

21 January 2019

**HSBC Trinkaus & Burkhardt AG**

as Issuer

and

as Purchaser

**SUBSCRIPTION and PURCHASE AGREEMENT**

relating to the

HSBC Trinkaus & Burkhardt AG

EUR 200,000,000 5.039 per cent Undated Subordinated Resettable Additional Tier 1 Notes  
issued 2019

ISIN: DE000TD9ZZZ5

**THIS SUBSCRIPTION and PURCHASE AGREEMENT** (the "**Agreement**") is made on 21 January 2019 between:

- (1) **HSBC Trinkaus & Burkhardt AG**, Koenigsallee 21/23, 40212 Duesseldorf, Germany,  
(the "**Issuer**");  
and  
(2)  
(the "**Purchaser**").

**WHEREAS:**

- (A) The Issuer intends to issue undated subordinated resettable additional tier 1 notes in the aggregate nominal amount of EUR 200,000,000 (in words: two hundred million) in a denomination of EUR 1,000,000 (the "**Notes**", which term includes, where appropriate, the Temporary Global Note (as defined in Clause 2.2) and the Permanent Global Note (as defined in Clause 2.2) representing the Notes), having terms and conditions substantially in the form attached hereto as **Schedule 1** (the "**Terms and Conditions**").
- (B) The Issuer and the Purchaser wish to record the arrangements agreed between them in relation to the Notes.

**IT IS AGREED** as follows:

**1 Definitions and Interpretation**

**1.1** References to capitalised terms not defined in this Agreement are to those terms as defined in the Terms and Conditions, as applicable, except where the context requires otherwise. Words importing the plural shall include the singular and *vice versa*.

**1.2** In this Agreement (including the recitals):

"**Business Day**" means a day (other than a Saturday or a Sunday) on which both (i) the Clearing System, and (ii) the Trans-European Automated Real-Time Gross Settlement Express Transfer System (TARGET 2), are open to settle payments;

"**Clearing System**" means Clearstream Banking AG, Frankfurt am Main;

"**Clearstream Frankfurt**" means Clearstream Banking AG, Frankfurt am Main;

"**Closing Date**" means 28 January 2019 or such later date as the Issuer and the Purchaser may agree;

"**Contracts**" means this Agreement;

"**Issue Price**" means 100 % of the aggregate nominal amount of the Notes;

"**Material Adverse Change**" means any change or any development or event involving a prospective change which is materially adverse to the business, assets, financial position and results of operations (*Vermögens-, Finanz- und Ertragslage*) or the prospects of the Issuer;

"**Material Adverse Effect**" means any material adverse effect (i) on the condition (financial or otherwise) of the Issuer, (ii) on the ability of the Issuer to perform its respective obligations under the Contracts or the Notes, or (iii) which is otherwise material in the context of the issue of the Notes;

"**Principal Paying Agent**" means HSBC Trinkaus & Burkhardt AG;

"**Regulation S**" means Regulation S under the Securities Act; and

"**Securities Act**" means the U.S. Securities Act of 1933 (as amended).

## **2 Issue of the Notes and Publicity**

- 2.1 Agreement to Issue:** The Issuer agrees to issue and sell the Notes to the Purchaser on the Closing Date.
- 2.2 The Notes:** The Notes will initially be represented by a temporary global bearer Note without interest coupons substantially in the form set out in **Schedule 2A** (the "**Temporary Global Note**"). The Temporary Global Note will be exchanged, in accordance with the Terms and Conditions, for a permanent global bearer note without interest coupons substantially in the form set out in **Schedule 2B** (the "**Permanent Global Note**" and, together with the Temporary Global Note, the "**Global Notes**"). The Permanent Global Note will not be exchangeable for definitive Notes.

## **3 Subscription and Purchase by the Purchaser**

- 3.1 Subscription and Purchase:** Subject to the satisfaction of the conditions precedent set out in Clause 4.3 or the waiver thereof in accordance with Clause 4.4, and subject to the other terms and conditions of this Agreement, the Purchaser agrees to subscribe for, and purchase the Notes at the Issue Price, on its own behalf and for its own account and subject to the adjustments referred to in Clause 4.2, on the Closing Date:

**Aggregate principal  
amount of Notes  
subscribed  
EUR 200,000,000**

## **4 Closing, Conditions Precedent**

- 4.1 Issuance of the Notes**
- 4.1.1** The Issuer will deliver the Global Notes, duly executed on behalf of the Issuer, in or substantially in the respective form set out herein to Clearstream, Frankfurt by 14:00 hours (Frankfurt am Main time) on the second Business Day preceding the Closing Date.
- 4.1.2** The Issuer will cause all Notes to be transferred to the Purchaser, by way of book-entry transfer to the relevant account of the Purchaser maintained with Euroclear on the Closing Date.
- 4.2 Payment:** Against transfer of the Notes in accordance with Clause 4.1.2, the Purchaser will pay or cause to be paid to the Issuer the Issue Price. Such payment shall be made in Euro in immediately available funds to the relevant account of the Issuer with Clearstream Frankfurt.

**4.3 Conditions Precedent:** The obligations of the Purchaser to subscribe for the Notes and to purchase the Notes, pay the Issue Price and take delivery of the Notes pursuant to this Agreement are conditional upon:

- (i) the Issuer having signed each of the Global Notes and delivered them to Clearstream Frankfurt in accordance with Clause 4.1.1; and
- (ii) no Material Adverse Change and no Material Adverse Effect has been occurred.

**4.4 Waiver:** The Purchaser may, at its discretion and upon such terms as it thinks fit, waive compliance with the whole or any part of Clause 4.3.

## **5 Communications**

**5.1 Addresses:** Any communication shall be given by letter, fax, telephone or electronic mail

**5.1.1** if to the Issuer, to it at:

**HSBC Trinkaus & Burkhardt AG**  
Koenigsallee 21/23  
40212 Duesseldorf  
Germany

**5.1.2** if to the Purchaser, to it at:

**5.2 Effectiveness:** Any such communication shall take effect upon actual receipt (*Zugang*).

## **6 Final Clauses**

**6.1** This Agreement shall be governed by, and construed in accordance with, the laws of the Federal Republic of Germany.

**6.2** Any non-contractual rights and obligations arising out of or in connection with this Agreement shall also be governed by the laws of the Federal Republic of Germany.

**6.3** Place of performance is Frankfurt am Main, Federal Republic of Germany.

**6.4** Any action or other legal proceedings (the "Proceedings") arising out of or in connection with this Agreement shall be brought in the District Court (*Landgericht*) in Frankfurt am Main, Federal Republic of Germany. Nothing contained herein shall limit the right of any party hereto to take Proceedings against any other party hereto in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not.

- 6.5 Should any provision contained in this Agreement be or become invalid, illegal or unenforceable or incomplete in any jurisdiction, the validity, legality and enforceability of the remaining provisions (or of such provision in any other jurisdiction) will not in any way be affected or impaired thereby with respect to any other party or parties hereto to the fullest extent legally possible. Such invalid, illegal or unenforceable provision shall be replaced by means of supplementary interpretation (*ergänzende Vertragsauslegung*) by a valid, legal and enforceable provision, which most closely approximates the parties' commercial intention. This shall also apply *mutatis mutandis* to any gaps (*Vertragslücken*) in this Agreement.
- 6.6 The Schedules to this Agreement form part of this Agreement.

**Schedule 1**  
**Terms and Conditions**

DIE DEUTSCHE FASSUNG DIESER ANLEIHEBEDINGUNGEN DER  
SCHULDVERSCHREIBUNGEN IST RECHTLICH VERBINDLICH. DIE ENGLISCHE  
ÜBERSETZUNG IST UNVERBINDLICH.

THE GERMAN TEXT OF THE TERMS AND CONDITIONS OF THE NOTES IS LEGALLY  
BINDING. THE ENGLISH TRANSLATION IS FOR CONVENIENCE ONLY.

**Terms and Conditions  
of the Notes**

**§1**

**Currency, Denomination, Form**

- (1) *Currency; Denomination.* This series of perpetual subordinated resettable notes (the "**Notes**") of HSBC Trinkaus & Burkhardt AG, Düsseldorf (the "**Issuer**") is being issued in Euro (the "**Specified Currency**") in the aggregate nominal amount of EUR 200,000,000 (in words: two hundred million euros) (the "**Nominal Amount**") in a denomination of EUR 1,000,000.00 (the "**Specified Denomination**").
- (2) *Form.* The Notes are being issued in bearer form.
- (3) *Temporary Global Note – Exchange.*
- (a) The Notes are initially represented by a temporary global note (the "**Temporary Global Note**") without interest coupons. The Temporary Global Note will be exchanged for Notes in the respective Nominal Amount represented by a permanent global note (the "**Permanent Global Note**") and together with the Temporary Global Note, the "**Global Note**") without interest coupons. The Temporary Global Note and the Permanent Global Note shall each be signed by authorized signatories of the Issuer. Definitive notes and interest

**Anleihebedingungen  
der Schuldverschreibungen**

**§1**

**Währung, Stückelung, Form**

- (1) *Währung; Stückelung.* Diese Serie von endlos laufenden, nachrangigen, neu fest setzbaren Schuldverschreibungen (die "**Schuldverschreibungen**") der HSBC Trinkaus & Burkhardt AG, Düsseldorf, (die "**Emittentin**") wird in Euro (die "**festgelegte Währung**") im Gesamtnennbetrag von Euro 200,000,000 (in Worten: Euro zweihundert Millionen) in einer Stückelung von Euro 1.000.000,00 (der "**ursprünglicher Nennbetrag**") begeben.
- (2) *Form.* Die Schuldverschreibungen lauten auf den Inhaber.
- (3) *Vorläufige Globalurkunde – Austausch.*
- (a) Die Schuldverschreibungen sind anfänglich durch eine vorläufige Globalurkunde (die "**vorläufige Globalurkunde**") ohne Zinsscheine verbrieft. Die vorläufige Globalurkunde wird gegen Schuldverschreibungen in ihrem jeweiligen Nennbetrag, die durch eine Dauerglobalurkunde (die "**Dauerglobalurkunde**") und, gemeinsam mit der vorläufigen Globalurkunde, jeweils die "**Globalurkunde**") ohne Zinsscheine verbrieft sind, ausgetauscht. Die vorläufige Globalurkunde und die Dauerglobalurkunde tragen jeweils die

coupons will not be issued.

Unterschriften ordnungsgemäß  
bevollmächtigter Vertreter der  
Emittentin. Einzelkunden und  
Zinsscheine werden nicht  
ausgegeben.

(b) The Temporary Global Note shall be exchangeable for the Permanent Global Note on a date (the "**Exchange Date**") not earlier than 40 days after the date of issue of the Temporary Global Note. Such exchange shall only be made upon delivery of certifications to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note are not U.S. persons (other than certain financial institutions or certain persons holding Notes through such financial institutions) as required by U.S. tax law. Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. A separate certification shall be required in respect of each such payment of interest. Any such certification received on or after the 40<sup>th</sup> day after the date of issue of the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to §1 (3)(b). Any securities delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States (as defined in §4 (3)).

(b) Die vorläufige Globalurkunde wird frühestens an einem Tag (der "**Austauschtag**") gegen die Dauerglobalurkunde austauschbar, der 40 Tage nach dem Tag der Ausgabe der vorläufigen Globalurkunde liegt. Ein solcher Austausch soll nur nach Vorlage von Bescheinigungen gemäß U.S. Steuerrecht erfolgen, wonach der oder die wirtschaftlichen Eigentümer der durch die vorläufige Globalurkunde verbrieften Schuldverschreibungen keine U.S.-Personen sind (ausgenommen bestimmte Finanzinstitute oder bestimmte Personen, die Schuldverschreibungen über solche Finanzinstitute halten). Zinszahlungen auf durch eine vorläufige Globalurkunde verbrieft Schuldverschreibungen erfolgen erst nach Vorlage solcher Bescheinigungen. Eine gesonderte Bescheinigung ist hinsichtlich einer jeden solchen Zinszahlung erforderlich. Jede Bescheinigung, die am oder nach dem 40. Tag nach dem Tag der Ausgabe der vorläufigen Globalurkunde eingeht, wird als ein Ersuchen behandelt werden, diese vorläufige Globalurkunde gemäß §1 (3)(b) auszutauschen. Wertpapiere, die im Austausch für die vorläufige Globalurkunde geliefert werden, sind nur außerhalb der Vereinigten Staaten (wie in §4 (3) definiert) zu liefern.

(4) *Clearing System.* The Global Note representing the Notes will be kept in custody by or on behalf of a Clearing System. "**Clearing System**" means Clearstream Banking AG, Neue Börsenstraße 1, 60487 Frankfurt am Main, Federal Republic of Germany ("**CBF**") and any successor in such capacity.

(4) *Clearing System.* Jede die Schuldverschreibungen verbrieft Globalurkunde wird von einem oder im Namen eines Clearing Systems verwahrt. "**Clearing System**" bedeutet Clearstream Banking AG, Neue Börsenstraße 1, 60487 Frankfurt am Main, Bundesrepublik Deutschland ("**CBF**") und jeder Funktionsnachfolger.

(5) *Holder of Notes.*

"**Holder**" means any holder of a

(5) *Gläubiger von Schuldverschreibungen.*

proportionate co-ownership or other right in the Notes which may, according to the applicable laws and the respective regulations of the Clearing System, be transferred to another third party.

**"Gläubiger"** bedeutet jeder Inhaber eines Miteigentumsanteils oder anderen Rechts an den Schuldverschreibungen, der oder das nach Maßgabe des anwendbaren Rechts und der jeweiligen geltenden Regelwerke des Clearingsystems übertragen werden kann.

## §2 Status

- (1) The Notes constitute unsecured, subordinated obligations of the Issuer, ranking, at all times, *pari passu* among themselves. In the event of the dissolution or the liquidation of the Issuer or the initiation of an insolvency proceeding regarding the Issuer or any other public or private proceeding for the unwinding of and/or the avoidance of insolvency of, or against, the Issuer (in each case a **"Bankruptcy or Winding Up Proceeding"**), the obligations of the Issuer under the Notes shall be fully subordinated to Unsubordinated Obligations of the Issuer so that no amounts shall be payable in respect of the Notes until all Unsubordinated Obligations of the Issuer have been fully met.

Prior to a Bankruptcy or Winding Up Proceeding being initiated the Issuer may only make payments under the Notes in accordance with §3 (7) (b) (*Mandatory Exclusion of Payments of Interest*).

This provision regarding the subordination constitutes a prohibition of payment meaning that payments under the Notes may only be made by the Issuer and be claimed by the Holders subject to this provision regarding the subordination; this includes payments in connection with a repurchase of the

## §2 Status

- (1) Die Schuldverschreibungen begründen nicht besicherte, nachrangige Verbindlichkeiten der Emittentin, die untereinander gleichrangig sind. Im Fall der Auflösung oder der Liquidation der Emittentin oder der Einleitung eines Insolvenzverfahrens über das Vermögen der Emittentin oder eines anderen der Abwicklung und/oder Abwendung der Insolvenz der Emittentin dienenden öffentlichen oder privaten Verfahrens (jeder Fall jeweils ein **"Insolvenz- oder Liquidationsverfahren"**) gehen die Verbindlichkeiten aus den Schuldverschreibungen den Vorrangigen Verbindlichkeiten der Emittentin vollständig nach, so dass Zahlungen auf die Schuldverschreibungen solange nicht erfolgen, wie die Vorrangigen Verbindlichkeiten der Emittentin nicht vollständig befriedigt sind.

Bereits vor Einleitung eines Insolvenz- oder Liquidationsverfahrens darf die Emittentin eine Zahlung unter den Schuldverschreibungen nur nach Maßgabe von §3 (7) (b) (*Zwingender Ausschluss der Zinszahlung*) leisten.

Diese Nachrangregelung begründet ein Zahlungsverbot dahingehend, dass Zahlungen auf die Schuldverschreibungen von der Emittentin nur nach Maßgabe der Bestimmungen dieser Nachrangregelung geleistet und von den Gläubigern verlangt werden dürfen; dies schließt Zahlungen im Zusammenhang mit einem Rückkauf der Schuldverschreibungen durch die

Notes by the Issuer.

Taking into consideration the subordination provisions, the Issuer should remain free to meet its obligations under the Notes by using its free assets.

No Holder may set off his claims arising under the Notes against any claims of the Issuer against such Holder. No security or guarantee of whatever kind is, or shall at any time be, provided by the Issuer or any other person securing rights of the Holders under the Notes and will not be provided at a later point in time.

**"Unsubordinated Obligations of the Issuer"** means (i) all non-subordinated obligations of the Issuer, (ii) all obligations of the Issuer arising from instruments of Tier 2 Capital, (iii) the obligations of the issuer described in §39 (1) no. 1-5 German Insolvency Code (*Insolvenzordnung*) ("**InsO**"), (iv) all subordinated due obligations of the Issuer to the extent that they rank *pari passu* with subordinated statutory obligations of the Issuer according to §39 (1) no. 1-5 *InsO* and (v) all subordinated obligations of the Issuer, which are unsubordinated according to mandatory statutory provisions.

### §3 Interest

#### (1) *Interest.*

Subject to a cancellation of interest payments pursuant to §3 (7) and a write-down or write-up pursuant to §5 (7)-(8), the Notes shall bear interest on their outstanding Nominal Amount from and including 30 January 2019 (the "**Interest**

Emittentin ein.

Unter Beachtung dieser Nachrangregelung bleibt es der Emittentin unbenommen, ihre Verbindlichkeiten aus den Schuldverschreibungen aus ihrem sonstigen freien Vermögen zu bedienen.

Kein Gläubiger ist berechtigt, Forderungen aus den Schuldverschreibungen gegen etwaige Forderungen der Emittentin gegen ihn aufzurechnen. Den Gläubigern wird für ihre Rechte aus den Schuldverschreibungen weder durch die Emittentin noch durch Dritte irgendeine Sicherheit oder Garantie gestellt; eine solche Sicherheit oder Garantie wird auch zu keinem späteren Zeitpunkt gestellt werden.

**"Vorrangige Verbindlichkeiten der Emittentin"** bezeichnet (i) alle nicht nachrangigen Verbindlichkeiten der Emittentin, (ii) alle Verbindlichkeiten der Emittentin aus Instrumenten des Ergänzungskapitals, (iii) die in §39 (1) Nr. 1 bis 5 *Insolvenzordnung* ("**InsO**") bezeichneten Verbindlichkeiten der Emittentin, (iv) alle nachrangigen fälligen Verbindlichkeiten der Emittentin, soweit diese mit gesetzlichen nachrangigen Verbindlichkeiten der Emittentin gemäß §39 Absatz 1 Nr. 1 bis 5 *InsO* zumindest gleichrangig sind, sowie (v) alle nachrangigen Verbindlichkeiten der Emittentin, die aufgrund zwingender gesetzlicher Bestimmungen vorrangig sind.

### §3 Zinsen

#### (1) *Zinsen.*

Vorbehaltlich des Ausschlusses der Zinszahlung nach §3 (7) werden die Schuldverschreibungen bezogen auf ihren jeweils ausstehenden Nennbetrag (d.h. insbesondere unter Berücksichtigung einer Herab- und

**Commencement Date**"). In the event of a write-down pursuant to §5 (7), the Notes shall for the full respective Interest Period (as defined in §3 (4) below) in which such write-down occurs and subject to a write-up pursuant to §5 (8) for all subsequent Interest Periods only bear interest on the nominal amount which has been reduced. A potential write-up pursuant to §5 (8) shall become effective for the Interest Period in which such write-up has occurred.

For the avoidance of doubt: The amount of payments of interest will not be adjusted due to the solvency of the Issuer or any affiliated company.

(2) *Fixed Period / Fixed Interest Rate.*

The Notes will bear interest at a fixed rate of 5.039 per cent. per annum (the "**Fixed Interest Rate**") from and including the Interest Commencement Date to but excluding the First Optional Redemption Date (as defined in §5 (2)).

(a) *Interest Amount.*

The fixed interest amount payable on the Notes (subject to §5 (7)) for the relevant Interest Periods during the Fixed Period shall be calculated by applying the Fixed Interest Rate to the outstanding nominal amount of the Notes (in case of a write-up on a pro rata basis), multiplying the resulting amount by the actual number of days elapsed in the Interest Period, divided by the number of days (365, and 366 in the case of a leap year, respectively) in the respective Interest Period (actual/actual calculation in accordance with the International Capital Markets Association's Day Count Fraction: ICMA Actual / Actual) and rounding the result thereof to the nearest EUR-Cent (half a EUR-Cent being rounded upwards).

Hochschreibung nach §5 (7)-(8)) ab dem 30. Januar 2019 (der "**Verzinsungsbeginn**") (einschließlich) verzinst. Im Falle einer Herabschreibung nach §5 (7) werden die Schuldverschreibungen für die gesamte betreffende Zinsperiode (wie in §3 (4) definiert), in welcher eine Herabschreibung erfolgt, sowie (vorbehaltlich einer Hochschreibung gemäß §5 (8)) für alle weiteren Zinsperioden nur bezogen auf den entsprechend reduzierten Nennbetrag verzinst. Eine etwaige Hochschreibung wird erstmals für die Zinsperiode berücksichtigt, in der gemäß §5 (8) die Hochschreibung erfolgt.

Zur Klarstellung: Die Höhe der Zinszahlungen wird nicht aufgrund der Bonität der Emittentin oder eines mit ihr verbundenen Unternehmens angepasst.

(2) *Festzinsperiode / Zinssatz.*

Die Schuldverschreibungen werden zu einem festen Zinssatz in Höhe von 5,039 % per annum (der "**Zinssatz**") ab Verzinsungsbeginn (einschließlich) bis zum Ersten Optionalen Rückzahlungstag (wie in §5 (2) definiert) (ausgenommen) verzinst.

(a) *Zinsbetrag.*

Der auf die Schuldverschreibungen zu zahlende Zinsbetrag für die entsprechenden Verzinsungszeiträume (vorbehaltlich §5 (7)), wird während der Festzinsperiode durch Anwendung des Zinssatzes auf den ausstehenden Nominalbetrag der Schuldverschreibungen berechnet (im Falle einer Hochschreibung anteilig). Der sich daraus ergebende Betrag wird dann mit der tatsächlichen Anzahl von Tagen, die in der Zinsperiode verstrichen sind, multipliziert und dann durch die Anzahl der Tage (365 bzw. 366 im Falle eines Schaltjahres) in der jeweiligen Zinsperiode geteilt (actual/actual Berechnung gemäß der International Capital Markets Association's Day Count Fraction: ICMA Actual / Actual). Dieses

The amount of payments of interest will not be adjusted due to the solvency of the Issuer or any affiliated company.

(b) The period from and including the Interest Commencement Date to but excluding the First Optional Redemption Date are referred to herein as **"Fixed Period"**.

(3) **Reset Period / Reset Interest Rate.**

The Notes will bear interest as from and including the First Optional Redemption Date at a Reset Interest Rate for each Reset Period (as defined below) which will be determined according to the following provisions (the **"Reset Interest Rate"**).

(a) Each of the period from and including the First Optional Redemption Date to but excluding 1<sup>st</sup> January 2030 and each five year period thereafter beginning on and including the 1<sup>st</sup> January to but excluding the 1<sup>st</sup> January of each following five year period are referred to herein as a **"Reset Period"**.

(b) The Reset Interest Rate for each Reset Period shall be the Reference Rate (as defined below) plus 4.625 percentage points per annum (the **"Margin"**). If the Reset Interest Rate has a negative value (being lower than 0 per cent p.a.), the Reset Interest Rate will be zero per cent. p.a.

**"Reference Rate"** shall be the Mid-Swap Rate (as defined below) determined according to the following paragraph (i) or, failing that, the Reference Rate according to paragraph (ii) or, failing that, the Reference Rate according to paragraph (iii).

(i) On each Reset Determination Date (as defined in (iii)) the Calculation

Ergebnis wird auf den nächsten EUR-Cent gerundet (halbe EUR-Cent-Beträge werden aufgerundet).

Die Höhe der Zinszahlung wird nicht aufgrund der Bonität der Ermittlerin oder eines mit ihr verbundenen Unternehmens angepasst

(b) **"Festzinsperiode"** bezeichnet den Zeitraum ab Verzinsungsbeginn (einschließlich) bis zum Ersten Optionalen Rückzahlungstag, der nicht mit eingerechnet wird.

(3) **Reset-Zeitraum / Reset-Zinssatz.**

Unter **"Reset-Zinssatz"** wird die Verzinsung der Schuldverschreibungen ab dem Ersten Optionalen Rückzahlungstag (einschließlich) für den jeweiligen Reset-Zeitraum (wie nachstehend definiert) bezeichnet, der nach den folgenden Bestimmungen ermittelt wird.

(a) **"Reset-Zeitraum"** bezeichnet den Zeitraum ab dem Ersten Optionalen Rückzahlungstag (einschließlich) bis zum 1. Januar 2030 (ausschließlich) und den jeweils hierauf folgenden Fünfjahreszeitraum, stets beginnend mit dem 1. Januar (einschließlich) bis zum 1. Januar des hierauf folgenden Fünfjahreszeitraums (ausschließlich).

(b) Der Reset-Zinssatz für jeden Reset-Zeitraum ergibt sich aus dem Referenzkurs (wie nachstehend definiert) zuzüglich 4,625 Prozentpunkte per annum (**"Marge"**). Der Reset-Zinssatz beträgt null Prozent per annum, wenn der Reset-Zinssatz negativ (kleiner als null Prozent per annum) ist.

