

Agreement on the Clearing of Exchange Transactions concluded at Wiener Börse in its Function as a Securities Exchange in Securities Transactions and/or in Options and Financial Futures Transactions and in Transactions concluded on the Third Market operated as an Multilateral Trading System (MTF) operated by Wiener Börse AG – Clearing Agreement

concluded between

CCP Austria Abwicklungsstelle für Börsengeschäfte GmbH
Strauchgasse 1-3
A-1010 Vienna

(hereinafter referred to as "CCP.A" or "Clearing House") and

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(hereinafter referred to as "Participating Clearing Member") as follows:

PREAMBLE

The Participating Clearing Member is an exchange member of Wiener Börse in its function as a securities exchange and enters into this agreement for the purpose of participating directly, be it as a Direct Clearing Member or as a General Clearing Member in the clearing of CCP-eligible transactions.

CCP.A is commissioned with the task of a clearing house in the clearing of CCP-eligible Transactions pursuant to Article 26 para 3 Stock Exchange Act (*BörseG*). The CCP-eligible Transactions shall take place exclusively between CCP.A as central counterparty and one exchange member respectively, which directly participates in the clearing.

§ 1 Object of the Agreement

- (1) CCP.A is the contractual counterparty of the Participating Clearing Member in the CCP-eligible transactions concluded by the latter through the trading systems and carries out the clearing and risk management for CCP-eligible transactions.
- (2) The contracting parties confirm that they are aware of the "Rules for the Clearing through CCP Austria (CCP.A Clearing Rules)" ("CCP.A Clearing Rules") which form part of the General Business Conditions of Wiener Börse AG ("WBAG") pursuant to Article 13 Stock Exchange Act, that the current version of the CCP.A Clearing Rules is available to the Participating Clearing Member and that this agreement ("Clearing Agreement") is concluded on the basis of the CCP.A Clearing Rules as amended. The contracting parties undertake to comply with the CCP.A Clearing Rules as amended.
- (3) The Participating Clearing Member participates pursuant to the CCP.A Clearing Rules as¹
 - Direct Clearing Member
 - General Clearing Member

in the clearing of (exchange) transactions concluded in trading

 - CCP-eligible securities
 - Options und Financial Futures Contracts

The Participating Clearing Member has its transactions processed via the

- clearing agent("Clearing Agent")
- and submits a declaration of the Clearing Agent, by which the Clearing Agent undertakes to process the transactions².

§ 2 Commissioning Third Parties

- (1) The Clearing House has commissioned WBAG and Oesterreichische Kontrollbank Aktiengesellschaft ("OeKB") with operating the technical clearing systems. In addition, in its capacity as settlement bank ("Clearing Bank") the latter is entrusted with making the book entries for securities and payment transactions (the settlement), including the maintaining of deposits and accounts as well as credit investigations.
- (2) The Clearing House is authorized to commission further parties to act on its behalf.

¹ Check if applicable.

² Delete if not applicable.

§ 3 Use of Data

- (1) The Participating Clearing Member hereby explicitly agrees to the use of person-related data connected with its exchange membership or its participation in the clearing, and to the transmission of these data by CCP.A, the exchange operating company and the Clearing Bank to any other entities mentioned for the purposes of fulfilling the specified in the CCP.A Clearing Rules.
- (2) The Participating Clearing Member explicitly agrees to the transmission of data by CCP.A, the exchange operating company and the Clearing Bank to the Austrian Financial Markets Supervision ("FMA") as well as to any competent foreign supervisory authorities for the purposes of carrying out their supervisory tasks over exchange members.
- (3) The Participating Clearing Member hereby releases the Clearing Bank in the meaning of the aforementioned paragraphs from banking secrecy as far as this is necessary for the purpose of fulfilling their tasks by the Clearing Bank pursuant to the CCP.A Clearing Rules or the supervisory tasks of FMA or any competent foreign supervisory authorities.

§ 4 Cash Accounts and Securities Deposits, Collateral

- (1) The accounts and deposits, including collateral deposits and collateral accounts, opened by the Participating Clearing Member at the Clearing Bank in conformity with the requirements of the CCP.A Clearing Rules are shown in the form which is enclosed with this Clearing Agreement as annex ./2. The contents of the pledge to be submitted by the Participating Clearing Member (or by its Clearing Agent on its behalf), the direct collection order, and (if applicable) the guarantee are laid down in the samples enclosed with this Clearing Agreement as annexes ./3, ./4 and ./5
- (2) A precondition for the participation of a Participating Clearing Member in the clearing *inter alia* is that the required collateral is duly perfected.
- (3) The Participating Clearing Member confirms that as a collateral provider it belongs to one of the categories of Article 2 Financial Collateral Act (*Finanzsicherheitsgesetz - FinSG*) and thus the FinSG applies to the depositing and realization of the collateral. Should the FinSG turn out to be inapplicable, the contracting parties hereby agree to its applicability unless mandatory statutory provisions contradict such agreement.

