

Transfer Agreement

in the event of Immediate Re-Establishment

between

(the Replacement Clearing Member)

and

(the ICM Client)

and

Eurex Clearing AG, Frankfurt/Main

This transfer agreement (the "**Agreement**") is dated the last date specified on the signature page hereof and entered into

BETWEEN:

(1) _____
(full legal name)
acting through / having its (registered) office at

as the replacement Clearing Member (the "**Replacement Clearing Member**");

(2) _____
(full legal name)
acting through / having its (registered) office at

as the ICM Client (the "**ICM Client**");

(3) Eurex Clearing Aktiengesellschaft, a stock company (*Aktiengesellschaft*) incorporated under the laws of the Federal Republic of Germany, registered in the commercial register of the local court (*Amtsgericht*) in Frankfurt am Main under HRB 44828 and having its registered office at Mergenthalerallee 61, 65760 Eschborn, Federal Republic of Germany ("**Eurex Clearing AG**").

The Replacement Clearing Member, the ICM Client and Eurex Clearing AG are hereinafter also referred to as the "**Parties**" and each of them as a "**Party**".

WHEREAS

- (A) A Termination Event or an Insolvency Termination Event and a Termination Date within the meaning of Chapter I Part 1 Number 7 of the Clearing Conditions have occurred with respect to Clearing Member _____. Pursuant to Chapter I Part 3 Subpart A Number 11.1 of the Clearing Conditions, an ICM Porting Period has commenced.
- (B) It is the intention of the Parties to transfer all rights and obligations of the ICM Client in respect of all Direct Covered Transactions existing between the ICM Client and Eurex Clearing AG as of the Transfer Time (the "**Relevant Direct Covered Transactions**") to the Replacement Clearing Member by way of novation (*Novation*). Simultaneously new transactions may be concluded hereunder between the Replacement Clearing Member and the ICM Client corresponding to the Relevant Direct Covered Transactions.
- (C) The Clearing of the Transactions between Eurex Clearing AG and the Replacement Clearing Member resulting from the novation is intended to be done on the basis of
- the Clearing Agreement for the Clearing of ECM Transactions and/or ISA Transactions entered into between the Replacement Clearing Member and Eurex Clearing AG on _____ (the "**New Clearing Agreement**"); or
 - the Clearing Agreement pursuant to the Individual Clearing Model Provisions under Eurex Clearing AG Documentation entered into between the Replacement Clearing Member, the ICM Client and Eurex Clearing AG on _____ (the "**New Clearing Agreement**"); or
 - the Clearing Agreement pursuant to the Individual Clearing Model Provisions under Client Clearing Documentation entered into between the Replacement Clearing Member, the ICM Client and Eurex Clearing AG on _____ (the "**New Clearing Agreement**").
- (D) Eurex Clearing AG will perform the transfer and make corresponding records in its systems in respect of the Eligible Margin Assets that formed part of the Segregated Margin or the Segregated Variation Margin (including any Direct Margin and Direct Variation Margin) with respect to the ICM Client (for the purposes of this Agreement together "**Direct Margin**" and "**Direct Variation Margin**"), or re-transfer them to the ICM Client, in accordance with the Clearing Conditions.

[If the ICM Client acts as Authorised Manager:

- (E) If the relevant New Clearing Agreement was entered into with an Authorised Manager acting in each case on behalf of and for the account of the Relevant Funds, Relevant Fund Segments, Incorporated Funds or legal entities as specified in the Annex to this Agreement, all references in this Agreement to the ICM Client shall be construed as a reference to the Relevant Funds, Relevant Fund Segments,

Incorporated Funds or legal entities specified in the Annex to this Agreement as the ICM Client.]

NOW THEREFORE, the Parties agree as follows:

1 Definitions

Unless the context requires otherwise, terms used, but not defined, in this Agreement shall have the meaning given to them in the Clearing Conditions as amended from time to time.

This Agreement incorporates by reference the Clearing Conditions.

2 Transfer of the Relevant Direct Covered Transactions to Replacement Clearing Member (Novation)

2.1 The ICM Client and the Replacement Clearing Member agree on a transfer by way of novation of all rights and obligations of the ICM Client in respect of the Relevant Direct Covered Transactions between the ICM Client and Eurex Clearing AG (the "**Ported Assets**") to the Replacement Clearing Member immediately following the settlement pursuant to Chapter I Part 3 Subpart A Number 11.4.3 Paragraph (3) of the Clearing Conditions (the "**Transfer Time**") (the "**Transfer**").

The Transactions established between Eurex Clearing AG and the Replacement Clearing Member as a result of the novation shall not be subject to the valid existence of the Direct Covered Transactions (abstract novation).

2.2 Eurex Clearing AG consents to such Transfer.

2.3 The Transfer shall be subject to the condition that Eurex Clearing AG has not notified the Replacement Clearing Member in writing, by e-mail or by fax prior to the Transfer Effective Date that the Transfer is not to proceed.

