrees and represents and warrants that WUIB is not providing any advice or opinion to the Customer with respect to the interpretation of EMIR and that the Customer is responsible for conducting its own investigation, analysis and evaluation of the Reporting Obligation and any information or communication from WUIB under or in connection with clause 24.4 of these Standard Terms and Conditions.
- 24.5.9 The Customer acknowledges and agrees that if the Customer wishes to retrieve reports directly from the Relevant Trade Repository, the Customer shall register with the Relevant Trade Repository.
- 24.5.10 The Customer acknowledges and agrees and represents and warrants that:



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- (i) each Relevant Transaction shall be considered directly linked to the commercial activity or treasury financing of the Customer pursuant to field 15 of Table 1 of the Reporting Annex; and
- (ii) the Customer shall be considered to be the beneficiary of each Relevant Transaction for the purposes of field 11 of Table 1 of the Reporting Annex.

24.5.11 The Customer acknowledges and agrees that WUIB may, in its sole and absolute discretion, choose to report all or part of the Excluded Counterparty Data to the Relevant Trade Repository, but that WUIB shall be under no obligation to do so.

### 25 What WUIB means by the following terms:

"**Addendum**" means an additional agreement which may contain additional terms and conditions, as provided to the Customer by WUIB from time to time, including without limitation, any pricing schedules, service-specific addendums, and credit letters;

"**Advance Payment**" means a security payment the Customer has to provide in connection with a Forward Contract;

"**Agreed Process**" means any process agreed between the Customer and WUIB in respect of a Dispute other than the procedure set out at clause 24.3 of these Standard Terms and Conditions;

"**Assistant Security Administrator**" means the person appointed by the Customer to ensure the confidentiality of the Security Administrator's Online System Access Methods;

"**authorised user of the Online System**" means the Customer, in the Customer's capacity as a user of the Online System;

"**Automatic Currency Conversion**" has the meaning specified in clause 1.11.2;

"**Beneficiary**" means any third party to which the Customer instructs WUIB to deliver a payment;

"**business day**" means a day where WUIB or the payment services provider of the Beneficiary carries out an activity which allows the provision of Services;

"**Buyer**" means the party specified as such in the related Option Confirmation;

"**Change of Control**" means any change of control over the Customer following the Customer's acceptance of these Standard Terms and Conditions where "control" means the power to, directly or indirectly, (including the direct or indirect control by persons acting in concert direct the Customer's management and policies or to control the composition of the Customer's corporate bodies, whether through the ownership of voting capital, by contract or otherwise;

"**Collateral**" means any Advance Payment and/or Margin Deposit;

"**Collateral Addendum**" has the meaning specified in clause 9.3.5;

"**Common Data**" means, with respect to a Relevant Transaction, the information listed in Table 2 (Common Data) of the Reporting Annex;

"**Confirmation**" means a document containing WUIB's summary of the Customer's instructions, which WUIB will send to the Customer every time that the Customer sends WUIB a Request;

"**Confirmation Delivery Deadline**" means the end of the business day following the Trade Date;

"**Contract Date**" means the date on which the Customer instructs WUIB to enter into a Future Payment Transaction;

"**Contract Funds**" means the amount and type of currency the Customer agrees to purchase from or sell to WUIB;

"**Counterparty Data**" means, with respect to a Relevant Transaction and the Customer, the information listed in Table 1 (Counterparty Data) of the Reporting Annex;

"**Customer Profile Document**" means a form prepared by WUIB, filled in, executed and submitted by the Customer along with these Standard Terms and Conditions containing information about and serving for the purpose of assessment of, amongst other things, the Customer's knowledge and experience in relation to foreign exchange derivative contracts, the Customer's business needs and objectives, the Customer's risk appetite and the Customer's risk bearing capacity based on its financial situation.