**"Referenzkurs"** ist die nach dem folgenden Absatz (i) ermittelte Mid-Swap Rate) oder, wenn dieser nicht anwendbar ist, der nach Absatz (ii) oder, wenn dieser nicht anwendbar ist, der nach Absatz (iii) ermittelte Referenzkurs (wie nachstehend definiert).

(i) An jedem Reset-Feststellungstag (wie in (iii) definiert) bestimmt die

Agent determines the Mid-Swap Rate for the Reset Period following the Reset Determination Date. "Mid-Swap Rate" means, in relation to a Reset Determination Date the rate for swaps in Euros:

(a) with a term equal to the relevant Reset Period; and

(b) commencing on the relevant Reset Interest Date,

which appears on the Relevant Screen Page (as defined in (iii)), as at approximately 11.00 a.m. (London time) in London on such Reset Determination Date, all as determined by the Calculation Agent; provided, however, that if there is no such rate appearing on the Relevant Screen Page for a term equal to the relevant Reset Period, then the Mid-Swap Rate shall be determined through the use of straight-line interpolation by reference to two rates, one of which shall be determined in accordance with the above provisions, but as if the relevant Reset Period were the period of time for which rates are available next shorter than the length of the actual Reset Period and the other of which shall be determined in accordance with the above provisions, but as if the relevant Reset Period were the period of time for which rates are available next longer than the length of the actual Reset Period.

(ii) If on any Reset Determination Date the Relevant Screen Page is not available or the Mid-Swap Rate does not appear on the Relevant Screen Page, the Calculation Agent shall request each of the Reference Banks to provide the Calculation Agent with its Mid-Market Swap Rate Quotation (as defined in (iii)) as at approximately 11.00 a.m. in London on the Reset

Berechnungsstelle die Mid-Swap Rate für den Reset-Zeitraum der dem Reset-Feststellungstag folgt. "Mid-Swap Rate" bedeutet hinsichtlich eines Reset-Feststellungstags der Kurs für Swaps in EUR:

(a) mit einer Laufzeit entsprechend des jeweiligen Reset-Zeitraums; und

(b) beginnend mit dem entsprechenden Zins-Reset-Tag,

der an einem solchen Reset-Feststellungstag auf der entsprechenden Bildschirmseite (wie in (iii) definiert) um etwa 11:00 Uhr (Londoner Zeit) nach Maßgabe der Berechnungsstelle in London erscheint und jeweils festgestellt wurde; falls dieser Kurs für einen Zeitraum entsprechend dem jeweiligen Reset-Zeitraum auf der vorgenannten Bildschirmseite nicht erscheint, wird die Mid-Swap Rate durch Verwendung einer linearen Interpolation durch zwei Kurse bestimmt, von denen eine nach den vorstehenden Bestimmungen, jedoch mit der Maßgabe bestimmt wird, als ob der Reset-Zeitraum der nächst kürzere als der tatsächliche Reset-Zeitraum wäre, für welche Kurse verfügbar sind und der andere wird ebenfalls nach vorstehenden Bestimmungen bestimmt, jedoch hier mit der Maßgabe, als ob der entsprechende Reset-Zeitraum der nächst längere Zeitraum als der tatsächliche Reset-Zeitraum wäre, für den Kurse verfügbar sind.

(ii) Wenn an einem Reset-Feststellungstag die entsprechende Bildschirmseite nicht verfügbar ist oder die Mid-Swap Rate nicht auf dem entsprechenden Bildschirm erscheint, fordert die Berechnungsstelle jede Referenzbank auf, ihr ihre Mid-Market Swap Rate Quotation (wie in (iii) definiert) von etwa 11:00 Uhr

Determination Date in question. If two or more of the Reference Banks (as defined in (iii)) provide the Calculation Agent with Mid-Market Swap Rate Quotations, the Reference Rate for the calculation of the Reset Interest Rate for the relevant Reset Period shall be the sum of the arithmetic mean (rounded, if necessary, to the nearest 0.001 per cent. (0.0005 per cent. being rounded upwards)) of the relevant Mid-Market Swap Rate Quotations, all as determined by the Calculation Agent.

- (iii) If on any Reset Determination Date the Mid-Swap Rate cannot be determined according to (i) and only one or none of the Reference Banks provides the Calculation Agent with a Mid-Market Swap Rate Quotation in accordance with paragraph (ii) above, then the Issuer shall determine the relevant Reference Rate in its reasonable discretion (*billiges Ermessen*) and with the due care of a proper merchant (*Sorgfalt eines ordentlichen Kaufmanns*). In case of a final termination of the Mid-Swap Rate the Issuer will (i) determine an alternative relevant reference rate including any commercially necessary adjustments or (ii) in case an alternative reference rate is not available, determine a Reference Rate, each in its reasonable discretion and with the due care of a proper merchant (*Sorgfalt eines ordentlichen Kaufmanns*).

For the purposes of this §3 (3) (b), "Reference Banks" means five leading swap dealers in the European interbank market as selected by the Calculation Agent.

"Mid-Market Swap Rate" means

Londoner-Zeit am Reset-Feststellungstag zukommen zu lassen. Wenn zwei oder mehr Referenzbanken (wie in (iii) definiert) der Berechnungsstelle ihre Mid-Market Swap Rate Quotations zukommen lassen, so ist der Referenzkurs für die Berechnung des Reset-Zinssatz für den entsprechenden Reset-Zeitraum das arithmetische Mittel der jeweiligen Mid-Market Swap Rate Quotations (gerundet auf die nächstgelegenen 0,001 Prozent) wie er von der Berechnungsstelle bestimmt wird (0,0005 Prozent werden auf gerundet).

- (iii) Wenn an einem Reset-Feststellungstag die Mid-Swap Rate nach (i) und gemäß vorstehendem Abschnitt (ii) nur eine oder keine der Referenzbanken der Zahlstelle einen Mid-Market Swap Rate Quotation zur Verfügung stellen kann, dann bestimmt die Emittentin nach billigem Ermessen und mit der Sorgfalt eines ordentlichen Kaufmanns den anwendbaren Referenzkurs. Im Falle des dauerhaften Wegfalls der Mid-Swap Rate wird die Emittentin nach billigem Ermessen und mit der Sorgfalt eines ordentlichen Kaufmanns (i) einen anwendbaren alternativen Referenzwert, einschließlich etwaiger wirtschaftlich erforderlicher Anpassungen, bestimmen oder (ii) für den Fall, dass ein geeigneter alternativer Referenzwert nicht zur Verfügung steht, einen anwendbaren Referenzzinssatz festlegen.

"Referenzbanken" im Sinne des §3 (3) (b) bezeichnet fünf führende Swap-Händler auf dem europäischen Interbankenmarkt, die von der Berechnungsstelle ausgewählt werden.

(iii) "Mid-Market Swap Rate"

for any Reset Period the mean of the bid and offered rates for the fixed leg payable with a frequency equivalent to the Fixed Leg Swap Duration (calculated on the basis of the Day Count Fraction) of a fixed-for-floating interest rate swap transaction in Euros which transaction (i) has a term equal to the relevant Reset Period and commencing on the relevant Reset Interest Date, (ii) is in an amount that is representative for a single transaction in the relevant market at the relevant time with an acknowledged dealer of good credit in the swap market and (iii) has a floating leg based on the Mid-Swap Floating Leg Benchmark Rate for the Mid-Swap Maturity (calculated on the basis of the Day Count Fraction);

**"Day Count Fraction"** means, in respect of any period, the number of days in the relevant period, from (and including) the first day in such period to (but excluding) the last day in such period, divided by the number of days in the Interest Period in which the relevant period falls;

**"Fixed Leg Swap Duration"** means twelve months;

**"Mid-Market Swap Rate Quotation"** means a quotation (expressed as a percentage rate per annum) for the relevant Mid-Market Swap Rate;

**"Mid-Swap Floating Leg Benchmark Rate"** means EURIBOR;

bezeichnet für jeden Reset-Zeitraum den Mittelwert der Geld- und Briefkurse für den bestimmten Zeitraum (*fixed leg*), dessen Fälligkeit zeitlich die der *Fixed leg Swap Duration* (ermittelt auf Basis des Zinstagequotienten) eines fixed-for-floating

Zinsswappeschäfts (dh., dass eine der Vertragsparteien einen festgelegten und die andere einen variablen Zinssatz zahlt) in EUR entspricht und das Geschäft (i) eine Laufzeit entsprechend des Reset-Zeitraums hat und mit dem entsprechenden Zins-Reset-Tag beginnt, (ii) in einer Höhe ist, die für einzelne Transaktionen in dem entsprechenden Markt zur entsprechenden Zeit mit einem anerkannten Händler guter Bonität im Swapmarkt repräsentativ ist und (iii) ein variables *leg* hat, das auf der *Mid-Swap Floating Leg Benchmark Rate* für Mid-Swap Maturity (ermittelt auf Basis des Zinstagequotienten) basiert;

**"Zinstagequotient"** entspricht, bezogen auf jede Periode, die Anzahl der Tage in der jeweiligen Periode, d.h. vom ersten Tag der jeweiligen Periode (einschließlich) bis zum letzten Tag der jeweiligen Periode (ausschließlich), dividiert durch die Anzahl der Tage der Zinsperiode, die in die jeweilige Periode fallen;

**"Fixed Leg Swap Duration"** entspricht einem Zeitraum von 12 Monaten;

**"Mid-Market Swap Rate Quotation"** ist die Angabe des jeweiligen Mid-Market Swap Kurses (angegeben in Prozent per annum);

**"Mid-Swap Floating Leg Benchmark Rate"** entspricht dem EURIBOR;

**"Mid-Swap Maturity"** means five years;

**"Relevant Screen Page"** means the Reuters ICESWAP Page (or such replacement page on that information service or any other published source, information vendor or provider which displays the information);

**"Reset Determination Date"** means the second London business day prior to the First Optional Redemption Date and thereafter each second London business day prior to the 1<sup>st</sup> January every five years, the second Reset Determination Date being the second London business day prior to the 1<sup>st</sup> January 2030, etc.

**"Reset Interest Date"** means the First Optional Redemption Date and thereafter each 1<sup>st</sup> January every five years, the second Reset Interest Date is the 1<sup>st</sup> January 2030, etc.

(c) *Reset Interest Amount.*

The Calculation Agent will, forthwith after the determination of the Reference Rate for the respective Reset Period, determine the applicable Reset Interest Rate and calculate the amount of interest payable on the Notes (subject to §5 (8)(a)) (the **"Reset Interest Amount"**) for the relevant Interest Period. The Reset Interest Amount shall be calculated by applying the Reset Interest Rate to the outstanding Nominal Amount of the Notes (in case of a write-up on a pro rata basis), multiplying the resulting amount by the actual number of days elapsed in the relevant Interest Period, divided by the number of days (365, and 366 in the case of a leap year, respectively) in the respective Interest Period (actual/actual calculation in accordance with the International

**"Mid-Swap Maturity"** bezeichnet fünf Jahre;

**"Entsprechende Bildschirmseite"** bezeichnet die Reuters ICESWAP-Seite (oder eine Ersatzseite von diesem Informationsdienst oder jede andere veröffentlichte Quelle oder jeder andere Informationsanbieter, der die Informationen anbietet);

**"Reset-Feststellungstag"** bezeichnet den zweiten Geschäftstag in London vor dem Ersten Optionalen Rückzahlungstag und anschließend alle fünf Jahre jeden zweiten Geschäftstag vor dem 1. Januar, der zweite Reset-Feststellungstag ist der zweite Londoner Geschäftstag vor dem 1. Januar 2030, usw.

**"Zins-Reset-Tag"** bezeichnet den Ersten Optionalen Rückzahlungstag und anschließend alle fünf Jahre jeden 1. Januar, der zweite Zins-Reset-Tag ist der 1. Januar 2030, usw.

(c) *Reset-Zinsbetrag.*

Die Berechnungsstelle wird unverzüglich nach der Bestimmung des Referenzkurses bzgl. des entsprechenden Reset-Zeitraums den anwendbaren Reset-Zinssatz bestimmen und den auf die Schuldverschreibungen zu zahlenden Zinsbetrag (gemäß §5 (7)) für die jeweilige Zinsperiode (**"Reset-Zinsbetrag"**) berechnen. Der Zinsbetrag wird berechnet, indem zunächst der Reset-Zinssatz auf den ausstehenden Nominalbetrag der Schuldverschreibungen angewendet wird (im Falle einer Heraufschreibung pro rata). Der daraus resultierende Betrag wird mit der tatsächlichen Anzahl der Tage, die in der entsprechenden Zinsperiode verstrichen sind, multipliziert. Dies wird durch die Anzahl der Tage (365 bzw. 366 im Fall eines Schaltjahres) in

Capital Markets Association's Day Count Fraction: ICMA Actual / Actual) and rounding the result thereof to the nearest EUR-Cent (half a EUR-Cent being rounded upwards).

der entsprechenden Zinsperiode dividiert (actual/actual Berechnung gemäß der International Capital Markets Association's Day Count Fraction: ICMA Actual / Actual). Dieses Ergebnis wird auf den nächsten Euro-Cent gerundet (halbe Euro-Cent sind aufzurunden).

(d) *Notification of Reset Interest Rate and Reset Interest Amount.*

The Calculation Agent will cause the Reset Interest Rate for the Reset Period and the expected Reset Interest Amount for the respective Interest Periods to be notified to the Holders in accordance with §11 (2) as soon as possible.

(d) *Benachrichtigung über den Reset-Zinssatz und Reset-Zinsbetrag.*

Die Berechnungsstelle wird den Reset-Zinssatz für den Reset-Zeitraum und den erwarteten Reset-Zinsbetrag für den entsprechenden Zinszeitraum ermitteln, um diese den Gläubigern gemäß §11 (2) so bald wie möglich mitzuteilen.

(4) Respective interest for any relevant Interest Period ending on and including the 31<sup>st</sup> December of each year is payable in arrears on 30<sup>th</sup> April of the following year (each an "Interest Payment Date"), commencing on 30<sup>th</sup> April 2020 for the Interest Period ending on and including 31<sup>st</sup> December 2019, unless such date should fall on a day which is not a Business Day (as defined in §3 (8)), in which event the Interest Payment Date shall be the immediately following Business Day. The Holders of the Notes shall not be entitled to further interest or other payments in respect of such delay. The period from and including the Interest Commencement Date up to but excluding 1<sup>st</sup> January 2020 (first short coupon) and each subsequent period thereafter beginning on and including the 1<sup>st</sup> January of each year to but excluding the 1<sup>st</sup> January of each following year are referred to herein as an "Interest Period".

(4) Die jeweiligen Zinsen für die entsprechende Zinsperiode, die jährlich am 31. Dezember (einschließlich) endet, sind nachträglich zahlbar am 30. April des folgenden Jahres (jeweils "Zinszahlungstag") - beginnend am 30. April 2020 für den am 31. Dezember 2019 (einschließlich) endende Zinsperiode. Falls dieses Datum kein Geschäftstag (wie in §3 (8) definiert) ist, ist der unmittelbar folgende Geschäftstag der Zinszahlungstag. Für eine solche verzögerte Zahlung steht den Gläubigern der Schuldverschreibungen kein Anspruch auf zusätzliche Zinsen oder andere Zahlungen zu. Der Zeitraum vom Tag des Verzinsungsbeginns (einschließlich) bis zum 1. Januar 2020 (ausschließlich) (first short coupon) und jeder darauffolgende Zeitraum, beginnend am und einschließlich des 1. Januars eines jeden Jahres bis zum – aber nicht einschließlich – des 1. Januars des folgenden Jahres wird als "Zinsperiode" bezeichnet.

(5) *Determinations Binding.*

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this §3 by the Calculation Agent shall (in the absence of manifest error) be binding on the Issuer, the Paying Agent and the Holders.

(5) *Verbindlichkeit der Festsetzungen.*

Alle Bescheinigungen, Mitteilungen, Gutachten, Festsetzungen, Berechnungen, Quotierungen und Entscheidungen, die von der Berechnungsstelle für die Zwecke dieses §3 gemacht werden, abgegeben, getroffen oder eingeholt werden, sind (sofern nicht ein offensichtlicher Irrtum vorliegt) für die Emittentin, die Zahlstelle

und die Gläubiger bindend.

(6) *Accrual of Interest.*

The Notes shall cease to bear interest from the beginning of the day on which they become due for redemption. If the Issuer fails to make the relevant redemption payment under the Notes when due, the Notes will bear interest on their outstanding nominal amount from and including the due date to but excluding the day of actual redemption of the Notes at the statutory default rate of interest.

(6) *Auflaufende Zinsen.*

Der Zinslauf der Schuldverschreibungen endet mit Beginn des Tages, an dem sie zur Rückzahlung fällig werden. Falls die Emittentin die Schuldverschreibungen bei Fälligkeit nicht einlöst, ist der ausstehende Nennbetrag der Schuldverschreibungen vom Tag der Fälligkeit an (einschließlich) bis zum Tag der tatsächlichen Rückzahlung der Schuldverschreibungen (ausschließlich) in Höhe des gesetzlich festgelegten Zinssatzes für Verzugszinsen<sup>1</sup> zu verzinsen.

(7) *Cancellation of Interest Payment in the sole and full discretion of the Issuer.*

(a) The Issuer has, at any time, the right, in its sole and full discretion, to cancel all or part of any payment of interest. If the Issuer makes use of such right, it shall give notice to the Holders in accordance with §11 without undue delay but not later than on the relevant Interest Payment Date. Any failure to give such notice shall not affect the validity of the cancellation of interest and shall not constitute a default for any purpose. Any notification not made prior to or on the relevant Interest Payment Date has to be made without undue delay.

(7) *Ausschluss der Zinszahlung im Ermessen der Emittentin.*

(a) Die Emittentin hat jederzeit das Recht, die Zinszahlung nach freiem Ermessen ganz oder teilweise entfallen zu lassen. Sie teilt den Gläubigern unverzüglich spätestens jedoch am betreffenden Zinszahlungstag gemäß §11 mit, wenn sie von diesem Recht Gebrauch macht. Ein Unterlassen der Benachrichtigung der Gläubiger berührt nicht die Wirksamkeit des der Zinszahlungen und stellt in keinem Fall eine Pflichtverletzung dar. Eine bis zum betreffenden Zinszahlungstag nicht erfolgte Benachrichtigung ist unverzüglich nachzuholen.

(b) *Mandatory Exclusion of Payment of Interest.* Payment of interest on the Notes for the relevant Interest Period shall be cancelled:

(i) to the extent that such payment of interest together with any additional Distributions (as defined in §3 (8)) planned for the same day or already paid in the current financial year of the Issuer on other Tier 1 Instruments (as defined in §3 (8)) of the Issuer and any write-ups according to §5 (8) (as applicable) would exceed the Available

(b) *Zwingender Ausschluss der Zinszahlung.* Eine Zinszahlung auf die Schuldverschreibungen ist für die betreffende Zinsperiode ausgeschlossen und entfällt:

(i) soweit eine solche Zinszahlung zusammen mit den für den selben Tag geplanten und den in dem laufenden Geschäftsjahr der Emittentin (bis einschließlich dem Tag, an dem diese Zinszahlung vorgesehen ist) bereits erfolgten weiteren Ausschüttungen (wie in §3 (8) definiert) auf die anderen Kernkapitalinstrumente (wie in

<sup>1</sup> Der gesetzliche Verzugszins beträgt gemäß §§288 Absatz 1, 247 BGB für das Jahr fünf Prozentpunkte über dem von der Deutsche Bundesbank von Zeit zu Zeit veröffentlichten Basiszinssatz.

Distributable Items (as defined in §3 (8)), provided that, for such purpose, the Available Distributable Items shall be increased by an amount equal to what has been accounted for as expenses for Distributions in respect of Tier 1 Instruments (including payments of interest on the Notes) in determination of the profit (*Gewinn*) on which the Available Distributable Items are based; or

- (ii) if and to the extent that the Competent Supervisory Authority orders that all or part of the relevant payment of interest shall be cancelled or another prohibition of Distributions is imposed by law or an authority (including the maximum distributable amount regarding the combined capital buffer requirement according to §10 i of the German Banking Act (Kreditwesengesetz).

The Issuer shall give notice regarding a cancellation of an interest payment for the relevant Interest Period pursuant this §3 (7) (b) without undue delay but no later than five days after the relevant Interest Payment Date in accordance with §11. Any failure to give such notice shall not affect the validity of the cancellation of interest payment and shall not constitute a default for any purpose. Any notification not made prior to or on the day which is five days after the relevant Interest Payment Date has to be made without undue delay.

- (c) *Consequences of cancelled payments of interest.* The Issuer has the right to use the funds resulting from cancelled payments of interest to fulfill any of its obligations when they fall due. To the extent that payments of interest are

§3 (8) definiert) und etwaigen Hochschreibungen nach §5 (8) (soweit anwendbar) die Ausschüttungsfähigen Posten (wie in §3 (8) definiert) übersteigen würde, wobei die Ausschüttungsfähigen Posten für diesen Zweck um einen Betrag erhöht werden, der bereits als Aufwand für Ausschüttungen in Bezug auf Kernkapitalinstrumente (einschließlich Zinszahlungen auf die Schuldverschreibungen) in die Ermittlung des Gewinns, der den Ausschüttungsfähigen Posten zugrunde liegt, eingegangen ist, oder

- (ii) wenn und soweit die Zuständige Behörde anordnet, dass diese Zinszahlung insgesamt oder teilweise entfällt, oder ein anderes gesetzliches oder behördliches Ausschüttungsverbot besteht (einschließlich der Einhaltung des maximal ausschüttungsfähigen Betrags für die kombinierte Kapitalpufferanforderung nach §10 i des Kreditwesengesetzes).

Die Emittentin wird den Ausschluss einer Zinszahlung auf für die Schuldverschreibungen für die betreffende Zinsperiode nach diesem §3 (7) (b) unverzüglich, spätestens jedoch fünf Geschäftstage nach dem betreffenden Zinszahlungstag gemäß §11 mitteilen. Ein Unterlassen der Benachrichtigung der Gläubiger berührt nicht die Wirksamkeit des Ausfalls der Zinszahlungen und stellt in keinem Fall eine Pflichtverletzung dar. Eine bis fünf Tage nach dem betreffenden Zinszahlungstag nicht erfolgte Benachrichtigung ist unverzüglich nachzuholen.

- (c) *Folgen ausgefallener Zinszahlungen.* Die Emittentin ist berechtigt, die Mittel aus entfallenen Zinszahlungen uneingeschränkt zur Erfüllung ihrer eigenen Verpflichtungen bei deren Fälligkeit zu nutzen. Soweit

cancelled, such cancellation includes all Additional Amounts (as defined in §7) payable pursuant to §7. Any payments of interest which have been cancelled will not be made or compensated at any later date. A cancellation of interest payments shall not constitute a default of the Issuer and does not create the right for the Holders to call the Notes for early redemption and the Holders of the Notes shall have no right thereto, whether in the case of bankruptcy or liquidation of the Issuer or otherwise.

Zinszahlungen entfallen, schließt dies sämtliche gemäß §7 zahlbaren zusätzlichen Beträge (wie in §7 definiert) ein. Entfallene Zinszahlungen werden nicht nachgezahlt. Der Ausfall einer Zinszahlung berechtigt die Gläubiger nicht zur Kündigung der Schuldverschreibungen, dies gilt auch im Falle einer Insolvenz oder Liquidation der Emittentin und stellt keinen Ausfall der Emittentin dar.

(8) *Definitions.*

**"Distributions"** means any kind of payment of dividends or interest amounts.

**"Available Distributable Items"** means, with respect to any payment of interest, the profit (*Gewinn*) as of the end of the financial year of the Issuer immediately preceding the relevant Interest Payment Date, for which audited annual financial statements are available, plus any profits carried forward and distributable reserves (*ausschüttungsfähige Rücklagen*), but minus losses carried forward and any profits which are non-distributable pursuant to applicable law or the Articles of Association of the Issuer and any amounts allocated to the non-distributable reserves, provided that such profits, losses and reserves shall be determined on the basis of the unconsolidated financial statements of the Issuer prepared in accordance with German commercial law and not on the basis of its consolidated financial statements.

**"Business Day"** means a day (other than Saturday or Sunday) on which the Clearing System as well as the Trans-European Automated Real-time Gross settlement Express Transfer system 2 (TARGET 2) is open.

**"CRR"** means Regulation (EU) No 575/2013 of the European Parliament and the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and

(8) *Bestimmte Definitionen.*

**"Ausschüttung"** bezeichnet jede Art der Auszahlung von Dividenden oder Zinsen.

**"Ausschüttungsfähige Posten"** bezeichnet in Bezug auf eine Zinszahlung den Gewinn am Ende des dem betreffenden Zinszahlungstag unmittelbar vorhergehenden Geschäftsjahres der Emittentin, für das ein festierter Jahresabschluss vorliegt, zuzüglich etwaiger vorgetragener Gewinne und ausschüttungsfähiger Rücklagen, jedoch abzüglich vorgetragener Verluste und gemäß anwendbarer Rechtsvorschriften oder der Satzung der Emittentin nicht ausschüttungsfähiger Gewinne und in die nicht ausschüttungsfähigen Rücklagen eingestellter Beträge, wobei diese Gewinne, Verluste und Rücklagen ausgehend von dem handelsrechtlichen Einzelabschluss der Emittentin und nicht auf der Basis des Konzernabschlusses festgestellt werden.