§ 5 Duration of the Agreement

- (1) The Clearing Agreement may be terminated by the Participating Clearing Member pursuant to Article 10 of the CCP.A Clearing Rules at any time in writing without stating reasons.
- (2) CCP.A shall be permitted to terminate the Clearing Agreement with immediate effect without observing a notice period, if there is a material reason pursuant to Article 11 of the CCP.A Clearing Rules. The termination by CCP.A shall be made in writing, with the reasons to be stated.
- (3) The termination of the Clearing Agreement shall not release the Participating Clearing Member from its rights and obligations from CCP-eligible transactions already concluded, for whose clearing it is responsible.
- (4) The exchange operating company shall immediately be informed by the contracting parties of the termination of the Clearing Agreement.
- (5) No new orders may be entered into the trading systems for an exchange member without a Clearing Agreement; access of the exchange member to the trading systems for the purposes of entering orders will be interrupted by technical means. All existing orders shall be deleted by the exchange member. If the deletion of the orders is not completed within an adequate time period set by the exchange operating company in each individual case, then the exchange operating company will delete the orders.
- (6) In case the guarantee according to annex ./3 contains a time-limit, the Participating Clearing Member shall one month prior to the expiration of the guarantee either arrange for a renewal/prolongation of the guarantee or provide adequate alternative collateral, as otherwise the Clearing Agreement will terminate with immediate effect.

§ 6 Assignability

An assignment of rights or a transfer of obligations under the Clearing Agreement by a Participating Clearing Member shall only be possible with the consent of CCP.A.

§ 7 Liability

- (1) Any liability of CCP.A, of OeKB, of WBAG or other parties acting on CCP.A's behalf for damages due to circumstances for which they are not responsible or for damages whose cause is outside of the sphere of CCP.A, OeKB, WBAG or other third parties acting on CCP.A's behalf shall be excluded.

- (2) CCP.A, OeKB, WBAG and other parties acting on CCP.A's behalf shall not be liable for losses, lost profits or damages, unless these losses, lost profits or damages are the result of their intentional or gross negligent conduct. Liability for consequential damages shall be excluded in any case.
- (3) CCP.A, OeKB, WBAG and other parties acting on CCP.A's behalf shall not be liable to third parties, who are not Participating Clearing Members, for any losses, damages, consequential damages or lost profits that may occur as a result of, or in connection with, the clearing of CCP-eligible Transactions.
- (4) CCP.A, OeKB, WBAG and other parties acting on CCP.A's behalf shall not be liable for damages caused by a disruption of operations due to force majeure, riot, war and natural disasters or due to other events or incidents for which they are not responsible (e.g. strikes, lawful lock-outs, traffic disruptions) or restraints/acts of sovereigns.
- (5) The same shall apply to damages suffered by an exchange member due to technical problems or due to a partial or full failure of the EDP system used by it or suffered by exchange members due to errors in the entering of data in the course of trading or clearing and the administration of the records on the collateral deposited, insofar as these damages do not result from intentional or gross negligent conduct of CCP.A, OeKB, WBAG or other parties acting on CCP.A's behalf.

§ 8 Choice of Law, Jurisdiction

- (1) This Clearing Agreement shall be governed by, and construed in conformity with, Austrian law, with the exception of its conflict of laws provisions.
- (2) Any disputes arising from or in connection with the fulfillment of CCP-eligible transactions including the issue of whether or not a transaction has been concluded between the parties, shall be decided, to the exclusion of the regular courts, by the arbitral tribunal of the stock exchange pursuant to the decree of the Federal Minister of Finance and the Federal Minister of Economic Affairs and Labour in agreement with the Federal Minister of Justice on the implementation of Art. XIII Introductory Law to the Code of Civil Procedure (*Einführungsgesetz zur Zivilprozessordnung - EGZPO*) (Rules of Arbitration of Wiener Börse), Federal Law Gazette (BGBl) II 230/2000, as a compulsory arbitral tribunal imposed by law.
- (3) Any other disputes shall be subject to the exclusive jurisdiction of the competent courts in commercial matters in Vienna. CCP.A may, however, bring an action against the Participating Clearing Member before any other court that may have jurisdiction.

§ 9 Supplements, Severability

- (1) Should any individual provisions of this Clearing Agreement be or become fully or partially invalid or unenforceable, the validity or enforceability of the other provisions shall not be impaired.
- (2) Invalid provisions shall be replaced by such provisions, which come as close as possible to the intended economic effect. The same shall apply to the filling of any lacking provisions in this Clearing Agreement.

