

**BUSINESS CONDITIONS  
FOR TRADING ON THE FINANCIAL MARKET**

**1 ~~APRIL 2019~~ SEPTEMBER 2021**

Citibank Europe plc, organizační složka

***CZECH REPUBLIC***

## I. GENERAL PROVISIONS

### 1.1 *Scope of Application.*

1.1.1 These Business Conditions of Citibank Europe plc, organizační složka for Trading on the Financial Market (the “**Trading Conditions**”) govern all banking and related business relationships between Citibank Europe plc, a company established and existing under the Irish law, registered seat at Dublin, North Wall Quay 1, Ireland, registered in the Register of Companies in the Republic of Ireland, under the number 132781 conducting its business in the Czech Republic through Citibank Europe plc, organizační složka, registered seat at Prague 5, Stodůlky, Bucharova 2641/14, ZIP Code 158 02, Reg. No. 28198131, registered in the Commercial Register with the Municipal Court in Prague, File Number A 59288 (the “**Bank**”), and its clients (the “**Client**”), if, based on explicit agreement between the Bank and the Client, the Trading Conditions form part of a contract between the Bank and the Client (such contract hereinafter the „**Trading Agreement**“). To the extent the terms of the Trading Agreement between the Bank and the Client differ the provisions of Trading Conditions or conflict with the terms of the Trading Conditions, the terms of the Trading Agreement shall prevail. To the extent the terms of Trading Conditions differ or conflict with the terms of the General business conditions of the Bank, the terms of Trading Conditions shall prevail.

1.1.2 The Conditions are issued by the Bank in accordance with the provisions of Section 1751(1) of the Civil Code.

### 1.2 *Defintions of Selected Terms.*

“**Affected Party**“ has the meaning stipulated in clause 6 of the Trading Conditions.

“**Agreement**“ means single agreement between the Parties formed by the Trading Agreement and all Confirmations.

“**Authorized Person**“ means person authorised by the applicable Party to conclude Transactions whose identity was notified to the other Party in line with the Agreement.

“**Business Day**“ means a day on which commercial banks in the principal financial center of the currency in which payment is to be made or in the place or places specified in the relevant Confirmation are open for general business (including dealings in foreign exchange and foreign currency deposits) and in Prague.

“**Civil Code**“ means act No. 89/2012 Coll., the civil code, as amended.

— “**Close-out Netting Amount**“ means close-out netting amount under the Agreement that shall be paid as a result of Early Termination Date being determined, under clause 7.5 of the Trading Conditions, together with any payable interest (if any) under clause 3.6 of the Trading Conditions.

“**Confirmation**“ means confirmation of concluded Transaction, both in line with clause 3.8 of the Trading Conditions (so called written Confirmation) and in line with clause 3.9 of the Trading Conditions (business, financial and any other terms and conditions of the Transaction as agreed by the Parties (irrespective of how or if at all are such conditions evidenced or recorded)).

“**Confirming Person**“ means person authorised by the Client to confirm Confirmation whose identity was notified to the Bank in line with the Agreement.

“**Current Account**“ means current account of the Client kept by the Bank.

**"Data Delivery Date"** means each date agreed as such between Parties provided that, in the absence of such agreement, the Data Delivery Date will be the Business Day immediately prior to the PR Due Date.

**"Data Reconciliation"** means, in respect of a Party receiving Portfolio Data, a comparison of the Portfolio Data provided by the other Party against such Party's own books and records of all outstanding Relevant Transactions between the Parties in order to identify promptly any misunderstandings of Key Terms.

**"Defaulting Party"** means Party with respect to which (or with respect to its Specified Entity) an Event of Default has occurred and is continuing.

**"Determining Party"** means the Bank, unless stipulated otherwise in the applicable Agreement.

**"Dispute"** means any dispute between Parties

(a) which, in the sole opinion of the Party delivering the relevant Dispute Notice, is required to be subject to the Dispute resolution procedure under Clause 4.5 of the Trading Conditions (or other dispute resolution procedure between the Parties) pursuant to the Dispute Resolution Risk Mitigation Techniques; and

(b) in respect of which a Dispute Notice has been effectively delivered to the other Party.

**"Dispute Date"** means, with respect to a Dispute,

(i) the date on which a Dispute Notice is effectively delivered to the other Party or

(ii) with respect to a Dispute, where both Parties deliver a Dispute Notice, the date on which the first in time of such notices is effectively delivered.

Each Dispute Notice will be effectively delivered if delivered in the manner for the giving of notices in respect of the Agreement.

**"Dispute Notice"** means a notice in writing by one Party to the other Party which is a dispute notice for the purposes of clause 4.5 of Trading Conditions and which sets out in reasonable detail the issue in dispute (including, without limitation, the Relevant Transaction(s) to which the issue relates).

**"Dispute Resolution Risk Mitigation Techniques"** means the dispute resolution risk mitigation techniques for OTC derivative transactions set out in Article 11(1)(b) of EMIR as supplemented by Article 15 of Chapter VIII of the Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 and published on 23 February 2013 in the Official Journal of the European Union.

**"Early Termination Date"** has the meaning defined in clause 7.1 of the Trading Conditions.

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

**"Event of Default"** means any of events stipulated in clause 5 of the Trading Conditions or in the Agreement, which occurs in relation to the Party or Specified Entity of such Party, irrespective of whether or not such event actually constitutes a breach of any of such Party's duties.

**"FATCA"** means:

- (a) Section 1471 to 1474 of the 1986 US Internal Revenue Code or any other related regulation,
- (b) any agreement, act or regulation of other jurisdiction or concerning the inter-government treaty between United States of America and other jurisdiction allowing for implementation of any act or regulation stipulated in paragraph (a) above, or
- (c) any agreement based on implementation of any agreement, treaty, act or regulation stipulated in paragraphs (a) and (b) above with US Internal Revenue Service, US government or government or other authority in other jurisdiction.

**“Input Data”** means data in respect of the value of one or more underlying assets, or prices, including estimated prices, quotes, committed quotes or other values, used by a respective administrator to determine a rate or index.

**“Insolvency Act”** means act no. 182/2006 Coll., on insolvency and methods of its solving (insolvency act), as amended.

**“Key Terms”** means, with respect to a Relevant Transaction and a Party to that Relevant Transaction, the valuation of such Relevant Transaction and such other details the relevant Party deems relevant from time to time which may include the effective date, the scheduled maturity date, any payment or settlement dates, the notional value of the Relevant Transaction and currency of the Relevant Transaction, the underlying instrument, the position of the Parties, the business day convention and any relevant fixed or floating rates of the Relevant Transaction. For the avoidance of doubt, "Key Terms" does not include details of the calculations or methodologies underlying any term of Relevant Transaction.

**“Non-defaulting Party”** means in case of occurrence and continuation of any of Events of Default the Party which is not a Defaulting Party in respect of such Event of Default.

**“Party”** means party to the Trading Agreement.

**“Portfolio Data”** means, in respect of the Bank as a Party providing or required to provide such data, the Key Terms in relation to all outstanding Relevant Transactions between the Parties in a form and standard that is capable of being reconciled, with a scope and level of detail that would be reasonable to the Portfolio Data sending Party if it were the receiving party. Unless otherwise agreed between the Parties, the information comprising the Portfolio Data to be provided by a Party on a Data Delivery Date will be prepared as at the close of business on the immediately preceding Business Day of, and as specified in writing by, the party providing the Portfolio Data.

**“Portfolio Reconciliation Requirements”** means the requirements Parties are subject to in accordance with the Portfolio Reconciliation Risk Mitigation Techniques.

**“Portfolio Reconciliation Risk Mitigation Techniques”** means the portfolio reconciliation risk mitigation techniques for OTC derivative transactions set out in Article 11(1)(b) of EMIR as supplemented by Article 13 of Chapter VIII of the Commission Delegated Regulation (EU) No 149/2013 of 19 December 2012 and published on 23 February 2013 in the Official Journal of the European Union, as amended.

**“PR Due Date”** means each date agreed as such between Parties provided that the PR Due Date will be the PR Fallback Date where either no date is agreed or the agreed date occurs after the PR Fallback Date.

