

# Terms and Conditions “Rules of Cooperation for Financial Market Transactions”

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### Attachment:

- No. 1 to the Terms and Conditions “Rules of Cooperation for Financial Market Transactions” – The Rules of Conduct in the Case of Significant Change, Withdrawal or Discontinuation of a Benchmark (for Clients who are sole traders or partners of a civil law partnership).
- No. 2 to the Terms and Conditions “Rules of Cooperation for Financial Market Transactions” – The Rules of Conduct in the Case of Significant Change, Withdrawal or Discontinuation of a Benchmark (for Clients who are not sole traders or partners of a civil law partnership).

## § 1. General

1. These Terms and Conditions “Rules of Cooperation for Financial Market Transactions” (hereinafter referred to as the “**Terms and Conditions**”) together with the master agreement for the financial market transactions (hereinafter referred to as the “**Master Agreement**”) and Transaction Descriptions, regulates the rules of cooperation between the Bank and the Customer, in particular with regard to entering into the Transactions, fulfilling obligations arising from the Transactions, establishing Collaterals in favour of the Bank by the Customer, the Bank satisfying its claims from the said Collaterals, and settlements between the Parties in case of termination of the Master Agreement or individual Transactions as well as principles of limiting the credit risk of the Parties in connection with the Transactions executed.
2. The Terms and Conditions together with Transaction Descriptions supplement provisions of the Master Agreement and, along therewith, create one legal relationship between the Parties.
3. With respect to the Transactions entered into by the Customers, provisions of the entire Chapter II (except for Article 32a) and Article 34, Articles 35-37, Article 40 Sec. 3-4, Article 45, Article 46 Sec. 2-5, Article 47, Article 48, Article 51, and Articles 144-146 of the Payment Services Act of 19 August 2011 or, whenever acceptable, other laws which modify or amend the said provisions shall not apply.
4. For the purposes of Article 54 of the Act referred to in section 3 above the date when the payment order starts to be processed shall be the Settlement Date.
5. These Terms and Conditions have been issued in accordance with Article 109 Sec. 1, Item 4 of the Banking Law.
6. The Bank executes Transactions in financial instruments in accordance with Article 70 (2) of the Act on Trading in Financial Instruments of 29 July 2005.
7. The Bank publishes the “Principles of Acting in the Best Interests of the Customer in the Financial Markets Area of mBank S.A.” (hereinafter referred to as the “**Principles**”) on mBank Group’s website ([www.mbank.pl/en/help/forms/sme-corporate/financial-market/best-execution/](http://www.mbank.pl/en/help/forms/sme-corporate/financial-market/best-execution/)). At the request of the Customer, the Bank may send the Principles in hard copy. The Bank applies the Principles to the extent applicable to the Customer. The best execution requirement referred to in Article 27 (1) of MiFID applies only to the extent explicitly indicated in the Principles.
8. Entering into the Transaction included in the Principles is tantamount to granting consent by the Customer to be bound by the Principles.
9. The Customer grants his/her consent to making the Principles available to him/her via mBank Group’s website referred to in § 1.7.
10. Entering into the Transaction included in the amended Principles will be deemed as approval of the amended Principles.
11. In line with Regulation (EU) No. 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), the Bank provides retail Customers within the meaning of MiFID Regulations with key information documents for products listed in the Regulation on mBank Group’s website ([www.mbank.pl/en/help/forms/sme-corporate/financial-market/priip/](http://www.mbank.pl/en/help/forms/sme-corporate/financial-market/priip/)). At the request of the Customer, the Bank may send key information documents in hard copy. The Customer consents to making amendments to key information documents available to him/her on the mBank Group’s website mentioned above. By executing a Transaction after the effective date hereof the Customer declares that he/she has read valid key information documents.
11. On the website of mBank Group ([www.mbank.pl/en/scenarios](http://www.mbank.pl/en/scenarios)), the Bank presents example, illustrative data describing the functioning and potential result of a given financial instrument in various market conditions (hereinafter referred to as “**Scenarios**”), both in positive and negative conditions. At the request of the Client, the Bank may send the Scenarios in hard copy. The Client is obliged to read the Scenario at least before concluding the first Transaction of a given type.
12. In the case of Customers entering into Transactions in financial instruments, the Customer is obliged to provide the Bank with his/her Legal Entity Identifier (LEI) and ensure its validity.
13. Financial market transactions are entered into with retail and professional Customers and eligible counterparties within the meaning of the MiFID Regulations and the Act on Trading.
14. If the Master Agreement allows for concluding transactions of a given type, the Customer represents that:
  - 1/ when entering into Transactions in Derivatives:
    - a/ he/she is ready to incur a possible loss exceeding the funds invested to enter into the Transaction and accepts such a risk and his/her financial standing allows incurring such a loss,
    - b/ entering into the Transaction arises from the need to hedge against market risk, including:
      - i/ FX risk – by entering into, in particular: Foreign Exchange Forward (FX Forward), Foreign Exchange Option or Currency Interest Rate Swap (CIRS),
      - ii/ Interest rate risk – by entering into, in particular: Forward Rate Agreements (FRA), Interest Rate Swap (IRS), Currency Interest Rate Swap (CIRS) or Interest Rate Option,
      - iii/ Commodity risk – by entering into, in particular: Forward Transaction (FT), Commodity Swap, Commodity Option or Forward transactions of sale of greenhouse gas emission allowances with cash settlement option;  
and the purpose of the Transaction is to adjust the structure and time horizon of the applied collateral to the Customer’s exposure to the market risk, unless the Customer informs the Bank about a different nature of the Transaction in line with the procedure defined in § 17.1,
  - 2/ when entering into Debt Securities Transactions:
    - a/ he/she accepts the risk, and his/her financial standing allows him/her to incur such a loss:
      - i/ in the case of investment grade debt securities up to 20% of the funds invested in connection with entering into a transaction (i.e. the Client accepts medium risk),
      - ii/ in the case of non-investment grade debt securities up to 100% of the funds invested in connection with entering into a transaction (i.e. the Client accepts high risk),
    - b/ entering into the Transaction arises from the need of capital investment with the objective of adjusting the investment to the Customer’s liquidity structure (including the time horizon during which the Customer can invest free funds),
  - 3/ when entering into an Investment Deposit:
    - a/ he/she is ready to incur a possible loss of a part of invested capital in the case where the Investment Deposit is subject to early withdrawal, the handling fee is higher than the amount of the early interest.
    - b/ entering into the Transaction arises from the need of capital investment with the objective of adjusting the investment to the Customer’s liquidity structure (including the time horizon during which the Customer can invest free funds),
  - 4/ when entering into a Dual-Currency Deposit:
    - a/ he/she is ready to incur a possible loss of up to 100% of the invested funds and accepts such a risk and his/her financial standing allows incurring such a loss,
    - b/ entering into the Transaction arises from the need of capital investment with the objective of adjusting the investment to the Customer’s liquidity structure (including the time horizon during which the Customer can invest free funds),
  - 5/ if the Customer’s financial standing and risk tolerance as well as needs and objectives concerning the particular Transactions referred to in points 1-4 change during the term of the Master Agreement, the Customer is obliged to inform the Bank about this in writing, subject to point 1 letter b) when the Customer is obliged to inform the Bank’s employee about this fact while concluding a transaction.
15. The Customer represents that commodity transactions concluded result in creating, from the Customer’s point of view, objectively measurable positions mitigating the risk directly connected with the Customer’s business within the meaning of the MiFID Regulations, unless the Customer informs the Bank about a different nature of the Transaction in line with the procedure defined in § 17.1.

16. In the case when a given Transaction type is subject to the obligation to trade for the Customer within the meaning of Article 28 of the MiFIR Regulations, the Customer is obliged to inform the Bank about this fact in writing.
17. The Customer undertakes to immediately provide the Bank upon its request with any information, documents and data that may be reasonably expected by the Bank in order to fulfill its obligations, in particular reporting or publication obligations, which may be incumbent on it.
18. In connection with the conclusion of Transactions based on quotations provided by phone, the Bank does not perform the function of another liquidity provider within the meaning of Commission Delegated Regulation (EU) 2017/575 (UE) 2017/576 of 8 June 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards concerning the data to be published by execution venues on the quality of execution of transactions and thus the Bank may refuse to enter into the Transaction.
19. The Bank is a systematic internaliser within the meaning of the MiFIR with respect to selected financial instruments.
20. If the Customer executes FX Spot Transactions or Term Deposit Transactions in accordance with the Terms and Conditions, the provisions of the Terms and Conditions referring to the Master Agreement shall apply accordingly to the Integrated Bank Account Agreement. If the Terms and Conditions and the Integrated Bank Account Agreement vary, the Integrated Bank Account Agreement shall prevail.

## § 2. Definitions

<b>1. Additional Collateral</b> (39) <sup>1</sup>	Collateral established by the Customer (other than the Required Collateral or Minimum Collateral), specified as the Additional Collateral in the Credit Support Agreement.
<b>2. Additional Obligations</b> (45)	obligations imposed on the Customer, as determined in the Credit Support Agreement as the Additional Obligations, the non-performance of which vests the Bank with the right to request the Customer to establish the Additional Collateral or perform a Partial Early Termination of Transaction, closing of the FRA Transaction, Early Withdrawal of Deposit, Early Termination of Transaction, Option Repurchase Transaction, Closing Transaction (hereinafter the " <b>Reduction</b> ").
<b>3. Amount of the Limit</b> (17)	if the Credit Support Agreement provides for establishing of the Required Collateral, then this is the amount provided in the Credit Support Agreement up to which the Customer is discharged from an obligation to establish the Required Collateral.
<b>3<sup>1</sup>. Act on Trading</b> (38) <sup>1</sup>	[Polish] Act on Trading in Financial Instruments of 29 July 2005 (as amended).
<b>4. Bank</b> (1)	mBank S.A.;
<b>5. Banking Law</b> (22)	[Polish] Act dated 29 August 1997 – Banking Law (as amended).
<b>6. Bankruptcy Law</b> (23)	[Polish] Act dated 28 February 2003 – Bankruptcy and Reconstruction Law (as amended).
<b>7. Business Day</b> (4)	every day, save for Saturday, Sunday or statutory holiday, on which the Bank conducts business activity on the financial market and performs settlements in currencies, in which the Transaction is denominated; if the Customer is a business entity having its registered seat outside the Republic of Poland to whom the EMIR Legislation apply, then, within the scope of confirmation of Transactions in Derivatives on the days set in accordance with the principle stipulated in the above sentence, the statutory holidays in the state where the Customer has its registered seat shall also be excluded pursuant to the principle set forth in the sentence above.
<b>7<sup>1</sup>. CCP</b> (3 <sup>1</sup> )	a legal person acting between counterparties of contracts in trade on at least one financial market, becoming a purchaser for every seller and a seller for every purchaser.
<b>8. Civil Code</b> (12)	means [Polish] Act dated 23 April 1964 – Civil Code.
<b>9. Collateral</b> (42)	as stipulated in the Master Agreement, Credit Support Agreement or any other agreement, a Collateral to secure the Bank's claims resulting from the Transaction or Master Agreement executed that the Customer is obligated to establish. A Collateral may be a Required Collateral, Minimum Collateral or Additional Collateral.
<b>10. Confirmation</b> (21)	document or information in an electronic form prepared by the Bank presenting the Transaction Terms agreed by the Parties.
<b>11. Credit Support Agreement</b> (38)	agreement regulating the rules of establishing of the Collateral by the Customer.
<b>12. Customer</b> (11)	a sole trader, legal person or other organisational unit without legal personality vested, by virtue of law, with the legal capacity and capacity to perform acts in law.
<b>13. Customer's Exposure</b> (9)	the value of the equivalent of the market risk for the Transactions that the Transaction Package consists of, as determined by the Bank in order to calculate the value of the Required Collateral; the Customer's Exposure consists of the Net Present Value of the Transaction Package, and, if the Credit Support Agreement so provides, the Minimum Collateral, if required for specific Transactions of which the Transaction Package consists.
<b>13<sup>1</sup>. Derivatives</b> (10) <sup>1</sup>	derivatives within the meaning of the EMIR Regulations.
<b>14. Derivative Transaction</b> (35)	Transaction defined in the Transaction Description as derivative transaction.
<b>15. Early Termination</b> (37)	performance by the Bank, as a result of occurrence of Event of Default or Termination Event, of immediate settlement of all or certain Transactions, save for Term Deposit Transactions, pursuant to these Terms and Conditions.

<sup>1</sup> Translator's note: the number at the end of definition means its ordinal number in the Polish language version.