**"Geschäftstag"** bezeichnet jeden Tag (außer Samstag oder Sonntag) an dem das Clearing System und das Trans-European Automated Real-time Gross settlement Express Transfer system 2 (TARGET 2) zugänglich ist.

**"CRR"** bezeichnet die Verordnung (EU) Nr. 575/2013 des Europäischen Parlaments und des Rates vom 26. Juni 2013 über Aufsichts-anforderungen an Kreditinstitute

amending Regulation (EU) No 648/2012 (including any provisions of regulatory law supplementing this Regulation); to the extent that any provisions of the CRR are amended or replaced, the term CRR as used in these Terms and Conditions shall refer to such amended provisions or successor provisions.

**"Tier 1 Instruments"** means capital Instruments which, according to the CRR, qualify as common equity Tier 1 capital or Additional Tier 1 Capital.

**"SSM-VO"** means the Regulation (EU) No 1024/2013 of the European Parliament and of the Council of 15 October 2013 transferring special tasks in relation to the supervision of the credit institutions to the European Central Bank (including each applicable prudential regulation supplementing this regulation); insofar as provisions of the SSM-VO are amended or replaced, any references to the SSM-VO in these terms and conditions refer to the amended provisions or the successor provisions respectively.

**"Competent Supervisory Authority"** means the competent authority according to article 4 (4) no. 40 CRR and/or article 9 (1) SSM-VO which in the particular case is authorized to monitor the Issuer (on consolidated basis).

#### §4 Payments

##### (1) General

(a) *Payments of Principal.* Payment of principal in respect of the Notes shall be made in accordance with §4 (2) to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System outside the United States.

und Wertpapierfirmen und zur Änderung der Verordnung (EU) Nr. 648/2012 (einschließlich jeder jeweils anwendbaren aufsichtsrechtlichen Regelung, die diese Verordnung ergänzt); soweit Bestimmungen der CRR geändert oder ersetzt werden, bezieht sich der Begriff CRR in diesen Anleihebedingungen auf die geänderten Bestimmungen bzw. die Nachfolgeregelungen

**"Kernkapitalinstrumente"** bezeichnet Kapitalinstrumente, die im Sinne der CRR zu den Instrumenten des harten Kernkapitals oder des zusätzlichen Kernkapitals zählen.

**"SSM-VO"** bezeichnet die Verordnung (EU) Nr. 1024/2013 des Europäischen Parlaments und des Rates vom 15. Oktober 2013 zur Übertragung besonderer Aufgaben im Zusammenhang mit der Aufsicht über Kreditinstitute auf die Europäische Zentralbank (einschließlich jeder jeweils anwendbaren aufsichtsrechtlichen Regelung, die diese Verordnung ergänzt); soweit Bestimmungen der SSM-VO geändert oder ersetzt werden, bezieht sich der Verweis auf die SSM-VO in diesen Anleihebedingungen auf die geänderten Bestimmungen bzw. die Nachfolgeregelungen.

**"Zuständige Behörde"** bezeichnet die Zuständige Behörde im Sinne von Artikel 4 Absatz 1 Nr. 40 CRR und/oder Artikel 9 Absatz 1 SSM-VO, die im betreffenden Fall zur Beaufsichtigung der Emittentin (ggf. auf konsolidierter Basis) befugt ist.

#### §4 Zahlungen

##### (1) Allgemeines.

(a) *Zahlungen auf Kapital.* Zahlungen auf Kapital in Bezug auf die Schuldverschreibungen erfolgen nach Maßgabe von §4 (2) an das Clearing System oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearing Systems außerhalb der Vereinigten Staaten.

- (b) *Payments of Interest.* Payment of interest on Notes shall be made in accordance with §4 (2) to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System outside the United States.
- Die Zahlung von Zinsen auf Schuldverschreibungen erfolgt nach Maßgabe von §4 (2) an das Clearing System oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearing Systems außerhalb der Vereinigten Staaten.
- Payment of interest on Notes represented by the Temporary Global Note shall be made in accordance with §4 (2) to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System, upon due certification as provided in §1 (3)(b).
- Die Zahlung von Zinsen auf Schuldverschreibungen, die durch die vorläufige Globalurkunde verbrieft sind, erfolgt nach Maßgabe von §4 (2) an das Clearing System oder dessen Order zur Gutschrift auf den Konten der jeweiligen Kontoinhaber des Clearing Systems, und zwar nach ordnungsgemäßer Bescheinigung gemäß §1 (3)(b).
- (2) *Manner of Payment.* Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.
- (2) *Zahlungsweise.* Vorbehaltlich geltender steuerlicher und sonstiger gesetzlicher Regelungen und Vorschriften erfolgen zu leistende Zahlungen auf die Schuldverschreibungen in der festgelegten Währung.
- (3) *United States.* For the purposes of §1 (3) and §4 (1) United States means the "United States" of America (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).
- (3) *Vereinigte Staaten.* Für die Zwecke des §1 (3) und des §4 (1) bezeichnet "Vereinigte Staaten" die Vereinigten Staaten von Amerika (einschließlich deren Bundesstaaten und des District of Columbia) sowie deren Territorien (einschließlich Puerto Rico, der U.S. Virgin Islands, Guam, American Samoa, Wake Island und Northern Mariana Islands).
- (4) *Discharge.* The Issuer shall be discharged from its payment obligation by payment to the Clearing System or to its order.
- (4) *Erfüllung.* Die Emittentin wird durch Leistung der Zahlung an das Clearing System oder dessen Order von ihrer Zahlungspflicht befreit.
- (5) *Payment Date.* If the date for payment of principal in respect of the Notes is not a Business Day then the respective payment shall be effected on the next Business Day. The Holders shall not be entitled to payment until the next Business Day and shall not be entitled to further interest or other payment in respect of such delay.
- (5) *Zahltag.* Fällt der Fälligkeitstag für eine Zahlung von Kapital und/oder Zinsen in Bezug auf eine Schuldverschreibung auf einen Tag, der kein Geschäftstag ist, dann haben die Gläubiger keinen Anspruch auf Zahlung vor dem nächsten Geschäftstag und sind nicht berechtigt, weitere Zinsen oder sonstige Zahlungen aufgrund dieser Verspätung zu verlangen.
- (6) *References to Principal and Interest.* References in these Terms and Conditions to principal in respect of the
- (6) *Bezugnahmen auf Kapital und Zinsen.* Bezugnahmen in diesen Anleihebedingungen auf Kapital der

Notes shall be deemed to include, as applicable, the following amounts: the Redemption Amount of the Notes, any premium and any other amounts which may be payable under or in respect of the Notes. Reference in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under §7.

Schuldverschreibungen schließen, soweit anwendbar, die folgenden Beträge ein: den Rückzahlungsbetrag der Schuldverschreibungen sowie sonstige auf oder in Bezug auf die Schuldverschreibungen zahlbaren Beträge. Bezugnahmen in diesen Anleihebedingungen auf Zinsen auf Schuldverschreibungen sollen, soweit anwendbar, sämtliche gemäß §7 zahlbaren zusätzlichen Beträge (wie dort definiert) einschließen.

(7) *Deposit of Principal and Interest.* The Issuer may deposit with the local court (Amtsgericht) in Düsseldorf amounts of interest or principal not claimed by the Holders within twelve months after the due date, even though such Holders may not be in default of acceptance of payment. If and to the extent that such deposit is effected and the right of withdrawal is waived, the respective claims of such Holders against the Issuer shall cease.

(7) *Hinterlegung von Kapital und Zinsen.* Die Emittentin ist berechtigt, beim Amtsgericht Düsseldorf Zins- oder Kapitalbeträge zu hinterlegen, die von den Gläubigern nicht innerhalb von zwölf Monaten nach dem Fälligkeitstag beansprucht worden sind, auch wenn die Gläubiger sich nicht in Annahmeverzug befinden. Soweit eine solche Hinterlegung erfolgt und auf das Recht der Rücknahme verzichtet wird, erlöschen die jeweiligen Ansprüche der Gläubiger gegen die Emittentin.

## §5

### Redemption; Early Redemptions; Write-downs

- (1) *No Scheduled Maturity.* The Notes have no scheduled maturity date.
- (2) *Early Redemption at the Option of the Issuer.* The Issuer may call the Notes for early redemption, in whole but not in part, subject to the prior consent of the Competent Supervisory Authority and in accordance with §5 (4), on any Optional Redemption Date (as defined below). With respect to such a redemption the Issuer is obliged to redeem the Notes on such Optional Redemption Date at their Redemption Amount (as defined in §5 (5)) together with interest (if any, and subject to any cancellation of interest pursuant to §3 (7)) accrued to such redemption date (exclusive).

For the avoidance of doubt: Any refusal of the Competent Supervisory Authority to grant consent/permission for a redemption according to §5 (2) shall not

## §5

### Rückzahlung; Kündigung; Herabschreibungen

- (1) *Keine Endfälligkeit.* Die Schuldverschreibungen haben keinen Endfälligkeitstag.
- (2) *Rückzahlung nach Wahl der Emittentin.* Die Emittentin kann die Schuldverschreibungen insgesamt, jedoch nicht teilweise, vorbehaltlich der vorherigen Zustimmung der Zuständigen Behörde und gemäß §5 (4) zu jedem Optionalen Rückzahlungstag (wie nachstehend definiert) kündigen und zu ihrem Rückzahlungsbetrag (wie in §5 (5) definiert) zuzüglich (vorbehaltlich eines Ausschlusses der Zinszahlung nach §3 (7)) bis zu dem für die Rückzahlung festgelegten Tag (ausschließlich) aufgelaufener Zinsen zurückzahlen.

Zur Klarstellung: Die Nichterteilung der Zustimmung durch die Zuständige Behörde zu einer Rückzahlung nach §5 (2) berechtigt die Gläubiger nicht zur

constitute a default of the Issuer and does not create any right for the Holders to call the Notes for early redemption.

**"Optional Redemption Date"** means the First Optional Redemption Date (as defined below) and each following anniversary of the immediate preceding Optional Redemption Date.

**"First Optional Redemption Date"** means 1 January 2025.

(3) *Early Redemption upon occurrence of a Regulatory Event or a Taxation Event.*

- (a) Upon the occurrence of a Regulatory Event or a Taxation Event the Issuer may, at any time, call the Notes for early redemption, in whole but not in part, subject to the prior consent of the Competent Supervisory Authority and in accordance with §5 (4), on the date of early redemption (the **"Early Redemption Date"**) as specified in the Notification. With respect to such early redemption, the Issuer is obliged to redeem the Notes on such Early Redemption Date at their Redemption Amount (as defined in §5 (5)) together with interest (if any, and subject to any cancellation of interest pursuant to §3 (7)) accrued to such Early Redemption Date (exclusive).

For the avoidance of doubt: Any refusal of the Competent Supervisory Authority to grant consent/permission for a redemption according to §5 (3) shall not constitute a default of the Issuer and does not create the right for the Holders to call the Notes for early redemption.

- (b) *Regulatory Event.* A **"Regulatory Event"** occurs if there is a change in the regulatory classification of the Notes that would be likely to result in their exclusion in full or in part from the Issuer's regulatory capital as additional core capital (Additional Tier 1) (including such circumstances,

Kündigung der Schuldverschreibungen und stellt keinen Ausfall der Emittentin dar.

**"Optional Rückzahlungstag"** bezeichnet den Ersten Optionalen Rückzahlungstag und jeden Jahrestag des unmittelbar vorangegangenen Optionalen Rückzahlungstag.

**"Erster Optionaler Rückzahlungstag"** bezeichnet den 1. Januar 2025.

(3) *Rückzahlung nach Eintritt eines Aufsichtsrechtlichen Ereignisses oder eines Steuerereignisses.*

- (a) Bei Eintritt eines Aufsichtsrechtlichen Ereignisses oder eines Steuerereignisses ist die Emittentin jederzeit berechtigt, die Schuldverschreibungen insgesamt, jedoch nicht teilweise, vorbehaltlich der vorherigen Zustimmung der Zuständigen Behörde und gemäß §5 (4) mit Wirkung zu dem in der Mitteilung für die Rückzahlung festgelegten Tag zu kündigen und zu ihrem Rückzahlungsbetrag (wie in §5 (5) definiert) zuzüglich (vorbehaltlich eines Ausschlusses der Zinszahlung nach §3 (7)) bis zu dem für die Rückzahlung festgelegten Tag (ausschließlich) aufgelaufener Zinsen, zurückzuzahlen.

Zur Klarstellung: Die Nichterteilung der Zustimmung durch die Zuständige Behörde zu einer Rückzahlung nach §5 (3) berechtigt die Gläubiger nicht zur Kündigung der Schuldverschreibungen und stellt keinen Ausfall der Emittentin dar.

- (b) *Aufsichtsrechtliches Ereignis.* Ein **"Aufsichtsrechtliches Ereignis"** tritt ein, falls die Emittentin infolge einer Änderung der aufsichtsrechtlichen Einstufung die Schuldverschreibungen wahrscheinlich nicht vollständig für die Zwecke der

where the change of classification would likely result in a reclassification of the Notes as lower quality form of regulatory capital), where such reclassification was not reasonably foreseeable at the issue date of the Notes and the Competent Supervisory Authority considers such change to be sufficient certain.

For the avoidance of doubt: Any exclusion of the Notes from the Issuer's regulatory capital as a consequence of a write-down pursuant to §5 (7) shall not constitute a Regulatory Event.

- (c) *Taxation Event.* A "**Taxation Event**" is deemed to have occurred if the tax treatment of the Notes changes (including but not limited to the tax deductibility of interest payable on the Notes or the obligation to pay Additional Amounts (as defined in § 7)) and such a change has a material adverse effect on the Issuer and was not reasonably foreseeable at the time of the issuance of the Notes.

- (4) *Notification and Call Notice for Early Redemption; No Call Notice in case of a Trigger Event*

- (a) A call for early redemption shall be non-bindingly announced 10 Business Days before the envisaged redemption date at the latest (the "**Notification**") and the irrevocable call for early redemption should be declared at the envisaged redemption date at the latest (the "**Call Notice**"). The Notification shall mention the date for the early redemption, the Redemption Amount (as defined in §5 (5)) and in case of a call of the

Eigenmittelausstattung als zusätzliches Kernkapital (Additional Tier 1) anrechnen darf (unter Einschluss solcher Umstände, in denen die Änderung wahrscheinlich zu einer Neueinstufung als Eigenmittel geringerer Qualität führen würde), die Änderung der Einstufung zum Zeitpunkt der Begebung vernünftigerweise nicht vorhersehbar war und die Zuständige Behörde es für ausreichend sicher hält, dass eine solche Änderung stattfindet.

Zur Klarstellung: Eine verminderte Anrechenbarkeit infolge einer Herabschreibung nach §5 (7) begründet kein Aufsichtsrechtliches Ereignis.

- (c) *Steuerereignis.* Ein "**Steuerereignis**" tritt ein, falls sich die steuerliche Behandlung der Schuldverschreibungen ändert (insbesondere, jedoch nicht ausschließlich, im Hinblick auf die steuerliche Abzugsfähigkeit der unter den Schuldverschreibungen zu zahlenden Zinsen oder die Verpflichtung zur Zahlung von zusätzlichen Beträgen (wie in §7 definiert)) und diese Änderung für die Emittentin wesentlich nachteilig ist und zum Zeitpunkt der Begebung vernünftigerweise nicht vorhersehbar war.

- (4) *Ankündigung und Kündigungserklärung; keine Kündigung oder Rückzahlung im Falle eines Auslöseereignisses.*

- (a) Eine Kündigung ist spätestens 10 Geschäftstage vor dem für die Rückzahlung vorgesehenen Tag unverbindlich anzukündigen (die "**Ankündigung**") und spätestens an dem für die Rückzahlung vorgesehenen Tag verbindlich auszusprechen (die "**Kündigungserklärung**"). Die Ankündigung muss den für die Rückzahlung festgelegten Tag, den Rückzahlungsbetrag (wie in §5 (5))

Notes pursuant to §5 (3) the reason for the call. The Notification shall be published according to §11. The Call Notice shall be irrevocably declared to the Clearing System and shall be published pursuant to §11 without undue delay.

(b) If a Trigger Event (as defined in §5 (7) (a)) occurs, the Issuer may not call the Notes pursuant to §5 (2) and (3) as long as the Trigger Event is continuing and the respective write-down has not yet been effected. If a Trigger Event occurs after a Notification but before the relevant redemption date, the Notification is regarded as automatically withdrawn and void and the relevant redemption shall not occur (as governed by §5 (4) (c)).

(c) The Issuer shall redeem the Notes in any case only if (i) no Trigger Event has occurred or is continuing (ii) the Issuer is neither over-indebted on the redemption date pursuant to §19 InsO nor insolvent within the meaning of §17 InsO on the redemption date and (iii) the payment of the Redemption Amount does not lead to an over-indebtedness or insolvency of the Issuer; §41 InsO remains unaffected.

(5) *Redemption Amount.* The "**Redemption Amount**" of the Notes, unless previously redeemed in whole or in part or repurchased and cancelled, shall be the current Nominal Amount of the Notes (for the avoidance of doubt any write-downs to the extent not made up for by write-up(s) shall be taken into account when determining the current Nominal Amount). In case of a redemption after the opening of insolvency or liquidation proceeding the Redemption Amount of a Note shall be the current Nominal Amount of the Note

definiert) und im Falle einer Kündigung nach §5 (3) den Grund für die Kündigung nennen. Die Ankündigung ist gemäß §11 zu veröffentlichen. Die Kündigungserklärung ist unwiderruflich und gegenüber dem Clearing System auszusprechen und anschließend unverzüglich gemäß §11 zu veröffentlichen.

(b) Wenn ein Auslöseereignis (wie in §5 (7) (a) definiert) eintritt, kann die Emittentin ihre Kündigungsrechte nach §5 (2) und (3) nicht ausüben, solange dieses Auslöseereignis fort dauert und die betreffende Herabschreibung noch nicht erfolgt ist. Wenn ein Auslöseereignis nach der Erklärung einer Ankündigung, jedoch vor dem betreffenden Rückzahlungstag eintritt, gilt die Ankündigung automatisch als zurückgenommen sowie nichtig und die betreffende Rückzahlung darf nicht erfolgen (wie in §5 (4) (c) geregelt).

(c) Die Emittentin darf die Schuldverschreibungen in jedem Fall nur zurückzahlen, wenn (i) kein Auslöseereignis eingetreten ist und noch fort dauert, (ii) die Emittentin am Rückzahlungstag weder überschuldet im Sinne von §19 InsO noch zahlungsunfähig im Sinne von §17 InsO ist, und (iii) die Zahlung des Rückzahlungsbetrages nicht zu einer Überschuldung oder Zahlungsunfähigkeit der Emittentin führt; §41 InsO bleibt unberührt.

(5) *Rückzahlungsbetrag.* Der "**Rückzahlungsbetrag**" einer Schuldverschreibung entspricht jeweils ihrem aktuellen Nennbetrag (zur Klarstellung: d.h. unter Berücksichtigung vorgenommener Herabschreibungen, soweit nicht durch Hochschreibung(en) kompensiert), soweit nicht zuvor bereits ganz oder teilweise zurückgezahlt oder angekauft und entwertet. Im Falle einer Rückzahlung nach Einleitung eines Insolvenz- oder Liquidationsverfahrens

(for the avoidance of doubt: any write-downs to the extent not made up for by write-up(s) shall be taken into account when determining the current Nominal Amount), if not previously redeemed in whole or in part or repurchased and cancelled; the subordination according to §2 shall remain unaffected thereby.

(6) *No Call Right of the Holders.* The Holders have no right to call the Notes for redemption.

(7) *Write-down.*

(a) Upon the occurrence of a Trigger Event, the nominal amount of the Notes shall be reduced by the amount of the relevant write-down according to §5 (7) (b)-(c).

A "**Trigger Event**" occurs if the Common Equity Tier 1 capital ratio pursuant to Article 92 (1) (a) CRR or any successor provision, of the Issuer or on a consolidated basis of the group of the Issuer (for avoidance of doubt: Issuer and its consolidated subsidiaries) (the "**Common Equity Tier 1 Capital Ratio**") falls below 5.125 per cent (the "**Minimum CET1 Ratio**"). A Trigger Event may occur any time as the relevant Common Equity Tier 1 capital ratio will not be determined on specific key dates only.

Whether a Trigger Event has occurred at any time shall be determined by the Issuer, the Competent Supervisory Authority or any third party which will be authorized by the Competent Supervisory Authority to do so and such a determination shall be binding on the Holders.

For the avoidance of doubt: Upon the occurrence of a Trigger Event the Holders have no right to call the Notes for redemption and it shall not

entspricht der Rückzahlungsbetrag einer Schuldverschreibung dem dann aktuellen Nennbetrag (zur Klarstellung: d.h. unter Berücksichtigung vorgenommener Herabschreibungen, soweit nicht durch Hochschreibung(en) kompensiert), soweit nicht zuvor bereits ganz oder teilweise zurückgezahlt oder angekauft und entwertet; die Nachrangregelung nach §2 bleibt hiervon unberührt.

(6) *Kein Kündigungsrecht der Gläubiger.* Die Gläubiger sind zur Kündigung der Schuldverschreibungen nicht berechtigt.

(7) *Herabschreibung.*

(a) Im Falle des Eintritts eines Auslöseereignisses ist der Nennbetrag jeder Schuldverschreibung um den Betrag der betreffenden Herabschreibung gemäß §5 (7) (b)-(c) zu reduzieren.

Ein "**Auslöseereignis**" tritt ein, wenn die in Artikel 92 Absatz 1 Buchstabe a CRR bzw. einer Nachfolgeregelung genannte harte Kernkapitalquote der Emittentin oder auf konsolidierter Basis der Institutsgruppe der Emittentin (die "**Harte Kernkapitalquote**") unter 5,125% (die "**Mindest-CET1-Quote**") fällt. Das Auslöseereignis kann jederzeit eintreten und die hierfür relevante Harte Kernkapitalquote wird nicht nur in Bezug auf bestimmte Stichtage ermittelt.

Ob ein Auslöseereignis zu irgendeinem Zeitpunkt eingetreten ist, wird von der Emittentin, der Zuständigen Behörde oder einem für diesen Zweck von der Zuständigen Behörde Beauftragten festgestellt; eine solche Bestimmung ist bindend für die Gläubiger.

Zur Klarstellung: Der Eintritt eines Auslöseereignisses berechtigt die Gläubiger nicht zur Kündigung der Schuldverschreibungen und stellt

constitute a default of the Issuer.

- (b) In case of a Trigger Event the write-down shall be effected *pro rata* with all other Additional Tier 1 instruments of the Issuer within the meaning of the CRR (Additional Tier 1 Capital), the terms of which provide for a write-down (whether permanent or temporary) upon the occurrence of the Trigger Event.

This *pro rata* write-down will also be adopted if, in case of a Trigger Event, other Additional Tier 1 instruments of the Issuer are required to be written-down or converted into Common Equity Tier 1 instruments of the Issuer according to their respective terms and conditions according to which a trigger event occurs when the Common Equity Tier 1 Ratio falls below a level which is above the Minimum CET1 Ratio. For such purpose, the total amount of the write-downs to be allocated *pro rata* shall be equal to the amount required to restore fully the Common Equity Tier 1 Capital Ratio of the Issuer to the Minimum CET1 Ratio but shall not exceed the sum of the nominal amounts of the relevant instruments outstanding at the time of occurrence of the Trigger Event.

The write-down of the Notes will be effected irrespectively of the write-down of any other instruments and is not dependent on such write-down for any other instruments.

The sum of the write-downs to be effected with respect to the Notes shall be limited to the outstanding aggregate nominal

keinen Ausfall der Emittentin dar.

- (b) Im Falle des Eintritts eines Auslöseereignisses ist eine Herabschreibung *pro rata* mit sämtlichen anderen Instrumenten des zusätzlichen Kernkapitals im Sinne der CRR (*Additional Tier 1 Capital*), die eine Herabschreibung (gleichviel ob permanent oder temporär) bei Eintritt des Auslöseereignisses vorsehen, vorzunehmen.

Diese *pro rata*-Herabschreibung gilt auch dann, wenn im Falle eines Auslöseereignisses andere Instrumente des zusätzlichen Kernkapitals herabzuschreiben oder in Instrumente des harten Kernkapitals zu wandeln sind, die nach ihren jeweiligen Bedingungen als Auslöseereignis das Unterschreiten einer harten Kernkapitalquote vorsehen, die über der Mindest-CET1-Quote liegt. Der *pro rata* zu verteilende Gesamtbetrag der Herabschreibungen entspricht dabei dem Betrag, der zur vollständigen Wiederherstellung der harten Kernkapitalquote der Emittentin bis zur Mindest-CET1-Quote erforderlich ist, höchstens jedoch der Summe der im Zeitpunkt des Eintritts des Auslöseereignisses ausstehenden Kapitalbeträge dieser Instrumente.

Die Vornahme von Herabschreibungen in Bezug auf die Schuldverschreibungen erfolgt unabhängig von einer Herabschreibung bei anderen Instrumenten und hängt keinesfalls von der Durchführung einer solchen Herabschreibung bei anderen Instrumenten ab.

Die Summe der in Bezug auf die Schuldverschreibungen vorzunehmenden

amount of the Notes at the time of occurrence of the relevant Trigger Event.