**"PR Fallback Date"** means

- (a) in respect of the PR Period starting on the PR Requirement Start Date, the last Business Day in such PR Period; and, otherwise,
- (b) the last Business Day in the PR Period starting on the calendar day immediately following the last calendar day of the immediately preceding PR Period. If there is no Business Day in a PR Period, the PR Due Date will be the first Business Day following the end of the PR Period.

**"PR Period"** means:

- (a) if the Portfolio Reconciliation Requirements require Data Reconciliation to occur each business day between Parties, one Business Day;
- (b) if the Portfolio Reconciliation Requirements require Data Reconciliation to occur once per week between Parties, one calendar week;
- (c) if the Portfolio Reconciliation Requirements require Data Reconciliation to occur once per quarter between Parties, three calendar months; or
- (d) if the Portfolio Reconciliation Requirements require Data Reconciliation to occur once per year between Parties, one calendar year.

**"PR Requirement Start Date"** means the first calendar day on which the Portfolio Reconciliation Requirements apply to Parties.

**"Relevant Transaction"** means any Transaction that is an OTC derivative (as defined in EMIR) which is subject to the Portfolio Reconciliation Risk Mitigation Techniques and/or the Dispute Resolution Risk Mitigation Techniques.

**"Specified Entity"** has the meaning specified in the Trading Agreement.

**"Specified Indebtedness"** means any debt (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money other than any debts in respect of deposits received at any time in the ordinary course of Party's banking business.

**"Specified Transaction"** means

- (a) any transaction now existing or hereafter entered into between one Party (or any Specified Entity of such Party) and the other Party (or any Specified Entity of such Party) which is not a Transaction but which is
  - (i) a rate swap transaction, swap option, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency swap transaction, currency option, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, weather index transaction or forward purchase or sale of a security,

commodity or other financial instrument or interest (including any option with respect to any of these transactions) or

- (ii) which is a type of transaction that is similar to any transaction referred to in the previous clause (i) of this definition that is currently, or in the future becomes, recurrently entered into in the financial markets and which is a forward, swap, future, option or other derivative on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, economic indices or measures of economic risk or value, or other benchmarks against which payments or deliveries under the Transactions are to be made,

(b) any combination of these transactions and

(c) any other transaction identified as Specified Transaction in the Trading Agreement or the relevant Confirmation.

**“Termination Amount”** means, with respect to each terminated Transaction and the Determining Party, the amount of losses or costs with respect to the Determining Party that are or would be incurred under then prevailing circumstances (expressed as a positive number) or gains of the Determining Party that are or would be realized under then prevailing circumstances (expressed as a negative number) in case that the Determining Party would be provided with the economic equivalent of,

(A) the material terms of terminated Transaction or group of terminated Transactions, including the payments and deliveries by the Parties under clause 3.1.1 of the Trading Conditions in respect of that terminated Transaction or group of terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required after that date (assuming satisfaction of the conditions precedent under clause 3.1.3 of the Trading Conditions), and

(B) the option rights of the Parties in respect of that terminated Transaction or group of terminated Transactions.

Any Termination Amount will be determined by the Determining Party, which will act in good faith and use commercially reasonable procedures in order to produce a commercially reasonable result. The Determining Party may determine a Termination Amount for any group of terminated Transactions or any individual terminated Transaction but, in the aggregate, for not less than all terminated Transactions. Each Termination Amount will be determined as of the Early Termination Date or, if that would not be commercially reasonable, as of the date or dates following the Early Termination Date as would be commercially reasonable.

Unpaid Amounts in respect of a terminated Transaction or group of terminated Transactions and legal fees and out-of-pocket expenses referred to in clause 9.5 of the Trading Conditions are to be excluded in all determinations of the Termination Amounts.

In determining the Termination Amount, the Determining Party will consider any relevant information, including, without limitation, one or more of the following types of information:

- (i) quotations (either firm or indicative) for replacement transactions supplied by one or more third parties that may take into account the creditworthiness of the Determining Party at the time the quotation is provided and the terms of any relevant documentation between the Determining Party and the third party providing the quotation;

- (ii) information consisting of relevant market data in the relevant market supplied by one or more third parties including, without limitation, relevant rates, prices, yields, yield curves, volatilities spreads, correlations or other relevant market data in the relevant market; or
- (iii) information of the types described in clause (i) or (ii) above from internal sources (including any of the Determining Party's affiliates) if that information is of the same type used by the Determining Party in the regular course of its business for the valuation of similar transactions.

The Determining Party will consider, taking into account the standards and procedures described in this definition, quotations pursuant to clause (i) above or relevant market data pursuant to clause (ii) above unless such quotations or relevant market data are not readily available, as determined by the Determining Party. When considering information described in clause (i), (ii) or (iii) above, the Determining Party may include costs of funding, to the extent costs of funding are not and would not be a component of the other information being utilized. Third parties supplying quotations pursuant to clause (i) above or market data pursuant to clause (ii) above may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors, brokers and other sources of market information.

Without duplication of amounts calculated based on information described in clause (i), (ii) or (iii) above, or other relevant information, and when it is commercially reasonable to do so, the Determining Party may in addition consider in calculating a Termination Amount any loss or cost incurred in connection with its terminating, liquidating or re-establishing any hedge related to a terminated Transaction or group of terminated Transactions (or any gain resulting from any of them).

Commercially reasonable procedures used in determining the Termination Amount may include the following:

- (1) application of valuation or other pricing models with respect to relevant market data from third parties pursuant to clause (i) above or information from internal sources pursuant to clause (iii) above that are, at the time of the determination of the Termination Amount, used by the Determining Party in the regular course of its business in pricing or valuing transactions between the Determining Party and unrelated third parties that are similar to the terminated Transaction or group of terminated Transactions; and
- (2) application of various valuation methods to terminated Transactions or group of terminated Transactions depending on the type, complexity, size or number of the terminated Transactions or group of terminated Transactions.

**“Termination Currency”** means CZK if it is freely available at the Early Termination Date or, otherwise, such currency selected by the Determining Party that is freely available and convertible and which is one of the currencies in which majority of payments under the terminated Transactions is required to be made. If an amount to be paid on the Early Termination Date is denominated in a currency other than the Termination Currency, such amount in the Termination Currency shall be paid as the Determining Party will reasonably determine as being required to purchase such amount denominated in such Termination Currency for the other currency at the relevant Early Termination Date or, if the relevant calculation is made after the relevant Early Termination Date, as of such later date.

**„Termination Event“** means any of the events stipulated in clause 6 of the Trading conditions or in the Agreement, which occurs with respect to a Party or Specified Entity of such Party.

**“Trade Repository”** means any trade repository registered in accordance with Article 55 of EMIR or recognised in accordance with Article 77 of EMIR or one or more systems or services operated by any such trade repository.

**“Trading Agreement”** has the meaning stipulated in clause 1.1.1 of the Trading Conditions.

**“Transaction”** means foreign exchange transaction (spot, forward, swap, deliverable or non-deliverable), swap transaction (interest rate or currency), option (interest rate or currency), commodities transaction, credit protection transactions (including but not limited to credit default swap, credit default option, total return swap), money market transaction and other types of derivatives transactions and other transaction agreed upon by the Parties to be transacted hereunder, including market linked and premium deposits.

**“Unpaid Amounts”** owing to any Party means, with respect to an Early Termination Date, the aggregate of

- (i) the amounts that became payable on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date,
- (ii) an amount equal to the fair market value of the debt which was required to be settled by delivery on or prior to Early Termination Date and which has not been so settled as at such Early Termination Date,

in each case together with any amount of interest accrued or other compensation in respect of that debt or deferred debt, as the case may be. The fair market value of any debt referred to in clause (ii) above will be determined as of the originally scheduled date for delivery, in good faith and using commercially reasonable procedures, by the Determining Party.

## **2. Transaction Conclusion**

### **2.1 *Single Agreement.***

All Transactions are entered into in reliance on the fact that the Trading Agreement and all Confirmations of Transactions concluded thereunder form the Agreement and the Parties would not otherwise enter into any Transaction.

### **2.2 *Inconsistency.***

In the event of any inconsistency between the provisions of any Confirmation and the Trading Agreement, the provisions of Confirmation shall prevail.