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"**Data Delivery Date**" means one business day prior to the relevant PR Due Date;

"**Data Reconciliation**" means a comparison of the Portfolio Data provided by WUIB against the Customer's own books and records of all outstanding Derivative Contracts in order to identify promptly any misunderstandings of Key Terms;

"**Delivery Window**" means the period of time prior to the Maturity Date during which the Customer may Draw Down on a Forward Contract, if so agreed between the Customer and WUIB;

"**Derivative Contract**" means a Forward Contract, an Option Contract or a Future Payment between the Customer and WUIB entered into pursuant to these Standard Terms and Conditions;

"**Dispute**" means any dispute between the Customer and WUIB relating to the recognition of a Derivative Contract or the valuation of a Derivative Contract or Collateral in respect of which a Dispute Notice has been effectively delivered;

"**Dispute Notice**" means a notice in Writing which states that it is a dispute notice for the purposes of clause 24.3 of these Standard Terms and Conditions and which sets out in reasonable detail the issue in dispute (including, without limitation, the Derivative Contract(s) to which the issue relates);

"**Dispute Date**" means with respect to a Dispute, the date on which a Dispute Notice is effectively delivered by one party to the other party save that if, with respect to a Dispute, both parties deliver a Dispute Notice, the date on which the first in time of such Dispute Notices is effectively delivered will be the Dispute Date. Each Dispute Notice will be effectively delivered if delivered by facsimile, letter or e-mail to the address or facsimile number most recently provided by the Customer or WUIB, as the case may be, to the other party;

"**Draw Down**" means the partial delivery and/or partial or full settlement of the Forward Contract;

"**EEA**" means the European Economic Area;

"**EMIR**" means Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories;

"**ESMA**" means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council;

"**European Option**" means an Option Contract that can only be exercised at the Expiration Time;

"**Exercise Date**" means the date on which the Seller accepts a Notice of Exercise;

"**Excluded Counterparty Data**" means, with respect to a Relevant Transaction and the Customer, all data required pursuant to fields 17 to 26 of Table 1 of the Reporting Annex;

"**Expiration Date**" means the last date on which the Option can be exercised;

"**Expiration Time**" means the latest time at which WUIB will accept a Notice of Exercise, which shall be 3.00 pm (Paris Time) on the Exercise Date, unless otherwise stated in the applicable Option Confirmation;

"**FATCA**" means the US Foreign Account Tax Compliance Act;

"**Financial Collateral**" means financial collateral provided by the Customer to WUIB in the form of a pledge over (i) the portion of all credit balances (present and future), including all interest payable thereon, if any, attributable to the Customer which are standing to the credit of the bank account specified by WUIB maintained by WUIB for the Customer and other clients to which the Advance Payments as well as the Margin Deposits shall be transferred, as well as (ii) any repayment claims, including all interest payable thereon, if any, of the Customer against WUIB in respect of any Advance Payments and Margin Deposits, pursuant to the terms of the Collateral Addendum, in order to secure WUIB's receivables in connection with all Relevant Derivative Contracts between WUIB and the Customer;

"**Force Majeure Event**" means any event which occurs due to reasons outside of WUIB's control (including, but not limited to, any natural, systems, facilities, technological, political or other cause and whether in respect of a Relevant Trade Repository, WUIB Affiliate, WUIB, third party or otherwise) and which cannot be overcome by reasonable diligence and/or without unreasonable expense solely by WUIB;

"**Forward Contract**" means an agreement entered into between the Customer and WUIB in which the Customer agrees to purchase from (or sell to) WUIB a specific amount of funds in one currency and to settle, on an agreed future date, in a corresponding amount of funds in another currency;

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**"Future Payments Transaction"** means an agreement entered into between the Customer and WUIB in which: (i) the Customer agrees to purchase a specific amount of funds in one currency and to settle on an agreed future date in a specific amount of funds in another currency at an agreed fixed exchange rate, and (ii) WUIB agrees to transfer the purchased funds to a designated Beneficiary or the Customer himself/herself for an agreed service fee if applicable;

**"Group"** where the Customer is concerned, this term has the meaning corresponding to the definition of group of companies (*Konzern*) deriving from Section 18 of the Stock Corporation Act (*Aktiengesetz*);

**"Holding Balances"** means funds held temporarily by WUIB for the Customer's benefit and on the Customer's behalf and for the Customer's convenience pending receipt from the Customer or a Beneficiary of a Request including delivery instructions;

**"Instruction Currency"** has the meaning specified in clause 1.11.2;

**"In the Money"** in respect of an Option Contract(s), means an Option Contract(s) which if exercised would produce a gain (excluding consideration of the Premium);

