

## **Contract for the use of the electronic application tools "E-Listing Structured Products"**

between

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\_\_\_\_\_  
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- Hereinafter referred to as "**User**" -

and

Deutsche Börse AG  
60485 Frankfurt/Main

- Hereinafter called „**DBAG**“ -

- Hereinafter referred to individually and / or collectively as, "**the Parties**" -

### **Preamble:**

The German wording of this contract form is authoritative for the interpretation of this agreement. The English wording serves only for information. Therefore, in the event of any inconsistency between the German and the English version, only the German version shall apply.

DBAG is sponsor of the Frankfurt Stock Exchange (the "FSE") for trading in structured products according to § 1 of the Exchange Rules for the Frankfurt Stock Exchange (subsequently "Exchange Rules FWB") and facilitator of the Open Market of the Frankfurt Stock Exchange for the Trading in Structured products in accordance with § 1, paragraph 2 of the General Terms and Conditions of DBAG for structured products in the Open Market of the Frankfurt Stock Exchange (subsequently "General Terms DBAG").

Structured products are traded according to § 1 of the Exchange Rules for the FWB within the regulated market of the Frankfurt Stock Exchange and the open market of DBAG at FWB (Collectively referred to as "Frankfurt (DBAG)").

To optimize the process of applying for listing at Frankfurt (DBAG), DBAG provides the user with an electronic listing tool (called "E-Listing Structured Products"), which can be used free of charge. By using E-Listing Structured Products, users can transmit their listing applications to DBAG and use it further for communication with DBAG during the listing application process, such as changing or withdrawing of listing application.

This Agreement governs the use of E-Listing Structured Products in trade of structured products in Frankfurt (DBAG).

The conditions of the Exchange Rules of the Frankfurt Stock Exchange and DBAG Terms and Conditions of the Member Section of DBAG remain untouched, unless this Agreement expressly states otherwise.

## **1. Object of the contract**

- (1) DBAG allows the user to use E-Listing Structured Products free of charge for electronic submissions of listing applications for inclusion of structured products in the trading on Frankfurt (DBAG). E-Listing Structured Products is the only possibility to introduce instruments to DBAG.
- (2) The way listing application are transmitted through E-Listing Structured Products must be in accordance to the most recent version of the process and interface descriptions to E-Listing Structured Products and the XML Schema Definitions (together referred to as "E-Listing Documents"). The E-Listing documents are available on the websites of DBAG, available at "<http://en.boerse-frankfurt.de/content/certificates/rules-and-regulations>" for free download.
- (3) Transmission of applications via e-Listing Structured Products is only possible for product types listed in the E-Listing Documents (the "Supported Product types" called). All requests for non-support types of products on the market at Frankfurt are to be transmitted through an additional interface affiliated to E-Listing Structured Products.
- (4) The user, after successful completion of the individual introduction tests is released to use E-Listing Structured Products. A successful conclusion of the introduction is assumed once it is guaranteed that the application data is transmitted without errors to DBAG and the data can be further processed by DBAG.
- (5) E-Listing Structured Products is available at FWB trading days from 9.00am to 5pm (CET), except for urgent maintenance instances. The DBAG aims to provide E-Listing Structured Products at additional times, but availability commitments are not the subject of this agreement.

## **2. Rights and obligations of the user**

- (1) The user is entitled to use E-Listing Structured Products for transmission of applications for inclusion to trading on Frankfurt (DBAG) at no cost.
- (2) The user is also entitled to submit applications for supported product types through the affiliated interface. The user is not entitled to transmit an application for the same product twice, i.e. both through the affiliated interface

and via e-Listing Structured Products. In the case of double transmission of a request the latter request will be ignored.

- (3) The user agrees that once a way for transmitting an application is chosen (transmission via affiliated interface or via e-Listing Structured Products) to keep it throughout the application process; a change between the transmission modes within an application process is prohibited, in particular, corrections of the application are to be transmitted in the same way as before to submit the application.
- (4) The user agrees to comply with the technical specifications of the E-Listing documents and transmit the application data only in the manner described in the e-Listing documents. In particular, the user is obliged, to ensure that the application data can be transmitted correctly and be processed by DBAG. It is therefore up to the user to transmit data again, which was not transmitted in correct manner and therefore was not processed by DBAG according to Section 3 paragraph 2 sentence 3.
- (5) The user undertakes to inform DBAG immediately if a transfer of the application data in the manner described in the e-Listing documents is no longer possible because of legal, factual or other reasons.
- (6) The user undertakes to ensure that the activated access to E-Listing Structured Products is not used by unauthorized third parties. The user has to inform DBAG immediately if assumed that unauthorized third parties have gained access to E-Listing Structured Products or access to passwords, user names or other legitimation means, with which access to e-list Structured Products is possible or with which access is possible in combination with other means.
- (7) The user agrees to the event, that in case the Federal Financial Supervisory Authority (BaFIN) has no prospectus for the product which should be included for trading in Frankfurt (DBAG), such a prospectus or an exposé with respect to the product must be provided.