<b>16. Early Termination Amount</b> (16)	an amount of the cash obligation calculated by the Bank that is due to the Bank from the Customer or to the Customer from the Bank on account of Early Termination.
<b>17. Early Termination Date</b> (6)	means a date on which the Bank performs the Early Termination.
<b>18. EMIR Legislation</b> (27)	the EMIR Regulation along with the secondary legislation thereto, in particular the delegated regulations.
<b>19. EMIR Regulation</b> (29)	the Regulation of the European Parliament and of the Council (EU) No. 648/2012 of 4 July 2012 on OTC derivatives, central counterparties (CCPs) and trade repositories (TRs) (EMIR).
<b>20. ESMA</b> (10)	the European Securities and Markets Authority.
<b>21. Event of Default</b> (24)	event referred to in § 9.1 that may trigger Early Termination Procedure.
<b>22. Financial Counterparty</b> (13)	the Customer who is the Financial Counterparty within the meaning of the EMIR Legislation.
<b>23. Force Majeure</b> (31)	an extraordinary factual or legal event that could not have been foreseen, avoided or prevented by the Parties in the normal course, as a result of which performance of settlement or other activities related to the Transactions, the Master Agreement or the Credit Support Agreement becomes impossible.
<b>24. Foreign Exchange Rates Table</b> (33)	Table of FX rates of mBank S.A., applicable at the moment of currency conversion.
<b>24<sup>1</sup>. Mark-up</b> (17 <sup>1</sup> )	the difference between the Transaction price quoted for the Customer and the price of maintaining the position by the Bank.
<b>24<sup>2</sup>. MiFID</b> (3 <sup>2</sup> )	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (as amended)
<b>24<sup>3</sup>. MiFID Regulations</b> (27 <sup>1</sup> )	MiFID together with delegated and implementing acts.
<b>24<sup>4</sup>. MIFIR Regulations</b> (27 <sup>2</sup> )	Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (as amended) with implementing acts.
<b>25. Minimum Collateral</b> (40)	Collateral determined by the Bank on the basis of comprehensive assessment of risk resulting from the given Transaction, taking into account in particular its type, currency, Transaction amounts, nominal values, the term for which it has been executed, price volatility level or underlying instrument volatility level; in the course of agreeing on the Transaction Terms, upon express request of the Customer, the Bank shall specify the value of the Minimum Collateral concerning any given Transaction.
<b>26. Net Present Value</b> (2)	calculated for a single Transaction, an amount denominated in PLN constituting the Net Present Value of the given Transaction determined and calculated in good faith by the Bank; when performing the calculations the Bank shall take into account the data and information available to the Bank, including in particular the following: 1/ Valuation models applied by the Bank, current market data (in particular currency rates, reference rates, commodities prices, volatility levels, prices of securities or other indices relevant for the given market) available from the news agency services (e.g. Reuters, Bloomberg), data obtained from other financial institutions or data obtained from the internal sources of the Bank; or 2/ The cost that the Bank would have to incur if it had to terminate the Transaction and enter into transactions replacing the Transactions terminated on account of the Early Termination; The Net Present Value is a positive number where the market valuation is unfavourable for the Customer or a negative number where the market valuation is favourable for the Customer.
<b>27. Net Present Value of Transaction Package</b> (3)	a sum of the Net Present Values of the Transactions of which the Transaction Package consists;
<b>28. Non-Financial Counterparty</b> (14)	the Customer who is the Non-Financial Counterparty within the meaning of the EMIR Legislation.
<b>29. Non-Financial Counterparty +</b> (15)	the Customer who is the Non-Financial Counterparty as referred to in Article 10(1)(b) of the EMIR Regulation, to whom Article 10(2) of the EMIR Regulation does not apply.
<b>30. Party</b> (32)	the Customer or the Bank.
<b>31. Pricing Date</b> (7)	Business Day on which the Bank calculates the Net Present Value of the Transaction Package and the value of the Minimum Collaterals.
<b>32. Required Collateral</b> (41)	Collateral determined by the Bank, which the Customer is obligated to establish pursuant to § 18 and 19 below, defined as the Required Collateral in the Credit Support Agreement.
<b>32<sup>1</sup>. Restructuring Law</b> (23 <sup>1</sup> )	the Restructuring Law Act of 15 May 2015 (as amended).
<b>33. Settlement Account</b> (26)	an account for settlement of claims under the Master Agreement, Transactions or Collaterals: 1/ the Customer's (current or shadow) bank account maintained with the Bank, specified by the Customer in the Information Sheet or other written statement of the Customer approved by the Bank, stipulated in the course of agreeing on the Transaction Terms; 2/ the Customer's bank account maintained by other bank specified by the Customer in the Information Sheet or in any other written statement of the Customer accepted by the Bank.
<b>34. Settlement Date</b> (5)	Business Day agreed between the Parties when agreeing on the Transaction Terms on which the Transaction Settlement occurs pursuant to provisions of § 8 below.

<b>35. Tax Event</b> (43)	such change in the provisions of the tax law or the official interpretation thereof as a result of which if a Party intends to duly perform its financial obligations under the Master Agreement or any Transaction the Party needs to incur excessive costs or glaring loss.
<b>36. Termination Event</b> (25)	event referred to in § 11.1.
<b>37. Trade Repository</b> (28)	an entity authorised pursuant to the EMIR Legislation to collect and maintain the details concerning the Transaction.
<b>38. Transaction</b> (34)	transaction entered into by the Customer with the Bank under the Master Agreement.
<b>39. Transaction Date</b> (8)	Business Day on which the Parties agree on the Transaction Terms.
<b>40. Transaction Description</b> (18)	description delivered to the Customer by the Bank constituting an appendix to these Terms and Conditions, containing description of specific Transactions selected by the Customer executed under the Master Agreement.
<b>41. Transaction Notification</b> (44)	notification, to the Trade Repository, of execution, change, termination, adjustment and/or any other activity concerning Transactions in Derivatives, performed in conformity with the rules and on the deadlines specified in the EMIR Legislation.
<b>42. Transaction Package</b> (19)	collection of non-settled Derivative and/or other Transactions, on the condition that the Transaction Description provides that they form parts of the Transaction Package.
<b>43. Transaction Platform</b> (20)	electronic distribution channel made available by the Bank through mBank's internet Customer service system: mBank CompanyNet that allows to agree on the Transaction Terms.
<b>44. Transaction Settlement</b> (30)	performance of the Parties' obligations resulting from the Transaction within deadlines agreed by the Parties or, if the performance is delayed, within later deadlines pursuant to § 8.
<b>45. Transaction Terms</b> (36)	the essential terms ( <i>essentialia negotii</i> ) of the given Transaction, as specified in the Transaction Descriptions and, provided that such terms are agreed, any other additional Transaction terms, as agreed between the Parties.

### § 3. General Advice

- As a part of entering into Transactions with the Customers, the Bank may provide investment advice of general nature ("**general advice**"), concerning investing in financial instruments in accordance with the following principles:
  - general advice shall not be provided with regard to the needs and situation of the Customer nor shall it constitute a recommendation to undertake specific steps in connection with a given financial instrument;
  - general advice may be provided by phone, verbally, or in writing,
  - general advice may only be provided by the authorised employees of the Bank,
  - general advice shall consist in providing information about financial instruments and may in particular apply to results (including historical results) of investing in financial instruments, comparison of financial instruments, comparison of services provided by the Bank, information on the characteristics of financial instruments, in particular the benefits of using them, the associated risks, the terms and conditions, and the situation in which they can be used, providing the Customers with information about the market situation, market reports and analyses or other type of information prepared by the Bank or other entities,
  - provision of general advice shall not account for the preparation of investment or financial analyses or other recommendation of a general character concerning the Transactions on financial instruments,
  - provision of general advice shall not account for the provision of investment advice service,
  - the Bank shall not provide investment advice services unless, in order to provide such service the Bank enters with the Customer into a written agreement on providing investment advice services.
- The Bank shall not be liable for any actions or investment decisions, or for any investment results, including in particular under the Transactions entered into with the Bank, generated by the Customer in connection with providing general advice, or for results of such actions and decisions.

### § 4. Risks

- The Bank, acting in accordance with its knowledge of the market and experience, shall present the Customer with a general description of the risks attributable to the transactions on financial instruments. When entering into a Transaction, the Customer should in particular take into account the following:
  - risks indicated in the Transaction Description, including the market risks,
  - legal risk attributable to the possibility of changes to legal regulations or, potentially, to non-observance thereof; a change in the legislation or an illegal/unlawful activity may result in sudden and significant deterioration in the business parameters, and, therefore, may adversely affect the valuation or settlement of the Transaction,
  - financial leverage effect; the Derivative Transactions or forward transactions entail the so-called financial leverage effect, which means that a Transaction may yield a very large profit (including premium payment) or bring a very large loss in comparison with funds committed by the Customer in order to enter into the Transaction (in particular payment of premium or establishment of Collateral) accounting only for a portion, quite often insignificant, of the nominal value of the Transaction; therefore, a change in the market risk factors may result in a proportionally greater change in the current pricing of the Transaction (Net Present Value) or the amount of settlement of the Transaction in comparison with the funds committed by the Customer,
  - potentially high volatility of prices and valuations of the Transaction, understood as the volume of the price or the Transaction valuation fluctuations in specific time frames; considering that the Transaction is an instrument of the over-the-counter market (so-called "**OTC Market**"), Transaction valuation and price may be subject to high, quite frequently salutatory, changes, even in short time intervals, and the dynamics of these changes may take various levels; high volatility may in particular be the result of a limited volatility of the OTC market,

- 5/ requirements related to establishing the Collaterals; in accordance with these Terms and Conditions, the Customer shall be obligated to establish a Collateral for the Transaction settlement; as a result of adverse market changes that have effect on deterioration in the valuation of the Transaction the Customer may need to supplement the Collateral up to the value of the Required Collateral; the Customer should also be aware that in the event of the Transaction termination, entering into a repurchase Transaction or settlement of the Transaction, a potential loss may exceed the amount of the established Collateral; the Collateral established by the Customer pursuant to these Terms and Conditions shall not be treated as an advance payment, earnest money or any other performance on the account of the fulfilment of future obligations of the Customer towards the Bank in connection with the executed Transaction; such Collateral may be set off against those obligations pursuant to these Terms and Conditions or the Credit Support Agreement,
- 6/ The risk of contracting a financial obligation as a result of entering into a Transaction; when entering into a Transaction, the Customer contracts an obligation that may consist in the payment of the settlement amount, premium or payment for the currency delivered, securities or in the delivery of currency or securities and/or greenhouse gas emission allowances; obligation consisting in the payment of the settlement amount is an obligation with an amount thereof not specified in advance that may result for the Customer with a debt on the Settlement Date; obligation to deliver sold currency may become converted into financial obligation in accordance with the provisions of these Terms and Conditions or the Transaction Description in the event of the Early Termination or failure to perform the obligations by the Customer; the remaining claims of the Bank against the Customer that may arise in connection with entering into the Transaction are set out in these Terms and Conditions or Transaction Description,
- 7/ the fact that Debt Securities, including Debt Securities being the subject of the Sell-Buy-Back Transactions and financial (monetary) means being the subject of collateral under which the ownership title is transferred by the Customer to the secured entity (the Bank) may be used by the Party to which the ownership title has been transferred. As a result:
  - a/ it is not possible to deliver a Debt Security on the Settlement Date, which has the following consequences:
    - i. the Parties will have to modify the Transaction Terms by changing the originally set Transaction Settlement Date, or
    - ii. a Debt Security being the subject of the Transaction will be replaced by another Debt Security with the same features, or
    - iii. the Party which did not deliver the Debt Security will be obliged to pay the amount being the equivalent of the purchase price of the same Debt Security on the initially set Settlement Date;
  - b/ in the case when bankruptcy or restructuring proceedings are instigated towards the Bank, the procedure and rules of refunding of the collateral provided will be subject to relevant provisions of the Bankruptcy or Restructuring Law,
  - c/ in the case when the collateral is seized by the authority which has initiated enforcement proceedings towards the Bank, the Customer may demand the return of the collateral from the Bank, however, this case may lead to a situation presented in letter a).

The measures referred to in letter a) may cause a loss in the case when one of the Parties undertakes an obligation towards a third party, the subject of which will be the Debt Security not delivered on time.

Entering into the Transaction after the effective date of this provision will be treated as the Customer's consent to using the collateral transferred to the Bank.

2. The Customer should carry out assessment of the risk, financial, legal, accounting and tax consequences as well as suitability of the financial market Transactions for his business activity; the assessment should be performed by the Customer on his own or by way of obtaining a professional advice from independent entities that have relevant knowledge and experience in this respect.
3. The Bank shall not guarantee that the Customer achieves any specific economic result in connection with execution of the Transaction. Entering into a Transaction may generate either profit or loss.
4. The Customer shall enter into the Transactions on his own risk and responsibility; the Bank shall not be liable to the Customer for any loss that the Customer may suffer as a result of entering into a Transaction with the Bank, including in particular a loss resulting from non-comprehension or incorrect understanding by the Customer of the character or structure of the Transaction.
5. The Bank shall be liable for damage incurred by the Customer in connection with the Bank's failure to perform or properly perform the Master Agreement or the Transaction, up to an amount of the damage actually suffered by the Customer (the Bank shall be liable for the Customer's loss but not for the lost profits (*lucrum cessans*)).