**"Investment Advice"** means recommendations made by WUIB to the Customer in respect of the purchase, sale, exercise of or refraining from purchase, sale or exercise of Derivative Contract(s) which are available with WUIB and tailored hedging strategies covering combinations of the aforementioned recommendations, in all cases prepared taking into account the Customer's individual needs, experience and financial situation;

**"Key Terms"** means with respect to a Derivative Contract and WUIB, the valuation of such Derivative Contract and any other relevant details to enable such Derivative Contract to be identified, which may include: the transaction date and time, the settlement date, the Derivative Contract amount, the exchange rate, the position of the counterparties, Beneficiary's Account (in case of Future Payments) and/or any other relevant details of the Derivative Contract;

**"Losses"** means all losses, including immaterial loss and the creation of debt, damages, fines, penalties, costs, expenses or other liabilities (including legal and other professional fees);

**"Micro Enterprise"** means any entity, irrespective of legal form, which at the time of entering into these Terms and Conditions: (a) has a balance sheet reflecting a net worth of less than, or generates net turnover per annum of less than, two million (2,000,000) euros (or its equivalent in pounds sterling); and (b) employs fewer than 10 full-time employees.

**"Margin Deposit"** means a security payment additional to the Advance Payment that WUIB may require the Customer to pay in connection with a Relevant Derivative Contract in circumstances described in clause 9.1;

**"Maturity Date"** means the date on which the Forward Contract becomes due for delivery and settlement. The Maturity Date must be a business day in all jurisdictions involved in the relevant Forward Contract, including both countries of the currencies involved. The Maturity Date shall always be the last day of the Delivery Window, if any;

**"ND Facility"** (No Deposit Facility also generally referred to as **"Trading Limit"**) means a limit (or a combination of several different limits applicable to different durations of the Forward Contract or Option Contract) expressed in notional amount which WUIB may, in its sole discretion, extend to the Customer in Writing from time to time and which will allow the Customer to agree Forward Contracts or Option Contracts within that limit without having to make an Advance Payment;

**"Not Confirmed Notice"** means with respect to a Confirmation provided by WUIB in respect of a Derivative Contract, a notice from the Customer to WUIB (which may be made in Writing or orally by telephone) stating that the terms of such Confirmation do not accurately reflect the terms of the relevant Request, which terms are inaccurate and what such terms should be, in the Customer's opinion. If a Not Confirmed Notice is made by telephone such oral notice has to be confirmed in Writing on the same day otherwise such oral Not Confirmed Notice is deemed not to be delivered to WUIB by the Timely Confirmation Deadline;

**"Notice of Exercise"** means the notice given by the Buyer to the Seller of its intention to exercise the Option Contract;

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**"Online System"** means the proprietary online system(s) developed and the components thereof, owned and maintained by WUIB that enables the Customer to send and receive global business payments, including any replacement thereof and any related software, websites, URLs, software programs and deliverable ancillary to the Online System such as reports, compilations or databases;

**"Online System Access Methods"** means the unique password(s) and user identification(s) required to access the Online System;

**"Option Contract"** means a Call Option or a Put Option;

**"Option Confirmation"** means a document sent by WUIB to the Customer and which confirms the details of the Option Contract entered into between WUIB and the Customer;

**"Option Value"** means the current market value of an Option Contract as calculated by WUIB;

**"Options Settlement Amount"** means the total amount, including the cost of currency acquisition as well as any fees and charges the Customer owes WUIB pursuant to an Option Contract;

**"OTC Derivative Contract"** means a derivative contract as described in Article 2(7) of EMIR i.e. a derivative contract the execution of which does not take place on a regulated market or on a third-country market considered as equivalent to a regulated market;

**"OTM Facility"** (also referred to as **"Trading Limit"**) means any Out of the Money exposure limit which WUIB may, in its sole discretion, extend to the Customer in Writing from time to time and which will allow the Customer to agree Forward Contracts and/or Option Contracts within that limit without having to make an Advance Payment and/or a Margin Deposit;

**"Out of the Money"** means the negative difference in value of a Forward Contract between the original purchased foreign exchange rate and the current market rate; and in respect of Option Contract an Option Contract which if exercised would produce a loss (excluding consideration of the Premium);

**"Payee Currency"** has the meaning specified in clause 1.11.2;

**"Personal Data"** means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the individual's physical, physiological, genetic, mental, economic, cultural or social identity.