### **3. Rights and obligations of DBAG**

- (1) DBAG agrees to keep E-Listing Structured Products free of charge.
- (2) DBAG is not required to process application data of the user EListing Structured Products, which is erroneous and / or incomplete or not in accordance with the requirements of the e-Listing documents. The processing of transmitted application data of the user for the following trading day is adjusted to the times mentioned in the E-Listing documents. The user is informed via E-Listing Structured Products which application data were faulty and / or incomplete or not in accordance to the e-listing documents or are not pro-

cessed due to passage of time in accordance with clause 2 and therefore could not be considered by DBAG.

#### **4. Liability**

- (1) The liability of the parties for negligent breach of duty is excluded, unless they relate to damages resulting from injury to life, limb, health or guarantees or claims under the Product Liability Act. The liability for breach of duties shall also remain for these duties, which make the proper implementation of the contract possible in the first place, and the injured Party must trust in its fulfillment.
- (2) If the parties are obliged to procure futile expenses, paragraph 1 shall apply accordingly.
- (3) The parties are not liable for damage caused by force majeure, turmoil, war or natural events or by other events which the parties are not responsible for (e.g., strikes, lockouts, acts of government in Germany or abroad). Force majeure is also the impact of malicious software, or willful attacks on computer systems by third parties, provided that reasonable precautions were taken.

#### **5. Contract period**

- (1) This Agreement shall become effective upon signature by the parties for an indefinite period.
- (2) This Agreement may be terminated by either party at any time with a notice period of 1 month.
- (3) The right of either party to extraordinary termination of the contract for cause remains unaffected. Zertifikatebörse may terminate the contract for cause, in particular if the user is no longer possible to submit the application according to the e-listing documents data for legal, factual or other reasons.
- (4) The notice must be in writing.

#### **6. Transferability**

- (1) The contracting parties may not assign or transfer rights and duties of this contracts to third parties without the situation resulting from this contract rights and obligations without the consent of the other party; except for assignments and transfers of DBAG on each connected to DBAG company within the meaning of § § 15 ff Companies Act. DBAG will notify the user with respect to a transfer with a period of 10 business days in advance. With transfer of the contract, only the receiving company is entitled and commit-

ted under this contract; DBAG will be released from all obligations under this contract.

- (2) Paragraph 1 shall apply for a partial transfer of rights and obligations.

## **7. Data protection and privacy policy**

- (1) The Parties undertake to keep the information they get from the other Party, its affiliates, advisors or have been made available on behalf of other parties in connection with the cooperation or knowledge confidential and protected against unauthorized access during and after the term of this Agreement.
- (2) Each party shall oblige all persons or companies that are entrusted with services under this contract to satisfy the obligations for secrecy. The parties are entitled to disclose the information with in the sense of § 15 AktG affiliated companies and their service providers to open, so far as is necessary for operational reasons and the recipients of the information for the strict protection of confidential information is required. Each Contracting Party shall be entitled to information to third parties, in particular public bodies to disclose the extent such disclosure is required by applicable law or disposal of high hand. The disclosure is to the other Party prior notice in writing, where this is not legally permissible, the notification immediately after the elimination of the impediment cause. § 10 Stock Exchange Act is not affected..
- (3) Excluded from the confidentiality obligation is information
- Which are publicly available and the receiving party were already known at the time of receipt or were later published by the disclosing party, or
  - That have been developed independently and autonomously by the receiving party that they have had no similar information to the other party or used, or
  - The receiving party by a third party were laid open, which is entitled to knowledge of the receiving party to the disclosure and subject to any confidentiality obligation.

DBAG according to § 15 AktG affiliates are exclusively entitled to collect the information, process and use (a) if they are required to maintain confidentiality of information, and (b) unless this or for contract execution, to analyze or improve the quality of their services their service portfolio or customer information is, and (c) unless such information is personal information, (i) the company to which this personal data is transferred is established in a Member State of the European Union or another signatory to the Agreement on the European Economic Area or ensure the maintenance of proper levels of data protection and (ii) the data secrecy according to § 5 of the Federal Data Protection Act is preserved.

**8. Other**

- (1) If any provision of this contract is invalid or lose their effectiveness through a yet unknown circumstances, then the validity of the contract unaffected. The invalid provision shall be replaced with a provision that corresponds to what the contractual partner would have wanted if they had considered when concluding the contract, the Un-effectiveness or the impracticability of determination. The same applies to gaps in this contract..
- (2) For any disputes arising under this contract shall be exclusively the right of the Federal Republic of Germany.
- (3) The exclusive jurisdiction for all disputes in connection with this Agreement shall be Frankfurt am Main..

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Deutsche Börse AG

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