### **2.3 *Conclusion of Transactions.***

Transactions may be entered into (i) by telephone, (ii) via the electronic trading systems and platforms (including, but not limited to, Reuters, Bloomberg, Telerate), (iii) via the Bank’s internet based applications and/or systems for concluding Transactions on-line (e.g. FX Pulse application), (iv) in any other way in writing or (v) via e-mail. The Parties shall be bound by the terms and conditions of each Transaction as of the moment on which they agree on the same (whether orally or otherwise).

### **3. Obligations**

#### *3.1 General Obligations.*

- 3.1.1 Each Party will make each payment or delivery to be made by it as specified in each Confirmation, subject to the other provisions of the Agreement.
- 3.1.2 Payments will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to the Agreement, in freely transferable monetary funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant duty unless otherwise specified in the relevant Confirmation or elsewhere in the Agreement or Trading Conditions.
- 3.1.3 Each duty of each Party under Section 3.1.1 of the Trading Conditions is subject to (1) the conditions precedent that no Event of Default or Termination Event with respect to the other Party has occurred and is continuing, (2) the condition precedent that no Early Termination Date has occurred or been effectively designated and (3) each other condition specified in the Agreement to be condition precedent for the purpose of the Agreement or particular Transaction.
- 3.1.4 If the nature of the Transaction requires mutual monetary performance and, at the same time, if it is not possible for whatever reason to utilize the provisions of the Agreement (including these Trading Conditions) regarding set-off, the Bank can refuse to perform its monetary debt until it receives the payment from the Client or until such payment performance is further secured by the Client. The Bank shall be authorized to debit or credit the accounts agreed with the Client to settle the monetary debts. In case the financial means on the relevant accounts are not sufficient to extinguish the relevant monetary debt, the Bank can use any other credit balance on any account of the Client maintained by the Bank notwithstanding the currency in which such account is held to settle the monetary debt of the Client.

#### *3.2 Change of Account.*

Either Party may change its account for receiving a payment or delivery by giving notice to the other Party at least five (5) Business Days prior to the scheduled date for the settlement of the payment or delivery to which such change applies unless such other Party gives timely notice of a reasonable objection to such change.

#### *3.3 Single Transaction Set-off of Payments*

The Bank may decide by a written notice to the Client that if on any date amounts would otherwise be payable in the same currency and in respect of the same Transaction, by each Party to the other, then, on such date, each Party's debt to make payment of any such amount will be set-off against the other Party's debt (and to the extent of the set-off satisfied and discharged) and, if the aggregate amount that would otherwise have been payable by one Party exceeds the aggregate amount that would otherwise have been payable by the other Party, the debt upon the Party by which the larger aggregate amount would have been payable to pay to the other Party shall survive in an amount equal to the excess of the larger aggregate amount over the smaller aggregate amount.

### 3.4 *Multiple Transactions Set-off of Payments.*

The Bank may decide by a written notice to the Client or the Parties may elect in any Confirmation or otherwise in writing in respect of two or more Transactions that all amounts payable on the same date in the same currency in respect of those Transactions will be set-off (and to the extent of the set-off satisfied and discharged), and, if the aggregate amount that would otherwise have been payable by one Party exceeds the aggregate amount that would otherwise have been payable by the other Party, the debt upon the Party by which the larger aggregate amount would have been payable to pay to the other Party shall survive in an amount equal to the excess of the larger aggregate amount over the smaller aggregate amount. This election may be made separately for different groups of Transactions.

### 3.5 *Taxes and Charges; Client's Domicile.*

All payments under the Agreement will be made without deduction or withholding for or on the account of any present or future taxes or other charges of any kind imposed by the Czech Republic or any governmental authority authorized to impose taxes or charges, unless such withholding or deduction is required by law. In such event, the Party liable to withhold or otherwise deduct such amounts will deduct or withhold such amounts from the payment to be made by it under the Agreement as required by law and pay to the other Party such additional amounts as may be necessary in order that the net amounts received by such Party will be equal to the amounts which would have been received by such Party in the absence of the withholding or deduction. The obligation to pay to the other Party any additional amounts under this paragraph of the Trading Conditions shall not be applicable in case that the applicable deduction or withholding is made on the basis of or in connection with FATCA. The Client shall be obliged to provide to the Bank documentation pertaining to its tax status, including tax receipts, to indicate proper payment of taxes and its tax domicile.

### 3.6 *Interest on Default Payments.*

If a Party defaults in the performance of any monetary debt, it will pay interest on the overdue amount (overdue notional amount and overdue interest) to the other Party on demand at the Default Rate (as defined in the Trading Agreement). Such interest shall accrue (i) in case of default in payment other than when the Early Termination Date has occurred or been designated for the period from (and including) the original due date for the payment until (but excluding) the actual payment thereof or (ii) in case when the Early Termination Date has occurred or been designated for the period from (and including) the Early Termination Date until (but excluding) the date the amount is paid.

### 3.7 *Authorized Persons.*

Only Authorized Persons shall be authorized to enter into Transactions on behalf of the Parties. The list of the Bank's Authorized Persons including the contact details is accessible on the Bank's internet web pages [www.citibank.cz](http://www.citibank.cz). Unless provided otherwise in the Agreement, the Authorized Person of the Client shall be any person designated in the signature specimen to any Current Account as person authorized to "Concluding Treasury and Derivatives Transactions". In case of change of the Authorized Persons of the Client, the Client shall be obliged to implement the corresponding change into the respective signature specimen of the relevant Current Accounts and if the Client fails to do so, the Bank shall be entitled to rely on the list of persons including the scope of their authorization stipulated in the valid signature specimen. The Transaction is concluded by the Client and the Client shall be bound by any Transaction, which the Bank reasonably believes in good faith to be concluded with the Client, if such Transaction is

negotiated or concluded by the Client's Authorized Persons or a person authorized to act for the Client. The Bank shall be entitled to also rely in good faith on person acting towards the Bank even if such person is not specifically named in the signature specimen, but has proved to the Bank in a sufficient manner that she/he is authorized to act on behalf of the Client. With respect to each Authorized Person, until the Bank receives written notice in physical form to the contrary, the Bank is entitled to assume that such person has and continues to have full and unrestricted power to enter into any Transaction with the Bank on the Client's behalf. Notwithstanding the foregoing, the Client shall provide any evidence that the Bank may require of the authority of any person to act on the Client's behalf. Further, the Bank may require certain information from the Authorized Persons so that it can verify their authority in case of doubts (mainly any information from the Current Account documentation, including any identification details).

### 3.8 *Confirmations.*

Each concluded Transaction shall be subsequently confirmed by a written Confirmation delivered usually via fax, e-mail or using operator of postal services. The Parties can agree on possibility to confirm Transaction by other form of Confirmation, especially confirmation over internet, through transaction confirmation module of Bank's internet application CitiFX Pulse or other electronic communication system. In case the Confirmation is prepared by an automated computer system, it does not need to contain the Bank's signature. The Bank shall deliver the Confirmation to the Client without undue delay after Transaction conclusion. The Confirmation will be setting forth, *inter alia*, the business and financial terms and conditions of the Transaction, on which the Parties have agreed. The Client shall, without undue delay, but no later than within the deadline stipulated by applicable law (e.g. EMIR and any applicable supporting law, rule or regulation), and, if no law stipulates such deadline, within five (5) Business Days of the receipt of the Confirmation confirm the same and return it to the Bank, or advise the Bank of its objections to the content of the Confirmation within the same term. The Confirmation confirmed by the Client shall be deemed to be correct and accurate (unless proven otherwise), save for manifest error. Neither Confirmation nor whether or not the Confirmation has been signed and returned to the Bank shall affect the Transaction, its content or validity or enforceability of any agreement to which the Confirmation pertains.

### 3.9 *Unconfirmed Transactions.*

In the event that the Client fails to confirm the Confirmation within the period stipulated in clause 3.8 of the Trading Conditions or fails to advise the Bank of its objections to the content of the Confirmation within the same term, the Confirmation shall be deemed confirmed, correct and accurate (unless proven otherwise), save for manifest errors. In the absence of a confirmed Confirmation with respect to any particular Transaction, or in the event that any Confirmation proves to be incorrect or incomplete, then

3.9.1 the business, financial and any other terms and conditions of the Transaction as agreed by the Parties shall apply (regardless of the fact whether and how such terms and conditions are evidenced or recorded), and

3.9.2 references to "Confirmation" in the Agreement (including these Trading Conditions) with respect to the particular Transaction shall be deemed to mean references to the business, financial and any other terms and conditions of the relevant Transaction as agreed by the Parties (regardless of the fact whether and how such terms and conditions are evidenced or recorded).