## § 5. Entering into Transactions and Recording Communication

1. Transaction shall be executed upon making concordant declarations of intent by the Parties with regard to the Transaction Terms.
2. Transaction may be executed by telephone or e-mail (provided that the Bank has given its consent to such a form), in particular through the Transaction Platform. Should the Bank wish to introduce in these Terms and Conditions an additional form of agreeing on the Transaction terms, the Bank needs only to inform the Customer thereof for such additional form to be effective.
3. The Bank may agree to executing the Transactions by way of offer and acceptance, which shall consist in submitting by one of the Parties an offer for entering into a Transaction on specific Transaction Terms. The Party submitting the offer shall specify the type of the offer and its validity date, including in particular the date and exact time of expiry of the offer. Upon submission of the offer, the Parties may reserve that the other Party's acceptance of the offer shall depend on occurrence of a specific event, in particular occurrence of a specific asset price, currency exchange rate or interest rate on the market. Provisions of Article 66<sup>1</sup> § 1 to Article 66<sup>1</sup> § 3 and Article 68<sup>2</sup> of the Civil Code shall not apply.
4. The Customer may withdraw his/her offer, provided that the Bank confirms that the offer has been withdrawn. If the Bank accepts an offer just before its expiry date, information that the offer has been accepted may be made available and sent to the Customer after the expiry of the offer's deadline.
5. When entering into Transactions, the Parties may agree on the Transaction Terms other than those specified in the Transaction Descriptions, provided that this is expressly specified in the course of agreeing on such Transaction Terms.
- 5/ In the case when pursuant to EMIR Legislation the Transaction is subject to the obligation of settlement by CCP, the Parties are obliged to agree on CCP to whom the Transaction Settlement is to be submitted.
6. The Parties may specify the Transaction Terms with regard to the mandatory conditions specified in the given Transaction Description using wording different than that provided in such Transaction Description, including in particular wording used in the trading practice, provided that the respective Transaction Terms defined in such Transaction Description may be attributed to such differently phrased definitions.
7. The persons authorized to enter into the Transactions on behalf of the Customer shall be individuals named by the Customer in the power of attorney contained in the Information Sheet or in a different power of attorney, provided that such power of attorney has been previously delivered to and approved by the Bank.
8. The parties identify the persons authorised to agree on the Transaction Terms with regard to:
  - 1/ the Client, if the Transaction Terms are being agreed:
    - a/ over the phone – specifying the Customer's name and his/her full name, by the attorney in fact agreeing the Transaction Terms;
    - b/ through the Transaction Platform – by positive identification and authentication of the person authorised by the Customer, which is carried out in the mBank CompanyNet system;
    - c/ by e-mail – by contacting the Customer at the e-mail address specified by the Customer or his attorney in fact before the Transaction Terms have been agreed;

- d/ via electronic platforms used in the interbank market, including technical solutions offered by Thomson Reuters or Bloomberg – when an identifier which explicitly indicates the Customer and his/her attorney in fact as the Party making a declaration of will appears on the Bank's computer screen; at the Bank's request, the Customer is obliged to provide the Bank with an additional document containing a list of identifiers referred to in the previous sentence, assigned to particular persons entitled to enter into Transactions;
- 2/ the Bank, if the Transaction Terms are being agreed:
  - a/ over the phone – by specifying the full name of the authorised employee of the Bank;
  - b/ by email – by sending an email using a business email address containing the first name and surname of the authorised employee of the Bank, or by sending an email from commodity@mbank.pl;
  - c/ via electronic platforms used in the interbank market, including technical solutions offered by Thomson Reuters or Bloomberg – when an ID which explicitly indicates the Bank as a Party making a declaration of will appears on the Customer's computer screen.
- 9. If a Transaction is executed by telephone, the Parties shall have the right to additionally identify each other by giving a password and answerback. Should such identification be impossible the Parties shall have the right to refuse to enter into the Transaction.
- 10. In line with the MiFID and MiFIR, the Bank records phone conversations and electronic communication, in particular the conversations or communication during which the Transaction Terms are agreed on. The Parties give their consent to recording communication. The recorded phone or electronic communication may be used as evidence in the case of any differences between the Parties as regards the conclusion and execution of the Master Agreement or Transactions, and in the case of arbitration or judicial proceedings.
- 11. The Customer shall be responsible for a Transaction entered into by an individual claiming to be authorised to enter into Transactions on behalf of the Customer, if such individual has used the password and answerback or identifier and token or used the e-mail address specified by the Customer or his attorney in fact. The Customer undertakes to secure any and all equipment and information necessary for identification against third party access. Transactions executed in violation of the security principles shall be binding upon the Customer.
- 12. If the Customer opts out from identification with a password or answerback, provisions of § 5.11 above shall apply accordingly.
- 13. The recorded phone or electronic communication which results or may result in entering into the Transaction is available at the Customer's request during the period of five years from the Transaction Date or longer if it is required by applicable law to make the communication available.
- 14. The Bank shall exercise due care to make the recorded communication available immediately, however, not later than within ten Business Days from the date when the Customer made his/her request. Given the complexity of the Customer's request and a possible necessity to obtain archive recordings, the Bank reserves the right to prolong this period, about which it shall immediately notify the Customer, indicating a new period of time to make the recorded communication available. The Bank has the right to collect a fee on account of making the recorded communication available in line with the "Tariff of banking fees and commissions of mBank for SME and Corporates".

## **§ 6. Transaction Platform**

1. Transaction Platform is made available only to those Customers who are a party to the Integrated Bank Account Agreement or Agreement on Using the Internet Customer Service System mBank CompanyNet of mBank S.A., who meet the technical requirements specified in the "Regulations on Opening, Holding and Closing an Integrated Bank Account at mBank S.A. – Part 2 mBank S.A. Internet Customer Service System mBank CompanyNet" or "Regulations "mBank S.A. Internet Customer Service System mBank CompanyNet".
2. Transaction Terms within the scope specified in the Information Sheet may be agreed through the Transaction Platform, provided that such transaction type has been made available in the Transaction Platform.
3. The Customer must not provide illegal or unlawful content through the Transaction Platform.
4. Specific principles for agreeing on the Transaction Terms and any additional services provided through the Transaction Platform are specified on the Transaction Platform web sites in the "HELP" section.

## **§ 7. Confirmations**

1. Following entering into a Transaction, the Bank shall promptly, however no later than until the end of the Business Day following the Transaction Execution Date, confirm the agreed Transaction Terms to the Customer by delivering the Confirmation to the Customer.
2. Confirmations may be delivered: in writing, by fax, in electronic form (in particular by e-mail or by making the Transaction Terms available to the Customer on the Transaction Platform) or in any other form agreed between the Parties. In the case of Term Deposit Transactions and FX Spot Transactions, Transaction Confirmation may consist of a statement of the current or shadow account made available to the Customer pursuant to the bank account agreement.
3. A Transaction shall be validly entered into regardless of whether the Transaction Confirmation has been provided. The content of the Confirmation may not amend the agreed Transaction Terms. The Transaction Confirmation shall not require signatures of the Parties or seal of the Bank.
4. The Customer shall verify the content of the received Transaction Confirmation.
5. Unless the Master Agreement or the Transaction Description provide otherwise, a Transaction may be deemed to be confirmed if the Customer raises no objection to the content of the Transaction Confirmation (in particular, confirms adjustments or amendments, if any, to the agreed Transaction Terms) until the end of the first (1<sup>st</sup>) Business Day after the date of receipt of the Confirmation.
6. In case of any discrepancies between the agreed Transaction Terms and the content of the Confirmation, the record of the agreed Transaction Terms shall prevail.

## **§ 8. Transaction Settlement**

1. Subject to other provisions of these Terms and Conditions, the Master Agreement and the Transaction Descriptions, in order to settle the Transactions, the Parties shall make payments under the Transaction(s) in accordance with the agreed Transaction Terms.
1. When calculating the amounts of liabilities and receivables arising from the Transaction Settlement, the Bank rounds the amounts off in accordance with the standard applicable at the interbank market for the given transaction type.
2. Transactions shall be settled through the Customer's Settlement Accounts maintained with the Bank. The Bank gives its consent to the settlements being made through the Customer's Settlement Accounts maintained with different bank.
3. If the Customer has more than one Settlement Account maintained with the Bank, the Customer shall be obligated to specify, at the time of entering into the Transaction at the latest, which of the Settlement Accounts maintained with the Bank shall serve the purpose of the Transaction Settlement. If, in the course of agreeing on the Transaction Terms, the Customer fails to specify any of the Settlement Accounts, the Transaction Settlement shall be made to the first of the Settlement Accounts specified in the Information Sheet that is maintained in the same currency as the currency of the Transaction Settlement.
4. In the case where the Customer wishes to perform the Transaction Settlement through the Settlement Account maintained with another bank, the Customer shall each time, no later than two Business Days prior to the Transaction Settlement date, indicate to the Bank such Settlement Account as the account designated for the Transaction Settlement purposes.

5. The Customer may replace the Settlement Account maintained with the Bank and indicated in the Information Sheet with a different Settlement Account maintained with the Bank no later than two (2) Business Days before the Transaction Settlement. If the replacement referred to in the foregoing sentence occurs at a later time, the Customer shall not be entitled to any incidental benefits for the Bank's delay in payment under Transaction Settlement in favour of the Customer.
6. The Customer shall be obligated to provide funds on the Customer's Settlement Account maintained with the Bank in an amount due to the Bank as at the liability maturity date, or, on the bank account indicated to the Customer by the Bank, in the instance referred to in the second sentence of § 8.2 above.
7. If the Transaction is settled through the Settlement Accounts maintained with the Bank, then, on the Settlement Date, the Bank shall credit or debit, respectively, the Settlement Account of the Customer maintained with the Bank with the full amount of the Customer's liability towards the Bank under Transaction Settlement regardless of the amount of the balance available on the Settlement Account of the Customer maintained with the Bank.
8. If on the Transaction Settlement Date there are no funds on the Settlement Account through which the Transaction Settlement is performed in an amount requested to perform the Transaction Settlement by the Bank, the Bank shall have the right to charge any (current or shadow) account of the Customer maintained with the Bank with an amount required to perform the Transaction Settlement; the Bank shall first charge the account maintained in the same currency as the Transaction Settlement currency.
9. If an account maintained in a different currency is credited or debited, the Bank shall convert the funds accumulated on such account at the rate quoted in the Foreign Exchange Rates Table applicable as at the moment of debiting. .
10. If the Transaction Settlement is performed through the Settlement Accounts of the Customer maintained with another bank, then:
  - 1/ on the Settlement Date, the Customer shall transfer an amount required to perform the Transaction Settlement to the bank account specified by the Bank; the moment when the funds are recorded on the bank account specified by the Bank shall be deemed to be the moment of payment;
  - 2/ on the Settlement Date, the Bank shall transfer an amount required to perform the Transaction Settlement into the Settlement Account indicated by the Customer maintained outside the Bank;

with the proviso that in a Transaction Settlement providing for mutual payment of liabilities on the same Settlement Date, the Bank shall have the right to refrain from payment as referred to in § 8.10.2 above until it receives the funds pursuant to § 8.10.1 above and refrain from payments on the Settlement Date if the Customer does not ensure funds in the bank account indicated by the Bank and in the period indicated by the Bank that allows the Bank to execute its payments on the Settlement Date, which will neither constitute an Event of Default with respect to the Bank nor entitle the Customer to demand default interest.
11. If an unauthorised debit arises on the Settlement Account of the Customer maintained with the Bank as a consequence of Transaction Settlement, the Customer shall be obligated to promptly repay the unauthorised debit.
12. If an unauthorised debit arises on the Settlement Account of the Customer maintained with the Bank or if the Customer has failed to secure funds in an amount equal to the amount due to the Bank under the Transaction Settlement on the bank account specified by the Bank – in the case when the Transaction Settlement is performed through the Settlement Account maintained with a different bank, the Bank shall have the right to charge interest for the delay in payment.
13. Repayment (performance) of pecuniary obligation under the Transaction by the Customer shall not be treated as an effective performance of the Transaction Settlement or repayment of any other payment falling due under the Transaction if the funds obtained by the Bank thereunder are subsequently returned following the decision of a competent court or authority or if the payment has been otherwise annulled.
14. In the case when the Transaction Settlement is submitted to CCP, the Transaction Settlement, as a result of a clearing novation, referred to in Article 45h.2.1 and 2 of the Act on Trading in Financial Instruments, is regulated by the relevant agreement concluded by each of the Parties with CCP or with a participant who, based on the agreement concluded with the Party, is obliged to perform the tasks of a participant being a Party to the Transaction Settlement ("Settlement Agent"). The rules for the Bank performing the function of a Settlement Agent for the Customer are regulated by a separate agreement.

## § 9. Events of Default

1. Each of the following events occurring with respect to each Party shall constitute an Event of Default with respect to such Party (the "**Defaulting Party**"):
  - 1/ failure to perform a payment on its maturity date, which the Party is obliged to make under the Master Agreement or a Transaction;
  - 2/ occurrence of an unauthorised debit on the Customer's Settlement Account maintained with the Bank as a consequence of performing the Transaction Settlement;
  - 3/ the Customer's failure to establish the Collateral required by the Bank;
  - 4/ the Customer's failure to perform any obligation under the Master Agreement or a Transaction (other than that specified in § 9.1.1 above);
  - 5/ the Customer's failure to perform any obligation under the Credit Support Agreement; in particular failure to perform the Additional Obligation irrespective of whether the Bank has exercised its right to request that an Additional Collateral be established or Reduction be effected;
  - 6/ submitting false documents or making false representations or warranties, or submitting documents certifying untruth or making misrepresentations by the Customer, including representations and warranties made in connection with entering into a Transaction, the Master Agreement or any other agreement with the Bank, amendments thereto, as well as in connection with establishing the Collateral;
  - 7/ ~~deleted~~
  - 8/ Occurrence of the following factual or legal events, which increase the risk of failure to fulfil the Customer's obligations resulting from the Transaction:
    - a/ fulfilment of any condition justifying termination or a request for immediate repayment under credit agreements, loan agreements, leasing agreements or other agreements of similar character charged with credit risk that the Customer is a party to;
    - b/ institution of enforcement proceedings or solvency safeguard procedure (*postępowanie zabezpieczające*) in which the amount of claims asserted accounts for a significant portion of liabilities of the Customer towards his creditors;
    - c/ delivery of a valid and final judgment or decision ordering the Customer to pay a sum in an amount accounting for a significant portion of liabilities of the Customer towards his creditors;
    - d/ seizure by the enforcement authority of debts under one or more one of the Settlement Accounts of the Customer maintained with the Bank;
    - e/ appointment of receivership or a different administrator for the Customer's enterprise;
    - f/ occurrence of events affecting the legal, financial or economic situation of the Customer, which, in the Bank's point of view may cause increase of the risk of the Customer's failure to meet his obligations under the Transactions executed;
  - 9/ occurrence of the following factual or legal events resulting in loss or decrease of the value of the Collateral, including in particular:
    - a/ establishing the Collateral ineffectively or discovering legal defect(s) in the assets constituting the Collateral;
    - b/ seizure by the enforcement authority of assets constituting the Collateral;
    - c/ establishment of the Collateral that is legally ineffective or is null and void.