(c) Upon the occurrence of a Trigger Event, the Issuer shall:

(1) inform the Competent Supervisory Authority that is responsible for the Issuer and, in accordance with §11, the Holders of the Notes without undue delay about the occurrence of such Trigger Event and the fact that a write-down will have to be effected, and

(2) determine without undue delay, but no later than one month from the occurrence of the relevant Trigger Event (unless the Competent Supervisory Authority shortens such period) the write-down retain and notify such write-down (i) to the Competent Supervisory Authority, (ii) to the Holders of the Notes in accordance with § 11 and (iii) to the Calculation Agent and the Paying Agent, and (iv) if required by the rules of any stock exchange on which the Notes are listed from time to time at the request of the Issuer, to such stock exchange. Such notification shall summarize the occurrence of the Trigger Event and specify the amount of the write-down for each Note.

The write-down shall be deemed to be effective upon the notification being made according to §5 (7) (c) (2) (i) and (ii), but in any event within one month (unless the Competent Supervisory Authority shortens such period) after the occurrence of the relevant Trigger

Herabschreibungen ist auf den ausstehenden Gesamtnennbetrag der Schuldverschreibungen zum Zeitpunkt des Eintritts des jeweiligen Auslöseereignisses beschränkt.

(c) Im Falle des Eintritts eines Auslöseereignisses wird die Emittentin:

(1) unverzüglich die Zuständige Behörde sowie gemäß §11 die Gläubiger der Schuldverschreibungen von dem Eintritt dieses Auslöseereignisses sowie des Umstandes, dass eine Herabschreibung vorzunehmen ist, unterrichten, und

(2) unverzüglich, spätestens jedoch innerhalb eines Monats (soweit die Zuständige Behörde diese Frist nicht verkürzt) die vorzunehmende Herabschreibung feststellen und (i) der Zuständigen Behörde, (ii) den Gläubigern der Schuldverschreibungen gemäß §11, (iii) der Berechnungsstelle und der Zahlstelle sowie (iv) jeder Börse, an der die betreffenden Schuldverschreibungen auf Veranlassung der Emittentin zu diesem Zeitpunkt notiert sind und deren Regeln eine Mitteilung an die Börse verlangen, mitteilen. Diese Mitteilung hat den Eintritt des Auslöseereignisses zusammenfassend darzustellen und den Betrag der Herabschreibung je Schuldverschreibung zu bezeichnen.

Die Herabschreibung gilt als bei Abgabe der Mitteilung nach §5 (7) (c) (2) (i) und (ii), jedoch spätestens ein Monat (soweit die Zuständige Behörde diese Frist nicht verkürzt) nach Eintritt des betreffenden Auslöseereignisses vorgenommen

Event and the nominal amount of each outstanding Note shall be deemed to be reduced at such time by the amount of such write-down. A failure to provide such a notice shall not prevent the validity of the write-down and, in the event of a failure to provide such notice, the write-down shall be deemed to be effective no later than one month (unless the Competent Supervisory Authority shortens such period) after the occurrence of the relevant Trigger Event. A failure to provide such notification shall be rectified by the Issuer without undue delay.

(8) *Write-Up.*

- (a) After a write-down has been effected, the nominal amount of each Note outstanding may be written up in accordance with the following provisions of §5 (8) in each of the financial years of the Issuer subsequent to the occurrence of such write-down until the full initial Nominal Amount has been reached, to the extent that a Write-Up is possible on the basis of a pro-forma calculation (if applicable, based on the drawn up annual financial statements of the issuer) of the determined annual profit of the Issuer of the latest ended financial year.

The write-up shall be effected *pari-passu* with write-ups of other additional Tier 1 instruments within the meaning of the CRR, unless this would cause the Issuer to be in breach with any contractual, statutory or regulatory obligations of the Issuer.

Subject to the conditions (i) or (v) below, it shall be at the discretion of the Issuer to effect a write-up. In particular, the Issuer may effect a write-up only in part or effect no write-up at all even if a corresponding

und der jeweilige Nennbetrag jeder noch ausstehenden Schuldverschreibung zu diesem Zeitpunkt um den mitgeteilten Herabschreibungsbetrag reduziert. Ein Unterlassen der Mitteilungen berührt nicht die Wirksamkeit einer Herabschreibung und diese gilt jedenfalls spätestens ein Monat (soweit die Zuständige Behörde diese Frist nicht verkürzt) nach Eintritt des betreffenden Auslöseereignisses in der Höhe des von der Emittentin festgestellten Betrags als vorgenommen. Eine nicht erfolgte Mitteilung ist unverzüglich nachzuholen.

(8) *Hochschreibung.*

- (a) Nach der Vornahme einer Herabschreibung kann der Nennbetrag jeder noch ausstehenden Schuldverschreibung in jedem der Reduzierung nachfolgenden Geschäftsjahr der Emittentin bis zur vollständigen Höhe des ursprünglichen Nennbetrags nach Maßgabe der folgenden Regelungen dieses §5 (8) wieder hochgeschrieben werden, soweit eine Hochschreibung aus dem im Rahmen einer *pro forma*-Rechnung (ggf. auf Grundlage des aufgestellten Jahresabschlusses) zu ermittelnden Jahresüberschusses der Emittentin des letzten abgeschlossenen Geschäftsjahres möglich wäre.

Die Hochschreibung erfolgt gleichrangig mit der Hochschreibung anderer Instrumente des zusätzlichen Kernkapitals im Sinne der CRR, es sei denn die Emittentin verstieße mit einem solchen Vorgehen gegen bereits übernommene vertragliche, gesetzliche oder aufsichtsrechtliche Verpflichtungen.

Die Vornahme einer Hochschreibung steht vorbehaltlich der nachfolgenden Vorgaben (i) bis (v) im Ermessen der Emittentin. Insbesondere kann die Emittentin dann ganz oder teilweise von einer Hochschreibung absehen,

annual profit is recorded and the conditions (i) to (v) are fulfilled.

(i) To the extent that the determined or to be determined annual profit is to be used for a write-up of the Notes and of other Additional Tier 1 instruments within the meaning of the CRR, the terms of which provide for a similar Trigger Event (also if such terms provide for a different Tier 1 capital ratio as trigger) (together with the Notes the "**AT1 Instruments**"), and is available in accordance with (ii) and (iii) below, such write-up shall be effected *pro rata* in proportion to the initial nominal amounts of the AT1 Instruments.

(ii) The maximum total amount that may be used for a write-up of the Notes and of the other AT1 Instruments that have been written down and for the payment of interest and other distributions on AT1 Instruments that may have been written down shall be calculated in accordance with the following formula:

$$H = J \times S / T1$$

**H** means the maximum amount available for the write-up of the AT1 Instruments and distributions on AT1 Instruments that have been written down;

**J** means the determined or to be determined net profit for the previous financial year;

**S** means the initial nominal amounts of the AT1 Instruments (i.e. before write-downs due to a Trigger Event or other comparable events are effected);

wenn ein entsprechender Jahresüberschuss zur Verfügung steht und die Vorgaben (i) bis (v) erfüllt wären.

(i) Soweit der festgestellte bzw. festzustellende Jahresüberschuss für die Hochschreibung der Schuldverschreibungen und anderer, mit einem vergleichbaren Auslöseereignis (d.h. auch im Falle einer abweichenden harten Kernkapitalquote als Auslöser) ausgestatteter Instrumente des zusätzlichen Kernkapitals im Sinne der CRR (insgesamt – einschließlich der Schuldverschreibungen – die "**AT1 Instrumente**") verwendet werden soll und nach Maßgabe von (ii) und (iii) zur Verfügung steht, erfolgt die Hochschreibung *pro rata* nach Maßgabe der ursprünglichen Nennbeträge der Instrumente.

(ii) Der Höchstbetrag, der insgesamt für die Hochschreibung der Schuldverschreibungen und anderer, herabgeschriebener AT1 Instrumente sowie die Zahlung von Zinsen und anderen Ausschüttungen auf herabgeschriebene AT1 Instrumente verwendet werden kann, errechnet sich nach folgender Formel:

$$H = J \times S / T1$$

**H** bezeichnet den für die Hochschreibung der AT1 Instrumente und Ausschüttungen auf herabgeschriebene AT1 Instrumente zur Verfügung stehenden Höchstbetrag;

**J** bezeichnet den festgestellten bzw. festzustellenden Jahresüberschuss des Vorjahres;

**S** bezeichnet die Summe der ursprünglichen Nennbeträge der AT1 Instrumente (d.h. vor Vornahme von Herabschreibungen infolge eines

Auslöseereignisses oder eines vergleichbaren Ereignisses);

T1 means the amount of Tier 1 capital of the Issuer immediately before the write-up is effected.

T1 bezeichnet den Betrag des Kernkapitals der Emittentin unmittelbar vor Vornahme der Hochschreibung.

The maximum amount H shall be determined by the Issuer in accordance with the regulatory technical standards and other requirements as applicable to the Issuer and the write-up shall be based on the amount so determined without requiring any amendment to this subparagraph (ii).

Der Höchstbetrag H ist von der Emittentin nach den technischen Regulierungsstandards und den im Übrigen für die Emittentin geltenden Anforderungen zu bestimmen und der so bestimmte Betrag der Hochschreibung zugrunde zu legen, ohne dass es einer Änderung dieses Absatzes (ii) bedürfte.

(iii) In total, the sum of the amounts of the write-ups of AT1 Instruments together with the amounts of any dividend payments and other distributions on shares and other Common Equity Tier 1 Instruments of the Issuer (including payment of interests and other distributions on AT1 Instruments that have been written down) for the relevant financial year must not exceed the MDA.

(iii) Insgesamt darf die Summe der Beträge der Hochschreibungen auf AT1 Instrumente zusammen mit etwaigen Dividenden und anderen Ausschüttungen in Bezug auf Geschäftsanteile, Aktien und andere Instrumente des harten Kernkapitals der Emittentin (einschließlich der Zinszahlungen und anderen Ausschüttungen auf herabgeschriebene AT1 Instrumente) in Bezug auf das betreffende Geschäftsjahr den MDA nicht überschreiten.

"MDA" means the maximum distributable amount within the meaning of §10 (1) Nr. 5e) German Banking Act (Kreditwesengesetz) in connection with §37 German Solvency Regulation (Solvabilitätsverordnung) for the combined capital buffer requirement according to §10 i of the German Banking Act.

"MDA" bezeichnet den nach §10 Abs. 1 Satz 1 Nr. 5 e) des Kreditwesengesetzes i.V.m. §37 der Solvabilitätsverordnung ermittelten maximal ausschüttungsfähigen Betrag für die kombinierte Kapitalpufferanforderung nach §10 i des Kreditwesengesetzes.

(iv) Write-ups of the Notes do not have priority over dividend payments and other distributions on shares and other Common Equity Tier 1 instruments of the Issuer, i.e. such payments and distributions are permitted even if no full write-up has been effected.

(iv) Hochschreibungen der Schuldverschreibungen gehen Dividenden und anderen Ausschüttungen in Bezug auf Geschäftsanteile, Aktien und andere Instrumente des harten Kernkapitals der Emittentin nicht vor, d.h. diese können auch dann vorgenommen werden, solange keine vollständige

Hochschreibung erfolgt ist.

- (v) At the time of a write-up, there must not exist any Trigger Event that is continuing. A write-up is also excluded if such write-up would give rise to the occurrence of a Trigger Event.
- (b) If the Issuer elects to effect a write-up in accordance with the provisions of this §5 (8), it shall notify the write-up (including the amount of the write-up as a percentage of the initial Nominal Amount of the Notes and the effective date of the write-up) without undue delay to the Holders of the Notes in accordance with §11, to the Calculation Agent and to the Paying Agent and, if required by the rules of any stock exchange on which the Notes may from time to time be listed, to such stock exchange. The write-up shall be deemed to be initiated at the time when the notice to the Holders is given in accordance with §11 provided that the nominal amount of each Note shall only be deemed to be increased by the amount specified in the notice with effect as of the next Interest Period following such notice.
- (v) Zum Zeitpunkt einer Hochschreibung darf kein Auslöseereignis fortbestehen. Eine Hochschreibung ist zudem ausgeschlossen, soweit diese zu dem Eintritt eines Auslöseereignisses führen würde.
- (b) Wenn sich die Emittentin für die Vornahme einer Hochschreibung nach den Bestimmungen dieses §5 (8) entscheidet, wird sie unverzüglich gemäß §11 die Gläubiger der Schuldverschreibungen, die Berechnungsstelle, die Zahlstelle sowie jede Börse, an der die betreffenden Schuldverschreibungen auf Veranlassung der Emittentin zu diesem Zeitpunkt notiert sind und deren Regeln eine Mitteilung an die Börse verlangen, von der Vornahme der Hochschreibung (einschließlich des Hochschreibungsbetrags als Prozentsatz des ursprünglichen Nennbetrags der Schuldverschreibungen und des ersten Tages (einschließlich) der unmittelbar auf die Mitteilung folgenden Zinsperiode, zu dem die Hochschreibung erfolgen soll) unterrichten. Die Hochschreibung gilt als bei Abgabe der Mitteilung an die Gläubiger gemäß §11 vorgenommen und der jeweilige Nennbetrag jeder noch ausstehenden Schuldverschreibung zu dem ersten Tag (einschließlich) der unmittelbar auf die Mitteilung folgenden Zinsperiode um den mitgeteilten Hochschreibungsbetrag erhöht.

#### §6

#### Fiscal Agent, Paying Agent and Calculation Agent

- (1) *Appointment; Specified Office.* The initial Fiscal Agent, the initial Paying Agent and their respective initial specified offices shall be:

#### §6

#### Emissionsstelle, Zahlstelle und Berechnungsstelle

- (1) *Bestellung; Bezeichnete Geschäftsstelle.* Die anfänglich bestellte Emissionsstelle, die anfänglich bestellte Zahlstelle und deren jeweilige anfänglich bezeichnete Geschäftsstelle lauten wie folgt:

T1 means the amount of Tier 1 capital of the Issuer immediately before the write-up is effected.

The maximum amount H shall be determined by the Issuer in accordance with the regulatory technical standards and other requirements as applicable to the Issuer and the write-up shall be based on the amount so determined without requiring any amendment to this subparagraph (ii).

- (iii) In total, the sum of the amounts of the write-ups of AT1 Instruments together with the amounts of any dividend payments and other distributions on shares and other Common Equity Tier 1 instruments of the issuer (including payment of interests and other distributions on AT1 Instruments that have been written down) for the relevant financial year must not exceed the MDA.

"MDA" means the maximum distributable amount within the meaning of §10 (1) Nr. 5e) German Banking Act (Kreditwesengesetz) in connection with §37 German Solvency Regulation (Solvabilitätsverordnung) for the combined capital buffer requirement according to §10 i of the German Banking Act.

- (iv) Write-ups of the Notes do not have priority over dividend payments and other distributions on shares and other Common Equity Tier 1 instruments of the Issuer, i.e. such payments and distributions are permitted even if no full write-up has been effected.

Auslöseereignisses oder eines vergleichbaren Ereignisses);

T1 bezeichnet den Betrag des Kernkapitals der Emittentin unmittelbar vor Vornahme der Hochschreibung.

Der Höchstbetrag H ist von der Emittentin nach den technischen Regulierungsstandards und den im Übrigen für die Emittentin geltenden Anforderungen zu bestimmen und der so bestimmte Betrag der Hochschreibung zugrunde zu legen, ohne dass es einer Änderung dieses Absatzes (ii) bedürfte.

- (iii) Insgesamt darf die Summe der Beträge der Hochschreibungen auf AT1 Instrumente zusammen mit etwaigen Dividenden und anderen Ausschüttungen in Bezug auf Geschäftsanteile, Aktien und andere Instrumente des harten Kernkapitals der Emittentin (einschließlich der Zinszahlungen und anderen Ausschüttungen auf herabgeschriebene AT1 Instrumente) in Bezug auf das betreffende Geschäftsjahr den MDA nicht überschreiten.

"MDA" bezeichnet den nach §10 Abs. 1 Satz 1 Nr. 5 e) des Kreditwesengesetzes i.V.m. §37 der Solvabilitätsverordnung ermittelten maximal ausschüttungsfähigen Betrag für die kombinierte Kapitalpufferanforderung nach §10 i des Kreditwesengesetzes.

- (iv) Hochschreibungen der Schuldverschreibungen gehen Dividenden und anderen Ausschüttungen in Bezug auf Geschäftsanteile, Aktien und andere Instrumente des harten Kernkapitals der Emittentin nicht vor, d.h. diese können auch dann vorgenommen werden, solange keine vollständige

Fiscal Agent and Paying Agent shall be:  
HSBC Trinkaus & Burkhardt AG  
Konsortialabteilung / New Issues  
Koenigsallee 21/23  
D-40212 Duesseldorf  
Deutschland

The Fiscal Agent and the Paying Agent reserve the right at any time to change their respective specified office to some other specified office in the same city.

The Fiscal Agent is also acting as Calculation Agent.

(2) *Variation or Termination of Appointment.*

The Issuer reserves the right at any time to vary or terminate the appointment of the Fiscal Agent or any Paying Agent and to appoint another Fiscal Agent or additional or other Paying Agents. The Issuer shall at all times maintain a Fiscal Agent. Any variation, termination, appointment or change shall only take effect (other than in case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the holders in accordance with §11.

(3) *Agents of the Issuer.* The Fiscal Agent and the Paying Agent act solely as agents of the Issuer and do not assume any obligations towards or relationship of agency or trust for any Holder and no contract or fiduciary relationship is established between them and the Holders.

**§7  
Taxation**

All amounts payable in respect of the Notes shall be paid without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or in

Emissionsstelle und Zahlstelle ist:  
HSBC Trinkaus & Burkhardt AG  
Konsortialabteilung / New Issues  
Königsallee 21/23  
D-40212 Düsseldorf  
Deutschland

Die Emissionsstelle und die Zahlstelle behalten sich das Recht vor, jederzeit ihre jeweilige bezeichnete Geschäftsstelle durch eine andere bezeichnete Geschäftsstelle in derselben Stadt zu ersetzen.

Die Emissionsstelle handelt auch als Berechnungsstelle.

(2) *Änderung der Bestellung oder Abberufung.*

Die Emittentin behält sich das Recht vor, jederzeit die Bestellung der Emissionsstelle, oder einer Zahlstelle zu ändern oder zu beenden und eine andere Emissionsstelle oder zusätzliche oder andere Zahlstellen zu bestellen. Die Emittentin wird zu jedem Zeitpunkt eine Emissionsstelle unterhalten. Eine Änderung, Abberufung, Bestellung oder ein sonstiger Wechsel wird nur wirksam (außer im Insolvenzfall, in dem eine solche Änderung sofort wirksam wird), sofern die Gläubiger hierüber gemäß §11 vorab unter Einhaltung einer Frist von mindestens 30 und nicht mehr als 45 Tagen informiert wurden.

(3) *Beauftragte der Emittentin.*

Die Emissionsstelle und die Zahlstelle handeln ausschließlich als Beauftragte der Emittentin und übernehmen keinerlei Verpflichtungen gegenüber den Gläubigern, und es wird kein Auftrags- oder Treuhandverhältnis zwischen ihnen und den Gläubigern begründet.

**§7  
Steuern**

Sämtliche auf die Schuldverschreibungen zu zahlenden Beträge sind ohne Einbehalt oder Abzug von oder aufgrund von gegenwärtigen oder zukünftigen Steuern oder sonstigen Abgaben gleich welcher Art zu leisten, die von oder in dem

or for the account of the Federal Republic of Germany or any political subdivisions or any authority thereof or therein having power to tax unless such withholding or deduction is required by law. In such event, the Issuer shall - to the extent that this would not exceed the Distributable Items and subject to a cancellation of the interest payment pursuant to §3 (7) - pay such additional amounts with respect to any payments on the Notes (but not, for the avoidance of doubt, with respect to the payment of any principal in respect of the Notes) ("**Additional Amounts**") as shall be necessary in order that the net amounts received by the Holders, after such withholding or deduction, shall equal the respective amounts which would otherwise have been receivable by the Holders in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a Holder, or otherwise in any manner by the Issuer from payments of principal or interest by it; or
- (b) are payable by reason of the Holder having, or having had, some personal or business connection with Germany and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Germany; or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Germany or the European Union is a party, or (iii) any provision of law

Staat, in dem die Emittentin steuerlich ansässig ist oder einer seiner Gebietskörperschaften oder einer seiner zur Erhebung von Steuern berechtigten Behörden oder sonstigen Stellen auferlegt, eingezogen, einbehalten, festgesetzt oder erhoben werden, es sei denn, dieser Einbehalt oder Abzug ist gesetzlich vorgeschrieben. Ist der Einbehalt oder Abzug hinsichtlich einer Zahlung von Zinsen gesetzlich vorgeschrieben, wird die Emittentin diejenigen zusätzlichen Beträge (die "**zusätzlichen Beträge**") zahlen, die erforderlich sind, damit die den Gläubigern zufließenden Nettobeträge nach diesem Einbehalt oder Abzug jeweils den Beträgen entsprechen, die ohne einen solchen Einbehalt oder Abzug von den Gläubigern empfangen worden wären; die Verpflichtung zur Zahlung solcher zusätzlichen Beträge besteht jedoch nicht im Hinblick auf Steuern und Abgaben, die:

- (a) von einer als Depotbank oder Inkassobeauftragter des Gläubigers handelnden Person oder sonst auf andere Weise zu entrichten sind als dadurch, dass die Emittentin aus den von ihr zu leistenden Zahlungen einen Abzug oder Einbehalt vornimmt; oder
- (b) wegen einer gegenwärtigen oder früheren persönlichen oder geschäftlichen Beziehung des Gläubigers zu dem Staat, in dem die Emittentin steuerlich ansässig ist, zu zahlen sind, und nicht allein deshalb, weil Zahlungen auf die Schuldverschreibungen aus Quellen in diesem Staat stammen (oder für Zwecke der Besteuerung so behandelt werden) oder dort besichert sind; oder
- (c) aufgrund (i) einer Richtlinie oder Verordnung der Europäischen Union betreffend die Besteuerung von Zinserträgen oder (ii) einer zwischenstaatlichen Vereinbarung über deren Besteuerung, an der der Staat, in dem die Emittentin steuerlich ansässig oder die Europäische Union

implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or

(d) are withheld or deducted by a Paying Agent from a payment if the payment could have been made by another Paying Agent without such withholding or deduction; or

(e) are payable by reason of a change in a law that becomes effective more than 30 days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with §11, whichever occurs later; or

(f) are avoidable or would have been avoidable through the submission of a declaration of non – residence or by otherwise enforcing a claim for exemption vis à vis the relevant tax authority; or

(g) are deducted or withheld because the beneficial owner of the Notes is not himself the legal owner (Holder) of the Notes and the deduction or withholding in respect of payments to the beneficial owner would not have been made or the payment of Additional Amounts in respect of a payment to the above provisions could have been avoided if the latter had also been the legal owner (Holder) of the Notes.

beteiligt ist, oder (iii) einer gesetzlichen Vorschrift, die diese Richtlinie, Verordnung oder Vereinbarung umsetzt oder befolgt, abzuziehen oder einzubehalten sind; oder

(d) von einer Zahlstelle einbehalten oder abgezogen werden, wenn die Zahlung von einer anderen Zahlstelle ohne den Einbehalt oder Abzug hätte vorgenommen werden können; oder

(e) wegen einer Rechtsänderung zu zahlen sind, welche später als 30 Tage nach Fälligkeit der betreffenden Zahlung von Kapital oder Zinsen oder, wenn dies später erfolgt, ordnungsgemäßer Bereitstellung aller fälligen Beträge und einer diesbezüglichen Bekanntmachung gemäß §11 wirksam wird; oder

(f) durch die Erfüllung von gesetzlichen Anforderungen oder durch die Vorlage einer Nichtansässigkeitserklärung oder durch die sonstige Geltendmachung eines Anspruchs auf Befreiung gegenüber der betreffenden Steuerbehörde vermeidbar sind oder gewesen wären; oder

(g) abgezogen oder einbehalten werden, weil der wirtschaftliche Eigentümer der Schuldverschreibungen nicht selbst rechtlicher Eigentümer (Gläubiger) der Schuldverschreibungen ist und der Abzug oder Einbehalt bei Zahlungen an den wirtschaftlichen Eigentümer nicht erfolgt wäre oder eine Zahlung zusätzlicher Beträge bei einer Zahlung an den wirtschaftlichen Eigentümer nach Maßgabe der vorstehenden Regelungen hätte vermieden werden können, wenn dieser zugleich rechtlicher Eigentümer (Gläubiger) der Schuldverschreibungen gewesen wäre.

The Issuer is under no circumstances obliged to pay any additional amounts in

Die Emittentin ist keinesfalls verpflichtet,

respect of any withholding or deduction of amounts made or to be made pursuant to sections 1471 – 1474 Internal Revenue Code (as amended or pursuant to any successor regulation), pursuant to inter-governmental agreements, pursuant to any implementing legislation adopted in any other jurisdiction in connection with these provisions or pursuant to any agreement concluded with the Internal Revenue Service by the Issuer, the relevant Paying Agent or any other party ("FATCA deduction") or to indemnify creditors in respect to any FATCA deduction.

zusätzliche Beträge in Bezug auf den Einbehalt oder Abzug von Beträgen zu zahlen, die gemäß Sections 1471 bis 1474 des U.S. Internal Revenue Code (in der jeweils geltenden Fassung oder gemäß den Nachfolgebestimmungen), gemäß zwischenstaatlicher Vereinbarung, gemäß den in einer anderen Rechtsordnung in Zusammenhang mit diesen Bestimmungen erlassenen Durchführungsvorschriften oder gemäß mit dem Internal Revenue Service geschlossenen Verträgen von der Emittentin, der jeweiligen Zahlstelle oder einem anderen Beteiligten abgezogen oder einbehalten wurden ("FATCA-Steuerabzug") oder Gläubiger in Bezug auf einen FATCA-Steuerabzug schadlos halten.