### 3.10 *Confirming Persons.*

Only Confirming Persons shall be authorized to confirm Confirmations on behalf of the Client. Unless provided otherwise in the Agreement, the Confirming Person of the Client shall be any person designated in the signature specimen to any Current Account as person authorized to "Confirming Treasury and Derivatives Transactions". In case of change of the Confirming Person, the Client shall be obliged to implement the corresponding change into the respective signature specimen of the relevant Current Accounts and if the Client fails to do so, the Bank shall be entitled to rely on the list of persons including the scope of their authorization stipulated in the valid signature specimen. With respect to each Confirming Person, until the Bank receives written notice in physical form to the contrary, the Bank is entitled to assume that such person has and continues to have full and unrestricted power to confirm Confirmations on the Client's behalf. Notwithstanding the foregoing, the Client shall provide any evidence that the Bank may require of the authority of any person to act on the Client's behalf. The Bank may deliver the Confirmation to any Confirming Person; upon delivery of the Confirmation to a Confirming Person the Confirmation is deemed delivered to the Client.

### 3.11 *Non-stipulation of Authorized Persons or Confirming Persons.*

Unless otherwise agreed between the Parties in writing and if they do not stipulate the Authorized Persons and/or the Confirming Persons, the Bank shall be entitled to assume that all persons designated by the Client in valid signature specimen to the Current Accounts of the respective settlement currency of the Transaction as persons that can dispose with the financial means on such accounts are authorized to conclude and to confirm the Transactions under the Agreement, each of them acting individually, although their authorization may be joint or in any other manner for any other purpose.

### 3.12 *Signature Specimen as Part of the Agreement.*

Current Account signature specimen shall form part of the Agreement to the extent relevant for Authorized Persons and Confirming Persons.

### 3.13 *Obligation to Enter into Transaction.*

No Party shall be obliged to enter into any Transaction.

## **4. Further Obligations**

### 4.1 *General Duties.*

For so long as either Party has or may have any debts under the Agreement:

- 4.1.1 The Client shall be obliged to deliver to the Bank any forms, documents or certificates which may be requested by the Bank by the date specified by the Bank, if none is specified, as soon as reasonably practicable;
- 4.1.2 Each Party shall use all reasonable efforts to maintain in full force and effect all permissions and consents of any governmental or other authority that are required to be obtained by it with respect to the Agreement and will use all reasonable efforts to obtain any other permissions and consents that may become necessary in the future;

4.1.3 Each Party shall comply in all material respects with all applicable laws to which it may be subject and where failure so to comply would materially impair its ability to perform its duties under the Agreement.

4.2 *Obligation to Notify and to Conclude an Agreement on Provision of Collateral or Affirmation.*

In case the Client concludes an agreement with any third party on provision of collateral to secure or to affirm its debts under an agreement concerning investment instruments, commodities or foreign exchange transactions (including, without limitation, spot/prompt foreign exchange transactions) or provides collateral with respect to or affirms such debts to any third party, the Client shall be obliged to inform the Bank thereof promptly and, on request of the Bank, to conclude an agreement with the Bank on provision of collateral or affirmation acceptable to the Bank (e.g. agreement on financial collateral) under which the Client shall provide to the Bank collateral to secure or to affirm its obligation under the Agreement, which is, unless agreed otherwise, *pari passu* (at least concerning the amount, quality and duration) with the with affirmation or collateral that the Client is obliged to provide under the applicable agreement with the third party or that the Client provided to the third party.

4.3 *Portfolio Data Reconciliation.*

If the Parties are so obliged based on applicable legal regulation (including but not limited to EMIR), The Parties shall reconcile portfolios as required by the Portfolio Reconciliation Risk Mitigation Techniques. In particular:

4.3.1 On each Data Delivery Date, the Bank will provide Portfolio Data to the Client;

4.3.2 on each PR Due Date, the Client will perform a Data Reconciliation;

4.3.3 if the Client acting reasonably and in good faith identifies one or more discrepancies which have material effect to the rights and obligations of Parties in respect of one or more Relevant Transaction(s), the Client shall be obliged notify the Bank thereof in writing as soon as reasonably practicable and the Parties 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; and

4.3.4 if the Client does not notify the Bank by 4p.m. Prague time on the fifth Business Day following the later of:

(i) the PR Due Date and

(ii) the date on which the Bank provided such Portfolio Data to the Client,

that the Portfolio Data provided to the Client by the Bank contains discrepancies, the Client will be deemed to have affirmed such Portfolio Data

Unless separately agreed by the Parties otherwise, the Bank shall send the Portfolio Data under paragraph 4.3.1 of this Trading Conditions Clause to Client's last email address known to the Bank.

4.4 *Reconciliation Frequency.*

If a Party believes, acting reasonably and in good faith, that it is required to perform Data Reconciliation at a greater or lesser frequency than that being used by Parties at such time, it will request the other Party in writing of change in Data Reconciliation frequency, providing reasons for request. From the date such notice is effectively delivered, such greater or lesser frequency

will apply and the first following PR Due Date will be the earlier of:

- (i) the date agreed between Parties and
- (ii) the last Business Day in the PR Period starting on the date on which the immediately preceding Data Reconciliation occurred (or, if no Business Day occurs which is within such PR Period and is on or following the date such notice is effective, the first Business Day following the later of the end of such PR Period and the date such notice is effective).

#### 4.5 *Dispute Identification and Resolution Procedure.*

The Parties shall adhere to the following procedures to identify and resolve Disputes:

- 4.5.1 Either Party may identify a Dispute by sending a Dispute Notice to the other Party.
- 4.5.2 From the Dispute Date, Parties will consult in good faith in an attempt to resolve the Dispute in a timely manner, including, without limitation, by exchanging any relevant information and by identifying and using any appropriate resolution method for the Dispute. The previous sentence shall be without prejudice to application of any dispute resolution methods (if any) previously agreed by the Parties.
- 4.5.3 with respect to a Dispute that is not resolved within 5 (five) Business Days of the Dispute Date, notify issues internally to appropriately senior members of staff of such Party (e.g. members of the board of directors) or of its affiliate, advisor or agent to the extent such notification has not occurred before. This shall be without prejudice to the duty of the Parties to proceed under clause 4.5.2 of the Trading Conditions (and to usage of any dispute resolution procedures agreed by the Parties in the past, if any).
- 4.5.4 Each Party shall have internal procedures and processes in place to record and monitor any Dispute.

#### 4.6 *Relationship to Other Portfolio Reconciliation and Dispute Resolution Processes.*

In case the Parties agreed separately, in an agreement different from the Trading Agreement, on different process for portfolio reconciliation or dispute resolution (if any) or such different processes are binding onto Parties by operation of law or otherwise, the processes under the Agreement and these Trading Conditions shall be without prejudice to such agreements. In particular, but without limitation,

- 4.6.1 any valuation in respect of one or more Relevant Transactions for the purposes mentioned in the Agreement or these Trading Conditions will be without prejudice to any other valuation with respect to such Relevant Transaction(s) made for collateral or affirmation, close out netting, Early Termination Amount calculation, dispute or other purpose;
- 4.6.2 Parties may seek to identify and resolve issues and discrepancies between themselves before delivering a Dispute Notice; and
- 4.6.3 No Party shall be obliged to deliver a Dispute Notice following the identification of any such issue or discrepancy (notwithstanding that such issue or discrepancy may remain unresolved), however, may do so and may further commence or continue any agreed dispute resolution process previously agreed (if any) or contemplated in applicable law or otherwise.

## 5. Events of Default

The occurrence at any time of any of the following Events of Default shall have, *inter alia*, the consequences set out in clause 7 of the Trading Conditions:

### 5.1 *Failure to Pay or Deliver.*

Failure by the Party to perform, when due, any monetary debt under the Agreement or delivery required to be made by it if such failure is not remedied on or before the first Business Day after notice of such failure is given to this Party.