- 10/ material breach by the Customer of terms of any transaction entered into with the Bank that is not a Transaction;
  - 11/ the Customer's having ceased or threatening to cease to conduct the business activity in whole or in part;
  - 12/ withdrawal or expiry of any consent or approval or other license required for the validity of the Master Agreement, the Transactions executed or allowing the Customer to perform his obligations under the Master Agreement or the executed Transaction.
2. The Defaulting Party shall be obligated to promptly inform the other Party (the "**Non-Defaulting Party**") of the occurrence of any of the Events of Default affecting the Defaulting Party.

## § 10. Consequences of Event of Default

1. If an Event of Default occurs, then:
  - 1/ immediately after having become aware of the occurrence of Event of Default, the Non-Defaulting Party shall notify the Defaulting Party, by fax, e-mail or in writing, of stating the occurrence of Event of Default;
  - 2/ if, upon the lapse of the second (2nd) Business Day after the day of delivery (or attempted delivery pursuant to § 10.1 above) of the notice on the Event of Default, the Event of Default referred to in § 10.1 is continuing, then:
    - a/ if the Bank is the Non-Defaulting Party, the Bank shall have the right to perform an Early Termination by calculating the Net Present Value for each Transaction subject to Early Termination and calculate the Early Termination Amount pursuant to § 10.4 below; the day on which the Bank performs the Early Termination shall become the Early Termination Date;
    - b/ if the Bank is the Defaulting Party, and the notice referred to in § 10.1.1 above is not manifestly unfunded, the Bank shall set the Early Termination Date that may not fall later than on the twentieth (20<sup>th</sup>) Business Day after the notice referred to in § 10.1.1 and perform the Early Termination by calculating the Net Present Value for each Transaction subject to the Early Termination and calculate the Early Termination Amount pursuant to § 10.4 below.
2. If an Event of Default occurs with respect to a Party, then as of the time it has become aware of the Event of Default, the Non-Defaulting Party shall have the right to refrain from paying any amounts in favour of the Defaulting Party under the Transaction, save for the Term Deposit Transactions, and shall not be obligated to pay any late payment interest thereunder. The said right shall be vested in the Non-Defaulting Party until the Event of Default ceases to exist or becomes remedied and the Defaulting Party has settled any and all liabilities under the Master Agreement and the Transactions.
3. As of the Early Termination Date, the obligations of the Bank and the Customer (whether due or not) arising from the Transactions (save for the Term Deposit Transactions) shall become the obligation to determine and pay the Early Termination Amount (which, however, shall not constitute a novation within the meaning of Article 506 § 1 of the Civil Code).
4. The Early Termination Amount calculated by the Bank as at the Early Termination Date shall be equal to the sum of the following values:
  - 1/ the sum of the due or undue liabilities of the Bank and the Customer under the Transactions (save for the Term Deposit Transactions) calculated in the manner set out for calculating the Net Present Value of each Transaction subject to the Early Termination; and
  - 2/ the value of the matured liabilities due and payable by each Party under the Transactions (other than the Term Deposit Transactions).
5. After calculating the Early Termination Amount, the Bank shall either credit (if the Early Termination Amount is payable to the Customer) or debit (if the Early Termination Amount is payable to the Bank) the Settlement Account of the Customer maintained with the Bank. If the Customer has no Settlement Account maintained with the Bank, he shall be obligated to pay, no later than until the end of the Business Day following the Early Termination Date, the amount corresponding to the Early Termination Amount to the account specified by the Bank. If the Early Termination Amount is payable to the Customer, the Bank shall remit the Early Termination Amount to the Settlement Account of the Customer maintained outside the Bank.
6. Any calculations related to the computing of the Early Termination Amount are performed by the Bank. After having calculated the Early Termination Amount and performed the Early Termination, the Bank shall notify the Customer about the value of the Early Termination Amount in the manner specified in § 10.1.1 above. If the Customer requests so in writing, the Bank shall substantiate the Early Termination Amount calculated by the Bank.
7. The Bank shall have the right to request to be reimbursed for, and the Customer shall cover all documented costs and charges related to the Early Termination. The Bank may also seek compensation on general terms in accordance with provisions of the Civil Code.

## § 11. Termination Events

1. The following events shall constitute Termination Events:
  - 1/ change in the applicable provisions of law in such a way that the Transaction or settlement thereof becomes illegal or may result in breach of law;
  - 2/ event of Force Majeure, provided that such event of Force Majeure is continuing for at least three (3) Business Days;
  - 3/ Tax Event;
  - 4/ other events specified by the Parties as an event constituting the Termination Event in separate representations, documents or agreements.
2. The Party affected by the Termination Event shall be obligated to promptly notify the other Party thereof, and in the case of the Tax Event the Party shall be obligated to present an opinion of a person holding appropriate professional qualifications to have the occurrence of such Tax Event confirmed.
3. Failure, by the Party affected by the Termination Event to make payment under the Transaction shall not be deemed as delay or Event of Default; however, the other Party shall have the right to refrain from performing mutual obligations under the Transaction.
4. If, after occurrence of the Termination Event, a Party has fulfilled a performance arising from a Transaction in favour of the other Party but has not received from the other Party any payable sum under the Transaction, the performing Party shall be entitled to request return of what was received by the second Party .
5. If the Termination Event occurs and affects either Party, the Parties in good faith shall enter into negotiations in order to eliminate the Termination Event; however, such negotiations may not last longer than five (5) Business Days, unless the Parties agree on a different deadline for completing negotiations . If the negotiations do not lead to elimination of the Termination Event, the Transaction, with respect to which the Termination Event referred to in § 11.1 above occurred, shall be settled early in accordance with § 10 above, which § 10 shall apply accordingly, without the necessity to observe the deadlines stipulated therein.

## § 12. Notices

1. Unless the Master Agreement, the Terms and Conditions or Transaction Descriptions provide otherwise, any correspondence to the Client will be delivered to the phone number and address given by the Client in the Framework Agreement, Customer Information Sheet, other document accepted by the Bank, or to the last phone number and address known to the Bank.
2. Correspondence and/or information shall be deemed to be effectively delivered:
  - 1/ if directly delivered – upon confirmation of receipt of the letter by the Customer, its representative or attorney in fact;
  - 2/ if sent by fax – upon the sender Party's receipt of correct send confirmation message;

- 3/ if sent by e-mail – upon correct sending of the e-mail to the server of the Bank or the Customer, respectively;
  - 4/ if sent by registered mail or courier service – upon delivery or attempted delivery; in particular, the following shall be deemed to constitute a proof of attempted delivery; an appropriate advice in writing received from the post office, courier service or a different entity authorised for service stating that the deadline to collect the mail has expired ineffectively or that it has been impossible to deliver the mail, in particular due to refusal to accept the mail;
  - 5/ if the Customer refused to accept the delivery – on the date of such refusal;
  - 6/ e-banking message – upon introducing the message into the means of e-communications in a way enabling the Customer to familiarize himself therewith;
  - 7/ if a different correspondence delivery method has been agreed upon – in accordance with the Parties arrangements.
3. The Bank hereby provides the following correspondence details for the purpose of cooperation with the Customer with regard to the Master Agreement and the Transaction(s):
    - 1/ for matters other than those mentioned in items § 12.3.2 and § 12.3.3:  
mBank S.A.  
Departament Sprzedaży Rynków Finansowych (Financial Markets Sales Department)  
ul. Prosta 18, 00-850 Warszawa  
Bank's e-mail address: DSM\_negocjacje@mbank.pl
    - 2/ for matters related to Confirmations:  
Departament Obsługi i Rozliczeń Rynków Finansowych (Financial Markets Service and Settlements Department)  
E-mail address: potwierdzenia.klient@mbank.pl
    - 3/ for matters related to Collaterals and Mark-up information:  
Departament Obsługi i Rozliczeń Rynków Finansowych (Financial Markets Service and Settlements Department)  
E-mail address: collateral.klient@mbank.pl
  4. The Bank hereby announces that all details concerning the Bank are available at the Bank's web site: <http://www.mbank.pl>.
  5. If the notice referred to in § 12.2.1 – § 12.2.4 is delivered after business hours on a Business Day or a day that is not a Business Day at the place of delivery, the notice shall be deemed to have been delivered on the first Business Day following the day on which the notice was delivered at the place of delivery. The notice shall be irrevocable in absence of manifest error, and, if so, then it shall be revocable only to the extent of the error.
  6. In case of any change, the Customer shall promptly update his/her address details .

### **§ 13. Complaints, dispute resolution**

1. Unless provisions of law (in particular the EMIR Legislation, the Master Agreement or the Terms and Conditions) provide otherwise, in the event of any:
  - 1/ discrepancy between the Transaction Confirmation sent to the Customer by the Bank and the agreed Transaction Terms, the Customer shall have the right to promptly notify the Bank over the phone of any objections, however, no later than until the end of the Business Day following the date of receipt of the Confirmation;
  - 2/ inconsistencies in the content of the report together with the valuation of the Transaction Package, the Customer shall have the right to raise objections in writing, by e-mail (provided that the Bank has informed the Customer of its e-mail address for the purpose of raising such objection in the Master Agreement or in the manner as provided in the Master Agreement or the Information Sheet, or in the Terms and Conditions) or by fax, promptly, however no later than within two (2) Business Days from the date of receipt of the report together with valuation of the Transaction Package from the Bank; and
  - 3/ inconsistencies in the content of the Collateral report, the Customer shall have the right to raise objections in writing by e-mail (provided that the Bank has informed the Customer of its e-mail address for the purpose of raising such objection in the Master Agreement or in the manner as provided in the Master Agreement or the Information Sheet, or in the Terms and Conditions) or by fax, promptly, however no later than within two (2) Business Days from the date of receipt of the Collateral report from the Bank.
2. The Bank shall its best efforts to provide answer or explanations thereto by telephone, telefax or e-mail, however no later than within five (5) Business Days from the date the objections have been raised. The Bank reserves the right to extend the deadline depending on the complexity of objections raised by the Customer pursuant to § 13.1 above; the Bank shall promptly inform the Customer of such deadline extension and set a new deadline to provide the answer or explanations.
3. If the Customer's objections are recognised, then, immediately after the answer or explanations referred to in § 13.2 above have been provided, the Bank shall deliver to the Customer a revised version of the Confirmation, the report together with Transaction Package valuation or the Collaterals report, as the case may be.
4. If the objections raised by the Customer are dismissed, the Customer shall have the right to lodge a complaint in writing with the Bank. If no complaint has been lodged within five (5) Business Days, the Customer shall be deemed to have accepted the explanations provided to him by the Bank.
5. The Customer may file a complaint related to the Master Agreement or the Terms and Conditions, subject to § 13.4.
6. A complaint may be filed with the Bank's organisational unit providing customer service in writing, electronically, by phone or in person during a meeting with the Bank's employee.
7. The Bank shall reply to the complaint referred to in § 13.4 and § 13.5 not later than within 15 Business Days from the date of its receipt. Replies to complaints shall be provided on a durable medium, i.e. in paper or electronic form.
8. Upon the Customer's request included in the complaint, the Bank may respond to the complaint referred to in § 13.4 via electronic mail.
9. In the case of particularly complex matters, the Bank reserves the right to extend the time limit referred to in § 13.7 to 35 Business Days. The Bank shall promptly inform the Customer of such deadline extension.
10. The Bank shall keep record of all disputes related to Transactions entered into between the Bank and the Customer, including in particular information concerning the time for which the dispute has remained unsettled, the details of the Customer who has been a party to the dispute and the contested amount.
11. If there is a dispute as referred to above between the Bank and the Customer, such a dispute shall not affect the scope of the rights and obligations of the Parties under the executed Transactions, in particular, such a dispute shall not affect the validity of the executed Transactions.

### **§ 14. Portfolio Reconciliation**

1. The Bank shall provide the Customer with a report together with Transaction Package valuation, including:
  - 1/ list of unmatured Transaction executed with the Bank forming part of the Transaction Package;
  - 2/ the value of the Minimum Collateral calculated for the Transactions referred to in § 14.1.1 above;
  - 3/ Net Present Value of individual Transactions referred to in § 14.1.1 above;
  - 4/ Net Present Value of the Transaction Package;
 or another valuation report of Transactions in Derivatives that are not included in the Package of Transactions.