#### §8

#### Presentation Period

The presentation period provided in Sec. 801 (1) Sentence 1 BGB is reduced to ten (10) years for the bonds.

#### §8

#### Vorlegungsfrist

Die in §801 Absatz 1 Satz 1 BGB bestimmte Vorlegungsfrist wird für die Schuldverschreibungen auf zehn Jahre verkürzt.

#### §9

#### Amendment of the Terms and Conditions, Holders' Representative

- (1) *Amendment of the Terms and Conditions.* Subject to the regulatory requirements regarding the qualification of the Notes as additional Tier 1 capital and (to the extent required by regulatory law) with the respective consent of the Competent Supervisory Authority, the Holders may pursuant to the German Act on Debt Securities of 2009 (Schuldverschreibungsgesetz aus Gesamtemissionen – "SchVG"), agree with the Issuer on amendments of the Terms and Conditions with regard to matters permitted by the SchVG by resolution with the majority specified in §9 (2).

The Issuer will notify the Competent Supervisory Authority of the changes to

#### §9

#### Änderung der Anleihebedingungen, Gemeinsamer Vertreter

- (1) *Änderung der Anleihebedingungen.* Die Gläubiger können vorbehaltlich der Einhaltung der aufsichtsrechtlichen Voraussetzungen für die Anerkennung der Schuldverschreibungen als zusätzliches Kernkapital und (soweit aufsichtsrechtlich erforderlich) der Zustimmung der Zuständigen Behörde entsprechend den Bestimmungen des Gesetzes über Schuldverschreibungen aus Gesamtemissionen (Schuldverschreibungsgesetz – "SchVG") durch einen Beschluss mit der in §9 (2) bestimmten Mehrheit über einen im SchVG zugelassenen Gegenstand eine Änderung der Anleihebedingungen mit der Emittentin vereinbaren. Die Emittentin wird die Zuständige Behörde vor Durchführung der Abstimmung von den zur

the Terms and Conditions of the Notes before the respective vote is taken. For avoidance of doubt: The Terms and Conditions cannot be changed without the consent of the Issuer.

Majority resolutions of the Holders shall be binding on all Holders. Resolutions which do not provide for identical conditions for all Holders are void, unless Holders who are disadvantaged by such reduction have expressly consented to being treated disadvantageously.

(2) *Majority.* Resolutions shall be passed by a majority of not less than 75 per cent of the votes cast. Resolutions relating to amendments of the Terms and Conditions which are not material and which do not relate to the matters listed in §5 (3), nos. 1 to 9 of the SchVG require a simple majority of the votes cast.

(3) *Vote without a meeting.* All votes will be taken exclusively by vote taken without a meeting. A meeting of Holders and the assumption of the fees by the Issuer for such a meeting will only take place in the circumstances of §18 (4), sentence 2 of the SchVG.

(4) *Chair of the vote.* The vote will be chaired by a notary appointed by the Issuer or, if the Holders' Representative has convened the vote, by the Holders' Representative.

(5) *Voting rights.* Each Holder participating in any vote shall cast votes in accordance with the nominal amount or the notional share of its entitlement to the outstanding Notes. The voting right is suspended as long as the bonds are directly held by or held for the account of the Issuer or any affiliated company (according to §271 (2)

Abstimmung vorzulegenden Änderungen der Anleihebedingungen unterrichten. Zur Klarstellung: Die Anleihebedingungen können nicht ohne Zustimmung der Emittentin geändert werden.

Die Mehrheitsbeschlüsse der Gläubiger sind für alle Gläubiger gleichermaßen verbindlich. Ein Mehrheitsbeschluss der Gläubiger, der nicht gleiche Bedingungen für alle Gläubiger vorsieht, ist unwirksam, es sei denn, die benachteiligten Gläubiger stimmen ihrer Benachteiligung ausdrücklich zu.

(2) *Mehrheitserfordernisse.* Die Gläubiger entscheiden mit einer Mehrheit von 75% der an der Abstimmung teilnehmenden Stimmrechte. Beschlüsse, durch welche der wesentliche Inhalt der Anleihebedingungen nicht geändert wird und die keinen Gegenstand des §5 (3), Nr. 1 bis Nr. 9 SchVG betreffen, bedürfen zu ihrer Wirksamkeit einer einfachen Mehrheit der an der Abstimmung teilnehmenden Stimmrechte.

(3) *Abstimmung ohne Versammlung.* Alle Abstimmungen werden ausschließlich im Wege der Abstimmung ohne Versammlung durchgeführt. Eine Gläubigerversammlung und eine Übernahme der Kosten für eine solche Versammlung durch die Emittentin findet ausschließlich im Fall des §18 (4) Satz 2 SchVG statt.

(4) *Leitung der Abstimmung.* Die Abstimmung wird von einem von der Emittentin beauftragten Notar oder, falls der gemeinsame Vertreter zur Abstimmung aufgefordert hat, vom gemeinsamen Vertreter geleitet.

(5) *Stimmrecht.* An Abstimmungen der Gläubiger nimmt jeder Gläubiger nach Maßgabe des Nennwerts oder des rechnerischen Anteils seiner Berechtigung an den ausstehenden Schuldverschreibungen teil. Das Stimmrecht ruht, solange die Schuldverschreibungen der Emittentin

German Commercial Code (HGB)).

oder einem mit ihr verbundenen Unternehmen (§271 (2) HGB) zustehen oder für Rechnung der Emittentin oder eines mit ihr verbundenen Unternehmen gehalten werden.

- (6) *Holders' Representative.* The Holders may by majority resolution appoint a common representative to exercise the Holders' rights on behalf of each Holder.

- (6) *Gemeinsamer Vertreter.* Die Gläubiger können durch Mehrheitsbeschluss zur Wahrnehmung ihrer Rechte einen gemeinsamen Vertreter für alle Gläubiger bestellen.

The Holders' Representative shall have the duties and powers provided by law or granted by majority resolution of the Holders. The Holders' Representative shall comply with the instructions of the Holders. To the extent that the Holders' Representative has been authorized to assert certain rights of the Holders, the Holders shall not be entitled to assert such rights themselves, unless explicitly provided for in the relevant majority resolution. The Holders' Representative shall provide reports to the Holders on its activities. The regulations of the SchVG apply with regard to the recall and the other rights and obligations of the Holders' Representative.

Der gemeinsame Vertreter hat die Aufgaben und Befugnisse, welche ihm durch Gesetz oder von den Gläubigern durch Mehrheitsbeschluss eingeräumt wurden. Er hat die Weisungen der Gläubiger zu befolgen. Soweit er zur Geltendmachung von Rechten der Gläubiger ermächtigt ist, sind die einzelnen Gläubiger zur selbständigen Geltendmachung dieser Rechte nicht befugt, es sei denn, der Mehrheitsbeschluss sieht dies ausdrücklich vor. Über seine Tätigkeit hat der gemeinsame Vertreter den Gläubigern zu berichten. Für die Abberufung und die sonstigen Rechte und Pflichten des gemeinsamen Vertreters gelten die Vorschriften des SchVG.

#### §10

##### Further Issues, Purchases and Cancellation

- (1) *Further Issues.* The issuer may from time to time, without the consent of the Holders, issue further Notes having the same terms and conditions as the Notes in all respects (or in all respects except for the issue date, interest commencement date and/or issue price) so as to form a single series with the Notes.
- (2) *Purchases.* The Issuer may (subject to the prior consent of the Competent Supervisory Authority of the Issuer, if required) purchase the Notes in the market or otherwise at any price. If a notification has been made pursuant §5 (7) (c) (1) regarding the occurrence of

#### §10

##### Begebung weiterer Schuldverschreibungen, Ankauf und Entwertung

- (1) *Begebung weiterer Schuldverschreibungen.* Die Emittentin ist berechtigt, jederzeit ohne Zustimmung der Gläubiger weitere Schuldverschreibungen mit gleicher Ausstattung (gegebenenfalls mit Ausnahme des Tags der Begebung, des Verzinsungsbeginns und/oder des Ausgabekurses) in der Weise zu begeben, dass sie zusammen mit diesen Schuldverschreibungen eine einheitliche Serie bilden.
- (2) *Ankauf.* Die Emittentin ist (vorbehaltlich der vorherigen Zustimmung der zuständigen Behörde) berechtigt, Schuldverschreibungen im Markt oder anderweitig zu jedem beliebigen Preis zu kaufen.

a Trigger Event, the issuer may not repurchase any Notes pursuant to this §10 (2), as long as the respective write-down has not been effected.

For avoidance of doubt: Any refusal of the Competent Supervisory Authority to grant consent/permission for a purchase according to §10 (2) shall not constitute a default of the Issuer and does not create the right for the Holders to call the Notes for early redemption.

Notes purchased by the Issuer could be held, resold or be filed to the Paying Agent for cancellation by the Issuer at the option of the Issuer.

- (3) *Cancellation.* All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

Wenn eine Mitteilung gemäß §5 (7) (c) (1) über den Eintritt des Auslöseereignisses erfolgt ist, darf die Emittentin keine Schuldverschreibungen nach diesem §10 (2) kaufen, solange eine hieraus folgende Herabschreibung noch nicht erfolgt ist.

Zur Klarstellung: Die Nichterteilung der Zustimmung durch die Zuständige Behörde zu einem Ankauf nach §10 (2) berechtigt die Gläubiger nicht zur Kündigung der Schuldverschreibungen und stellt keinen Ausfall der Emittentin dar.

Die von der Emittentin erworbenen Schuldverschreibungen können nach Wahl der Emittentin von ihr gehalten, weiterverkauft oder bei der Zahlstelle zwecks Entwertung eingereicht werden.

- (3) *Entwertung.* Sämtliche vollständig zurückbezahlten Schuldverschreibungen sind unverzüglich zu entwerten und können nicht wiederbegeben oder wiederverkauft werden.

## §11 Communications

- (1) *Notifications to the Clearing System.* The Issuer shall deliver all notices regarding the Notes to the Clearing System for communication by the Clearing System to the Holders. Any such notice will be deemed to have been given to the Holders on the seventh calendar day after the day on which the said notice was given to the Clearing System.

- (2) *Form of Notice of Holders.* Notices to be given by any Holder shall be made by means of a written declaration to be delivered together with an evidence of the Holder's entitlement in accordance with §13 (3) to the Fiscal Agent. Such notice may be given through the Clearing System in such manner as the Fiscal

## §11 Mitteilungen

- (1) *Mitteilungen an das Clearing System.* Die Emittentin wird alle die Schuldverschreibungen betreffenden Mitteilungen, außer den in §9 vorgesehenen Bekanntmachungen, die ausschließlich gemäß den Bestimmungen des SchVG erfolgen, an das Clearing System zur Weiterleitung an die Gläubiger übermitteln. Jede derartige Mitteilung gilt am siebten Kalendertag nach dem Tag der Mitteilung an das Clearing System als den Gläubigern mitgeteilt.

- (2) *Form der Mitteilung der Gläubiger.* Mitteilungen, die von einem Gläubiger gemacht werden, müssen schriftlich erfolgen und zusammen mit dem Nachweis seiner Inhaberschaft gemäß §13 (3) an die Zahlstelle geleitet werden.

Agent and the Clearing System may approve for such purpose.

Eine solche Mitteilung kann von einem Gläubiger an die Zahlstelle über das Clearing System in der von der Zahlstelle und dem Clearing System dafür vorgesehenen Weise erfolgen.

**§12  
Additional Tier 1 Capital**

The Notes are intended to qualify as Additional Tier 1 Capital (*zusätzliches Kernkapital*) of the Issuer for an indefinite period of time.

**§12  
Zusätzliches Kernkapital**

Zweck des über die Schuldverschreibungen zur Verfügung gestellten Kapitals ist es, der Emittentin auf unbestimmte Zeit als zusätzliches Kernkapital zu dienen.

**§13  
Applicable Law and Place of Jurisdiction**

(1) *Applicable Law.* The Notes as well as the rights and duties arising therefrom shall be governed by the laws of the Federal Republic of Germany.

(2) *Place of Jurisdiction.* The regional court (*Landgericht*) in Duesseldorf, Federal Republic of Germany, shall have non-exclusive jurisdiction for any action or other legal proceedings ("**Proceedings**") arising out of or in connection with the Notes.

Pursuant to §9 (3) sentence 1 1<sup>st</sup> alternative SchVG, the local court (*Amtsgericht*) in Duesseldorf, Federal Republic of Germany, shall have jurisdiction to decide on any matters pursuant to §9 (2), §13 (3) and §18 (2) SchVG. Pursuant to §20 (3) sentence 3 1<sup>st</sup> alternative SchVG, the regional court (*Landgericht*) in Duesseldorf, Federal Republic of Germany, shall have exclusive jurisdiction to decide on the challenges of resolutions of the Holders.

(3) *Enforcement.* Any Holder of Notes may in any Proceedings against the Issuer, or to which the Holder and the Issuer are parties, protect and enforce in its own name its rights arising under these Notes on the following basis: (i) by submitting a certificate issued by its Depositary Bank (as defined below) with which he maintains a securities account in respect of the Notes, which (a) states the full

**§13  
Anwendbares Recht und Gerichtsstand**

(1) *Anwendbares Recht.* Form und Inhalt der Schuldverschreibungen sowie die Rechte und Pflichten der Gläubiger und der Emittentin bestimmen sich in jeder Hinsicht nach deutschem Recht.

(2) *Gerichtsstand.* Nicht ausschließlich zuständig für sämtliche im Zusammenhang mit den Schuldverschreibungen entstehenden Klagen oder sonstige Verfahren (die "**Rechtsstreitigkeiten**") ist das Landgericht Düsseldorf, Bundesrepublik Deutschland.

Für Entscheidungen gemäß §9 (2), §13 (3) und §18 (2) SchVG ist gemäß §9 (3) S. 1 1. Alt. SchVG das Amtsgericht Düsseldorf, Bundesrepublik Deutschland zuständig. Für Entscheidungen über die Anfechtung von Beschlüssen der Gläubiger ist gemäß §20 (3) S. 3 1. Alt. SchVG das Landgericht Düsseldorf, Bundesrepublik Deutschland ausschließlich zuständig.

(3) *Gerichtliche Geltendmachung.* Jeder Gläubiger von Schuldverschreibungen ist berechtigt, in jedem Rechtsstreit gegen die Emittentin oder in jedem Rechtsstreit, in dem der Gläubiger und die Emittentin Partei sind, seine Rechte aus diesen Schuldverschreibungen im eigenen Namen auf der folgenden Grundlage zu schützen oder geltend zu machen: (i) indem er eine Bescheinigung der

name and address of the Holder, (b) specifies the aggregate nominal amount of the Notes credited on the date of such certificate to such Holder's securities account and (c) confirms that the Depository Bank has given a written notice to the Clearing System containing the information pursuant to (a) and (b) and (ii) by bearing a copy of the relevant Global Note certified by a duly authorized officer of the Clearing System or the depository as being a true copy without any requirement to submit originals of the relevant Global Note. For the purposes of the foregoing, "Depository Bank" means any bank or other financial institution of recognized standing authorized to engage in securities deposit business with which the Holder maintains a securities account in respect of the Notes, and includes the Clearing System. Without prejudice to the foregoing, any Holder may also protect and enforce its rights arising under these Notes in any other way, which is admitted in the country of the Proceedings.

#### §14 Language

These Terms and Conditions are written in the German language. A translation into English language is attached. The German text shall be binding. The English language translation is non-binding.

Depotbank (wie nachfolgend definiert) beibringt, bei der er für die Schuldverschreibungen ein Wertpapierdepot unterhält, welche (a) den vollständigen Namen und die vollständige Adresse des Gläubigers enthält, (b) den Gesamtnennbetrag der Schuldverschreibungen bezeichnet, die unter dem Datum der Bestätigung auf dem Wertpapierdepot verbucht sind und (c) bestätigt, dass die Depotbank gegenüber dem Clearing System eine schriftliche Erklärung abgegeben hat, die die vorstehend unter (a) und (b) bezeichneten Informationen enthält; und (ii) indem er eine Kopie der die betreffenden Schuldverschreibungen verbriefenden Globalurkunde vorlegt, deren Übereinstimmung mit dem Original eine vertretungsberechtigte Person des Clearing Systems oder des Verwahrers des Clearing Systems bestätigt hat, ohne dass eine Vorlage der Originalbelege oder der die Schuldverschreibungen verbriefenden Globalurkunde in einem solchen Verfahren erforderlich wäre. Für die Zwecke des Vorstehenden bezeichnet "Depotbank" jede Bank oder ein sonstiges anerkanntes Finanzinstitut, das berechtigt ist, das Wertpapierverwahrungsgeschäft zu betreiben und bei der/dem der Gläubiger ein Wertpapierdepot für die Schuldverschreibungen unterhält, einschließlich des Clearing Systems. Unbeschadet des Vorstehenden kann jeder Gläubiger seine Rechte aus den Schuldverschreibungen auch auf jede andere Weise schützen oder geltend machen, die im Land des Rechtsstreits prozessual zulässig ist.

#### §14 Sprache

Diese Anleihebedingungen sind in deutscher Sprache abgefasst. Eine Übersetzung in die englische Sprache ist beigefügt. Der deutsche Text ist bindend. Die Übersetzung in die englische Sprache ist unverbindlich.



**Schedule 2A**  
**Form of Temporary Global Note**

THIS TEMPORARY GLOBAL NOTE HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). NEITHER THIS TEMPORARY GLOBAL NOTE NOR ANY PORTION HEREOF MAY BE OFFERED OR SOLD DIRECTLY OR INDIRECTLY IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA) OR ITS TERRITORIES OR POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO U.S. PERSONS, UNLESS AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

**WKN TD9ZZZ**  
**ISIN DE000TD9ZZZ5**

**EUR 200,000,000 undated subordinated resettable additional Tier 1 notes**

**HSBC Trinkaus & Burkhardt AG**  
**(the "Issuer")**

**Temporary Global Note**

on up to

**EUR 200,000,000**  
**(in words: Euro ("EUR") two hundred million)**

of EUR 200,000,000 undated subordinated resettable additional Tier 1 notes

divided into up to 200 Notes  
EUR 1,000,000 (the "**Specified Denomination**") each

HSBC Trinkaus & Burkhardt AG issues these Notes in an aggregate nominal amount of up to EUR 200,000,000. The Notes have – subject to an early redemption according to § 5 of the Terms and Conditions – an unlimited maturity.

We promise to pay interest on the Notes to the bearer of this Temporary Global Note in accordance with § 3 of the Terms and Conditions as well as any amounts

payable under the Terms and Conditions. No payment of interest will occur, unless this Temporary Global Note is exchanged into a Permanent Global Note.

The Terms and Conditions attached apply to this Temporary Global Note.

This Temporary Global Note shall be exclusively deposited with Clearstream Banking AG and will be exchanged into a Permanent Global Note according to § 1 (3)(b) of the Terms and Conditions after delivery of the described certification.

Düsseldorf, in January 2019

HSBC Trinkaus & Burkhardt AG

*Annex*  
*to the temporary Global Note*  
*Terms and Conditions*

**Schedule 2B**  
**Form of Permanent Global Note**

THIS PERMANENT GLOBAL NOTE HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). NEITHER THIS PERMANENT GLOBAL NOTE NOR ANY PORTION HEREOF MAY BE OFFERED OR SOLD DIRECTLY OR INDIRECTLY IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA) OR ITS TERRITORIES OR POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO U.S. PERSONS, UNLESS AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

**WKN TD9ZZZ**  
**ISIN DE000TD9ZZZ5**

**EUR 200,000,000 undated subordinated resettable additional Tier 1**

**HSBC Trinkaus & Burkhardt AG**  
(the "Issuer")

**Permanent Global Note**

on up to

EUR 200,000,000  
(in words: Euro ("EUR") two hundred million)

of EUR 200,000,000 undated subordinated resettable additional Tier 1 notes

divided into up to 200 Notes  
EUR 1,000,000 (the "**Specified Denomination**") each

HSBC Trinkaus & Burkhardt AG issues these Notes in an aggregate nominal amount of up to EUR 200,000,000. The Notes have – subject to an early redemption according to § 5 of the Terms and Conditions – an unlimited maturity.

We promise to pay interest on the Notes to the bearer of this Permanent Global Note in accordance with § 3 of the Terms and Conditions as well as any amounts payable under the Terms and Conditions.

The Terms and Conditions attached apply to this Permanent Global Note.

This Permanent Global Note shall be exclusively deposited with Clearstream Banking AG.

Duesseldorf, in January 2019

HSBC Trinkaus & Burkhardt AG

***Annex  
to the permanent Global Note***

***Terms and Conditions***

This Agreement has been entered into on the date first above written.

**HSBC TRINKAUS & BURKHARDT AG**

5/6 December 2016

**HSBC Trinkaus & Burkhardt AG**

as Issuer

and

as Purchaser

**SUBSCRIPTION and PURCHASE AGREEMENT**

relating to the

HSBC Trinkaus & Burkhardt AG

EUR 235,000,000 5.65 per cent Undated Subordinated Resettable Additional Tier 1 Notes  
issued 2016

ISIN: DE000TD99995

**THIS SUBSCRIPTION and PURCHASE AGREEMENT** (the "**Agreement**") is made on 5/6 December 2016 between:

- (1) **HSBC Trinkaus & Burkhardt AG**, Koenigsallee 21/23, 40212 Duesseldorf, Germany,  
(the "**Issuer**");  
and  
(2)  
(the "**Purchaser**").

**WHEREAS:**

- (A) The Issuer intends to issue undated subordinated resettable additional tier 1 notes in the aggregate nominal amount of EUR 235,000,000 (in words: two hundred thirty-five million) in a denomination of EUR 1,000,000 (the "**Notes**", which term includes, where appropriate, the Temporary Global Note (as defined in Clause 2.2) and the Permanent Global Note (as defined in Clause 2.2) representing the Notes), having terms and conditions substantially in the form attached hereto as **Schedule 1** (the "**Terms and Conditions**").
- (B) The Issuer and the Purchaser wish to record the arrangements agreed between them in relation to the Notes.

**IT IS AGREED** as follows:

**1 Definitions and Interpretation**

**1.1** References to capitalised terms not defined in this Agreement are to those terms as defined in the Terms and Conditions, as applicable, except where the context requires otherwise. Words importing the plural shall include the singular and *vice versa*.

**1.2** In this Agreement (including the recitals):

"**Business Day**" means a day (other than a Saturday or a Sunday) on which both (i) the Clearing System, and (ii) the Trans-European Automated Real-Time Gross Settlement Express Transfer System (TARGET 2) settle payments;

"**Clearing System**" means Clearstream Banking AG, Frankfurt am Main;

"**Clearstream Frankfurt**" means Clearstream Banking AG, Frankfurt am Main;

"**Closing Date**" means 9 December 2016 or such later date as the Issuer and the Purchaser may agree;

"**Contracts**" means this Agreement

"**Issue Price**" means 100 % of the aggregate nominal amount of the Notes;

"**Material Adverse Change**" means any change or any development or event involving a prospective change which is materially adverse to the business, assets, financial position and results of operations (*Vermögens-, Finanz- und Ertragslage*) or the prospects of the Issuer;

"**Material Adverse Effect**" means any material adverse effect (i) on the condition (financial or otherwise) of the Issuer, (ii) on the ability of the Issuer to perform its respective obligations under the Contracts or the Notes, or (iii) which is otherwise material in the context of the issue of the Notes;

"**Principal Paying Agent**" means HSBC Trinkaus & Burkhardt AG;

"**Regulation S**" means Regulation S under the Securities Act; and

"**Securities Act**" means the U.S. Securities Act of 1933 (as amended).

## **2 Issue of the Notes and Publicity**

**2.1 Agreement to Issue:** The Issuer agrees to issue and sell the Notes to the Purchaser on the Closing Date.

**2.2 The Notes:** The Notes will initially be represented by a temporary global bearer Note without interest coupons substantially in the form set out in **Schedule 2A** (the "**Temporary Global Note**"). The Temporary Global Note will be exchanged, in accordance with the Terms and Conditions, for a permanent global bearer note without interest coupons substantially in the form set out in **Schedule 2B** (the "**Permanent Global Note**" and, together with the Temporary Global Note, the "**Global Notes**"). The Permanent Global Note will not be exchangeable for definitive Notes.

## **3 Subscription and Purchase by the Purchaser**

**3.1 Subscription and Purchase:** Subject to the satisfaction of the conditions precedent set out in Clause 4.3 or the waiver thereof in accordance with Clause 4.4, and subject to the other terms and conditions of this Agreement, the Purchaser agrees to subscribe for, and purchase of the Notes at the Issue Price, on its own behalf and for its own account and subject to the adjustments referred to in Clause 4.2, on the Closing Date:

**Aggregate principal  
amount of Notes  
subscribed  
EUR 235,000,000**

## **4 Closing, Conditions Precedent**

### **4.1 Issuance of the Notes**

**4.1.1** The Issuer will deliver the Global Notes, duly executed on behalf of the Issuer, in or substantially in the respective form set out herein to Clearstream, Frankfurt by 14:00 hours (Frankfurt am Main time) on the second Business Day preceding the Closing Date.