### 5.2 *Misrepresentation.*

A representation made or repeated or deemed to have been made or repeated by the Party in the Agreement proves to have been incorrect, incomplete or misleading in any respect when made or repeated or deemed to have been made or repeated.

### 5.3 *Breach of Agreement; Repudiation of Agreement.*

Failure by the Party to comply with or perform any agreement or duty (other than an duty to make any payment or delivery under the Agreement) to be complied with or performed by the Party in accordance with the Agreement if such failure is not remedied within thirty (30) days after notice of such failure is given to the Party; or the Party disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of the Agreement or any Confirmation, be it a Confirmation under Clause 3.8 of the Trading Conditions (the so called written Confirmation) or Confirmation under Clause 3.9.2 of the Trading Conditions (business, financial and any other terms and conditions of the relevant Transaction as agreed by the Parties (regardless of the fact whether and how such terms and conditions are evidenced or recorded)) (or such action is taken by any person or entity appointed or empowered to manage the Party or act on its behalf).

### 5.4 *Default under Specified Transaction.*

The Party or any Specified Entity of such Party defaults under a Specified Transaction in making any payment due on the last payment or exchange date of, or any payment on early termination of, or delivery under, a Specified Transaction and, after giving effect to any applicable notice requirement or grace period (or, if there is no applicable notice requirement or grace period, such default continues for at least one (1) Business Day), such default results in a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction.

### 5.5 *Cross-Default.*

The occurrence or existence of:

- 5.5.1 Default, event of default or other similar condition or event (however described) in respect of given Party or Specified Entity of such Party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) where the aggregate principal amount of such agreements or instruments, either alone or together with the amount, if any, referred to in clause 5.5.2 of the Trading Conditions, is not less than the applicable Threshold Amount (as defined in the Trading Agreement), which has resulted in such Specified Indebtedness becoming, or becoming

capable at such time of being declared, due and payable under such agreements or instruments before it would otherwise have been due and payable; or

- 5.5.2 default by given Party or Specified Entity of such Party (individually or collectively) in making one or more payments under such agreement or instruments on the due payment date (after giving effect to any applicable notice requirement or grace period) in an aggregate amount, either alone or together with the amount, if any, referred to in clause 5.5.1 of the Trading Conditions, of not less than the applicable Threshold Amount (as defined in the Trading Agreement).

## 5.6 *Insolvency and Merger Without Assumption.*

- 5.6.1 A resolution of the general meeting is passed or a final court decision is adopted about the dissolution of a Party or Specified Entity with liquidation (in case of legal entities), or, it ceases to maintain full and unrestricted legal capacity or dies (in case of natural entities)
- 5.6.2 A resolution of the general meeting is passed or a final court decision is adopted about the dissolution of a Party or Specified Entity with a legal successor or successors pursuant to a Party transformation by means of a merger (merger by acquisition or merger by the formation of a new company), by transfer of business assets to a shareholder or partner, by division or by change in the legal form or by other means in compliance with valid laws and regulations and the legal successor or successors fail to assume all the obligations of the dissolved Party under the Agreement.
- 5.6.3 A Party or Specified Entity becomes insolvent or there are conditions satisfied for ascertainment of insolvency or a threatening insolvency in respect of a Party or Specified Entity, or becomes unable to generally pay its debts as they become due or generally admits its inability to pay debts as they become due or becomes obligated to file for insolvency under the Insolvency Act, or under any other relevant insolvency legislation.
- 5.6.4 A Party, or Specified Entity or any third person institutes or has instituted against it a proceeding seeking a judgment of insolvency against a Party's assets, moratorium or any other similar relief under the Insolvency Act or under any other relevant insolvency legislation.
- 5.6.5 A decision has been delivered about the institution of forced administration regarding a Party or Specified Entity, which is a bank or any other regulated entity, or such Party's banking or other relevant license or permission has been withdrawn.
- 5.6.6 A liquidator or a similar officer has been appointed with authority to enforce judicial security over all or substantially all assets of a Party or Specified Entity.
- 5.6.7 A Party or Specified Entity transfers all or substantially all its assets (including, but not limited to, the commercial establishment – in Czech *obchodní závod* - or any part thereof) to a third party, or performs other reorganization or transformation and the ~~the~~ resulting or surviving or transferee entity fails to assume all the obligations of such Party under the Agreement.

## 5.7 *Security Related Defaults.*

- 5.7.1 A secured creditor of a Party or Specified Entity becomes entitled to take possession, foreclose or otherwise realize security of a debt, affecting all or substantially all assets of the Party or Specified Entity.
- 5.7.2 A lien is established to material portion of assets of a Party or Specified Entity through a decision rendered by a court or public authority.
- 5.7.3 A default, event of default or other similar condition or event (however described) occurs under a guarantee, security or other agreement providing debt security or affirmation under the Agreement.
- 5.7.4 Any collateral provided for securing debts under the Agreement by Party or a Specified Entity of such Party
- (i) has materially diminished in value,
  - (ii) becomes invalid or ineffective,
  - (iii) lost its order,
  - (iv) an arrangement prohibiting establishment of additional pledge with effect to third party under Clause 1309 par. 2 of the Civil Code has not been registered with the applicable public list or register, where it should have been,
  - (v) asset used as collateral has been transferred or another security right has been established with respect to it, or
  - (vi) no longer gives the Party that is collateral taker the rights connected with the status of a secured creditor, and the Party or Specified Entity that is collateral provider fails to provide the other Party with new or additional collateral within a reasonable period of time stipulated by the collateral taker.

## 5.8 *Events of Default Associated with Security.*

In case an agreement on securing receivables under the Transactions has been concluded between the Parties (for example a pledge agreement) and any Event of Default with respect to such agreement has occurred (to the extent possible), such occurrence shall be considered Event of Default.

## 6. **Termination Events**

The occurrence at any time with respect to a specified Party or Specified Entity of any event specified below constitutes a Termination Event:

### 6.1 *Material Adverse Change.*

Any change occurs in the economic, financial or other situation of the Client, in the Client's prospects or a change in economic or political conditions in the Czech Republic that, in the reasonable judgment of the Bank, may materially and adversely affect the Client's ability to perform its duties under the Agreement (the Client shall be the ~~the~~ Affected Party).

6.2 *Illegality.*

Any effective provision specified in, or pursuant to, the relevant Confirmation or elsewhere in the Agreement becomes unlawful under any applicable law (including without limitation the laws of any country in which payment, delivery or compliance is required by either Party) on any day due to an event or circumstance occurring after a Transaction is entered into, or it would be unlawful if the relevant payment, delivery or compliance were required on that day for the Party which makes and receives payments or deliveries with respect to such Transaction (such Party shall be the Affected Party) to perform any monetary debt or delivery in respect of such Transaction, to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of the Agreement relating to such Transaction.

6.3 *Force Majeure Event.*

By reason of force majeure or act of state occurring after a Transaction is entered into, on any day the Party is prevented from performing any monetary debt or delivery in respect to a Transaction, from receiving a payment or delivery in respect of such Transaction or from complying with any other material provision of the Agreement relating to such Transaction (or would be so prevented if such payment, delivery or compliance were required on that day), or it becomes impossible or impracticable so to perform, receive or comply (or it would be impossible or impracticable for such Party so to perform, receive or comply if such payment, delivery or compliance were required on that day), so long as the force majeure or act of state is beyond the control of such Party, and such Party could not, after using all reasonable efforts (which will not require such Party to incur a loss, other than immaterial, incidental expenses), overcome such prevention, impossibility or impracticability.