**"Process"** or **"Processing"**, in relation to Personal Data, means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

**"Portfolio Data"** means in relation to a Data Delivery Date, the Key Terms in relation to all Derivative Contracts outstanding on the Data Delivery Date, in a form and standard that is capable of being reconciled, with a scope and level of detail that would be reasonable to WUIB if WUIB were performing the Data Reconciliation;

**"PR Due Date"** means the 15th of December in each calendar year, provided that if such day does not fall on a business day, the PR Due Date shall be the next business day. WUIB may notify at any time that PR Due Dates shall occur at more frequent intervals;

**"Premium"** means the amount that is payable by the Buyer to the Seller on the Premium Payment Date for the Option;

**"Premium Payment Date"** means the date two (2) business days after the Trade Date;

**"Put Option"** means a transaction which gives the Buyer the right but not the obligation to sell to the Seller, at the Expiration Time, the Put Currency Amount at the Strike Price;

**"Put Currency"** means the currency specified as such in the Option Confirmation or, if such currency is not specified, the currency that is to be sold by the Buyer;

**"Put Currency Amount"** means the amount of the Put Currency to be sold on exercise of the Option as specified in the related Option Confirmation;

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**"Release Date"** means the date on which a Future Payments transaction becomes due for release and settlement (such date being up to one hundred and twenty (120) days after the Contract Date unless WUIB in its sole discretion extends the term of the Future Payments transaction). The Release Date must be a business day in all jurisdictions involved in the Future Payment, including both countries of the currencies involved in the transaction;

**"Relevant Trade Repository"** means, in respect of a Relevant Transaction, the Trade Repository selected by WUIB from time to time for such Relevant Transaction and notified to the Customer or, where no Trade Repository is available to record the details of such Relevant Transaction and where the Reporting Obligation requires, ESMA. WUIB notifies the Customer that the Relevant Trade Repository will be DTCC Derivatives Repository Limited until WUIB notifies the Customer otherwise;

**"Relevant Derivative Contract"** means a Forward Contract or an Option Contract between the Customer and WUIB entered into pursuant to these Standard Terms and Conditions;

**"Relevant Transaction"** means a Derivative Contract between WUIB and the Customer, each acting as principal and not as agent for any other person, that is subject to the Reporting Obligation;

**"Report"** means the data reported by WUIB on behalf of the Customer to the Relevant Trade Repository pursuant to the Reporting Obligation;

**"Reporting Annex"** means (i) the Annex to the Commission Delegated Regulation (EU) No 148/2013 of 19 December 2012, and (ii) the Annex to the Commission Implementing Regulation (EU) No 1247/2012 of 19 December 2012;

**"Reporting Deadline"** means, in respect of a Relevant Transaction, the deadline for reporting the Relevant Transaction, as specified in Article 9 of EMIR;

**"Reporting Obligation"** means the obligation to report details of derivative contracts that are concluded, modified or terminated to a Trade Repository or ESMA in accordance with Article 9 of EMIR;

**"Representative"** means any person whom the Customer has specified in the attached signing powers document, as being authorised to send Requests and receive the Confirmations that WUIB sends the Customer;

**"Request"** means a request made by the Customer for WUIB to provide Services including any request made by telephone, facsimile, letter, electronic mail or using the Online System;

**"Required Data"** means: (a) the Counterparty Data (other than the Excluded Counterparty Data) in relation to the Customer and (b) the Common Data;

**"Security Administrator"** means the person appointed by the Customer to ensure the confidentiality of the Online System Access Methods in the context of the Online System;

**"Seller"** means the party specified as such in the related Option Confirmation;

**"Service"** means the making of payments in foreign currencies by bank transfer or by cheque in a foreign currency drawn by WUIB on the Customer's behalf, the provision of Standing Orders, the conclusion of Derivative Contracts, the provision of Holding Balances, the purchase of cheques in foreign currencies, and any other service that WUIB will provide to the Customer in accordance with the Customer's Request;

**"Settlement Amount"** means the total amount, including the cost of currency acquisition as well as any fees and charges the Customer owes WUIB pursuant to a Forward Contract or a Future Payment;