**4.1.2** Against transfer of the aggregate nominal amount of the Notes the Issuer will cause all Notes to be transferred to the Purchaser, by way of book-entry transfer to the relevant account of **the Purchaser** maintained with Euroclear on the Closing Date.

**4.2 Payment:** Against transfer of the Notes in accordance with Clause 4.1.2 the Purchaser will pay or cause to be paid to the Issuer the Issue Price. Such payment shall be made in Euro in immediately available funds to the relevant account of the Issuer with Clearstream Frankfurt.

**4.3 Conditions Precedent:** The obligations of the Purchaser to subscribe for the Notes and to purchase the Notes, pay the Issue Price and take delivery of the Notes pursuant to this Agreement are conditional upon

- (i) the Issuer having signed each of the Global Notes and delivered them to Clearstream Frankfurt in accordance with Clause 4.1.1;
- (ii) no Material Adverse Change and no Material Adverse Effect has been occurred.

**4.4 Waiver:** The Purchaser may, at its discretion and upon such terms as it thinks fit, waive compliance with the whole or any part of Clause 4.3.

## **5 Selling Restrictions**

The Purchaser represents and warrants that it has complied, and agrees that it will comply, with the selling restrictions set out in **Schedule 3**.

## **6 Communications**

**6.1 Addresses:** Any communication shall be given by letter, fax, telephone or electronic mail

6.1.1 if to the Issuer, to it at:

**HSBC Trinkaus & Burkhardt AG**  
Koenigsallee 21/23  
40212 Duesseldorf  
Germanv

6.1.2 if to the Purchaser, to it at:

**6.2 Effectiveness:** Any such communication shall take effect upon actual receipt (*Zugang*).

## **7 Final Clauses**

**7.1** This Agreement shall be governed by, and construed in accordance with, the laws of the Federal Republic of Germany.

**7.2** Any non-contractual rights and obligations arising out of or in connection with this Agreement shall also be governed by the laws of the Federal Republic of Germany.

**7.3** Place of performance is Frankfurt am Main, Federal Republic of Germany.

**7.4** Any action or other legal proceedings (the "**Proceedings**") arising out of or in connection with this Agreement shall be brought in the District Court (*Landgericht*) in Frankfurt am Main,

Federal Republic of Germany. Nothing contained herein shall limit the right of any party hereto to take Proceedings against any other party hereto in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not.

- 7.5** Should any provision contained in this Agreement be or become invalid, illegal or unenforceable or incomplete in any jurisdiction, the validity, legality and enforceability of the remaining provisions (or of such provision in any other jurisdiction) will not in any way be affected or impaired thereby with respect to any other party or parties hereto to the fullest extent legally possible. Such invalid, illegal or unenforceable provision shall be replaced by means of supplementary interpretation (*ergänzende Vertragsauslegung*) by a valid, legal and enforceable provision, which most closely approximates the parties' commercial intention. This shall also apply *mutatis mutandis* to any gaps (*Vertragslücken*) in this Agreement.
- 7.6** The Schedules to this Agreement form part of this Agreement.

## Schedule 1

# Terms and Conditions of the Notes

### § 1

#### Currency, Nominal Amount, Form

- (1) *Currency; Denomination.* This series of undated subordinated resettable additional Tier 1 notes (the "**Notes**") of HSBC Trinkaus & Burkhardt AG, Düsseldorf (the "**Issuer**") is being issued in Euro (the "**Specified Currency**") in the aggregate nominal amount of EUR **235,000,000.00** (in words: **two hundred thirty-five million euros**) ("**Nominal Amount**") in a denomination of EUR **1,000,000.00** (the "**Specified Denomination**").
- (2) *Form.* The Notes are being issued in bearer form.
- (3) *Temporary Global Note – Exchange.*
- (a) The Notes are initially represented by a temporary global note (the "**Temporary Global Note**") without interest coupons. The Temporary Global Note will be exchanged for Notes in the Specified Denomination represented by a permanent global note (the "**Permanent Global Note**") and together with the Temporary Global Note, the "**Global Note**") without interest coupons. The Temporary Global Note and the Permanent Global Note shall each be signed by authorized signatories of the Issuer. Definitive notes and interest coupons will not be issued.
- (b) The Temporary Global Note shall be exchangeable for the Permanent Global Note on a date (the "**Exchange Date**") not earlier than 40 days after the date of issue of the Temporary Global Note. Such exchange shall only be made upon delivery of certifications to the effect that the beneficial owner or owners of the Notes represented by the Temporary Global Note are not U.S. persons (other than certain financial institutions or certain persons holding Notes through such financial institutions) as required by U.S. tax law. Payment of interest on Notes represented by a Temporary Global Note will be made only after delivery of such certifications. A separate certification shall be required in respect of each such payment of interest. Any such certification received on or after the 40<sup>th</sup> day after the date of issue of the Temporary Global Note will be treated as a request to exchange such Temporary Global Note pursuant to § 1 (3)(b). Any securities delivered in exchange for the Temporary Global Note shall be delivered only outside of the United States (as defined in § 4 (3)).
- (4) *Clearing System.* The Global Note representing the Notes will be kept in custody by or on behalf of a Clearing System. "**Clearing System**" means Clearstream Banking AG, Neue Börsestraße 1, 60487 Frankfurt am Main, Federal Republic of Germany ("**CBF**") and any successor in such capacity.
- (5) *Holder of Notes.*  
"**Holder**" means any holder of a proportionate co-ownership or other right in the Notes.

### § 2

#### Status

- (1) The Notes constitute direct, unsecured and subordinated obligations of the Issuer, ranking,

at all times, *pari passu* among themselves and (subject to the subordination provision in sentence 2) *pari passu* with all other subordinated obligations of the Issuer. In the event of the dissolution, liquidation, insolvency, composition or other proceedings for the avoidance of insolvency of, or against, the Issuer, the obligations under the Notes shall be fully subordinated to (i) claims of unsubordinated creditors of the Issuer, (ii) the claims under Tier 2 instruments, and (iii) the claims specified in § 39 (1) nos. 1 to 5 of the German Insolvency Statute (*Insolvenzordnung* – "InsO") so that in any such event no amounts shall be payable in respect of the Notes until (i) the claims of unsubordinated creditors of the Issuer, (ii) the claims under such Tier 2 instruments, and (iii) the claims specified in § 39 (1) nos. 1 to 5 InsO have been satisfied in full. Subject to this subordination provision, the Issuer may satisfy its obligations under the Notes also from other distributable assets (*freies Vermögen*) of the Issuer.

No Holder may set off his claims arising under the Notes against any claims of the Issuer. No security or guarantee of whatever kind is, or shall at any time be, provided by the Issuer or any other person securing rights of the Holders under the Notes.

- (2) No subsequent agreement may limit the subordination pursuant to the provisions set out in § 2 (1) or shorten the term of the Notes or any applicable notice period. If the Notes is redeemed or repurchased by the Issuer otherwise than in the circumstances described in § 2 (1) or as a result of a redemption pursuant to § 5 (2), § 5 (3) or § 5 (4), then the amounts redeemed or paid must be returned to the Issuer irrespective of any agreement to the contrary unless the Competent Supervisory Authority of the Issuer has given its consent to such redemption or repurchase. A termination or redemption of the Notes or a repurchase of the Notes requires, in any event, the prior consent of the Bundesanstalt für Finanzdienstleistungsaufsicht ("**Competent Supervisory**") Authority of the Issuer.

### § 3 Interest

(1) *Interest.*

Subject to a cancellation of interest payments pursuant to § 3 (7) and a write-down pursuant to § 5 (8), the Notes shall bear interest on its aggregate Nominal Amount from 9<sup>th</sup> December 2016 (the "**Interest Commencement Date**") (inclusive) pursuant to the following paragraphs (2) and (3). In the event of a write-down pursuant to § 5 (8)(a), the Notes shall for the full respective Interest Period (as defined in § 3 (4) below) in which such write-down occurs only bear interest on the aggregate nominal amount which has been reduced; a potential write-up pursuant to § 5 (8)(b) which may occur on an Interest Payment Date (as defined below) will become effective on the Interest Payment Date on which the write-up occurs and will be taken into account pro rata for such Interest Period in which such Interest Payment Date falls.

(2) *Fixed Period / Fixed Interest Rate.*

The Notes will bear interest at a fixed rate of 5.65 per cent (the "**Fixed Interest Rate**") per annum as from the Interest Commencement Date (including) to the first Early Redemption Date (as defined in § 5 (4)) (excluding).

(a) *Interest Amount.*

The fixed interest amount payable on the Notes (subject to § 5 (8)(a)) for the relevant Interest Periods during the Fixed Period shall be calculated by applying the Fixed Interest Rate to the outstanding nominal amount of the Notes (in case of a write-up on a pro rata basis), multiplying the resulting amount by the actual number of days elapsed in the Interest Period, divided by the number of days (365, and 366 in the case of a leap year, respectively) in the respective Interest Period (actual/actual calculation in accordance with the International Capital Markets Association's Day Count Fraction: ICMA Actual /

Actual) and rounding the result thereof to the nearest EUR-Cent (half a EUR-Cent being rounded upwards).

(b) The period from and including the Interest Commencement Date to but excluding the first Early Redemption Date are referred to herein as "**Fixed Period**".

(3) *Reset Period / Reset Interest Rate.*

The Notes will bear interest as from the first Early Redemption Date (including) at a Reset Interest Rate for each Reset Period (as defined below) which will be determined according to the following provisions (the "**Reset Interest Rate**").

(a) The period from and including the first Early Redemption Date to but excluding the 1<sup>st</sup> January 2027 and each five year period thereafter beginning on and including the 1<sup>st</sup> January to but excluding the 1<sup>st</sup> January of each following five year period are referred to herein as a "**Reset Period**".

(b) The Reset Interest Rate for each Reset Period shall be the Reference Rate (as defined below) plus 5.55 per cent per annum (the "**Margin**"). If the Reset Interest Rate has a negative value (being lower than 0 per cent p.a.), the Reset Interest Rate will be 0 per cent p.a.

"**Reference Rate**" shall be the Mid-Swap Rate (as defined below) determined according to the following (i), (ii) or (iii).

(i) On each Reset Determination Date (as defined in (iii)) the Calculation Agent determines the Mid-Swap Rate for the Reset Period following the Reset Determination Date. "**Mid-Swap Rate**" means, in relation to a Reset Determination Date and subject to § 3 (3) (b) the rate for swaps in Euros:

- (a) with a term equal to the relevant Reset Period; and
- (b) commencing on the relevant Reset Interest Date,

which appears on the Relevant Screen Page (as defined in (iii)), as at approximately 11.00 a.m. (London time) in London on such Reset Determination Date, all as determined by the Calculation Agent; provided, however, that if there is no such rate appearing on the Relevant Screen Page for a term equal to the relevant Reset Period, then the Mid-Swap Rate shall be determined through the use of straight-line interpolation by reference to two rates, one of which shall be determined in accordance with the above provisions, but as if the relevant Reset Period were the period of time for which rates are available next shorter than the length of the actual Reset Period and the other of which shall be determined in accordance with the above provisions, but as if the relevant Reset Period were the period of time for which rates are available next longer than the length of the actual Reset Period.

(ii) If on any Reset Determination Date the Relevant Screen Page is not available or the Mid-Swap Rate does not appear on the Relevant Screen Page, the Calculation Agent shall request each of the Reference Banks to provide the Calculation Agent with its Mid-Market Swap Rate Quotation (as defined in (iii)) as at approximately 11.00 a.m. in London on the Reset Determination Date in question. If two or more of the Reference Banks (as defined in (iii)) provide the Calculation Agent with Mid-Market Swap Rate Quotations, the Reset Interest Rate for the relevant Reset Period shall be the sum of the arithmetic mean (rounded, if necessary, to the nearest 0.001 per cent. (0.0005 per cent. being rounded upwards)) of the relevant Mid-Market Swap Rate Quotations, all as determined by the Calculation Agent.

If on any Reset Determination Date only one or none of the Reference Banks provides the Calculation Agent with a Mid-Market Swap Rate Quotation as provided in the foregoing provisions of this § 3 (3) (b), the Reset Interest Rate shall be determined to be the rate of interest as at the last preceding Reset Interest Date or, in the case of the first Reset Determination Date, the first Reset Interest Rate shall be the Fixed Interest Rate.

For the purposes of this § 3 (3) (b), "Reference Banks" means five leading swap dealers in the European interbank market as selected by the Calculation Agent.

- (iii) **"Mid-Market Swap Rate"** means for any Reset Period the mean of the bid and offered rates for the fixed leg payable with a frequency equivalent to the Fixed Leg Swap Duration (calculated on the basis of the Day Count Fraction) of a fixed-for-floating interest rate swap transaction in Euros which transaction (i) has a term equal to the relevant Reset Period and commencing on the relevant Reset Date, (ii) is in an amount that is representative for a single transaction in the relevant market at the relevant time with an acknowledged dealer of good credit in the swap market and (iii) has a floating leg based on the Mid-Swap Floating Leg Benchmark Rate for the Mid-Swap Maturity (calculated on the basis of the Day Count Fraction);  
**"Mid-Market Swap Rate Quotation"** means a quotation (expressed as a percentage rate per annum) for the relevant Mid-Market Swap Rate;  
**"Mid-Swap Floating Leg Benchmark Rate"** means EURIBOR;  
**"Mid-Swap Maturity"** means five years;  
**"Relevant Screen Page"** means the Reuters ICESWAP Page (or such replacement page on that information service or any other published source, information vendor or provider which displays the information);  
**"Reset Determination Date"** means the second London business day prior to the first Early Redemption Date and thereafter each second London business day prior to the 1<sup>st</sup> January every five years, the second Reset Determination Date being the second London business day prior to the 1<sup>st</sup> January 2027, etc.

(c) *Reset Interest Amount.*

The Calculation Agent will, forthwith after the determination of the Reference Rate for the respective Reset Period, determine the applicable Reset Interest Rate and calculate the amount of interest payable on the Notes (subject to § 5 (8)(a)) (the **"Reset Interest Amount"**) for the relevant Interest Period. The Interest Amount shall be calculated by applying the Reset Interest Rate to the outstanding nominal amount of the Notes (in case of a write-up on a pro rata basis), multiplying the resulting amount by the actual number of days elapsed in the relevant Interest Period, divided by the number of days (365, and 366 in the case of a leap year, respectively) in the respective Interest Period (actual/actual calculation in accordance with the International Capital Markets Association's Day Count Fraction: ICMA Actual / Actual) and rounding the result thereof to the nearest EUR-Cent (half a EUR-Cent being rounded upwards).

(d) *Notification of Reset Interest Rate and Reset Interest Amount.*

The Calculation Agent will cause the Reset Interest Rate for the Reset Period and the expected Reset Interest Amount for the respective Interest Periods to be notified to the Holders in accordance with § 11 (2) as soon as possible.

- (4) Respective interest for the relevant Interest Period ending on and including the 31<sup>st</sup> December of each year is payable in arrears on 30<sup>th</sup> April of the following year (each an **"Interest Payment Date"**), commencing on 30<sup>th</sup> April 2017 for the Interest Period ending on and including the 31<sup>st</sup> December 2016, unless such date should fall on a day which is not a Business Day (as defined in § 3 (8)), in which event the Interest Payment Date shall be the immediately following Business Day.

The period from and including the Interest Commencement Date up to but excluding the 1<sup>st</sup> January 2017 (first short coupon) and each subsequent period thereafter beginning on and including the 1<sup>st</sup> January of each year to but excluding the 1<sup>st</sup> January of each following year are referred to herein as an "**Interest Period**".

(5) *Determinations Binding.*

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this § 3 by the Calculation Agent shall (in the absence of manifest error) be binding on the Issuer, the Paying Agent and the Holders.

(6) *Accrual of Interest.*

The Notes shall cease to bear interest from the beginning of the day on which they become due for redemption. If the Issuer fails to make the relevant redemption payment under the Notes when due, the Notes will bear interest on their outstanding aggregate nominal amount from (and including) the due date to (but excluding) the day of actual redemption of the Notes at the statutory default rate of interest.

(7) *Cancellation of Interest Payment.*

(a) The Issuer has the right, in its sole and full discretion, to cancel all or part of any payment of interest, including (but not limited to) if such cancellation is necessary to prevent the Common Tier 1 Equity Capital Ratio (as defined in § 5 (8)) from falling below the Minimum CET1 Ratio (as defined in § 5 (8)) or to meet a requirement imposed by the Competent Supervisory Authority. If the Issuer makes use of such right, it shall give notice to the Holders in accordance with § 11 without undue delay but not later than on the relevant Interest Payment Date. Any failure to give such notice shall not affect the validity of the cancellation of interest.

(b) Payment of Interest on the Notes for the relevant Interest Period shall be cancelled (without prejudice to the exercise of sole and full discretion pursuant to § 3 (7)(a)):

(i) to the extent such payment of interest together with any additional Distributions (as defined in § 3 (8)) in the then current financial year of the Issuer on other Tier 1 Instruments (as defined in § 3 (8)) would exceed the Available Distributable Items (as defined in § 3 (8)), provided that, for such purpose, the Available Distributable Items shall be increased by an amount equal to what has been accounted for as expenses for Distributions in respect of Tier 1 Instruments (including payments of interest on the Notes) in determination of the profit (*Gewinn*) on which the Available Distributable Items are based; or

(ii) if and to the extent that the Competent Supervisory Authority orders that all or part of the relevant payment of interest shall be cancelled or another prohibition of Distributions is imposed by law or an authority.

(c) The Issuer has the right to use the funds from cancelled payments of interest without restrictions for the fulfilment of its own obligations when due. To the extent that payments of interest are cancelled, such cancellation includes all Additional Amounts (as defined in § 7) payable pursuant to § 7. Any payments of interest which have been cancelled will not be made or compensated at any later date. Any accrued but unpaid interests on the Notes up to (and including) a date of the Trigger Event (whether or not such interests have become due for payment) shall be automatically cancelled. For the avoidance of doubt, any accrued but unpaid interests from the date of the Trigger Event up to the fixed date of write-down shall also be automatically cancelled even if no notice has been given to that effect.

(d) Any payments of interests on the Notes (or part thereof) which have been cancelled shall not constitute a default by the Issuer for any purpose, and the holders of the Notes shall have no right thereto, whether in the case of bankruptcy or liquidation of the Issuer or otherwise. Any such cancellation of distributions imposes no restrictions on the issuer.

(8) *Definitions.*

**"Distributions"** means any kind of payment of dividends or interest or amounts of write-ups or Additional Amounts as defined in § 7.

**"Available Distributable Items"** means, with respect to any payment of interest, the profit (*Gewinn*) as of the end of the financial year of the Issuer immediately preceding the relevant Interest Payment Date, for which audited annual financial statements are available, plus (i) any profits carried forward and distributable reserves (*ausschüttungsfähige Rücklagen*), minus (ii) losses carried forward and any profits which are non-distributable pursuant to applicable law or the Articles of Association of the Issuer and any amounts allocated to the non-distributable reserves, provided that such profits, losses and reserves shall be determined on the basis of the unconsolidated financial statements of the Issuer prepared in accordance with German commercial law and not on the basis of its consolidated financial statements.

**"Business Day"** means a day (other than Saturday or Sunday) on which the Clearing System as well as the Trans-European Automated Real-time Gross settlement Express Transfer system 2 (TARGET2) is open.

**"CRR"** means Regulation (EU) No 575/2013 of the European Parliament and the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (including any provisions of regulatory law supplementing this Regulation); to the extent that any provisions of the CRR are amended or replaced, the term CRR as used in these Terms and Conditions shall refer to such amended provisions or successor provisions.

**"Tier 1 Instruments"** means capital Instruments which, according to the CRR, qualify as common equity Tier 1 capital or Additional Tier 1 Capital.

## § 4 Payments

(1) *General*

(a) *Payments of Principals.* Payment of principal in respect of the Notes shall be made in accordance with § 4 (2) to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System outside the United States.

(b) *Payments of Interest.* Payment of interest on Notes shall be made in accordance with § 4 (2) to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System.

Payment of interest on Notes represented by the Temporary Global Note shall be made in accordance with § 4 (2) to the Clearing System or to its order for credit to the accounts of the relevant account holders of the Clearing System, upon due certification as provided in § 1 (3)(b).

(2) *Manner of Payment.* Subject to applicable fiscal and other laws and regulations, payments of amounts due in respect of the Notes shall be made in the Specified Currency.

- (3) *United States.* For the purposes of § 1 (3) and § 4 (1) United States means the "**United States**" of Amerika (including the States thereof and the District of Columbia) and its possessions (including Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and Northern Mariana Islands).
- (4) *Discharge.* The issuer shall be discharged by fulfilled payment on the account of the Holder.
- (5) *Payment Date.* If the date for payment of principal in respect of the Notes is not a Business Day then the respective payment shall be effected on the next Business Day. The Holders shall not be entitled to payment until the next Business Day and shall not be entitled to further interest or other payment in respect of such delay.
- (6) *References to Principal and Interest.* References in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable, the following amounts: the Redemption Amount of the Notes, any premium and any other amounts which may be payable under or in respect of the Notes. Reference in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any Additional Amounts which may be payable under § 7.
- (7) *Deposit of Principal and Interest.* The Issuer may deposit with the local court (Amtsgericht) in Düsseldorf amounts of interest or principal not claimed by the Holders within twelve months after the due date, even though such Holders may not be in default of acceptance of payment. If and to the extent that such deposit is effected and the right of withdrawal is waived, the respective claims of such Holders against the Issuer shall cease.

## § 5 Redemption; Write-downs

- (1) *No Scheduled Maturity, Conditions for Call, Early Redemption, Repayment, Repurchases.* The Notes have no scheduled maturity date.

Any call, redemption, repayment or repurchase of the Notes are subject to the following: The Issuer obtains prior written consent/permission of the Competent Supervisory Authority regarding any redemption as described below in accordance with Article 78 of the CRR, where either:

(i) the Issuer has replaced the Notes with own funds instruments of equal or higher quality at terms that are sustainable for the income capacity of the Issuer earlier than, or at the same time as of the date fixed for the call, redemption, repayment or repurchase; or

(ii) the Issuer has demonstrated to the satisfaction of the Competent Supervisory Authority that the own funds of the Issuer would - following such date fixed for the call, redemption, repayment or repurchase – exceed the requirements laid down in Article 92 (1) of the CRR and the combined buffer requirement as defined in section 10i German Banking Act (§ 10 I Kreditwesengesetz transposing point (6) of Article 128 of the CRD IV by a margin that the Competent Supervisory Authority considers necessary on the basis of section 10 (3) German Banking Act (§ 10 (3) Kreditwesengesetz) transposing Article 104(3) of the CRD IV (as defined in § 5 (8)(a)(iii)).

For the avoidance of doubt, any refusal of the Competent Supervisory Authority to grant consent/permission in accordance with Article 78 of the CRR shall not constitute a default for any purpose.

- (2) *Early Redemption for Regulatory Reasons.* If the Issuer in the case of redemption upon the

occurrence of a Capital Event (as defined below) and (i) with respect of a redemption prior to the fifth anniversary of the Issue Date has demonstrated to the satisfaction of the Competent Supervisory Authority that the change in the regulatory classification of the Notes was not reasonably foreseeable at the date of the issuance of the Notes, or (ii) with respect of a redemption after the fifth anniversary of the Issue Date determines, in its own discretion, that it may not treat the Notes in their full aggregate Nominal Amount as Additional Tier 1 capital for the purposes of its own funds in accordance with applicable law, the Notes may be redeemed, in whole but not in part, at any time at the option of the Issuer, subject to the prior written consent of the Competent Supervisory Authority, upon not less than 30 and not more than 60 days' prior notice of redemption at their Redemption Amount (as defined below) together with interest (if any, and subject to a cancellation of the interest payment pursuant to § 3 (7)) accrued to the date fixed for redemption (exclusive).

**Capital Event** is deemed to have occurred if there is a change in the regulatory classification of the Notes under the Capital Regulations (defined below) that was not reasonably foreseeable at the time of the Notes issuance and that would be likely to result in their exclusion in full or in part from the Issuer's own funds (other than as a consequence of a write-down, where applicable) or in reclassification as a lower quality form of the Issuer's own funds and that the Competent Supervisory Authority considers to be sufficient certain.

**Capital Regulations** means any requirements of German law or contained in the relevant rules of the EU law that are then in effect at the Issue Date in Germany relating to capital adequacy and applicable to the Issuer, including but not limited to the CRR, national laws and regulations implementing the CRD IV and the Bank Recovery and Resolution Directive 2014/59/EU (BRRD), delegated or implementing acts adopted by the European Commission and guidelines issued by the EBA, as amended from time to time, or such other acts as may come into effect in place thereof.