3. Consequences of the Transfer

3.1 As of the Transfer Time, the following applies:

3.1.1 The ICM Client and Eurex Clearing AG will be released from all rights and obligations under the Relevant Direct Covered Transactions and all Redelivery Claims related to the Relevant Direct Covered Transactions; and

3.1.2 new Transactions between Eurex Clearing AG and the Replacement Clearing Member shall be established with the same terms and conditions as the Relevant Direct Covered Transactions ("**Re-Establishment of Transactions**").

In the case of a Re-Establishment of Transactions under the Elementary Clearing Model Provisions, the Transfer shall be performed under the condition that the Relevant Direct

Covered Transactions upon the novation becoming effective shall be Omnibus Transactions between Eurex Clearing AG and the Replacement Clearing Member to which the Elementary Clearing Model Provisions shall apply.

In the case of a Re-Establishment of Transactions under the Individual Clearing Model Provisions under Eurex Clearing AG Documentation or under the Individual Clearing Model Provisions under Client Clearing Documentation, the Transfer shall be performed under the condition that the Relevant Direct Covered Transactions upon the novation becoming effective shall be Covered Transactions between Eurex Clearing AG and the Replacement Clearing Member to which the Individual Clearing Model Provisions shall apply.

In the case of a Re-Establishment of Transactions under the ISA Provisions, the Transfer shall be performed under the condition that the Relevant Direct Covered Transactions upon the novation becoming effective shall be ISA Transactions between Eurex Clearing AG and the Replacement Clearing Member to which the ISA Provisions shall apply.

Upon request, Eurex Clearing AG will provide the Replacement Clearing Member with detailed and comprehensive information about the Relevant Direct Covered Transactions prior to any such Transfer.

3.2 No later than on the second Business Day after the Transfer, Eurex Clearing AG will submit to the ICM Client an account statement with respect to the account of the ICM Client as of the point in time immediately prior to the Transfer Time which shall evidence the Relevant Direct Covered Transactions transferred by the ICM Client to the Replacement Clearing Member.

3.3 Eurex Clearing AG is entitled to request additional Clearing Fund Contributions from the Replacement Clearing Member in accordance with Chapter I Part 1 Number 6 of the Clearing Conditions.

3.6 The Replacement Clearing Member shall make any elections and give any instructions required under the Clearing Conditions or otherwise requested by Eurex Clearing AG in relation to the set-up of internal accounts for the transfer by Eurex Clearing AG in the form requested by Eurex Clearing AG.

4 Entry into Corresponding Transactions between Replacement Clearing Member and ICM Client

4.1 In the case of a Re-Establishment of Transactions under the Individual Clearing Model Provision (but not in the case of a Re-Establishment of Transactions under the Elementary Clearing Model Provisions or the ISA Provisions), this Number 4.1 shall apply. Simultaneously with the Transfer and with effect as of the Transfer Effective Date, the Replacement Clearing Member and the ICM Client enter into (i) Corresponding Covered Transactions, or (ii) Client Clearing Transactions, where applicable, which correspond with the Relevant Direct Covered Transactions (the "**Respective Corresponding Transactions**"), whereby (a) the rights, claims and obligations of the Replacement Clearing Member under the Respective Corresponding Transactions shall

be identical (*inhaltsgleich*) to those of Eurex Clearing AG under the Relevant Direct Covered Transactions and (b) the rights, claims and obligations of the ICM Client under the Respective Corresponding Transactions shall be identical to those of the Replacement Clearing Member under the Relevant Direct Covered Transactions.

- 4.2 No later than on the second Business Day after the Transfer, Eurex Clearing AG will submit to the Replacement Clearing Member an account statement with respect to the account of the Replacement Clearing Member as of the point in time immediately after the Transfer Time which shall evidence the Respective Corresponding Transactions (if any) entered into by the ICM-Client and the Replacement Clearing Member.
- 4.3 The Replacement Clearing Member and the ICM Client shall agree separately on any compensation for claims under the Relevant Direct Covered Transactions which become due and payable but have not been discharged prior to the novation.

5 Margin, Accounts

- 5.1 In the case of a Re-Establishment of Transactions pursuant to the Elementary Clearing Model Provisions, any Direct Margin or Direct Variation Margin shall be retransferred to the ICM Client immediately following the novation. The Replacement Clearing Member shall be obliged to provide cover in respect of the Margin and the Variation Margin in accordance with the Elementary Clearing Model Provisions.
- 5.2 In the case of a Re-Establishment of Transactions pursuant to the Individual Clearing Model Provisions under Eurex Clearing AG Documentation, the Parties are obliged to provide cover in respect of the Segregated Margin and the Segregated Variation Margin in accordance with the Individual Clearing Model Provisions.