6.4 *Credit Event Upon Merger.*

If:

6.4.1 Party or Specified Entity (in each case “X”) transforms (consolidates or amalgamates with, or merges with or into, or changes its legal form, or transfers its assets to a shareholder or partner, or a division occurs) or transfers all or substantially all its assets (or any substantial part of the assets comprising the commercial establishment – in Czech *obchodní závod* - managed by such Party or Specified Entity as of the date of Trading Agreement conclusion) to, or reorganizes, reincorporates or reconstitutes into or as, another entity; or

6.4.2 any person, related group of persons or entity acquires directly or indirectly the beneficial ownership of

(A) equities or other securities having the power to elect a majority of the board of directors (or other statutory body) of X, or

(B) any other ownership interest enabling it to exercise control of X;

or

6.4.3 X effects any substantial change in its capital structure by means of the issuance, incurrence or guarantee of debt securities or the issuance of

(A) preferred or convertible bonds or other securities convertible into or exchangeable for debt or preferred stock equities, or

- (B) in the case of entities other than business corporations, any other form of ownership interest;

and such event does not constitute Event of Default and the creditworthiness of X, or if applicable, the successor, surviving or transferee entity of X (such Party shall be the Affected Party) is materially weaker immediately after the occurrence of such event than that of X immediately prior to the occurrence of such event.

6.5 *Events of Default Associated with Security.*

In case an agreement on securing receivables under the Transactions has been concluded between the Parties (for example a pledge agreement) and any Termination Event with respect to such agreement has occurred (to the extent possible), such occurrence shall be considered Termination Event hereunder.

6.6 *Additional Termination Events.*

If any additional Termination Event is specified in any Confirmation or otherwise agreed in writing between the Parties as applying, the occurrence of such event (the Parties shall always also specify the Affected Party or Affected Parties in such Confirmation or other written agreement).

**7. Early Termination; Close-Out Netting**

7.1 *Right to Terminate Following Event of Default.*

If at any time an Event of Default with respect to a Defaulting Party or Specified Entity of such Defaulting Party has occurred and is continuing, the Non-Defaulting Party may, in case it does not violate Clause 8 of the Trading Conditions, by not more than twenty (20) days written notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an early termination date (the ~~“~~“**Early Termination Date**“~~”~~) in respect of all outstanding Transactions. If at any time an Event of Default under clause 5.6.3 or 5.6.4 of the Trading Conditions with respect to the Client has occurred and the insolvency receiver terminates the outstanding Transactions in accordance with the Insolvency Act (or a legal fiction of withdrawal is applied), then the day of termination of such Transactions shall be deemed Early Termination Date in respect of all outstanding Transactions for the purposes of the Agreement.

7.2 *Right to Terminate Following Termination Event.*

If a Termination Event occurs, the Affected Party (in case of Termination Events under clause 6.1, 6.2, 6.4., 6.5 or 6.6 of Trading Conditions) or either Party (in case of Termination Event under clause 6.3 of Trading Conditions) shall, promptly upon becoming aware of it, notify the other Party, specifying the nature of that Termination Event and each Transaction affected by the occurrence of such Termination Event and will also give the other Party such other information about that Termination Event as the other Party may reasonably require. If at any time a Termination Event has occurred and is then continuing and applicable waiting period has expired (the waiting period being fourteen (14) Business Days in case of clause 6.3 of Trading Conditions), either Party may, in case it does not violate Clause 8 of the Trading Conditions, by no more than twenty (20) days notice to the other Party, designate a day on which such notice becomes effective as an Early Termination Date in respect of all affected Transactions.

### 7.3 *Effect of Designation.*

If notice designating an Early Termination Date is given, the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing. Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under the Agreement will be required to be made with respect to all Transactions in case of the occurrence of the Event of Default, or with respect to all Transactions affected by the occurrence of the Termination Event, as the case may be, but without prejudice to the other provisions of the Agreement. The amount, if any, payable in respect of an Early Termination Date will be determined pursuant to clause 7.5 of the Trading Conditions.

### 7.4 *Calculations; Payment Date.*

On or as soon as reasonably practicable following the occurrence of an Early Termination Date, the Determining Party will make all necessary calculations to specify the Close-Out Netting Amount. The Close-Out Netting Amount shall be payable:

7.4.1 In respect of Early Termination Date which is designated or occurs as a result of an Event of Default, on the day on which notice of Close-Out Netting Amount becomes effective; or

7.4.2 In respect of Early Termination Date which is designated or occurs as a result of an Termination Event on the day which is two (2) Business Days after the day on which notice of Close-Out Netting Amount becomes effective.

### 7.5 *Payments on Early Termination.*

If an Early Termination Date occurs, the Close-Out Netting Amount will be determined pursuant to this clause 7.5 of the Trading Conditions:

7.5.1 Events of Default. If an Early Termination Date occurs as a result of an Event of Default, the Close-Out Netting Amount shall be an amount equal to

(1) the sum of

(A) the Termination Amount or Termination Currency equivalent of the Termination Amount(s) (whether positive or negative) determined by the Determining Party for each terminated Transaction or group of terminated Transactions, as the case may be, and

(B) the Termination Currency equivalent of the Unpaid Amounts owing to the Determining Party,

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(2) the Termination Currency equivalent of the Unpaid Amounts owing to the Party which is not the Determining Party.

If the Close-Out Netting Amount is a positive number, the Party that is not the Determining Party will pay it to the Determining Party; if it is a negative number, the Determining Party will pay the absolute value of the Close-Out Netting Amount to the other Party.

7.5.2 Termination Events. If the Early Termination Date occurs as a result of a Termination Event the Close-Out Netting Amount will be determined in accordance with provisions of clause 7.5.1 of the Trading Conditions, with the exception when the Termination Event is an event under clause 6.2 or 6.3 of the Trading Conditions, in which case the Determining Party will:

- (A) if obtaining quotations from one or more third parties, ask each such third party not to take account of the current creditworthiness of the Determining Party and to provide mid-market quotations; and
- (B) in any other case, use mid-market values without regard to the creditworthiness of the Determining Party.

7.5.3 Limitation of the Compensation of Damages. Neither Party shall be entitled to recover any additional damages as a consequence of the termination of the terminated Transactions, unless otherwise agreed in the Agreement.

#### 7.6 *Set-Off.*

For the purpose of cross-currency set-off, the Bank may convert any obligation to another currency at a market rate determined by the Bank. This provision shall be without prejudice to Clause 9.1 of the General Business Conditions.

### 8. **Special Provisions for U.S. Special Resolution Regime**

8.1 For the purposes of this clause 8 of the Trading Conditions:

- “**Bank Affiliate**” means an “affiliate” of the Bank, as such term is defined under, and interpreted in accordance with, 12 U.S.C. (United States Code) 1841(k).
- “**Credit Enhancement**” means, with respect to any Relevant Agreement (as defined below), any credit enhancement or other credit support arrangement in support of the obligations of the Bank or the Client thereunder or with respect thereto, including any guarantee, pledge, charge, mortgage or other security interest in collateral or title transfer collateral arrangement, trust or similar arrangement, letter of credit, transfer of margin, reimbursement obligation or any similar arrangement.
- “**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, the QFC Stay Rules, including without limitation any right of a party to liquidate, terminate, cancel, rescind, or accelerate an agreement or transactions thereunder; set off or net amounts owed; exercise remedies in respect of collateral or other credit support or related property; demand payment or delivery; suspend, delay, or defer payment or performance; alter the amount of, demand the return of or modify any right to reuse collateral or margin provided; otherwise modify the obligations of a party; or any similar rights.
- “**Insolvency Proceeding**” means a receivership, insolvency, liquidation, resolution, or similar proceeding.

- “**QFC Stay Rules**” means the regulations codified at 12 C.F.R. (Code of Federal Regulations) 252.2, 252.81–8; 12 C.F.R. (Code of Federal Regulations) 382.1-7; and 12 C.F.R. (Code of Federal Regulations) 47.1-8. All references herein to the QFC Stay Rules shall be construed, with respect to the Bank, to the particular QFC Stay Rule(s) applicable to it.
- “**U.S. Special Resolution Regime**” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder

8.2 In the event the Bank becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of the Trading Agreement, any Transaction or any related Credit Enhancement between the parties (each, a “**Relevant Agreement**”) and any interest and obligation in or under, and any property securing, such Relevant Agreement (“**Relevant Interests**”) from the Bank will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Relevant Agreement and Relevant Interests were governed by the laws of the United States or a state of the United States. In the event the Bank or any Bank Affiliate becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights with respect to any Relevant Agreement against the Bank are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Relevant Agreement were governed by the laws of the United States or a state of the United States. The requirements of this Paragraph 8.2 of the Trading Conditions apply notwithstanding Paragraph 8.3 of the Trading Conditions below.