- (3) *Early Redemption for Reasons of Taxation.* If the tax treatment of the Notes changes (including but not limited to the tax deductibility of interest payable on the Notes or the obligation to pay Additional Amounts (as defined in § 7)) or non-emerging of book profits in the event of a write-down pursuant to § 5 (8)) and (i) with respect to a redemption prior to the fifth anniversary of the Issue Date the Issuer has demonstrated to the satisfaction of the Competent Supervisory Authority, that such change has a material adverse effect on the Issuer and that it was not reasonable foreseeable as at the Issue Date, or (ii) with respect to a redemption after the fifth anniversary of the Issue Date the Issuer determines in its own discretion, that such change has a material adverse effect on the Issuer, the Notes may be redeemed, in whole but not in part, at any time at the option of the Issuer, subject to the prior consent of the Competent Supervisory Authority, upon not less than 30 and not more than 60 days' prior notice of redemption at their Redemption Amount together with interest (if any, and subject to a cancellation of the interest payment pursuant to § 3 (7)) accrued to the date fixed for redemption (exclusive).

For avoidance of doubt, changes in the assessment of the Competent Supervisory Authority regarding tax effects are not considered as a change in the tax treatment of the notes.

- (4) *Early Redemption at the Option of the Issuer.* The Issuer may redeem the Notes, in whole but not in part, at any time, subject to the prior consent of the Competent Supervisory Authority, upon not less than 30 days' notice of redemption with effect as of 1<sup>st</sup> January 2022 and afterwards with effect as of 1<sup>st</sup> of January of any subsequent year (the "**Early Redemption Date**" respectively) at their Redemption Amount (as defined below and taking into account any write-down pursuant to § 5 (8), if applicable) together with interest (if any, and subject to a cancellation of the interest payment pursuant to § 3 (7)) accrued to the Early Redemption Date (exclusive).
- (5) Notice pursuant to § 5 (2), (3) und (4) shall be given in accordance with § 11. Such notice shall be irrevocable and shall state the date fixed for redemption and, in the case of a notice

pursuant to § 5 (2) or (3), the reason for the redemption. The Issuer shall not give notice of redemption if a Trigger Event has occurred. If the Issuer has given a notice of redemption and, after giving such notice but prior to the relevant redemption date, a Trigger Event has occurred, the relevant redemption notice shall be automatically revoked and be null and void and the corresponding redemption shall not be made.

(6) *Redemption Amount.* The "**Redemption Amount**" of the Notes, unless previously redeemed in whole or in part or repurchased and cancelled, shall be the initial Nominal Amount of the Notes. In the event that the Issuer calls the Notes, the current nominal amount of the Notes is reduced by any write-downs pursuant to § 5 (8) and have not been fully written up so far the Redemption Amount of the Notes shall be the then current nominal amount of the Notes as reduced by any write-downs (to the extent not made up for by write-up(s)).

(7) *No Call Right of the Holders.* The Holders have no right to call the Notes for redemption.

(8) *Write-down.*

(a) Upon the occurrence of a Trigger Event, the Redemption Amount and the nominal amount of the Notes shall be reduced by the amount of the relevant write-down.

A "**Trigger Event**" occurs if the Common Equity Tier 1 capital ratio pursuant to Article 92 (1) (a) CRR or any successor provision, of the Issuer or on a consolidated basis of the group of the Issuer (the "**Common Equity Tier 1 Capital Ratio**") falls below 5,125 per cent (the "**Minimum CET1 Ratio**"). CET1 Ratio means, with respect to the Issuer, at any time, the CET1 capital as of such time expressed as a percentage of the total risk exposure amount of the Issuer. Whether a Trigger Event has occurred at any time shall be determined by the Issuer or the Competent Supervisory Authority and such a determination shall be binding on the Holders of the Notes.

Upon the occurrence of a Trigger Event, a write-down shall be effected *pro rata* with all other Additional Tier 1 instruments within the meaning of the CRR (Additional Tier 1 Capital), the terms of which provide for a write-down (whether permanent or temporary) upon the occurrence of the Trigger Event. For such purpose, the total amount of the write-downs to be allocated *pro rata* shall be equal to the amount required to restore fully the Common Equity Tier 1 Capital Ratio of the Issuer to the Minimum CET1 Ratio but shall not exceed the sum of the nominal amounts of the relevant instruments outstanding at the time of occurrence of the Trigger Event.

The sum of the write-downs to be effected with respect to the Notes shall be limited to the outstanding aggregate nominal amount of the Notes at the time of occurrence of the relevant Trigger Event.

Upon the occurrence of a Trigger Event, the Issuer shall:

(i) inform the Competent Supervisory Authority that is responsible for the Issuer and, in accordance with § 11, the Holders of the Notes without undue delay about the occurrence of such Trigger Event and the fact that a write-down will have to be effected, and

(ii) determine the write-down amount to be effected and operate irrevocably and mandatorily the write-down of the Notes pro-rata with other notes and other Loss Absorbing Instruments (as defined below) by the relevant write-down amount without undue delay (a "**Loss Absorbing Event**") and in any event no later than within one month from the occurrence of the relevant Trigger Event (unless the Competent Supervisory Authority of the Issuer shortens such period), and notify such write-down (a) to the Competent Supervisory Authority, (b) to the Holders of the Notes in accordance with § 11 and (c) to the Calculation Agent and the Paying Agent, and (d) if required by the rules of any stock

exchange on which the Notes are listed from time to time at the request of the Issuer, to such stock exchange.

The write-down shall be deemed to be effective at the date on which the write-down was operated by the Issuer ("**Write-Down-Date**") and the nominal amount of each Note (including the Redemption Amount) shall be deemed to be reduced at such time by the amount of such write-down. For the avoidance of doubt failure to provide a notice shall not prevent the exercise of the write-down.

- (iii) To the extent that the write-down of any Loss Absorbing Instrument is not effective for any reason, (i) the effectiveness of any such write-down shall not prejudice the requirement to effect a write-down of the Notes and (ii) the write-down or conversion of any Loss Absorbing Instrument that is not effective shall not be taken into account in determining the write-down amount of the Notes.

A Loss Absorption Event may occur on more than one occasion and the Notes may be written down on more than one occasion.

Any write-down of the Notes shall not constitute an event of default or a breach of the Issuer's obligations or duties, or a failure to perform by the Issuer in any manner whatsoever and shall not entitle holders to petition for the insolvency or dissolution of the Issuer.

Following a write-down of all or part of the Current Principle Amount, holders of the Notes will automatically and irrevocably lose their rights to receive - and no longer have any rights against the Issuer with respect to - distributions on the Notes and repayment of the write-down amount (but without prejudice to their rights in respect of any reinstated principal amount following a write-up).

**"Loss Absorbing Instrument"** means any AT1 instrument (other than the Notes) of the Issuer that may have all or some of its principal amount written-down (whether on a permanent or temporary basis) or converted (in each case, in accordance with its conditions) on the occurrence or as a result of the Issuer's CET1 ratio falling below a certain trigger level.

- (b) After a write-down has been effected, the nominal amount and the Redemption Amount of each Note, unless previously redeemed or repurchased and cancelled, may be written up in accordance with the following provisions of § 5 (8)(b) in each of the financial years of the Issuer and of the group of the Issuer subsequent to the occurrence of such write-down until the full initial Nominal Amount has been reached, to the extent that a corresponding annual profit of the Issuer and of the group of the Issuer is recorded and the write-up will not give rise to or increase an annual loss of the Issuer and of the group of the issuer.

The write-up shall be effected *pari-passu* with write-ups of other additional Tier 1 instruments within the meaning of the CRR, unless this would cause the Issuer to be in breach with any contractual obligations that have been assumed by the Issuer or with any statutory or regulatory obligations.

Subject to the conditions (i) or (v) below, it shall be at the discretion of the Issuer to effect a write-up. In particular, the issuer may effect a write-up only in part or effect no write-up at all even if a corresponding annual profit is recorded and the conditions (i) to (v) are fulfilled.

- (i) To the extent that the annual profit determined is to be used for a write-up of the Notes (i.e. a write-up of the nominal amount and of the Redemption Amount) and of other Additional Tier 1 instruments within the meaning of the CRR, the terms of which provide for a similar Trigger Event (also if such terms provide for a different Tier 1 capital ratio as trigger) (together with the Notes the "**AT1 Instruments**"), and is available in accordance with (ii) and (iii) below, such write-up shall be effected *pro rata* in proportion to the initial

Nominal Amounts of the AT1 Instruments.

- (ii) The maximum total amount that may be used for a write-up of the Notes and of the other AT1 Instruments that have been written down and for the payment of interest and other distributions on AT1 Instruments that may have been written down or shall be calculated, subject to the regulatory technical standards applicable at the time when the write-up is effected, in accordance with the following formula:

$$H = J \times S / T1$$

**H** means the maximum amount available for the write-up of the AT1 Instruments and distributions on AT1 Instruments that have been written down;

**J** means the lowest of net profit (profit after tax) determined on, as applicable, an individual (Issuer) or a consolidated basis (group of the Issuer) after a formal decision confirming the final profits has been taken for the previous year (verbindlich festgestellter Jahresabschluss bzw. gebilligter Konzernabschluss);

**S** means the initial nominal amounts of the AT1 Instruments (i.e. before write-down due to a Trigger Event or other comparable event are effected);

**T1** means the amount of Tier 1 capital of the Issuer immediately before the write-up is effected.

The maximum amount **H** shall be determined in accordance with the regulatory technical standards as applicable. The maximum amount **H** shall be determined by the Issuer in accordance with the requirements applicable at the time of determination, and the write-up shall be based on the amount so determined without requiring any amendment to this subparagraph (ii).

- (iii) In total, the sum of the amounts of the write-ups of AT1 Instruments together with the amounts of any dividend payments and other distributions on shares and other Common Equity Tier 1 instruments of the issuer (including payment of interests and other distributions on AT1 Instruments that have been written down) for the relevant financial year must not exceed the maximum distributable amount within the meaning of Article 141 (2) CRD (IV) or any successor provision ("**Maximum Distributable Amount**" or "**MDA**") as transposed into national law.

**"CRD IV"** means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, amended from time to time, or such other directive as may come into effect in place thereof.

- (iv) Write-ups of the Notes do not have priority over dividend payments and other distributions on shares and other Common Equity Tier 1 instruments of the Issuer, i.e. such payments and distributions are permitted even if no full write-up has been effected.
- (v) At the time of a write-up, there must not exist any Trigger Event that is continuing. A write-up is also excluded if such write-up would give rise to the occurrence of a Trigger Event.

If the Issuer elects to effect a write-up in accordance with the provisions of this § 5 (8)(b), it shall notify the write-up as of the relevant Interest Payment Date (including the amount of the write-up as a percentage of the initial Nominal Amount of the Notes and the effective date of the write-up (in each case a "**Write-up Date**")) without undue delay to the Holders

of the Notes in accordance with § 11, to the Calculation Agent and to the Paying Agent and, if required by the rules of any stock exchange on which the Notes may from time to time be listed, to such stock exchange. The write-up shall be deemed to be effected at the time when the notice to the Holders is given in accordance with § 11 and the nominal amount of each Note in the Specified Denomination (including the Redemption Amount) shall be deemed to be increased by the amount specified in the notice with effect as of the Write-up Date.

## § 6

### Fiscal Agent, Paying Agent and Calculation Agent

- (1) *Appointment; Specified Office.* The initial Fiscal Agent, the initial Paying Agent and their respective initial specified offices shall be:

Fiscal Agent and Paying Agent shall be:  
HSBC Trinkaus & Burkhardt AG  
Konsortialabteilung / New Issues  
Koenigsallee 21/23  
D-40212 Duesseldorf  
Deutschland

The Fiscal Agent and the Paying Agent reserve the right at any time to change their respective specified office to some other specified office in the same city.

The Fiscal Agent is also acting as Calculation Agent.

- (2) *Variation or Termination of Appointment.* The Issuer reserves the right at any time to vary or terminate the appointment of the Fiscal Agent or any Paying Agent and to appoint another Fiscal Agent or additional or other Paying Agents. The Issuer shall at all times maintain a Fiscal Agent. Any variation, termination, appointment or change shall only take effect (other than in case of insolvency, when it shall be of immediate effect) after not less than 30 nor more than 45 days' prior notice thereof shall have been given to the holders in accordance with § 11.
- (3) *Agents of the Issuer.* The Fiscal Agent and the Paying Agent act solely as agents of the Issuer and do not assume any obligations towards or relationship of agency or trust for any Holder.

## § 7

### Taxation

All amounts payable in respect of the Notes shall be paid without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by way of withholding or deduction by or in or for the account of the Federal Republic of Germany or any political subdivisions or any authority thereof or therein having power to tax unless such withholding or deduction is required by law. In such event, the Issuer shall - to the extent that this would not exceed the Distributable Items and subject to a cancellation of the interest payment pursuant to § 3 (7) - pay such additional amounts with respect to any payments on the Notes (but not, for the avoidance of doubt, with respect to the payment of any principal in respect of the Notes) ("**Additional Amounts**") as shall be necessary in order that the net amounts received by the Holders, after such withholding or deduction, shall equal the respective amounts which would otherwise have been receivable by the Holders in the absence of such withholding or deduction; except that no such Additional Amounts shall be payable on account of any taxes or duties which:

- (a) are payable by any person acting as custodian bank or collecting agent on behalf of a

Holder, or otherwise in any manner by the Issuer from payments of principal or interest by it; or

- (b) are payable by reason of the Holder having, or having had, some personal or business connection with Germany and not merely by reason of the fact that payments in respect of the Notes are, or for purposes of taxation are deemed to be, derived from sources in, or are secured in, Germany; or
- (c) are deducted or withheld pursuant to (i) any European Union Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty or understanding relating to such taxation and to which Germany or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty or understanding; or
- (d) are withheld or deducted by a Paying Agent from a payment if the payment could have been made by another Paying Agent without such withholding or deduction; or
- (e) are payable by reason of a change in a law that becomes more than 30 days after the relevant payment of principal or interest becomes due, or is duly provided for and notice thereof is published in accordance with § 11, whichever occurs later; or
- (f) are avoidable or would have been avoidable through the submission of a declaration of non – residence or by otherwise enforcing a claim for exemption vis à vis the relevant tax authority; or
- (g) are deducted or withheld because the beneficial owner of the Notes is not himself the legal owner (Holder) of the Notes and the deduction or withholding in respect of payments to the beneficial owner would not have been made or the payment of Additional Amounts in respect of a payment to the above provisions could have been avoided if the latter had also been the legal owner (Holder) of the Notes.

## **§ 8 Presentation Period**

The presentation period provided in Sec. 801 (1) Sentence 1 BGB is reduced to ten (10) years for the bonds.

## **§ 9 Amendment of the Terms and Conditions, Holders' Representative**

- (1) *Amendment of the Terms and Conditions.* In accordance with the German Act on Debt Securities of 2009 (Schuldverschreibungsgesetz aus Gesamtemissionen – "SchVG") the Holders may agree with the Issuer on amendments of the Terms and Conditions with regard to matters permitted by the SchVG by resolution with the majority specified in § 9 (2). Majority resolutions shall be binding on all Holders. Resolutions which do not provide for identical conditions for all Holders are void, unless Holders who are disadvantaged have expressly consented to their being treated disadvantageously.
- (2) *Majority.* Resolutions shall be passed by a majority of not less than 75 per cent. of the votes cast. Resolutions relating to amendments of the Terms and Conditions which are not material and which do not relate to the matters listed in § 5 paragraph 3, Nos. 1 to 8 of the SchVG require a simple majority of the votes cast.

- (3) *Vote without a meeting.* All votes will be taken exclusively by vote taken without a meeting. A meeting of Holders and the assumption of the fees by the Issuer for such a meeting will only take place in the circumstances of § 18 paragraph 4, sentence 2 of the SchVG.
- (4) *Chair of the vote.* The vote will be chaired by a notary appointed by the Issuer or, if the Holders' Representative has convened the vote, by the Holders' Representative.
- (5) *Voting rights.* Each Holder participating in any vote shall cast votes in accordance with the nominal amount or the notional share of its entitlement to the outstanding Notes.
- (6) *Holders' Representative.* The Holders may by majority resolution appoint a common representative to exercise the Holders' rights on behalf of each Holder.

The Holders' Representative shall have the duties and powers provided by law or granted by majority resolution of the Holders. The Holders' Representative shall comply with the instructions of the Holders. To the extent that the Holders' Representative has been authorized to assert certain rights of the Holders, the Holders shall not be entitled to assert such rights themselves, unless explicitly provided for in the relevant majority resolution. The Holders' Representative shall provide reports to the Holders on its activities. The regulations of the SchVG apply with regard to the recall and the other rights and obligations of the Holders' Representative.

## **§ 10**

### **Further Issues, Purchases and Cancellation**

- (1) *Further Issues.* The issuer may from time to time, without the consent of the Holders, issue further Notes having the same terms and conditions as the Notes in all respects (or in all respects except for the issue date, interest commencement date and/or issue price) so as to form a single series with the Notes.
- (2) *Purchases.* The Issuer may (subject to the prior consent of the Competent Supervisory Authority of the Issuer, if required) purchase the Notes in the regulated market or otherwise at any price. The Notes purchased by the Issuer, be held, resold or surrendered to the Paying Agent for cancellation. If purchases are made by public tender, tenders for such Notes must be made available to all Holders of such Notes alike pursuant to § 11.
- (3) *Cancellation.* All Notes redeemed in full shall be cancelled forthwith and may not be reissued or resold.

## **§ 11**

### **Communications**

- (1) *Notifications to the Clearing System.* The Issuer shall deliver all notices regarding the Notes to the Clearing System for communication by the Clearing System to the Holders. Any such notice will be deemed to have been given to the Holders on the seventh calendar day after the day on which the said notice was given to the Clearing System.
- (2) *Form of Notice of Holders.* Notices to be given by any Holder shall be made by means of a written declaration to be delivered together with an evidence of the Holder's entitlement in accordance with § 13 (3) to the Fiscal Agent. Such notice may be given through the Clearing System in such manner as the Fiscal Agent and the Clearing System may approve for such

purpose.

## § 12 Additional Tier 1 Capital

The Notes are intended to qualify as Additional Tier 1 Capital (*zusätzliches Kernkapital*) of the Issuer for an indefinite period of time.

## § 13 Applicable Law and Place of Jurisdiction

- (1) *Applicable Law.* The Notes as well as the rights and duties arising therefrom shall be governed by the laws of the Federal Republic of Germany.
- (2) *Place of Jurisdiction.* The regional court (*Landgericht*) in Duesseldorf, Federal Republic of Germany, shall have non-exclusive jurisdiction for any action or other legal proceedings ("**Proceedings**") arising out of or in connection with the Notes. Pursuant to § 9 (3) sentence 1 1<sup>st</sup> alternative SchVG, the local court (*Amtsgericht*) in Duesseldorf, Federal Republic of Germany, shall have jurisdiction to decide on any matters pursuant to § 9 (2), § 13 (3) and § 18 (2) SchVG. Pursuant to § 20 (3) sentence 3 1<sup>st</sup> alternative SchVG, the regional court (*Landgericht*) in Duesseldorf, Federal Republic of Germany, shall have exclusive jurisdiction to decide on the challenges of resolutions of the Holders.
- (3) *Enforcement.* Any Holder of Notes may in any Proceedings against the Issuer, or to which the Holder and the Issuer are parties, protect and enforce in its own name its rights arising under these Notes on the following basis: (i) by submitting a certificate issued by its Depository Bank (as defined below) with which he maintains a securities account in respect of the Notes, which (a) states the full name and address of the Holder, (b) specifies the aggregate nominal amount of the Notes credited on the date of such certificate to such Holder's securities account and (c) confirms that the Depository Bank has given a written notice to the Clearing System containing the information pursuant to (a) and (b) and (ii) by bearing a copy of the relevant Global Note certified by a duly authorized officer of the Clearing System or the depository as being a true copy without any requirement to submit originals of the relevant Global Note. For the purposes of the foregoing, "**Depository Bank**" means any bank or other financial institution of recognized standing authorized to engage in securities deposit business with which the Holder maintains a securities account in respect of the Notes, and includes the Clearing System. Without prejudice to the foregoing, any Holder may also protect and enforce its rights arising under these Notes in any other way, which is admitted in the country of the Proceedings.

## § 14 Language

These Terms and Conditions are written in the English language. A translation into German language is attached or is available at the Issuer. The English text shall be controlling and binding. The German language translation is non-binding.

**Schedule 2A**  
**Form of Temporary Global Note**

THIS TEMPORARY GLOBAL NOTE HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). NEITHER THIS TEMPORARY GLOBAL NOTE NOR ANY PORTION HEREOF MAY BE OFFERED OR SOLD DIRECTLY OR INDIRECTLY IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA) OR ITS TERRITORIES OR POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO U.S. PERSONS, UNLESS AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

**WKN TD9999**  
**ISIN DE000TD99995**

**EUR [●] undated subordinated resettable additional Tier 1 notes at a fixed rate of interest as of 2016**

**HSBC Trinkaus & Burkhardt AG**  
(the "Issuer")

**Temporary Global Note**

on up to

EUR [●]  
(in words: Euro ("EUR") [●])

of EUR [●] undated subordinated resettable additional Tier 1 notes at a fixed rate of interest as of 2016

divided into up to [●] Notes  
EUR [●] (the "Specified Denomination") each

HSBC Trinkaus & Burkhardt AG issues these Notes in an aggregate nominal amount of up to EUR [●]. The Notes have – subject to an early redemption according to § 5 of the Terms and Conditions – an unlimited maturity.

We promise to pay interest on the Notes to the bearer of this Temporary Global Note in accordance with § 3 of the Terms and Conditions as well as any amounts payable under the Terms and Conditions. No payment of interest will occur, unless this Temporary Global Note is exchanged into a Permanent Global Note.

The Terms and Conditions attached apply to this Temporary Global Note.

This Temporary Global Note shall be exclusively deposited with Clearstream Banking AG and will be exchanged into a Permanent Global Note according to § 1 (3)(b) of the Terms and Conditions after delivery of the described certification.

Düsseldorf, in December 2016  
HSBC Trinkaus & Burkhardt AG

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***Annex  
to the temporary Global Note  
Terms and Conditions***

**Schedule 2B**  
**Form of Permanent Global Note**

THIS PERMANENT GLOBAL NOTE HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). NEITHER THIS PERMANENT GLOBAL NOTE NOR ANY PORTION HEREOF MAY BE OFFERED OR SOLD DIRECTLY OR INDIRECTLY IN THE UNITED STATES OF AMERICA (INCLUDING THE STATES AND THE DISTRICT OF COLUMBIA) OR ITS TERRITORIES OR POSSESSIONS AND OTHER AREAS SUBJECT TO ITS JURISDICTION OR TO U.S. PERSONS, UNLESS AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IS AVAILABLE.

ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

**WKN TD9999**  
**ISIN DE000TD99995**

**EUR [●] undated subordinated resettable additional Tier 1 notes at a fixed rate of interest as of 2016**

**HSBC Trinkaus & Burkhardt AG**  
(the "Issuer")

**Permanent Global Note**

on up to

EUR [●]  
(in words: Euro ("EUR") [●])

of EUR [●] undated subordinated resettable additional Tier 1 notes at a fixed rate of interest as of 2016

divided into up to [●] Notes  
EUR [●] (the "**Specified Denomination**") each

HSBC Trinkaus & Burkhardt AG issues these Notes in an aggregate nominal amount of up to EUR [●]. The Notes have – subject to an early redemption according to § 5 of the Terms and Conditions – an unlimited maturity.

We promise to pay interest on the Notes to the bearer of this Permanent Global Note in accordance with § 3 of the Terms and Conditions as well as any amounts payable under the Terms and Conditions.

The Terms and Conditions attached apply to this Permanent Global Note.

This Permanent Global Note shall be exclusively deposited with Clearstream Banking AG.

Düsseldorf, in December 2016

HSBC Trinkaus & Burkhardt AG

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***Annex***  
***to the permanent Global Note***  
***Terms and Conditions***

### Schedule 3 Selling Restrictions

- 1 **General:** Neither the Issuer nor the Purchaser make any representation that any action will be taken in any jurisdiction by the Purchaser or the Issuer that would permit a public offering of the Notes, in any country or jurisdiction where action for that purpose is required. The Purchaser will comply to the best of its knowledge and belief in all material respects with all applicable laws and regulations in each jurisdiction in which it sells Notes. It will also ensure that no obligations are imposed on the Issuer in any such jurisdiction as a result of any of the foregoing actions. The Issuer will have no responsibility for, and the Purchaser will obtain any consent, approval or permission required by it for, the sale of Notes under the laws and regulations in force in any jurisdiction to which it is subject or in or from which it makes any sale.
- 2 **United States of America:** The Notes have not been and will not be registered under the Securities Act and may not be offered or sold within the United States except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act. The Purchaser represents that it has not offered or sold, and agrees that it will not offer or sell, any Notes constituting part of their respective allotment within the United States except in accordance with Rule 903 of Regulation S under the Securities Act. Accordingly, neither it, its affiliates, nor any persons acting on their behalf have engaged or will engage in any directed selling efforts with respect to the Notes and the Guarantee. Terms used in this paragraph have the meanings given to them by Regulation S.