As of the Transfer Time, any Direct Margin or Direct Variation Margin constitutes Segregated Margin or Segregated Variation Margin, and corresponding Redelivery Claims between Eurex Clearing AG and the Replacement Clearing Member as well as between the Replacement Clearing Member and the ICM Client shall arise. At the same time, the Redelivery Claims of the ICM Client against Eurex Clearing AG with respect to Direct Margin or Direct Variation Margin, shall cease to exist.

- 5.3 In the case of a Re-Establishment of Transactions pursuant to the Individual Clearing Model Provisions under Client Clearing Documentation, Eurex Clearing AG and the Replacement Clearing Member are obliged to provide cover in respect of the Segregated Margin and the Segregated Variation Margin in accordance with the Individual Clearing Model Provisions.

As of the Transfer Time, any Direct Margin or Direct Variation Margin constitutes Segregated Margin or Segregated Variation Margin, and corresponding Redelivery Claims between Eurex Clearing AG and the Replacement Clearing Member shall arise, and the Replacement Clearing Member and the ICM Client agree that Credit Support Margin and Credit Support Variation Margin shall have been provided under the terms of their Client Clearing Agreement accordingly. At the same time, the Redelivery Claims of

the ICM Client against Eurex Clearing AG with respect to Direct Margin or Direct Variation Margin, shall cease to exist.

5.4 In the case of a Re-Establishment of Transactions pursuant to the ISA Provisions,

as of the Transfer Time any Direct Margin in the form of cash and Direct Variation Margin constitutes Margin in the form of cash or Variation Margin, respectively, and corresponding Redelivery Claims and corresponding Redelivery Claims shall arise under the relevant ISA Standard Agreement between Eurex Clearing AG and the Replacement Clearing Member (and the ICM Client shall no longer have any related Redelivery Claims against Eurex Clearing AG);

if the Replacement Clearing Member has made a Title Transfer Margin Election, as of the Transfer Time any Direct Margin in the form of Securities that has been transferred to Eurex Clearing AG by way of title transfer constitutes Margin and corresponding Redelivery Claims of the Replacement Clearing Member shall arise under the relevant ISA Standard Agreement (and the ICM Client shall no longer have any related Redelivery Claims against Eurex Clearing AG); and

if the Replacement Clearing Member is obliged to provide Margin in the form of Securities by way of granting pledges under the ISA Provisions, Eurex Clearing AG shall transfer title in the Direct Margin in the form of Securities (that has been transferred to Eurex Clearing AG by way of title transfer) to the Replacement Clearing Member and such Securities shall be credited to the relevant ISA Pledged Securities Account or the relevant ISA CASS Pledged Securities Account of the Replacement Clearing Member and shall henceforth constitute Margin pursuant to the ISA Provisions (and the ICM Client shall no longer have any related Redelivery Claims against Eurex Clearing AG).

5.5 Eurex Clearing AG shall make corresponding records in the internal accounts for the ICM Client and in the internal accounts for the Replacement Clearing Member.

6 Governing Law, Jurisdiction, Place of Performance

6.1 Governing Law

6.1.1 This Agreement is governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany.

6.1.2 Any non-contractual rights and obligations arising out of or in connection with this Agreement shall also be governed by the substantive laws (*Sachrecht*), excluding German private international law, of Germany.

6.2 Jurisdiction

The courts in Frankfurt am Main shall have exclusive jurisdiction (*ausschließlicher Gerichtsstand*) over any action or other legal proceedings arising out of or in connection with this Agreement.

6.3 Place of Performance

The place of performance shall be Frankfurt am Main.

7 Severability Clause

If any provision contained in this Agreement is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected. Such invalid, illegal or unenforceable provision shall be replaced by means of supplementary interpretation (*ergänzende Vertragsauslegung*) by a valid, legal and enforceable provision, which most closely approximates the Parties' commercial intention. This shall also apply mutatis mutandis to any gaps (*Vertragslücken*) in this Agreement.

AUTHORISED SIGNATURES
to the Transfer Agreement

(as Replacement Clearing Member)

(Place / date)

Name:

Name:

Function:

Function:

(as the ICM Client **[If the ICM Client is acting as an
Authorised Manager:** acting as Authorised Manager on behalf
of and for the account of all Relevant Funds, Relevant Fund
Segments, Incorporated Funds or legal entities as specified in
the Annex to this Agreement])

(Place / date)

Name:

Name:

Function:

Function:

Eurex Clearing Aktiengesellschaft

(Eurex Clearing AG)

(Place / date)

Name:

Name:

Function:

Function:

If the ICM Client is acting as an Authorised Manager:

Annex

Name of the Relevant Fund(s), Relevant Fund Segment(s), Incorporated Fund(s) or legal entity(/ies)	Booking Name/Account Name within the systems of Eurex Clearing AG

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