§ 10 Addresses

Except in case of a change of address notified in writing, all notices intended for CCP.A shall be sent to:

CCP Austria Abwicklungsstelle für Börsengeschäfte GmbH
Strauchgasse 1-3
A-1010 Vienna

and any notices intended for the Participating Clearing Member shall be sent to

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§ 11 Languages, Counterparts, Form

- (1) This Clearing Agreement shall be executed in two counterparts in German and English respectively. These counterparts shall be legally binding. In case of a deviation between the English and the German version the German text shall prevail. Any translations into other languages are only for information purposes and shall not be binding.
- (2) Amendments of the Clearing Agreement, including a deviation from the requirement of the written form, shall only be valid if in written form.
- (3) The annexes referred to below shall form an integral part of this Clearing Agreement:

Annex .I/2

**CCP Austria Abwicklungsstelle
für Börsengeschäfte GmbH ("CCP.A") and
Oesterreichische Kontrollbank Aktiengesellschaft**
Strauchgasse 1-3
A – 1010 Vienna

**Notification of Accounts and Deposits pursuant to Article 13 of the "Rules for the
Clearing through CCP Austria (CCP.A Clearing Rules)"
("CCP.A Clearing Rules"):**

<u>Type of Account or Deposit</u>	<u>Details of Account and/or Deposit</u>
<u>Cash Clearing Account</u>	
<u>Securities Clearing Account</u>	
<u>Cash Collateral Account</u>	
<u>Securities Collateral Account</u>	

The Business Terms of the Clearing Bank (or, in the case of cash accounts kept at a recognized bank, of the recognized bank) shall apply to the above clearing accounts and collateral accounts.

The Participating Clearing Member hereby declares pursuant to Article 12 par. 4 of the Clearing Rules to release the Clearing Bank from the bond to banking secrecy pursuant to Article 38 Banking Act and to the Data Protection Act for the purpose of executing clearing and for reporting suspicious incidents of breaches of the Clearing Rules or of the Clearing Agreement.

(Place, Date)

(corporate Signature Participating Clearing Member)

Annex ./3

**CCP Austria Abwicklungsstelle
für Börsengeschäfte GmbH ("CCP.A")**

Strauchgasse 1-3

A – 1010 Vienna

Bankgarantie

for the benefit of CCP.A pursuant to the "Rules for the Clearing through CCP Austria (CCP.A Clearing Rules)"

Ladies and Gentlemen,

(Corporate Name and Seat of Credit Institution)

as guarantor hereby unconditionally and irrevocably undertakes, as security for the settlement of any obligations and liabilities of

(Corporate Name and Seat of Exchange Member)

as Participating Clearing Member pursuant to the CCP.A Clearing Rules, to pay the requested amount of up to

Euro

(in words: _____)

upon first written demand by CCP.A, at the latest to be issued and sent and pre-advised via facsimile (fax no.) on DD.MM.YYYY, whereas the payment shall take place upon receipt of the original demand note waiving any objections and defenses and without examination of the underlying legal ground or legal relationship, to an account named by CCP.A.

Non-exclusive place of jurisdiction shall be Vienna. This guarantee shall be governed by, and shall be interpreted in conformity with, Austrian substantive law.

After termination of your contractual relationship with the Participating Clearing Member and complete settlement of the obligations arising thereunder, you will return this guarantee to us.

Kind regards,

(Corporate Name and Seat of Credit Institution)

(Place, Date)

(Corporate Signature)

Annex ./4

Return to:

CCP Austria Abwicklungsstelle für Börsengeschäfte GmbH

Strauchgasse 1-3

A - 1010 Vienna

Authorization of Withdrawals by Direct Debit Order

We hereby **irrevocably** authorize you, for the duration of our clearing membership and until any open transactions that concern us are cleared, to withdraw any payments to be made by us by way of a direct debit from our account when due. This shall also authorize our bank maintaining the account, currently, to fulfill the direct debit. We shall ensure that our account has sufficient coverage. In case of an insufficient coverage the recipient of the payment (=CCP.A) shall be notified. The funds to be withdrawn from the account shall not be subject to any limitations with regard to their amount.

Name and Address of the Payer (= Counterparty of CCP.A and Accountholder)

Name of the Bank:

City:

Account Routing Code:

Account Number of

Payer:

Payments for

(Exchange) Transactions and fees

Payee:

CCP Austria Abwicklungsstelle für Börsengeschäfte GmbH

Strauchgasse 1-3

A - 1010 Vienna

.....

Place, Date

Corporate Signature of Payer

Annex ./5

PLEDGE

(Corporate Name and Seat of Participating Clearing Member)

(hereinafter referred to as "Participating Clearing Member")

is authorized to participate as Participating Clearing Member with all rights and obligations in the clearing of CCP-eligible transactions pursuant to the "Rules for the Clearing through CCP Austria (CCP.A Clearing Rules)" (hereinafter "CCP.A Clearing Rules").