2. The Bank shall provide the Customer with the report together with the valuation referred to in § 1 above within the deadlines resulting from the EMIR Legislation provided for reconciliation of portfolios of Transactions in Derivatives.
3. The Report together with the valuation may be submitted to the Customer more frequently than as provided in § 14.2 above if the Customer and the Bank so agree or if the Bank decides so.
4. Whenever the Customer receives the report with the valuation, the Customer shall be obligated to verify the contents thereof. If the Customer discovers any inconsistency, the Customer should promptly, however no later than within two (2) Business Days from the date of receipt of the report with the valuation, contact the Bank in order to clarify inconsistencies, if any, or raise objections to the content of the report acting pursuant to § 13.1.2 above.
5. If no objection has been raised regarding the report with the valuation within the deadline referred to in § 14.4 above, the Customer shall be deemed to have familiarized himself, verified and accepted the content of the report with the valuation.
6. The Customer undertakes to promptly inform the Bank whenever he/she does not receive the report with the valuation from the Bank within the deadlines resulting from the EMIR Legislation provided for reconciliation of portfolios of Transactions in Derivatives.

## § 15. Transaction Notification

1. The Customer authorises the Bank to perform, on behalf of the Customer, Notifications of Transactions in Derivatives (in particular of any amendments thereto and the fact of termination thereof) entered into with the Bank to the Trade Repository in accordance with the requirements resulting from the EMIR Legislation; the requirements apply both to Transactions in Derivatives executed with the Bank after the obligation to notify Transactions in Derivatives in accordance with the EMIR Legislation has come into force and Transactions in Derivatives executed with the Bank before the obligation has become effective within the scope specified in the EMIR Legislation. The Bank shall choose the Trade Repository to which Transactions in Derivatives are to be reported. The Bank may choose more than one Trade Repository. By publishing information on the Bank's web site or in the form of an announcement published to the electronic banking system, the Bank shall inform the Customers about the Trade Repository(ies) to which it shall report Transactions in Derivatives. If the Customer so requests, the Bank shall provide information referred to in the foregoing sentence to the Customer in writing.
2. Reporting of Transactions in Derivatives to the Trade Repository (in particular any changes to Transactions in Derivatives and the fact of termination thereof) shall take place in accordance with the principles and within deadlines specified in the EMIR Legislation and the agreement between the Bank and the given Trade Repository. The scope and the principles of reporting Transactions in Derivatives (in particular any and all changes thereto and the fact of termination thereof) by the Bank to the Trade Repositories depends on the requirements imposed by in mandatory provisions of law, in particular the EMIR Legislation, and the agreement between the Bank and specific Trade Repository.
3. With regard to Transactions in Derivatives entered into with the Bank, the Customer authorises the Bank to access the Customer's data contained in the Trade Repository, obtain from the Trade Repository information concerning the Customer or Transactions in Derivatives entered into therewith and perform, on behalf of the Customer, any other activities and make declarations of will concerning the data that are subject to the Notification of Transactions in Derivatives executed with the Bank.
4. Should the Customer wish to make Notifications of Transactions in Derivatives to the Trade Repository (in particular any changes to Transactions in Derivatives and the fact of termination thereof) acting on his own, he shall notify the Bank thereof in writing and, subsequently, agree with the Bank on a detailed manner in which the contents of Notifications of Transactions in Derivatives to the Trade Repository (in particular any and all changes to Transactions in Derivatives and the fact of termination thereof) are to be agreed upon. The aforementioned Notification shall be binding upon the Bank after the lapse of the second (2<sup>nd</sup>) Business Day from the day when the above-described manner of agreeing on the content of Notifications of Transactions in Derivatives to the Trade Repository was finally agreed with the Bank and the Bank confirmed it in writing. Notwithstanding the method in which the contents of the Notifications to the Trade Repository are agreed with the Bank, in the event where a Customer Notifies Transactions in Derivatives to the Trade Repository acting on his own, then, for the purposes of reporting Notifications to the Trade Repository, the Customer shall use Transactions in Derivatives identification codes referred to in the EMIR Legislation, as assigned thereto by the Bank and contained in the Confirmations of specific Transactions in Derivatives provided to the Customer by the Bank with regard to such Transactions in Derivatives. For the avoidance of doubt, if the Customer notifies the Bank of his intention to make Notifications of Transactions in Derivatives to the Trade Repository acting on his own, the Customer shall report any changes or terminations of Transactions in Derivatives already notified to the Trade Repository by the Bank acting on behalf of the Customer. The Bank shall not be liable for any loss suffered by the Customer in connection with reporting Transactions in Derivatives (in particular any changes thereto and the fact of termination thereof) to the Trade Depository by the Customer acting on his own. If the Customer who makes Notifications of Transactions in Derivatives (in particular any and all changes thereto and the fact of termination thereof) to the Trade Repository acting on his own wishes that the Bank assumes the reporting of Transactions in Derivatives (in particular any and all changes thereto and the fact of termination thereof) to the Trade Repository acting on behalf of the Customer, then the Customer shall notify the Bank of that fact in writing. Unless the Bank informs the Customer within five (5) Business Days from the date of delivery of such a Notification that the Bank does not agree to report Transactions to the Trade Repository on behalf of the Customer, then provisions of this § 15 concerning the Transaction reporting to the Trade Repository on behalf of the Customer shall apply directly starting from the first (1<sup>st</sup>) Business Day falling after ineffective lapse of the aforesaid five(5)-day deadline or on a different Business Day specified by the Bank to the Customer.
5. All data concerning the Customer that the Bank has in its possession required for the Bank to duly make the Notification to the Trade Repository of Transactions in Derivatives (in particular any changes thereto and the fact of termination thereof) executed with the Customer (in particular the Customer's telephone number and address details, business name, registered seat and the legal status of the Customer, particulars required to assign the Customer to the FC Counterparty or NFC Counterparty categories and information related to the Customer's LEI (*Legal Entity Identifier*) or BIC (*Business Identifier Code*) numbers shall be deemed as up-to-date by the Bank and the Bank shall use them to make Notifications of Transactions in Derivatives to Trade Repositories unless the Customer notifies the Bank of change of the data; the latter Notification shall be effective as of the second (2<sup>nd</sup>) Business Day after the date of delivery thereof to the Bank.
6. The Bank may (acting at its own discretion, in writing or by e-mail) request the Customer to promptly (however no later than within one (1) Business Day from the date of the Customer's receipt of the Bank's inquiry thereof) confirm whether the data referred to in § 15.5 above are up-to-date and promptly (however no later than one (1) Business Day from the day the Customer has received the inquiry from the Bank) provide additional information, make representations or perform any other activity that is necessary for the Bank to make the Notification of Transactions in Derivatives to the Trade Repository on behalf of the Customer regardless of whether such additional information, representation or activity is required by virtue of law, in particular under the EMIR Legislation, or under agreement executed between the Bank and specific Trade Repository.
7. In the event that:
  - 1/ the Customer fails to promptly confirm, upon the request from the Bank referred to in § 15.6 above, that his data are up-to-date; or
  - 2/ the Customer has failed to promptly provide, upon the request from the Bank referred to in § 15.6 above, additional information, submit representation(s) or take any other steps that are necessary to make Notifications of Transactions in Derivatives to the Trade Repository;
 The Bank shall have the right to refuse to conclude a transaction or to make Notifications of Transactions in Derivatives to its best knowledge about the Customer and the Transactions in Derivatives concluded with the Customer.

8. Notwithstanding § 15.5 and 15.6 above, the Customer undertakes to inform the Bank promptly in writing, without any request from the Bank to that end required, of any and all data change(s) as referred to in § 15.5 and 15.6 above.
9. For the purposes of making Notifications of Transactions in Derivatives (in particular any change thereto or termination thereof) to the Trade Repository, it is assumed that the Customer shall accept, unless the Parties agree otherwise, that when making Notifications of Transactions in Derivatives (or Notification of change thereto) to the Trade Repository, the Bank, acting on behalf of the Customer, shall provide data concerning valuations and Collaterals calculated or determined by the Bank in conformity with methodology adopted to that end by the Bank.
10. *(deleted)*
11. The Customer shall be liable to the Bank for loss suffered by the Bank (in particular due to penalty(ies) imposed on the Bank) as a consequence of the Customer's failure to perform any of his obligations referred to in § 15.4 – 15.9 above. In particular, if the Bank so requests, the Customer shall promptly cover any and all damage and reimburse the Bank for all the costs incurred by the Bank in connection with the Customer's failure from such obligation(s).
12. Pursuant to the EMIR Legislation the obligation to report Transactions in Derivatives (in particular any change thereto or termination thereof) arising from the EMIR Legislation shall rest with each Party to Transactions in Derivatives, i.e. on the Bank and on the Customer independently. However, despite the fact that subject to § 15.4 above Transactions in Derivatives (in particular any change thereto and termination thereof) shall be notified by the Bank on behalf of the Customer, a penalty resulting from failure to fulfil the EMIR Legislation in the above-specified scope may be imposed directly on the Customer.
13. The Bank shall not be liable towards the Customer for non-performance or improper performance by the Trade Repository of the obligations imposed thereon by virtue of law (including the EMIR Legislation) or the agreement between the Bank and the Trade Repository.
14. The Bank shall not be liable towards the Customer for any damage caused to the Customer due to inability to make Notifications of Transactions in Derivatives (including any changes thereto and the termination thereof) to a Trade Repository due to technical reasons or force majeure.
15. The Bank reserves the right to charge fees for making Notifications of Transactions in Derivatives (in particular any changes thereto and termination thereof) to Trade Repository in accordance with the "Tariff of Commission Fees and Banking Charges for Small and Medium Business and Corporate Customers applicable at mBank." The Bank shall inform the Customers of introduction of a new fee or any change to the fee levels one (1) month in advance.
16. Pursuant to provisions of the EMIR Legislation, the Customer hereby authorises the Bank to make, on behalf of the Customer, Notifications of Transactions in Derivatives entered into between the Customer and the Bank (in particular any changes thereto and/ terminations thereof) to ESMA (in line with the principles set out in §§ 15.1 to 15.15 above) in case a Trade Repository is unavailable, in order for Transactions in Derivatives to be registered in accordance with the requirements stipulated in the EMIR Legislation.
17. Subject to § 15.4 above, the Customer represents to the Bank that, unless the Bank and the Customer agree otherwise, the Customer shall not, while acting on his own, make any Notifications of Transactions in Derivatives (in particular any change to Transactions in Derivatives or the fact of termination thereof) to any Trade Repository or ESMA if such Transaction(s) in Derivatives is/are subject to the authorisations referred to in § 15.1 and § 16.1 above.
18. Provisions of § 15.1 to § 15.17 shall not apply to Customers who have their registered seats (or, if there is no registered seat, then the place of conducting business) outside the European Union.

## **§ 16. Portfolio Compression**

In the event that the number of the applicable Transactions in Derivatives between the Bank and the Customer that are not subject to the obligation of central settlement pursuant to the EMIR Legislation, exceeds 500, or, if, as a result of other circumstances it might become likely that the number achieves or exceeds 500 in the nearest future (i.e. no later than within the following consecutive 45 calendar days) then the Bank and the Customer shall enter into negotiations in order to agree on specific procedures concerning regular verification (at least twice a year) whether a portfolio of those Transactions in Derivatives (including the Transaction Package) may be compressed in order to limit the credit risk of the counterparty.

## **§ 17. MIFID, MIFIR and EMIR Presumptions**

1. For the purposes of performance by the Bank and the Customer of their obligations resulting from the EMIR, MIFID and MIFIR Regulations and, for the Bank, for the purposes of performance of the agreement between the Bank and a Trade Repository, the Bank is entitled to assume the following, unless the Customer has notified the Bank otherwise, bearing in mind that the notification concerning the information referred to in points 3 and 5 should be made when concluding the Transaction, while the notification concerning the information referred to in points 1, 2 and 4 should be served to the Bank in writing, and provided that such a notification is effective from the next Business Day after it is served to the Bank:
  - 1/ the Customer has the status of the customer within the meaning of the EMIR Legislation conforming with the status presented to the Bank upon execution of the Master Agreement or with the status presented to the Bank in accordance with § 17.2 below;
  - 2/ the Customer, who is not a FC Counterparty or an entity having its registered seat (or, if there is no registered seat, then the place of conducting business) outside the territory of the European Union, is an NFC Counterparty that is not an NFC+ Counterparty;
  - 3/ the Customer who is an NFC Counterparty shall enter into Transactions in Derivatives in order to limit the risk directly related to the Customer's business activity or his activity in terms of management of assets and liabilities within the meaning of the EMIR Legislation;
  - 4/ the Transaction in a financial instrument entered into by the Customer is concluded in the Customer's own name and to the Customer's own account;
  - 5/ unless the Customer has declared otherwise, it is assumed that the Transaction is not a security short sale transaction (or a part of such a transaction) within the meaning of Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps;
  - 6/ when entering into the Transaction, the Customer confirms that the Transaction is not subject to the obligation to trade referred to in § 1.– 16.
2. If the Customer changes his status, in particular, an NFC Counterparty gains or loses his status of an NFC + Counterparty, the Customer shall promptly, however no later than before execution of another or change to the existing Transaction in Derivatives executed with the Bank, inform the Bank of change of his status (in particular when he gains a new one or loses his current status); with the provision that, if it is necessary for the sake of the Bank's or the Customer's performance of the obligations under the EMIR Legislation the Parties shall in good faith agree on the further mode of procedure, in particular within the scope of execution or settlement of the Transaction in Derivatives.
3. If a Customer who is an NFC Counterparty does not calculate its positions or if such a calculation reveals that the Customer has exceeded (or, as a result of a planned execution or change of a Transaction in Derivatives with the Bank, will exceed) the threshold referred to in Article 10 (1) of the EMIR Regulation (or any other provision to substitute it), the Customer shall each time promptly, however no later than before the execution of another or the change of an existing Transaction in Derivatives with the Bank (or before the execution or change of a Transaction in Derivatives as a result of which the Customer would exceed the threshold), inform the Bank in writing that it does not calculate its positions or that such a calculation revealed that the threshold has been exceeded (or that the threshold will be exceeded as a result of a planned execution or change of a Transaction in Derivatives with the Bank).
4. Provisions of § 15.10 and § 15.11 shall apply accordingly.