8.3 Notwithstanding anything to the contrary in any Relevant Agreement or these Trading Conditions, the Client shall not be permitted to exercise any Default Right with respect to any Relevant Agreement that is related, directly or indirectly, to a Bank Affiliate becoming subject to an Insolvency Proceeding, other than a Default Right that arises as a result of the Bank becoming subject to an Insolvency Proceeding or the Bank not satisfying a payment or delivery obligation pursuant to such Relevant Agreement or another contract between the Bank and the Client that gives rise to a Default Right under such Relevant Agreement. After a Bank Affiliate has become subject to an Insolvency Proceeding, if the Bank seeks to exercise any Default Right with respect to any Relevant Agreement, the Client shall have the burden of proof, by clear and convincing evidence, that the exercise of such Default Right is permitted thereunder (including, without limitation, this paragraph of the Trading Conditions).

## 9. Miscellaneous

9.1 ~~Changes to or Cessation of Provision of Fallbacks Following a Relevant Benchmark– Trigger Event.~~

### 9.1.1 –If the Relevant Benchmark Trigger Event.

~~This Paragraph 9.1 shall apply if the terms of a Transaction reference a rate or, an index, a price source or a commodity reference price (the “Relevant Benchmark”) and such reference rate or index–Relevant Benchmark materially changes or ceases to be provided, the Determining Party acting in good faith and in a commercially reasonable manner may:~~

~~calculate or replace (such reference rate or index in accordance with any fallback procedure produced by an event a “Benchmark Trigger Event”). Without prejudice to the administrator of that reference rate or index with any modifications the Determining~~

~~Party considers appropriate in the context of the Transaction; or preceding sentence, a Benchmark Trigger Event shall be constituted by, among others:~~

- ~~(i) calculate or replace such reference rate or index in accordance with any fallback procedure available in relevant standard market documentation (for example documentation published by the Czech Banking Association or International Swaps and Derivatives Association, Inc.) with any modifications the Determining Party considers appropriate in the context of the Transaction; or~~
- ~~(ii) calculate such reference rate or index using commercially reasonable alternative input data which may include historic Input Data; or~~
- ~~(iii) appoint a third party to provide relevant Input Data or to calculate an alternative benchmark on the basis of commercially reasonable alternative Input Data:~~
  - ~~(i) Upon decision of Determining Party under this clause of the Relevant Benchmark changing to such an extent that, in the reasonable consideration of the Bank, the conditions of the relevant Transaction have to be adjusted;~~
  - ~~(ii) a public statement being made by or on behalf of an administrator of the Relevant Benchmark announcing that it has ceased or will cease to provide the Relevant Benchmark, provided that, at the time of the statement, there is no successor administrator that will continue to provide the Relevant Benchmark;~~
  - ~~(iii) a public statement being made by a public authority having power or jurisdiction over the administrator of the Relevant Benchmark or by a central bank for the currency of the Relevant Benchmark that the administrator of the Relevant Benchmark has ceased or will cease to provide the Relevant Benchmark permanently or indefinitely, provided that, at the time of the statement, there is no successor administrator that will continue to provide the Relevant Benchmark; or~~
  - ~~(iv) the Bank delivering notice to the Client that reasonably confirms that any authorisation, registration, equivalence decision, approval or inclusion in any official register in respect of the Relevant Benchmark or its administrator or sponsor has not been, or will not be, obtained or has been, or will be, rejected, refused, suspended or withdrawn by the relevant competent authority as a result of which the Parties are under any applicable law or regulation prevented from using such a reference rate, index price source or commodity reference price to perform their respective obligations under the relevant Transaction.~~

### **9.1.2 Applicability of Priority Fallbacks.**

~~If the Parties have agreed with respect to a Relevant Benchmark that specific priority or disruption fallbacks (“**Priority Fallbacks**”) shall apply in case of a Benchmark Trigger Event then, upon its occurrence, such Priority Fallback shall apply notwithstanding anything to the contrary in these Trading Conditions, the terms of the~~

~~The Parties may agree such Priority Fallbacks by reference to fallbacks for Relevant Benchmarks issued and specified, including in the future, by the International Swaps and Derivatives Association, Inc. (the “**ISDA**”) or its successor or another internationally or locally recognised financial association.~~

### 9.1.3 Transactions Referencing or Incorporating Standard Market Documentation.

If the conditions of a Transaction shall be reference or incorporate standard market documentation published by the ISDA or the Czech Banking Association (the “CBA”) such as

- (i) the 2006 ISDA Definitions, the 2002 ISDA Equity Derivatives Definitions, the 1998 FX and Currency Option Definitions, the 2005 ISDA Commodity Definitions or other relevant definitions published or to be published by ISDA (together, as amended ~~to~~ from time to time, the “ISDA Definitions”); or
- (ii) the Benchmarks Replacement Annex(es) published by the CBA,

then the procedures set out in the ISDA Definitions or Benchmarks Replacement Annex(es), as applicable, shall govern the replacement of the Relevant Benchmark following the occurrence of a Benchmark Trigger Event.

### 9.1.4 Trading Conditions Fallback Provisions.

This Paragraph 9.1.4 only applies to the extent that (i) the Parties have not agreed any Priority Fallbacks with respect to a Relevant Benchmark; and (ii) a Transaction does not reference or incorporate standard market documentation as envisaged in paragraph 9.1.3 of these Trading Conditions.

- (a) Fallback Benchmark Nominated by the Parties. The Parties may, whether in a Confirmation or elsewhere, agree that a Relevant Benchmark will, following the occurrence of a Benchmark Trigger Event, be replaced by an alternative index, price source or commodity reference price, as applicable (the “Agreed Fallback Benchmark”).
- (b) Third Party-Nominated Fallback Benchmark. If the Parties do not specify an Agreed Fallback Benchmark or if the Agreed Fallback Benchmark is itself subject to a Benchmark Trigger Event, then the Relevant Benchmark shall be replaced by an alternative index, price source or commodity reference price (the “Third Party-Nominated Fallback Benchmark”) which is formally designated, nominated or recommended by:
  - (i) a public authority having power or jurisdiction over the administrator of the Relevant Benchmark, a supervisor responsible for the supervision of the Relevant Benchmark, or a central bank for the currency in which the Relevant Benchmark is denominated;
  - (ii) a working group or committee officially endorsed or convened by the entities referred to in (i) immediately above or by any such other entity reasonably chosen by the Bank; or
  - (iii) an administrator or sponsor of a Relevant Benchmark, provided that such index, price source or commodity reference price is substantially the same as the Relevant Benchmark.

If two or more Third Party-Nominated Fallback Benchmarks are available to replace a Relevant Benchmark, the Bank will, having regard to relevant market data, choose which one will replace the Relevant Benchmark following a Benchmark Trigger Event.

- (c) Self-Nominated Fallback Benchmark. If the Parties or a third party do not specify or nominate an Agreed Fallback Benchmark or a Third Party-Nominated Fallback Benchmark, respectively, or if such a fallback benchmark is itself subject to a Benchmark Trigger Event, then the Relevant Benchmark shall be replaced by an alternative index, price source or commodity reference price, as applicable, which is nominated by the Bank acting reasonably and having regard to relevant market data (the “**Self-Nominated Fallback Benchmark**” and, together with the Agreed Fallback Benchmark and the Third Party-Nominated Fallback Benchmark, the “**Fallback Benchmark**”).
- (d) Fallback Adjustment. If the application of the fallbacks specified in paragraphs 9.1.4(a) to 9.1.4(c) above (each a “**Fallback**”) results or would result in the transfer of economic value from one Party to the other, the Bank may determine an appropriate adjustment intended to reduce or eliminate, to the extent reasonably practicable, any such transfer of economic value in order to ensure that the relevant Transactions are effected under conditions that correspond to the conditions as originally agreed by the Parties, though only to the extent this is practicable from the perspective of the then current market conditions (an “**Adjustment**”).