The Participating Clearing Member has opened the account no. (blocked account for cash deposits) and the securities deposit no. at Oesterreichische Kontrollbank Aktiengesellschaft ("OeKB") as clearing bank ("Clearing Bank"), which are to be used for the deposit of the collateral pursuant to the CCP.A Clearing Rules.

The Participating Clearing Member hereby pledges any cash deposits and securities on the account no. as well as on the securities deposit no. at OeKB to CCP Austria Abwicklungsstelle für Börsengeschäfte GmbH ("CCP.A" or "Clearing House") as a security for all liabilities of the Participating Clearing Member, which currently and in the future arise from the participation of the Participating Clearing Member in the clearing pursuant to the CCP.A Clearing Rules. In case of a contribution to the solidarity fund pursuant to the CCP.A Clearing Rules by way of a cash deposit, the part of a cash deposit intended to serve as contribution to the solidarity fund shall also serve as a security for the open liabilities of other Participating Clearing Members pursuant to the CCP.A Clearing Rules.

CCP.A shall be authorized to satisfy its claims upon the occurrence of an event of default pursuant to the CCP.A Clearing Rules ("Event of Default") from the pledged cash deposits and the pledged securities. The Clearing House shall irrevocably be authorized pursuant to Article 6 Financial Collateral Act (*Finansicherheitengesetz* – FinSG) to realize the collateral

provided in its discretion without further consent of the Participating Clearing Member, without approval or consent by a court to the terms of realization and without an auction, without a warning about the intended realization and without a waiting period. The realization or appraisal of the collateral shall be made by the Clearing House pursuant to the principles of fair business dealings (*redlicher Geschäftsverkehr*) according to the market price of the collateral on the day of realization or appraisal. A surplus will be transferred to the Participating Clearing Member or credited in its favor after full satisfaction of all open liabilities and fulfillment of any obligation to provide additional collateral.

In case of an Event of Default, the Clearing House shall be authorized to sell the securities provided as pledge, without an obligation that the sales price be paid immediately and in cash, or to have them transferred to one of its securities deposits for the purposes of an appropriation pursuant to Article 5 para 2 FinSG and thereafter to set off their value against the open liabilities of the Participating Clearing Member or to use them in lieu of payment. Pledged cash deposits may be set off against the open liabilities of the Participating Clearing Member or may be used in lieu of payment.

Realization shall also be permitted, if bankruptcy or liquidation proceedings, composition or reorganization proceedings, business supervision or any similar proceedings are opened over the assets of the Participating Clearing Member or if such proceedings are still pending.

In case of a realization or termination, the collateral provided or the value representing it may be included into the close-out netting pursuant to Article 58 of the CCP.A Clearing Rules.

Also pledged and (if the need arises) to be realized pursuant to the above provisions are all cash credit balances (cash credit balances within the meaning of Article 4 para 1 FinSG) and the securities to be delivered to the Participating Clearing Member (delivery balances, securities balances within the meaning of Article 4 para 1 FinSG), which shall be retained by CCP.A as additional collateral pursuant to Article 38 para 4 of the CCP.A Clearing Rules in case of an Event of Default. The Participating Clearing Member irrevocably instructs OeKB as holder of the pledge to enter the pledge on the accounts and deposits as well as on its books, to allow disposals with regard to the collateral provided only if also signed by CCP.A, and in an Event of Default to transfer the securities and the cash deposits according to the instructions of CCP.A to CCP.A or a third party named by it.

The Participating Clearing Member releases OeKB from the banking secret, insofar as this is required for the fulfillment of its tasks as Clearing Bank by OeKB pursuant to the CCP.A Clearing Rules of Wiener Börse AG as amended or the supervisory function of the Financial Market Supervision (FMA) as well as of any competent foreign supervisory authorities. The

Participating Clearing Member consents to the use and transmission of personal data by and to OeKB as laid down in Article 3 of its Clearing Agreement with CCP.A.

OeKB herewith declares that it waives any statutory as well as contractual (individually agreed or in general business conditions) pledge, retention and netting rights with respect to all assets deposited on the account no. (blocked account for cash deposits) and the securities deposit no.

This agreement shall be governed by Austrian law. For any disputes arising under this agreement the parties agree on the exclusive jurisdiction of the courts in Vienna with jurisdiction in commercial matters.

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Place, Date Corporate Signature of Participating Clearing Member

CCP.A accepts the pledge pursuant to this pledge agreement as pledgee.

.....
Place, Date Corporate Signature CCP.A

OeKB also signs this pledge agreement as holder of the pledge.

.....
Place, Date Corporate Signature OeKB