5. Subject to § 17.1, the Customer shall notify the Bank in writing, should the Customer be required to perform an obligation arising from EMIR Legislation, MiFID Regulations, and MiFIR Regulations.

## § 18. Types of Collateral

1. In respect of the Transactions executed as a part of the Transaction Package the Customer shall establish a Collateral. In order to establish a Collateral or to agree that the Customer should be released from the obligation to establish a Collateral, the Customer is obligated to enter into the Credit Support Agreement with the Bank.
2. The Required Collateral established in the form specified in the Credit Support Agreement.
3. The Additional Collateral shall be specified in the Credit Support Agreement.

## § 19. Required Collateral

1. The Customer may be requested to establish the Required Collateral on any Business Day.
2. The amount of the Required Collateral shall be equal to the value of the Customer's Exposure calculated on the Pricing Date less the Amount of the Limit.
3. The method of calculation of the Customer's Exposure shall be determined in the Credit Support Agreement.
4. If, pursuant to the Credit Support Agreement, the Customer is discharged from the obligation to establish the Required Collateral, the discharge from the obligation to establish the Required Collateral shall be effective on the fifth (5<sup>th</sup>) day from the day the Customer has fulfilled any and all conditions specified in the Credit Support Agreement unless the Bank has notified the Customer (by telephone, e-mail or telefax) that the Customer is discharged from such obligation.

## § 20. The method of establishing the Required Collateral

1. Until the end of the Business Day following the Pricing Date the Bank shall provide the Customer with a Collateral report containing the following information:
  - 1/ Value of the Required Collateral established by the Customer as at the Pricing Date;
  - 2/ Value of the Required Collateral due from the Customer as of the second (2<sup>nd</sup>) Business Day after the Pricing Date.
2. If the value of the Required Collateral established as at the Pricing Date is lower than the value of the Required Collateral payable, the Customer shall supplement the value of the established Required Collateral up to the payable amount of the Required Collateral.
3. For the purpose of establishing or supplementing the value of the Required Collateral, in the event where:
  - 1/ the Customer has a Settlement Account with the Bank, the Bank shall debit the Settlement Account specified in the Credit Support Agreement with the amount constituting the difference between the value of the Required Collateral payable and the value of the Required Collateral established by the Customer (without the Additional Collateral, if any) up to an amount of the funds available on the second (2<sup>nd</sup>) Business Day after the Pricing Day, as at one (1) Business Day after the Pricing Date;
  - 2/ the Customer has no Settlement Account with the Bank, the Customer shall transfer, no later than on the second (2<sup>nd</sup>) Business Day after the Pricing Date, funds to the account specified by the Bank in order to establish or supplement the payable Required Collateral;
  - 3/ On the Business Day referred to in § 20.3.1 above, the Customer has failed to provide funds on the Settlement Account in an amount required to establish or supplement the payable Required Collateral, the Bank shall have the right to debit another Settlement Account of the Customer or another bank account of the Customer maintained with the Bank, provided that the account is maintained in the same currency as the currency in which the Required Collateral is collected, up to an amount of payable the Required Collateral, which amount is specified in the Collateral report.
4. The Bank may request the establishment of the Required Collateral before the Transaction is entered into. In such case, the Bank shall collect the agreed amount of the Required Collateral from the Settlement Account or the Customer shall pay the agreed amount of the Required Collateral to the account specified by the Bank. Where there has been no Transaction, the Required Collateral shall be refunded in accordance with the principles specified in § 20.5 below.
5. If the value of the established Required Collateral exceeds the value of the payable Required Collateral, the Bank shall refund a portion of the established Required Collateral in the amount constituting a difference between the established Required Collateral and the payable Required Collateral. The Bank shall credit the Settlement Account of the Customer (if maintained by the Bank) or transfer the funds to the Settlement Account of the Customer maintained with a different bank, respectively (in the latter situation, the moment of placing a transfer order by the Bank shall be deemed to be the day of the refund), and the refund shall be made to the Settlement Account specified in the Master Agreement maintained in the same currency as the currency in which the Required Collateral was collected. The Bank shall refund the Required Collateral in the minimum amount of PLN 25,000.00 or the equivalent thereof in a different currency converted in accordance with the fixing rate of the National Bank of Poland determined on the Pricing Date.
6. In the Credit Support Agreement or a separate document sent by the Customer and approved by the Bank, the Parties may agree on method(s) of collecting or refunding portions of the Required Collateral other than the principles stipulated in § 20.5 above.
7. In the event that the Required Collateral is established in a currency other than Polish Zloty, then, for the purpose of determining the value of the established Required Collateral, the Bank shall convert the Collateral at the exchange rate according to the Exchange Rates Table applicable at the time the account is debited or credited.

## § 21. Satisfaction of claims

1. The Bank may satisfy the following claims from the Collaterals established in favour of the Bank:
  - 1/ payment of the due and payable amounts resulting from settlement of Transactions entered into between the Customer and the Bank, in particular the Early Termination Amount;
  - 2/ covering unauthorised debit on the Settlement Account maintained by the Bank as a result of settlement of the Transaction or the Early Termination;
  - 3/ late payment interest due to the Bank on the Customer's liabilities not satisfied on their payment date;
  - 4/ covering of any documented fees, charges and expenses incurred by the Bank in connection with the Early Termination.
2. The priority of satisfaction of the claims referred to in § 21.1 above as well as satisfaction from the Collaterals shall be determined by the Bank.
3. If the amount of the claims referred to in § 21.1 above is denominated in a currency different than the Collateral established by the Customer, the Bank, for the purpose of satisfaction of the claims, shall have the right to convert the value of the Collateral into the currency in which the Bank's claim is denominated at the buying rate of exchange of the currency, as specified in the Currency Exchange Rates Table applicable at the time of satisfaction of the claim, unless the Parties agreed on a different conversion rate.
4. If the currency pair of the exchange rate of the claim and the Collateral is not quoted in the Exchange Rates Table, then the Bank shall convert the following into Polish Zloty:

- 1/ the amount of the Bank's claim at the sell rate of exchange of specific currency; or
- 2/ the amount of Collateral established by the Customer at the buy rate of specific currency, the said exchange rates being quoted in the Exchange Rates Table applicable at the time the account is debited or credited unless the Parties agreed on a different conversion rate.
5. The Bank shall charge interest calculated at the statutory interest rate as of the due date (including that day) until the payment date (excluding that day) on any due and outstanding amounts receivable of the Customer under a Transaction or the Master Agreement or Collateral.
6. The Parties jointly agree as follows:
  - 1/ the Bank may set off receivables payable by the Customer under Transactions executed pursuant to the Master Agreement (in particular the Early Termination Amount, and the unauthorised debit in the Settlement Account of the Customer), against any receivables of the Customer from the Bank whether due and payable or not,
  - 2/ the set off amounts in currencies other than the Early Termination Amount currency are converted by the Bank into the Early Termination Amount currency as per the Foreign Exchange Rates Table applicable as at the Early Termination Date; After the set-off, the Bank provides a list of receivables under Transactions which have been set off.
7. The provisions of § 21.6 do not apply to: calculation of the Early Termination Amount and the Transaction Settlement made by debiting the settlement amount or the Early Termination Amount to the Settlement Account.
8. The Bank may record, as unauthorized debit, the receivables due to the Bank from the Customer under the Transactions covered by these Terms and Conditions on the Customer's Settlement Accounts maintained with the Bank.
9. The Customer undertakes to treat the liabilities towards the Bank arising from the Master Agreement and Transactions concluded on its basis at least on equal terms (*pari passu*) with all other current and future liabilities of the Customer to third parties on account of similar agreements and transactions, except for the liabilities that must be satisfied on a preferential basis under the mandatory provisions of law.

## § 22. Personal Data Processing

1. The Bank acts as personal data controller of the Customer and their representatives.
2. In order to conclude and perform an Agreement, the Bank processes personal data of the Customer and their representatives. The provision of personal data is necessary for the conclusion and performance of the Agreement.
3. The Bank processes personal data of the Customer and their representatives also:
  - 1/ for statistical and analytical purposes, for the purposes of assessing and monitoring operational risk, for the purposes of creating, monitoring and changing internal methods as well as methods and models pertaining to prudential requirements, including operational risk, handling complaints, asserting claims, preventing frauds, performing obligations arising from the applicable law, in particular AML, FATCA, CRS, MiFID, and archiving,
  - 2/ in order to provide the Customer with marketing materials concerning own services and products of the Bank and subsidiaries of the Bank's Group. The list of mBank Group subsidiaries is available at [www.mbank.pl](http://www.mbank.pl).
  - 3/ for the purposes of profiling supporting direct marketing promoting the services and products of the Bank and of the subsidiaries of the Bank's Group.
4. The Bank processes personal data of the Customer and their representatives for the period necessary to conclude and perform an Agreement, and then for the period of ten years calculated from the date of the Agreement termination or for another period being the prescription period of possible claims. After the lapse of the above time limits, the Bank shall anonymise the personal data.
5. The Customer and their representatives:
  - 1/ have the right to access and correct their data, as well as to transfer them; and
  - 2/ may demand that the data be erased, their processing be restricted, or may object to their processing; the Customer may, in particular, object to profiling for the purposes of direct marketing promoting the services and products of the Bank and of the subsidiaries of the Bank's Group.
6. An employee of the Bank holds the function of the Inspector General for the Protection of Personal Data. S/he may be contacted at the following e-mail address: [Inspektordanychosobowych@mbank.pl](mailto:Inspektordanychosobowych@mbank.pl).
7. Detailed information concerning the principles and procedure for processing personal data by the Bank is specified in the GDPR package available at: [www.mbank.pl/pdf/rodo/gdpr-package.pdf](http://www.mbank.pl/pdf/rodo/gdpr-package.pdf).
8. The President of the Personal Data Protection Office acts as the supervisory authority in terms of protection of personal data and the Customer and their representatives have to right to lodge a complaint to him/her.
9. The Bank announces that:
  - 1/ execution of foreign transfers via SWIFT (Society for Worldwide Interbank Financial Telecommunications) may result in the government of the United States of America having access to the personal data of the Customer and their representatives. The American authorities have undertaken to use the personal data only for the purpose of counteracting terrorism, respecting the guarantees provided for in the European system of personal data protection,
  - 2/ data, including personal data, of the Customer and their representatives may be disclosed to entities entrusted by the Bank with data processing for the purpose of the performance of agreements on rendering services for the benefit of the Bank.
10. The Bank has the right to provide data on liabilities arising from the Agreement, including the Customer's personal data, to:
  - 1/ Banking Register System ("BR") – a database managed by the Polish Bank Association with its registered office in Warsaw, operating pursuant to the Banking Law Act of 29 August 1997,
  - 2/ Biuro Informacji Kredytowej S.A. (Credit Information Bureau, "BIK") with its registered office in Warsaw, operating pursuant to the Banking Law Act of 29 August 1997, in particular for the purposes of measurement models; detailed information is available in the data processing statement published on the website of mBank Group ([www.mbank.pl/klazulainformacyjna](http://www.mbank.pl/klazulainformacyjna)),
  - 3/ business information bureaus operating on the basis of the Act on the Provision of Business Information and Exchange of Business Data of 9 April 2010, if:
    - a/ the overall amount of liabilities to the Bank is at least PLN 500,
    - b/ the payment or payments are at least 30 days due and payable,
    - c/ at least one month has passed since the Bank transmitting the data and being the creditor sent a request for payment, warning the Customer of its intention to transmit the data to a bureau, including the bureau's registered business name and address of its registered office, by registered mail to the correspondence address specified by the Customer, and if the Customer has not specified such an address, to the address of the Customer's registered office.
11. The Customer's data, including personal data, collected in BR and BIK may be disclosed to:
  - 1/ other banks,
  - 2/ financial institutions operating as subsidiaries of banks within the meaning of the Banking Law Act of 29 August 1997,
  - 3/ other entities having statutory authorisations – subject to the terms and conditions laid down in the Banking Law Act of 29 August 1997,
  - 4/ business information bureaus operating under the Act on Disclosure of Business Information and Exchange of Business Data of 9 April 2010, within the scope and on the terms specified in the aforesaid Act.

## § 23. Amendment to the Terms and Conditions

1. Any amendments to these Terms and Conditions and the Transaction Descriptions made during the term of the Master Agreement shall be provided to the Customer along with indication of the dates on which they become effective. Amendments shall be delivered in accordance with the provisions of § 12 above.
2. Within 14 (fourteen) days of the date of delivery of the amendments, the Customer shall have the right to submit a notice of termination of the Master Agreement. An absence of notice of termination of the Master Agreement within the deadline specified in the foregoing sentence shall be deemed as acceptance of the amendments delivered by the Bank.