An Adjustment may take ~~in~~ the form of a:

- (i) payment from one Party to the other;
- (ii) spread applied to the Fallback Benchmark pursuant to a formula or a methodology to ~~account the decision made in accordance~~for, among others, differences in the term structure or tenor of the Fallback Benchmark as against the Relevant Benchmark; or
- (iii) change of conditions of a Transaction affected by a Benchmark Trigger Event.
- (e) Application of Fallbacks. Any Fallback shall be effective as of the date agreed by the Parties or, failing such an agreement, the date determined by the Bank without undue delay following the Benchmark Trigger Event (the “**Effective Date**”).

As of the Effective Date, the terms of a Transaction shall be adjusted so that references to a Relevant Benchmark are replaced by references to the Fallback Benchmark.

Whenever the Bank acts or exercises judgment in the context of determining, adjusting or applying the Fallbacks, it shall do so in good faith, in a commercially reasonable manner and consistently across Fallbacks and Transactions.

If, in respect of a Transaction, more than one Relevant Benchmark is subject to a Benchmark Trigger Event, then the Fallbacks shall apply separately to each such Relevant Benchmark.

References to “relevant market data” in this Paragraph 9.1 shall be deemed to include a reference to Input Data.

(f) Fallback Dispute Resolution. The Client may reasonably dispute any determination made by the Bank with respect to (i) the Third Party-Nominated Fallback Benchmark; (ii) the Self-Nominated Fallback Benchmark; or (iii) an Adjustment (together, a “Determination”).

The Client shall notify the Bank that it disputes the Determination by the close of business on the second Business Day following the date on which it is made aware of the Determination, providing reasonably detailed reasons for such a dispute using relevant market data.

The Parties are obliged to consult each other in order to attempt to resolve the dispute amicably. If the dispute is not resolved by the close of business on the fourth Business Day following the date of the delivery of the dispute notice to the Bank, the Determination shall cease to apply.

(a)(g) Fallback Termination Event. An Additional Termination Event within the meaning of paragraph 6.6 hereof shall occur if (i) no Fallback can be applied following a Benchmark Trigger Event; or (ii) a dispute regarding a Determination is not resolved within the timeframe specified in paragraph 9.1.4(f) hereof (each a “Fallback Termination Event”). Following the occurrence of a Fallback Termination Event, each Party shall be an Affected Party and the Bank shall be the Determining Party calculating the Close-Out Netting Amount with the foregoing provisions of this clause respect to those Transactions affected by the Fallback Termination Event.

## **9.2** *Term of Trading Agreement.*

Unless agreed otherwise between the parties, the Trading Agreement is entered into for an indefinite period of time and can be terminated upon the mutual agreement of the Parties in writing or upon the expiration of one month termination period that commences as of the first day of the month that immediately follows the month in which the termination notice has been delivered to the other Party. However, the termination of the Agreement will not become effective until full satisfaction of all debts and requirements thereunder.

## **9.3** *No Waiver of Rights.*

Non-exercising or delay in exercising of any right or power in respect of the Agreement will not be deemed to constitute a waiver of such right or power. A one-time 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.

## **9.4** *Headings.*

The headings used in the Trading Agreement and Trading Conditions are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting of the Agreement.

## **9.5** *Expenses.*

The Client shall be obliged to indemnify the Bank on demand for all reasonably incurred expenses and losses, including expenses associated with the legal representation of the Bank in connection with the enforcement and protection of the rights of the Bank under the Agreement

or in connection with the early termination of any Transaction, including, without limitation, the enforcement of judgments.

#### **9.6** *Notices, Effectiveness.*

Any notice or other communication between Parties in respect of the Agreement may be given in any manner set forth below and sent to the addresses or numbers or addresses in electronic messaging system and shall be deemed effective as indicated below:

- (i) if in writing and delivered in person, by operator of postal services or by courier, on the date of confirmed receipt;
- (ii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form;
- (iii) if sent or notified via transaction confirmation module of the CitiFX Pulse internet application or via other electronic messaging system, on the date that electronic message is received; or
- (iv) if sent by e-mail, on the moment of delivery in legible form to the responsible employee of the recipient;

in all cases provided that if the date of that delivery (or attempted delivery) is not a Business Day in the place of office of the recipient or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Business Day in the place of office of the recipient, such communication shall be deemed delivered and effective on the first following Business Day in the place of office of the recipient.

#### **9.7** *Change of Contact Details.*

Either Party may by written notice to the other Party change the address, facsimile number or electronic messaging system details at which notices or other communications under the Agreement are to be given to it. Such change will not require conclusion of amendment to the Agreement, but will be considered effective upon delivery to the other Party in compliance with the provisions of the Agreement.

#### **9.8** *Governing Law.*

The Trading Conditions shall be governed by the applicable laws of the Czech Republic.

#### **9.9** *Language versions of Trading Conditions.*

These Trading Conditions have been made in Czech language while they can also be made fully or partially in English language. In case of any inconsistency between both language versions, the Czech language version of the Trading Conditions shall prevail.

#### **9.9.10** *Amendments to the Trading Conditions.*

9.10.1 The Bank shall be entitled to amend or supplement the Trading Conditions at any time. The Bank shall publish any change or amendment to the Trading Conditions no later than 1 month prior to the date the change or amendment is to take effect and, where applicable, inform the Client of the change or amendment in an appropriate manner within the same time limit. The Client shall be deemed to have accepted the proposed change or amendment to the Trading Conditions if

- (i) The Client fails to reject the change or amendment by a written notice delivered to the Bank no later than on the Business Day prior to the date the change or amendment is to take effect;
- (ii) The Bank informs the Client of this consequence in the proposed change or amendment; and
- (iii) The Bank informs the Client in the proposed change or amendment of the Client's right to terminate the Trading Agreement with the Bank if the Client disagrees with the proposed change or amendment. If the Client rejects the proposed change or amendment, the Client has the right to terminate the Trading Agreement before the date the change or amendment is to take effect, effective immediately and free of charge. This notice of termination, containing also the Client's refusal of proposed changes or amendment has to be delivered to the Bank before the date the change or amendment is to take effect. In such case the day on which the Trading Agreement termination becomes effective shall be the Early Termination Date with respect to all Transactions.

9.10.2 The Bank is entitled to join the proposed change or amendment of the Trading Conditions with its termination notice of the Trading Agreement for the case that the Client rejects the change or amendment but does not terminate the contractual relationship under the Trading Agreement. The termination period of such termination notice shall lapse on the day preceding the ~~the~~ date on which the proposed change or amendment is to take effect. In such case the day on which the Trading Agreement termination becomes effective shall be the Early Termination Date with respect to all Transactions.

9.10.3 By conclusion of the Trading Agreement the Client and the Bank acknowledge and agree that:

- (i) These Trading Conditions may, by definition, reasonably require an amendment of these Trading Conditions at a later date;
- (ii) In accordance with this clause of Trading Conditions, the Bank may amend the provisions of these Trading Conditions in accordance with the customary business practice of banks and foreign bank branches operating on the Czech market, or with a view to legislative changes affecting the business of the Bank and other members of Citigroup;
- (iii) Any amendments referred to in item (ii) above shall be deemed reasonable for the purposes of Section 1752(1) of the Civil Code;
- (iv) The provision of Section 1752 (2) of the Civil Code shall not apply to the extent that it limits the Bank's ability to amend these Trading Conditions pursuant to this clause of the Trading Conditions. Amendments effected by the Bank pursuant to this clause of the Trading Conditions shall not be deemed to constitute changes triggered by a change of circumstances that must have been foreseen by the Bank upon the conclusion of the applicable agreement or contract, nor changes triggered by a change of the Bank's personal or financial standing; and
- (v) For the purposes of Section 1752 (1) of the Civil Code, any obligation to settle debts arising under the Agreement and payable upon termination of the Trading

Agreement shall not be deemed to constitute special obligations onerous for the terminating party if the Trading Agreement is terminated by the Client.

**9.109.11** Effectiveness of Trading Conditions.

These Trading Conditions shall become valid and effective on 1<sup>st</sup> ~~April 2019~~ September 2021. These Trading Conditions shall fully replace the Business Conditions of Citibank Europe plc, organizační složka for Trading on the Financial Market in effect from 1<sup>st</sup> ~~July 2018~~ April 2019 (the “**Original Trading Conditions**”). All contractual relationships between the Client and the Bank, which until now have been governed by the Original Trading Conditions, shall be governed by these Trading Conditions.