**"Settlement Date"** means, in relation to an Option Contract, the date for settlement of the payment rights and obligations under the Option Contract following the exercise of the option under clause 9.2.4, as specified in the relevant Option Confirmation. The Settlement Date of a European Option is two (2) business days after the Expiration Date;

**"Standard Terms and Conditions"** means the conditions on which WUIB supplies its Services, as set forth in this document, including any Addenda, attachments, schedules and/or Confirmations; unless agreed otherwise in Writing, all the Services that WUIB performs on the Customer's behalf will be governed by these Standard Terms and Conditions;

**"Standing Order Effective Period"** means the period of time, which shall not exceed 60 days, within which the Customer has instructed WUIB to purchase or sell the Contract Funds at the Target Rate;

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**"Standing Order Instruction"** means the Customer's instruction, which must be in Writing or through the Online System by the Customer's Representative, to purchase/sell for the Customer's account Contract Funds at the Target Rate within the Standing Order Effective Period;

**"Subscription to the Services"** means the form that the Customer fills in when WUIB enters into contractual relations and in which the Customer must provide a certain amount of information concerning the Customer and the Customer's authorised signatories;

**"Strike Price"** means the currency exchange rate specified as such in the related Option Confirmation, which is the currency exchange rate at which the Put Currency will be exchanged for the Call Currency if the Option is exercised, as agreed on the Trade Date;

**"Sustainable and Purchasable"** means where a foreign exchange rate is traded in the market with volume sufficient to sustain that rate level for a commercially reasonable timeframe;

**"Target Rate"** means WUIB's rate stipulated by the Customer, if and when such stipulated rate becomes Sustainable and Purchasable, at which the Customer has instructed WUIB to purchase/sell Contract Funds;

**"The Customer"** and **"The Customer's"** means the Customer, identified on the first page of the Subscription to the Services, and it can also mean **"You"** or **"Your"**;

**"Termination Amount"** has the meaning specified in clause 9.5.3;

**"Third Party Service Provider"** means a third party including, without limitation, a WUIB Affiliate, appointed by WUIB to submit Required Data by the Reporting Deadline to a Relevant Trade Repository;

**"Timely Confirmation Deadline"** means 17:00 CET on the business day following the Trade Date;

**"Trade Date"** means the date on which the Request has been accepted under clause 1.3 of these Standard Terms and Conditions;

**"Trade Repository"** means any entity registered as a trade repository in accordance with Article 55 of EMIR or recognised as a trade repository in accordance with Article 77 of EMIR;

**"Transaction Notice"** means a notice sent by WUIB to the Customer confirming the terms of execution of a Request following its execution;

**"Vanilla Option"** means an Option Contract between the Customer and WUIB that gives the Customer the right but not the obligation to buy or sell one currency in exchange for another currency at an agreed exchange rate on the Expiration Date;

**"Written"** or **"in Writing"** includes transmissions made by fax or telex, as well as data sent to WUIB by e-mail (excluding telephone calls);

**"WUIB"** Western Union International Bank GmbH Niederlassung Deutschland, Solmsstr. 18, 60486 Frankfurt am Main which is a branch of Western Union International Bank GmbH, (commercial register number 256184t, commercial court Vienna), Schubertring 11, 1010 Vienna, Austria, and any affiliated entity, where applicable; and

**"WUIB Affiliate"** means any person controlled by WUIB, any person controlling WUIB and/or any person controlled by same person as WUIB, and notified to the Customer by WUIB from time to time.

Western Union Business Solutions is a business unit of the Western Union Company and provides services in Germany through Western Union's wholly-owned subsidiary Western Union International Bank GmbH, Germany Branch.

Western Union International Bank GmbH, Germany Branch, has a registered place of business at Solmsstrasse 18, 60486 Frankfurt am Main, Germany and is a branch of Western Union International Bank GmbH (registered at the Vienna Commercial Court, Commercial Registry Number: FN256184t, Sales Tax Identification Number: ATU 61347377, Registered Office Address: Schubertring 11, 1010 Vienna, Austria), which is a licensed credit institution supervised by the Austrian Financial Market Authority (Finanzmarktaufsicht).