## § 24. Final Provisions

1. The Bank shall not accept or withhold any tax on the Transaction due from the Customer unless it is obligated to do so under the mandatory provisions of law.
2. Unless otherwise provided in these Terms and Conditions, the Master Agreement, the Credit Support Agreement or the Transaction Confirmation:
  - 1/ all calculations are performed by the Bank,
  - 2/ all conversions of the amounts denominated in one currency to another currency are performed in accordance with the Foreign Exchange Rates Table applicable at that time.
3. For the avoidance of doubt:
  - 1/ any reference, in the content of these Terms and Conditions, to time (save for the Transaction Descriptions which refer to the Warsaw Time, Central European Time and other times) shall be understood as the standard time applicable in the Republic of Poland;
  - 2/ reference to a paragraph or section shall mean the relevant paragraph or section of these Terms and Conditions;
  - 3/ capitalised terms shall have the meanings ascribed to them in these Terms and Conditions or Transaction Descriptions;
  - 4/ all subdivisions in these Terms and Conditions have been adopted are for the purpose of order only.
4. The Bank hereby informs that:
  - 1/ The Bank is a participant in the statutory fund guaranty system as provided in the Act on the Bank Guarantee Fund, Deposit Guarantee Scheme and Resolution (as amended) dated 10 June 2016. Protection under the Bank Guarantee Fund ("**BGF**") is provided for deposits (whether in PLN or in other currencies) established by the following depositors: natural persons, legal persons, organisational units without legal personality, provided that they have legal capacity, school savings unions and employee savings-and-loan associations that are parties to personal bank account agreements or who have claims against the Bank under a banking transaction (as confirmed with registered documents issued by the Bank or registered deposit certificates as referred to in Article 9 Sec. 1 of Trading in Financial Instruments Act dated 29 July 2005) and individuals referred to in Article 55 Sec. 1 and Article 56 Sec. 1 of the Banking Act, provided that his/her claim against the Bank has become mature before the date on which the condition under the guarantee became fulfilled (within the meaning of the Bank Guarantee Fund Act);
  - 2/ in the event that the Bank maintains one account for more than one entity (joint account), each of the entities shall be the depositor within the limits set out in the account agreement, or, in the absence of contractual provisions or applicable regulations – in equal parts;
  - 3/ in the event that the Bank maintains an account for a partnership, general partnership, professional partnership, limited partnership or limited joint-stock partnership, such entity shall be the depositor;
  - 4/ guaranteed funds shall be covered with the mandatory guarantee system as of the date they have been paid into the bank account no later than on the date preceding the date when the BGF guarantee condition fulfils, or – with regard to claims under banking transactions – provided that the transaction has been performed before the date when the BGF guarantee condition fulfils – up to an amount (including interest accrued until the date when the guarantee condition fulfils in accordance with the interest rate specified in the agreement notwithstanding their maturity date) the PLN equivalent of EUR 100,000.00 – in 100 %. The depositor shall always have the right to assert claim(s) against the bank in the portion exceeding the amount of the guaranteed cash performance;
  - 5/ A value denominated in EUR shall be converted to PLN in accordance with the average rate announced by the National Bank of Poland as at the date of fulfilment of the guarantee condition;
  - 6/ the amount of the PLN equivalent of EUR 100,000.00 shall be the maximum amount of the depositor's claims against BGF, notwithstanding the amount and the number of accounts on which the depositor has had the funds or the number of sums receivable under which the claims arise;
  - 7/ claims under the guarantee extended by BGF shall be barred by the statutes of limitation of five (5) years from the date the guarantee condition is fulfilled;
  - 8/ more specific information on the Bank Guarantee Fund can be found at mBank Group's website ([www.mbank.pl/download/bfg-info/](http://www.mbank.pl/download/bfg-info/)).
5. A Customer is obligated to regularly provide the Bank with the following documents by mail that allow verification of the financial situation of the Customer:
  - 1/ a copy of the F- 01 GUS report – promptly, as soon as it is prepared;
  - 2/ copy of annual financial statement – promptly as soon as it is prepared and again – after it has been audited by the auditor, if such audit is required under applicable regulations;
  - 3/ statement on the amount of the limits granted and the existing and planned indebtedness with other banks and financial institutions along with repayment dates – on the quarterly basis;
  - 4/ statement of the amount of the off-balance sheet commitments – on the quarterly basis;
  - 5/ projected balance sheet, profit and loss account and cash flow statement – promptly, as soon as they are prepared;
  - 6/ information on the derivative transactions entered into with other banks and their valuation – at least once in a calendar quarter.
6. Whenever the Bank so requests, the Customer is obligated to provide explanations and/or present documents concerning his financial standing other than those referred to in § 24.5 above.
7. The definitions and terms specified in the Rules and Descriptions of Transactions correspond to the statutory terms as presented below.

mBank's terminology	Terminology used in the Act on Trading in Financial Instruments
Dual-Currency Deposit	another derivative instrument whose underlying instrument is a currency, exercised by delivery or cash settlement
Investment Deposit	structured deposit
Foreign Exchange Forward (FX Forward)	a forward contract whose underlying instrument is a foreign currency, exercised by delivery or cash settlement

Foreign Exchange Option	an option whose underlying instrument is a foreign currency, exercised by delivery or cash settlement
Forward Rate Agreement (FRA)	a forward rate agreement exercised by cash settlement
Interest Rate Option	an option whose underlying instrument is an interest rate, exercised by cash settlement
Interest Rate Swap (IRS)	a swap whose underlying instrument is an interest rate, exercised by cash settlement
Currency Interest Rate Swap (CIRS)	a swap whose underlying instruments are an interest rate and a foreign currency, exercised by cash settlement
Forward Transaction (FT)	a forward contract whose underlying instrument is a commodity, exercised by cash settlement
Commodity Swap	a swap whose underlying instrument is a commodity, exercised by cash settlement
Commodity Option	an option whose underlying instrument is a commodity, exercised by cash settlement
Forward transactions of sale of greenhouse gas emission allowances with cash settlement option	a forward contract whose object are emission allowances which may be exercised by cash settlement in the manner selected by one of the parties
Debt securities	bonds, covered bonds, investment certificates and other transferable securities, including securities which incorporate property rights equivalent to the rights attached to debt, issued on the basis of relevant provisions of Polish or foreign law".

8. Transactions which are settled in cash ("net" settlement, "without delivery") by exchanging the settlement amount are not contracts for difference within the meaning of the Act on Trading in Financial Instruments.
9. If an index or a benchmark used to determine the liabilities of the Parties (hereinafter referred to as the **"Benchmark"**) used in a Transaction: is not published or is discontinued, cannot be applied or is changed, the Bank will proceed in line with the Rules of Conduct in the Case of Significant Change, Withdrawal or Discontinuation of a Benchmark laid down in:
  - 1/ Appendix No. 1 to the Terms and Conditions (for Clients who are sole traders or partners of a civil law partnership), or
  - 2/ Appendix No. 2 to the Terms and Conditions (for Clients who are not sole traders or partners of a civil law partnership).
These provisions are applied to all Transactions, including Transactions concluded before entry into force of the Terms and Conditions.

#### § 24. Mark-up

1. The Bank announces that Mark-up may be included in the Transaction quotation.
2. The Bank shall inform the Customer about the amount of the maximum Mark-ups by making them available at mBank Group's website ([www.mbank.pl/en/help/forms/sme-corporate/financial-market/information-on-mark-up/](http://www.mbank.pl/en/help/forms/sme-corporate/financial-market/information-on-mark-up/)). At each request of the Customer, the Bank may send the information about the maximum Mark-ups in hard copy. Any changes relating to information about the maximum Mark-ups are made by the Bank by making new amended information available at its above-mentioned website. The amendment is effective from the moment of publishing it by the Bank and applies only to new Transactions. Before entering into a Transaction for which the actual Mark-up exceeds the value of the aforesaid maximum Mark-up, the Bank shall inform the Customer about this fact.
3. The Customer is obliged to check the amount of the maximum Mark-ups before entering into the Transaction. Entering into the Transaction is treated as the Customer's consent that he/she has read the current information about the amount of the maximum Mark-ups and that he/she agrees on such a maximum amount.

#### § 25. Termination of the Master Agreement

1. The Master Agreement may be terminated:
  - 1/ by the Customer at any time upon one (1)-month's written notice of termination effective as at the end of the calendar month or upon mutual agreement of the Parties, provided that all Transactions executed in performance of the Master Agreement have been settled. The Master Agreement may, however, be terminated no earlier than once all obligations resulting therefrom have been met, or
  - 2/ by the Bank at any time upon one (1) month's written notice of termination effective as at the end of the calendar month, provided that there are no unsettled Transactions for the Client and all obligations arising from the Master Agreement have been met at the time of sending the notice of termination to the Client.
2. Notwithstanding the rules stipulated in § 25.1 above, the Bank shall have the right to terminate the Master Agreement effective immediately as soon as premise(s) for the Early Termination arise(s). In such circumstances, the Master Agreement shall be terminated as of the Early Termination Date and any Transactions (save for the Term Deposit Transactions) shall be subject to the Early Termination performed by way of calculation of the Early Termination Amount. In such situation, the Bank shall also have the right to the Early Settlement of the outstanding Transactions (other than the Derivative Transactions) save for the Term Deposit Transactions. Provisions of §10 shall apply accordingly.
3. The Credit Support Agreement shall be terminated as of the date of termination of the Master Agreement.

#### § 26. Entry into Force

These Terms and Conditions enter into force on 1 January 2022.

## The Rules of Conduct in the Case of Significant Change, Withdrawal or Discontinuation of a Benchmark (for Clients who are sole traders or partners of a civil law partnership).

The terms used herein have the following meanings:

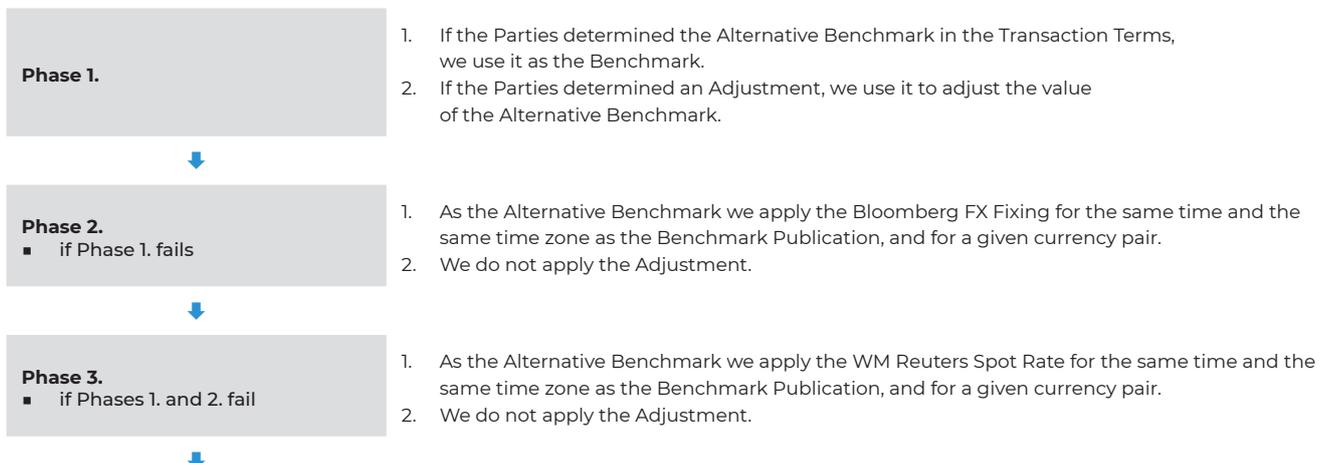
<b>Administrator</b>	an entity which supervises the development of the Benchmark
<b>Supervisory Authority</b>	an authority supervising the Administrator
<b>Adjustment</b>	a value or an action applied to limit the economic effects of replacing the Benchmark with an Alternative Benchmark
<b>Publication</b>	publication of information on the value of the Benchmark
<b>Benchmark</b>	an index or a benchmark used to determine the liabilities of the parties
<b>Alternative Benchmark</b>	an index or a benchmark which replaces the Benchmark in situations described in the Appendix
<b>applying the Benchmark on a given day</b>	means that we use the Benchmark published on this day to determine the value of the parties' liabilities
<b>applying the Alternative Benchmark from a given day</b>	means that we use the Alternative Benchmark from this day, on the days on which the Benchmark was supposed to be used under the Transaction Terms
<b>Appendix</b>	this appendix

### Rules of Conduct

- The parties apply the rules laid down herein, unless the mandatory provisions of law provide otherwise.
- The Alternative Benchmark including the Adjustment is applied in the following situations:

Event type	When do we apply the Alternative Benchmark?
The Benchmark is not published anymore, and the Administrator or the authority supervising the Administrator announced that the Benchmark had been discontinued permanently.	from the day on which the Benchmark was discontinued
An event due to which we cannot (or will not be able to) apply the Benchmark in a Transaction in accordance with the law. This includes a situation where the Administrator's licence has been revoked, the Benchmark has not been registered, or the permit or registration have been revoked and we are thus unable to apply the Benchmark.	from the day on which we are not able to apply the Benchmark in a Transaction
The Benchmark is not published in situations other than those described above.	from the day on which the Benchmark was not published until the day of its republication

### 3. Procedure we follow when we must apply the Alternative Benchmark instead of an FX benchmark



#### Phase 4.

- if Phases 1.-3. fail

1. Failure to select the Alternative Benchmark in the previous phases constitutes a Termination Event with regard to a given Transaction.
2. If the Transaction is not terminated, the average exchange rate of the National Bank of Poland (NBP) is applied instead of the Benchmark.
3. We do not apply the Adjustment.

#### Procedure we follow when the Alternative Benchmark does not have the currency pair corresponding to the Benchmark

4. As the Alternative Benchmark we apply the Alternative Benchmark for EUR and the Non-Base Currency divided by the Alternative Benchmark for EUR and the Base Currency.

#### Is it possible to return to the Benchmark?

5. If we apply the Alternative Benchmark because:
  - 1/ the Benchmark is not published anymore, and the Administrator or the authority supervising the Administrator announced that the Benchmark had been discontinued permanently
  - 2/ another event occurred, due to which we could not apply the Benchmark in a Transaction in accordance with the law, we apply the Alternative Benchmark, even if these reasons cease to apply later.
6. If the Alternative Benchmark is applied for different reasons, we apply the previous Benchmark from the day on which it is published again.



Such different reasons may include technical issues experienced by the Administrator, as a result of which the Benchmark is not published once or temporarily.

#### Procedure we follow when the Administrator changes the method of determining the Benchmark

7. If the Administrator changes the method of determining the Benchmark, we do not adjust the transaction terms in any way. We apply the changed Benchmark even if the Administrator deems the change to be significant.

#### Information obligation

8. The Bank will publish information that:
  - 1/ an event occurred which results in the Bank not being able (at the given time or in the future) to apply the Benchmark;
  - 2/ the Benchmark has been discontinued;
  - 3/ the Bank applied the Alternative Benchmark;
  - 4/ the Bank applied the Adjustment;
  - 5/ the Bank returned to applying the previous benchmark.
9. The Bank provides this information to the Clients via its website ([www.mbank.pl/wskazniki](http://www.mbank.pl/wskazniki)) and in the manner prescribed in the Master Agreement.
10. The Bank publishes information on Benchmarks and Alternative Benchmarks on its website ([www.mbank.pl/wskazniki](http://www.mbank.pl/wskazniki)).

#### Reapplication

11. If the Alternative Benchmark permanently replaces the Benchmark used so far, the provisions of the Appendix referring to the Benchmark used so far are applied to the Alternative Benchmark, including the Adjustment.

**The Rules of Conduct in the Case of Significant Change,  
Withdrawal or Discontinuation of a Benchmark**  
(for Clients who are not sole traders or partners of a civil law partnership).

**Article 1. Definitions**

The terms used herein have the following meanings:

<b>1. Administrator</b>	an entity which supervises the development of the Benchmark.
<b>2. Benchmark Change Day</b>	the later of the following days: for Discontinuation Announcement 1/ first day after 15 Business Days from the Discontinuation Announcement, or 2/ first day on which the Benchmark was not published due to the Discontinuation Announcement. or for No Permit Announcement 1/ first day after 15 Business Days from the No Permit Announcement, or 2/ first day on which we cannot lawfully use a given benchmark in any agreement due to the No Permit Announcement.
<b>3. Central Counterparty</b>	a licenced central counterparty that provides settlement services for transactions which use the Benchmark and hedge against the risk of its changes. Central counterparties include: a) LCH Ltd, b) KDPW_CCP S.A., or c) other central counterparties.
<b>4. Adjustment</b>	a value or an action applied to limit the economic effects of replacing the Benchmark with an Alternative Benchmark.
<b>5. Quotation</b>	the price at which a transaction in an underlying instrument can be concluded. An underlying instrument is an instrument whose market value is measured by the Benchmark. Such an underlying instrument may be e.g. a deposit or financial instrument. We obtain quotations: 1/ in a time period close to that in which the Determining Entity normally publishes a given Benchmark; 2/ for a transaction with a value similar to the value of the Transaction, however not lower than the standard value for a given underlying instrument.
<b>6. Determining Entity:</b>	1/ an authority supervising the Administrator, 2/ central bank responsible for the currency of the Benchmark, 3/ The Administrator, or 4/ an industry organisation which prepares suggestions for Benchmark replacement, indicated by a supervisory authority or central bank responsible for the currency of the Benchmark.
<b>7. Publication</b>	publication of information on the value of the Benchmark.
<b>8. Commodities Derivative Transactions</b>	Transactions to which the Description of the Commodities Transactions applies.
<b>9. Transactions in CO<sub>2</sub> Allowances</b>	Transactions, to which the Rules "Description of Forward Transactions of Sale of Greenhouse Gas Emission Allowances with Cash Settlement Option" apply.
<b>10. Benchmark</b>	an index or a benchmark used to determine the liabilities of the parties.
<b>11. Alternative Benchmark</b>	an index or a benchmark which replaces the Benchmark in situations described in the Appendix.
<b>12. Appendix</b>	this appendix.
<b>13. Event</b>	failure to publish the Benchmark or a Regulatory Event.
<b>14. Central Counterparty's Event</b>	a situation where the Central Counterparty replaces the Benchmark it used so far in the settled transactions with the Alternative Benchmark.

<b>15. Regulatory Event:</b>	<ul style="list-style-type: none"> <li>1/ Discontinuation Announcement – a situation where the Determining Entity: <ul style="list-style-type: none"> <li>a. issues an official statement that it permanently ceases (or will cease) to publish the Benchmark,</li> <li>b. did not appoint any other entity which would continue to calculate or publish the Benchmark by the time the statement was published;</li> </ul> </li> <li>2/ No Permit Announcement – a situation where a reliable source announces that: <ul style="list-style-type: none"> <li>a. The Benchmark will not be registered or a decision on the equivalence of the Benchmark will not be issued, or</li> <li>b. The Determining Entity has not received a permit/registration to develop a given Benchmark, will not receive it, or its permit/registration has been revoked or suspended.</li> </ul> </li> </ul>
<b>16. applying the Benchmark on a given day</b>	means that we use the Benchmark published on this day to determine the value of the parties' liabilities.
<b>17. applying the Alternative Benchmark from a given day</b>	means that we use the Alternative Benchmark from this day, on the days on which the Benchmark was supposed to be used under the Transaction Terms.

**Verbs used herein in plural form, such as “we determine”, “we select” or “we change” mean actions performed by the Bank.**

## Article 2. Alternative Benchmark

1. The provisions of Articles 2-5 are not applied to Commodities Derivative Transactions, Transactions in CO<sub>2</sub> Allowances and Forward Transactions.
2. We apply the Alternative Benchmark instead of the Benchmark in the case of:
  - 1/ Regulatory Event – from the Benchmark Change Day, or
  - 2/ failure to publish the Benchmark unrelated to a Regulatory Event – from the day on which the Benchmark was not published until the day of its republication.
3. If, from the day on which a Regulatory Event occurred until the Benchmark Change Day:
  - 1/ the Benchmark was not published, or
  - 2/ we cannot lawfully apply the Benchmark,
then:
  - 3/ we determine and apply the Alternative Benchmark without waiting until the Benchmark Change Day,
  - 4/ we determine and apply the Alternative Benchmark again from the Benchmark Change Day.

As the Alternative Benchmark we may use:
1. The Alternative Benchmark used by the Central Counterparty instead of the Benchmark,
2. the Alternative Benchmark we indicated in the Transaction Terms,
3. the Alternative Benchmark recommended by the Determining Entity instead of the Benchmark,
4. the Alternative Benchmark selected by us – Bloomberg FX Fixing or WM/Reuters Spot Rate for the spot exchange rate for a given currency pair from the same time and the same time zone as the publication of the Benchmark; for other benchmarks – the Alternative Benchmark applied by us instead of the Benchmark in derivative transactions on the interbank market;
5. arithmetic mean of the Quotations received – only when we received at least two Quotations,
6. a reference rate applied by the central bank responsible for the currency of the Benchmark – only if we could not apply the previous methods.

4. We select one of the methods listed in the table in an economically justified manner. We take the following into account:
  - 1/ practice on the interbank market, and
  - 2/ solutions we used on the interbank market.
5. If we cannot freely select the method, we apply the methods according to the order in the table. If a given method does not yield any results until the Benchmark Change Day, we use the subsequent one. If several Determining Entities or several Central Counterparties recommend an Alternative Benchmark, we apply the Alternative Benchmark recommended by the first entity listed in the definition.

## Article 3. Adjustment

1. After determining the Alternative Benchmark, we determine the Adjustment.
2. The Adjustment changes the value of the Alternative Benchmark. The Adjustment may be:
  - 1/ negative, positive, or zero,
  - 2/ defined with a formula or a calculation method.
The Adjustment may be a one-time payment.
3. Once we determine the Adjustment, we apply it throughout the entire period of application of the Alternative Benchmark.

The Rules of Conduct in the case of applying the Alternative Benchmark applied or recommended by another entity	
Case	Procedure
a) entity recommended the Adjustment	we apply such Adjustment
b) entity did not recommend any Adjustment	we do not apply the Adjustment

c) entity did not refer to the issue of the Adjustment	we apply the Adjustment determined by us in an economically justified manner, with the purpose of the Adjustment in mind
d) we apply the mean of Quotations as the Alternative Benchmark	we do not apply the Adjustment

#### The Rules of Conduct in the case of applying a central bank's reference rate as the Alternative Benchmark

1. We add the Adjustment to the value of the Alternative Benchmark.
2. The Adjustment is equal to the historical median of the differences between the Benchmark and the reference rate:
  - 1/ for the period of 24 months (or shorter, if the Benchmark or Alternative Benchmark was published for a shorter time) before:
    - a. the Benchmark Change Day, or
    - b. the first day on which we apply the Alternative Benchmark due to failure to publish the Benchmark (when there is no Benchmark Change Day);
  - 2/ for differences from each day in the reviewed period, in which both the Benchmark and the reference rate were published.

### Article 4. Central Counterparty's Event

1. When a Central Counterparty's Event not resulting from a Regulatory Event occurs, from the day of its occurrence instead of applying the Benchmark we can use:
  - 1/ the Alternative Benchmark and
  - 2/ the Adjustment applied by the Central Counterparty.
2. If we cannot freely decide whether to apply Article 4 (1) in the case of a Central Counterparty's Event, we apply Article 4 (1) always when it occurs with regard to LCH Ltd.

### Article 5. Notices and Reservations

1. We provide the Client with information on the type of the Alternative Benchmark and Adjustment determined by us. We follow the procedure indicated in the table below:

Event	Procedure	Time limit
<b>Regulatory Event</b>	We determine the Alternative Benchmark and Adjustment. We inform the Client of this fact.	Five Business Days after the Benchmark Change Day
<b>Failure to publish the Benchmark (for a reason other than a Regulatory Event)</b>	We determine the Alternative Benchmark and Adjustment. We inform the Client of this fact.	Five Business Days after the failure to publish the Benchmark
<b>Central Counterparty's Event</b>	We notify the Client if we adopted the Alternative Benchmark and Adjustment of the Central Counterparty.	Five Business Days from the Central Counterparty's Event
<b>We determined the Alternative Benchmark and Adjustment</b>	The Client may submit his/her reservations with a justification. It does not constitute a complaint.	Two Business Days from the day on which the Client received the information from us
<b>We received reservations from the Client</b>	We verify the reservations and: <ol style="list-style-type: none"> <li>a) if we accept them in part or in whole – we inform the Client of the changes to the Alternative Benchmark or Adjustment;</li> <li>b) if we reject them – we send a reply with a justification to the Client. To the Transaction we apply the Alternative Benchmark and Adjustment determined by us.</li> </ol>	Two Business Days from the day on which we received legitimate reservations

2. If we determined the Alternative Benchmark in a timely manner, the lack of the Benchmark does not constitute the basis for the termination of a Transaction.
3. If we did not determine the Alternative Benchmark in a timely manner:
  - 1/ such a situation constitutes a Termination Event with regard to a given Transaction;
  - 2/ from the Benchmark Change Day, we apply to the Transaction the value of the Benchmark from the last day on which it was published;
  - 3/ from the day on which we determined the Alternative Benchmark, we apply it to the Transaction.

### Article 6. Commodities Derivative Transactions

The Parties consider a No Permit Announcement with regard to Commodities Derivative Transactions as the Disappearance of Commodity Reference Price referred to in the Description of the Commodities Transactions.

### Article 7. Transactions in CO<sub>2</sub> Allowances

The Parties consider a No Permit Announcement with regard to Transactions in CO<sub>2</sub> Allowances as the Settlement Disruption Event lasting 9 Settlement Working Days after the Delivery Date, referred to in Article 4 (3) of the Description of Forward Transactions of Sale of Greenhouse Gas Emission Allowances with Cash Settlement Option.

## Article 8. Forward Transactions (FT)

The occurrence of an Event with regard to the Benchmark to which the FT Underlying Instrument refers, or changes made by the stock exchange with regard to the FT Underlying Instrument referred to in the Description of Forward Transactions (FT):

- 1/ do not result in changes to the Transaction Terms,
- 2/ are not the basis for the Adjustment.

## Article 9. Miscellaneous Information

1. If the Alternative Benchmark permanently replaces the Benchmark used so far, the provisions of the Appendix referring to the Benchmark used so far are applied to the Alternative Benchmark, including the Adjustment.
2. A change in the method of determining the Benchmark, including changes deemed significant by the Administrator, does not constitute:
  - 1/ change in the Transaction Terms,
  - 2/ basis for the Adjustment.
3. We publish information on the Benchmarks and Alternative Benchmarks on our website: [www.mbank.pl/wskazniki](http://www.mbank.pl/wskazniki).
4. We publish information on the Alternative Benchmarks and Adjustments used by us on our website ([www.mbank.pl/wskazniki](http://www.mbank.pl/wskazniki)) and:
  - 1/ in a manner provided in the Master Agreement,
  - 2/ in the mBank CompanyNet system – if the Client uses it to communicate with us, or
  - 3/ in writing – in every other case.
5. If the Master Agreement provides for written communication, the time limits for notifications are calculated from the day on which information is published on our website.