In addition, the Purchaser represents, warrants and agrees that, except to the extent permitted under U.S. Treasury Regulations section 1.163-5(c)(2)(i)(D) (the "D Rules"):

- (a) It has not offered or sold Notes, and during the 40-day restricted period shall not offer or sell Notes, directly or indirectly to a United States person or to a person who is within the United States or its possessions, and it has not delivered and shall not deliver within the United States or its possessions definitive Notes that are sold during the restricted period;
- (b) it has and throughout the restricted period they shall have in effect procedures reasonably designed to ensure that their employees or agents who are directly engaged in selling Notes are aware that the Notes may not be offered or sold during the restricted period to a United States person or to a person who is within the United States or its possessions, except as permitted by the D Rules;
- (c) with respect to each affiliate that acquires Notes from it for the purpose of offering or selling such Notes during the restricted period, it either (i) repeats and confirms the representations contained in clauses (a) and (b) of this paragraph on behalf of such affiliate or (ii) agrees that it shall obtain from such affiliate for the benefit of the Issuer the representations contained in Clauses (a), (b) and (c) of this paragraph; and
- (e) it shall obtain for the benefit of the Issuer the representations and agreements contained in clauses (a), (b), (c) and (d) of this paragraph from any person other than its affiliate with whom it enters into a written contract, as defined in U.S. Treasury Regulations section § 1.163-5(c)(2)(i)(D)(4), for the offer or sale of Notes during the restricted period.

Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code of 1986, as amended and Treasury Regulations thereunder, including the D Rules.

- 3 **United Kingdom:** The Purchaser represents, warrants and agrees that:
- (a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of section 21 of the Financial Services and Markets Act 2000 (the "**FSMA**")) received by it in connection with the issue or sale of any Notes in circumstances in which section 21(1) of the FSMA does not apply to the Issuer; and
  - (b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Notes in, from or otherwise involving the United Kingdom.

This Agreement has been entered into on the date first above written.

**HSBC TRINKAUS & BURKHARDT AG**

(hereinafter the "Lender ")

grants

**HSBC Trinkaus & Burkhardt AG**  
Königsallee 21/23, 40212 Düsseldorf, Federal Republic of Germany  
(hereinafter the "Borrower ")

a subordinated loan in the amount of

**EUR 150,000,000.00**

(in words: Euro one hundred fifty million) (the "Nominal Amount")  
(the "Subordinated Loan")

at the following terms:

1.

Drawdown of the Subordinated Loan

The Subordinated Loan will be drawn down on **30 June 2014** (the "Drawdown Date").

The Borrower's Euro bank account details to receive the payment on the Drawdown Date are:

Bank:	HSBC Trinkaus & Burkhardt AG
SWIFT Address / Branch Identifier Code (BIC):	TUBDDEDD
Account Number:	398 1895 818
International Bank Account Number (IBAN):	DE43300308803981895818

2.

Status

- (1) This Subordinated Loan constitutes direct, unsecured, subordinated obligations of the Borrower which rank subordinated to all Borrower's Senior Ranking Debt (as defined below) and at least pari passu amongst themselves and with all present or future unsecured obligations of the Borrower which rank subordinated to all Borrower's Senior Ranking Debt. In the event of liquidation, dissolution or insolvency of the Borrower or any proceeding for the avoidance of insolvency of the Borrower, the obligations of the Borrower under the Subordinated Loan shall be subordinated to the claims of all creditors of Borrower's Senior Ranking Debt so that in any such event payments in respect of the Subordinated Loan will not be made until all claims against the Borrower's Senior Ranking Debt have been satisfied in full. Subject to these provisions, the Borrower remains free to fulfil its obligations arising from the Subordinated Loan from its free assets. The Lender shall not be entitled to offset claims arising from this Subordinated Loan against any claims of the Borrower.

- (2) "**Borrower's Senior Ranking Debt**" means (i) unsubordinated obligations, (ii) subordinated obligations within the meaning of section 39 paragraph 1 of the German Insolvency Code (*Insolvenzordnung*) and (iii) any subordinated obligations required to be preferred by mandatory provisions of law.
- (3) The Subordinated Loan is not, or shall be at any time, guaranteed or collateralized by the Borrower or any other person.
- (4) No subsequent agreement may limit the subordination pursuant to the provisions set out in Clause 2 paragraph (1) or limit the term of the Subordinated Loan or shorten any applicable notice period in respect of the Subordinated Loan. If the Subordinated Loan is repaid early because of other reasons than described in Clause 6, the early repayment amounts must be returned to the Borrower irrespective of any agreement to the contrary, unless the Competent Authority has given its consent to such early repayment.

### 3.

#### Interest

- (1) The Subordinated Loan shall bear interest on the Nominal Amount from and including the Drawdown Date at the Rate of Interest (as defined below). Interest shall be due and payable quarterly in arrears on each Interest Payment Date. "**Interest Payment Date**" shall mean **30 March, 30 June, 30 September and 30 December** of each year unless such date should fall on a day which is not a Business Day (as defined below), in which event the Interest Payment Date shall be the immediately following Business Day, unless such day would thereby fall into the next calendar month, in which event the Interest Payment Date shall be the immediately preceding Business Day. The period from and including the Drawdown Date to but excluding the first Interest Payment Date and each period thereafter beginning on and including an Interest Payment Date to but excluding the following Interest Payment Date are referred to herein as an "**Interest Period**". First Interest Payment Date shall be 30 September 2014.
- (2) "**Business Day**" shall mean each TARGET Business Day on which commercial banks in Düsseldorf are open for general business. "**TARGET Business Day**" shall mean a day (except Saturday and Sunday) on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System is operating in order to effect the relevant payments.
- (3) The applicable rate of interest for each Interest Period (the "**Rate of Interest**") shall be determined by HSBC Trinkaus & Burkhardt AG (the "**Interest Determination Bank**") on the basis of the following provisions:
  - a) The Rate of Interest for the respective Interest Period shall be the Euro Interbank Offered Rate ("**EURIBOR**") as defined in subsections b), c) and d) plus 1.57% per annum (the "**Margin**"). In case that the EURIBOR has a negative value (being lower than 0% p.a.), the Rate of Interest will be the Margin.
  - b) On the second TARGET Business Day prior to Drawdown Date and thereafter on the second TARGET Business Day prior to each Interest Payment Date (the "**Interest Determination Date**"), the respective Interest Determination Bank will determine the EURIBOR for the Interest Period following the Interest Determination Date by reference to the rate quoted on page EURIBOR01 of the Reuters Monitor at

11.00 a.m. (Brussels time) for 3-months-EUR-deposits.

- c) If, on any Interest Determination Date, no EURIBOR according to subsection b) is published, the Interest Determination Bank will ask five leading banks operating in the euro zone interbank market for their respective EURIBOR quotations for 3-months-EUR-deposits. If at least two banks have provided quotations, the EURIBOR for such Interest Period shall be the arithmetic mean of such quotations calculated by the Interest Determination Bank. As used herein "euro zone" shall mean the zone comprising the Member States of the European Union which have adopted the euro as their lawful currency in accordance with the Treaty establishing the European Communities, as amended by the Treaty on European Union.
- d) If, on any Interest Determination Date the EURIBOR cannot be quoted according to the provisions of subsections b) or c) the Interest Determination Bank will determine the applicable EURIBOR in its reasonable discretion with the due care of a proper merchant and the consent of the Lender.
- (4) The Interest Determination Bank will on each Interest Determination Date determine the Rate of Interest and the Amount of Interest for the relevant Interest Period. The "Amount of Interest" with respect to the Subordinated Loan shall be calculated by applying the Rate of Interest to the outstanding principal amount of the Subordinated Loan, multiplying the resulting amount by the actual number of days of the respective Interest Period divided by 360 (actual/360) and rounding the result thereof to the nearest EUR-Cent (half a EUR-Cent being rounded upwards).
- (5) The Interest Determination Bank shall inform the Lender about the Rate of Interest according to subsection (3) and the Amount of Interest payable on the Subordinated Loan for the relevant Interest Period according to subsection (4) without undue delay.
- (6) All certificates, communications, notices, opinions, determinations, quotations and decisions given by the Interest Determination Bank for the purpose of the provisions of this Clause 3 shall (in the absence of manifest error) be binding upon the Borrower and the Lender. The Interest Determination Bank in its capacity as such shall only be liable if it fails to act with the due care of a proper merchant (*Sorgfalt eines ordentlichen Kaufmanns*).

#### 4.

#### Repayment

Unless early repaid in accordance with Clause 6 the Subordinated Loan shall be repaid at par on the Interest Payment Date falling in June 2024 (the "Maturity Date").

#### 5.

#### Payments

All payments under this Subordinated Loan shall be made by the Borrower in the lawful currency of the Federal Republic of Germany to the Lender without any deduction of whatsoever nature and free of any charges. This obligation comprises the timely transfer of monies which shall be made under any and all circumstances and irrespective of any present or future payment or clearing agreement, and regardless of the nationality, domicile or residence of the claimant and without requiring the execution of any other formality.

The Lender's Euro bank account details to receive any Euro payment in respect of this contract are:

6.

Early Repayment

- (1) *Early Repayment at the option of the Borrower:* The Subordinated Loan may be repaid early at the option of the Borrower in whole, but not in part, conditional on the prior permission of the Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht; BaFin*) (the "**Competent Authority**"), on the Interest Payment Date falling in June 2019 and on each Interest Payment Date thereafter (each an "**Early Repayment Date**") at its Nominal Amount plus interest accrued and unpaid until the Early Repayment Date (excluding), if any, by giving notice to the Lender no later than five Business Days prior to the respective Early Repayment Date.
- (2) *Early Repayment for Regulatory Purposes:* This Subordinated Loan may be repaid early in whole but not in part at its Nominal Amount plus interest accrued and unpaid until the repayment date (excluding), if any, at the Borrowers choice and conditional on the prior permission of the Competent Authority, at any time on giving of not less than 30 nor more than 60 days' notice, if the Borrower considers at his own judgment that (a) the Subordinated Loan is not eligible (or no longer eligible) to qualify for the inclusion in full in the Borrower's own funds (*Eigenmittel*) as Tier 2 capital or (b) it is in any other way subject to a less favourable treatment with regards to the qualification as own funds than on the Drawdown Date.
- (3) *Early Repayment for Tax Purposes:* The Borrower may, conditional on the prior permission of the Competent Authority, upon the giving of not less than 30 nor more than 60 days' notice, repay the Subordinated Loan early in whole but not in part at its Nominal Amount plus interest accrued and unpaid until the repayment date (excluding), if any, if the tax treatment of the Subordinated Loan is modified (especially, but not exclusively, in regard to the obligation to pay Additional Amounts (as defined in Clause 7)) and this modification has in its own judgment a material negative impact for the Borrower in any way.
- (4) A termination of the Subordinated Loan according to Clause 6 paragraph (1), (2) or (3) shall be made by written notice to the Lender. Such notice of termination is irrevocable and shall contain the date fixed for early repayment and, in case of termination according to Clause 6 paragraph (2) or (3), the reason for termination of the Subordinated Loan.
- (5) The Lender shall not be entitled to call the Subordinated Loan for early repayment.

7.  
Taxation

All payments of principal and interest due under the Subordinated Loan shall be made without a withholding or deduction for or on account of any present or future taxes, duties or governmental charges of whatever nature imposed, levied or collected by or in or on behalf of the Federal Republic of Germany or any political subdivision or any authority therein or thereof having power to tax, unless the withholding or deduction of such taxes, duties, assessments or other charges is required by law or regulation. In such event, the Borrower shall pay such additional amounts as shall be necessary to ensure that the net amounts received by the Lender after such withholding or deduction shall be not less than the respective amounts of principal and/or interest which would have been receivable in respect of the Subordinated Loan in the absence of such withholding or deduction (the "Additional Amounts").

However, the Borrower shall not be obliged to pay any such additional amounts which:

- (a) are payable otherwise than by withholding or deduction from payments of principal or interest made by the Borrower under this Subordinated Loan; or
- (b) are payable by reason of the Lender having some connection with the Federal Republic of Germany other than by reason only of the entitlement to the Subordinated Loan or the receipt of the relevant repayment thereof; or
- (c) are payable because such deduction or withholding is pursuant to (i) any European Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty, agreement or understanding relating to such taxation and to which the Federal Republic of Germany or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty, agreement or understanding; or
- (d) are payable by the Lender who could lawfully avoid, but has not so avoided, such deduction or withholding by complying or procuring any statutory requirements or by making or procuring a declaration of non-residence or other similar claim for exemption to any tax authority in the place where the payments under the Subordinated Loan are made; or
- (e) are payable by reason of a change in law that becomes effective more than thirty (30) days after the relevant payment becomes due.

8.

Applicable Law, Place of Performance, Jurisdiction

- (1) The Subordinated Loan as well as the rights and duties arising there from shall be governed by the laws of the Federal Republic of Germany except for the conflict of law rules of German private international law.
- (2) Place of performance and place of jurisdiction shall be Düsseldorf, Federal Republic of Germany.

9.

Miscellaneous

- (1) Any amendment of or change to this Subordinated Loan, including this paragraph (1), must be made in writing and is subject to the compliance with the regulatory prerequisites for the Subordinated Loan to be classified as regulatory Tier 2 capital.
- (2) Should any provision of this Subordinated Loan be or become in whole or in part void or invalid or impracticable, the remaining provisions of this Subordinated Loan shall thereby not be affected. Any deficiency in this Subordinated Loan which might result from the voidness or invalidity or impracticability of any provision shall be remedied by way of interpretation according to the spirit and intent of this Subordinated Loan.
- (3) This agreement may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same agreement, and any party may enter into this agreement by executing a counterpart.

Düsseldorf, 26 June 2014

For and behalf of

**HSBC Trinkaus & Burkhardt AG**

(hereinafter the "Lender ")

grants

**HSBC Trinkaus & Burkhardt AG**  
Königsallee 21/23, 40212 Düsseldorf, Federal Republic of Germany  
(hereinafter the "Borrower ")

a subordinated loan in the amount of

**EUR 200,000,000**  
(in words: Euro two hundred million) (the "Nominal Amount")  
(the "Subordinated Loan")

at the following terms:

**1.**

**Disbursement of the Subordinated Loan**

The proceeds of the Subordinated Loan shall be credited on 11 December 2018 (the "Disbursement Date") to the Disbursement Account. The Borrower's Euro bank account (the "Disbursement Account") details are:

Bank:	HSBC Trinkaus & Burkhardt AG
SWIFT Address/ Branch Identifier Code (BIC):	TUBDDEDD
Account Number:	398 1895 826
International Bank Account Number (IBAN):	DE21300308803981895826

**2.**

**Status**

- (1) Claims in respect of this Subordinated Loan constitute direct, unsecured, subordinated obligations of the Borrower ranking subordinated to all Borrower's Senior Ranking Debt (as defined below) and *pari passu* amongst themselves and with all present or future unsecured obligations of the Borrower which rank subordinated to all Borrower's Senior Ranking Debt, except as otherwise provided by applicable law or the terms of any such other obligation. In the event of liquidation, dissolution or insolvency of the Borrower or any proceeding for the avoidance of insolvency of the Borrower, the obligations of the Borrower under the Subordinated Loan shall be subordinated to the claims of all creditors of Borrower's Senior Ranking Debt so that in any such event payments in respect of the Subordinated Loan will not be made until all claims against the Borrower's Senior Ranking Debt have been satisfied in full. Subject to these provisions, the Borrower remains free to fulfil its obligations arising from the Subordinated Loan from its free assets. The Lender shall not be entitled to offset claims arising from this Subordinated Loan against any claims of the Borrower.

"**Borrower's Senior Ranking Debt**" means (i) unsubordinated obligations, (ii) subordinated obligations within the meaning of section 39 paragraph 1 of the German Insolvency Code (*Insolvenzordnung*) and (iii) any subordinated obligations required to be preferred by its terms and/or mandatory provisions of applicable law.

- (2) The Subordinated Loan is not, or shall be at any time, guaranteed or collateralized by the Borrower or any other person.
- (3) No subsequent agreement may limit the subordination pursuant to the provisions set out in Clause 2 paragraph (1) or limit the term of the Subordinated Loan or shorten any applicable notice period in respect of the Subordinated Loan. If the Subordinated Loan is repaid early because of other reasons than described in Clause 6, the early repayment amounts must be returned to the Borrower irrespective of any agreement to the contrary, unless the Competent Authority has given its consent to such early repayment.

### 3. Interest

- (1) The Subordinated Loan shall bear interest on the Nominal Amount from and including the Disbursement Date at the Rate of Interest (as defined below). Interest shall be due and payable quarterly in arrear on each Interest Payment Date. "**Interest Payment Date**" shall mean **11 March, 11 June, 11 September and 11 December** of each year, unless such date should fall on a day which is not a Business Day (as defined below), in which event the Interest Payment Date shall be the immediately following Business Day, unless such day would thereby fall into the next calendar month, in which event the Interest Payment Date shall be the immediately preceding Business Day. The period from and including the Disbursement Date to but excluding the first Interest Payment Date and each period thereafter beginning on and including an Interest Payment Date to but excluding the following Interest Payment Date are referred to herein as an "**Interest Period**". First Interest Payment Date shall be 11 March 2019.
- (2) "**Business Day**" shall mean each TARGET Business Day on which commercial banks in Düsseldorf are open for general business. "**TARGET Business Day**" shall mean a day (except Saturday and Sunday) on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System is operating in order to effect the relevant payments.
- (3) The applicable rate of interest for each Interest Period (the "**Rate of Interest**") shall be determined by HSBC Trinkaus & Burkhardt AG (the "**Interest Determination Bank**") on the basis of the following provisions:
  - a) The Rate of Interest for the respective Interest Period shall be the Euro Interbank Offered Rate ("**EURIBOR**") as defined in subsections b) to f) below plus **2.32% p.a.** (the "**Margin**"). In case that the EURIBOR has a negative value (being lower than 0% p.a.), the Rate of Interest will be the Margin as reduced by said negative rate respectively, but at least 0%.
  - b) On the second TARGET Business Day prior to Disbursement Date and thereafter on the second TARGET Business Day prior to each Interest Payment Date (the "**Interest Determination Date**"), the respective Interest Determination Bank will determine the EURIBOR for the Interest Period following the Interest Determination Date by reference to the rate quoted on page EURIBOR01 of the Reuters Monitor at 11.00 a.m. (Brussels time) for 3-months-EUR-deposits.
  - c) If, on any Interest Determination Date, no EURIBOR according to subsection b) is

published, the Interest Determination Bank will ask five leading banks operating in the euro zone interbank market for their respective EURIBOR quotations for 3-months-EUR-deposits. If at least two banks have provided quotations, the EURIBOR for such Interest Period shall be the arithmetic mean of such quotations calculated by the Interest Determination Bank. As used herein "euro zone" shall mean the zone comprising the Member States of the European Union which have adopted the euro as their lawful currency in accordance with the Treaty establishing the European Communities, as amended by the Treaty on European Union.

- d) If, on any Interest Determination Date EURIBOR cannot be quoted according to the provisions of subsections c) the Interest Determination Bank will determine EURIBOR in its reasonable discretion with the due care of a proper merchant (Sorgfalt eines ordentlichen Kaufmanns) and the consent of the Lender.
- e) If EURIBOR ceases to be published for a period of at least five Business Days for whatever reason (e.g. as a result of EURIBOR ceasing to be calculated or administered for publication), the Interest Determination Bank will (in consultation with the Lender) use reasonable endeavours to determine the rate that has replaced EURIBOR in customary market usage for determining floating interest rates denominated in Euro (the "**Successor Rate**"), or if no Successor Rate is available apply such other rate as the Interest Determination Bank (in consultation with the Lender and acting in good faith and a commercially reasonable manner) determines as being most comparable to EURIBOR (the "**Alternative Rate**").

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If the Interest Determination Bank determines a Successor Rate or an Alternative Rate as described above, the Interest Determination Bank may also (following consultation with the Lender) specify changes to the Subordinated Loan (including, for the avoidance of doubt, to the method for determining the Rate of Interest) in order to follow market practice in relation to the Successor Rate or Alternative Rate (as the case may be), and shall also specify any other changes (including to the Margin) which the Interest Determination Bank, following consultation with the Lender, determines in good faith are reasonably necessary to ensure the proper operation and comparability to EURIBOR of the Successor Rate or Alternative Rate (including, if required, the application of an adjustment spread in order to reduce or eliminate, to the extent reasonably practicable in the circumstances, any economic prejudice or benefit (as the case may be) to the Lender or the Borrower (as the case may be) as a result of the replacement of the EURIBOR (the "**Adjustment Spread**")) which changes shall apply to the Subordinated Loan for all future Interest Periods (subject to the subsequent operation of this subsection (e)). The Interest Determination Bank will give notice to the Lender of all such events without undue delay and any amendments required to be made to the Subordinated Loan shall be made in accordance with paragraph (1) of Clause 9.

- f) If the Interest Determination Bank and the Lender cannot agree a Successor Rate, an Alternative Rate, any Adjustment Spread or any changes to the Subordinated Loan as described in subsection (e), the Interest Determination Bank shall with the consent of the Lender, such consent not to be unreasonably withheld, and at the mutual cost of the Borrower and the Lender appoint an independent adviser (being an independent financial institution of international repute or other independent financial adviser experienced in the international financial markets) to make any necessary determination and such determination shall be binding on the Lender, the Borrower and the Interest Determination Bank.
- (4) The Interest Determination Bank will on each Interest Determination Date determine the Rate of Interest and the Amount of Interest for the relevant Interest Period. The "**Amount of Interest**" with respect to the Subordinated Loan shall be calculated by applying the Rate of Interest to the outstanding principal amount of the Subordinated

Loan, multiplying the resulting amount by the actual number of days of the respective Interest Period divided by 360 (actual/360) and rounding the result thereof to the nearest EUR-Cent (half a EUR-Cent being rounded upwards).

- (5) The Interest Determination Bank shall inform the Lender about the Rate of Interest according to subsection (3) and the Amount of Interest payable on the Subordinated Loan for the relevant Interest Period according to subsection (4) without undue delay.
- (6) All certificates, communications, notices, opinions, determinations, quotations and decisions given by the Interest Determination Bank for the purpose of the provisions of this Clause 3 shall (in the absence of manifest error) be binding upon the Borrower and the Lender. The Interest Determination Bank in its capacity as such shall only be liable if it fails to act with the due care of a proper merchant (*Sorgfalt eines ordentlichen Kaufmanns*).

#### 4.

#### Repayment

Unless repaid early in accordance with Clause 6 the Subordinated Loan shall be repaid at par on the Interest Payment Date falling in December 2028 (the "**Maturity Date**").

#### 5.

#### Payments

All payments under this Subordinated Loan shall be made by the Borrower in the lawful currency of the Federal Republic of Germany to the Lender (currently Euro) without any deduction of whatsoever nature and free of any charges. This obligation comprises the timely transfer of monies which shall be made under any and all circumstances and irrespective of any present or future payment or clearing agreement, and regardless of the nationality, domicile or residence of the claimant and without requiring the execution of any other formality.

The Lender's Euro bank account details to receive any Euro payment in respect of this contract are:

#### 6.

#### Early Repayment

- (1) *Early Repayment at the option of the Borrower*: The Subordinated Loan may be repaid early at the option of the Borrower in whole, but not in part, conditional on the prior permission of the competent authority (the "**Competent Authority**"), on the Interest Payment Date falling in December 2023 and on each Interest Payment Date thereafter (each an "**Early Repayment Date**") at its Nominal Amount plus interest accrued and unpaid to (but excluding) the Early Repayment Date, if any, by giving notice to the Lender no later than ten Business Days prior to the respective Early Repayment Date.

- (2) *Early Repayment for Regulatory Purposes:* This Subordinated Loan may be repaid early in whole but not in part at its Nominal Amount plus interest accrued and unpaid until the repayment date (excluding), if any, conditional on the prior permission of the Competent Authority, at any time on giving of not less than 10 nor more than 60 days' notice, if a change in the regulatory classification of the Subordinated Loan occurs that would be likely to result in (a) the Subordinated Loan is in full or in part not eligible (or no longer eligible) to qualify for the inclusion in full in the Borrower's of own funds (*Eigenmittel*) as Tier 2 capital or (b) the Subordinated Loan is in full or in part in any other way subject to a less favourable treatment with regards to the qualification as own funds than on the Disbursement Date.
- (3) *Early Repayment for Tax Purposes:* The Borrower may, conditional on the prior permission of the Competent Authority, upon the giving of not less than 10 nor more than 60 days' notice, repay the Subordinated Loan early in whole but not in part at its Nominal Amount plus interest accrued and unpaid until the repayment date (excluding), if any, if the tax treatment of the Subordinated Loan is modified (especially, but not exclusively, in regard to the obligation to pay Additional Amounts (as defined in Clause 7)) and this modification would in the sole discretion of the Borrower be likely to result in a material negative impact for the Borrower in any way.
- (4) A termination of the Subordinated Loan according to Clause 6 paragraph (1), (2) or (3) shall be made by written notice to the Lender. Such notice of termination is irrevocable and shall contain the date fixed for early repayment and, in case of termination according to Clause 6 paragraph (2) or (3), the reason for termination of the Subordinated Loan.

Any such termination shall be effective only to the extent, that

- (a) the conditions of the Applicable Regulations are met, and
- (b) the Competent Authority has approved the early repayment.

**"Applicable Regulations"** means the provisions of bank supervisory laws relating to capital adequacy applicable to the Borrower and the Borrower together with its consolidated subsidiaries applicable from time to time (particularly, the German Banking Act (*Kreditwesengesetz*) and Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms of 26 June 2013, as amended (the "**CRR**") and any regulations and other rules thereunder applicable from time to time (including, all guidelines and recommendations of the European Banking Authority, the administrative practice of the respective competent authority, any applicable decision of a court and any applicable transitional provisions).

- (5) The Lender shall not be entitled to call the Subordinated Loan for early repayment.

## 7. Taxation

All payments of principal and interest due under the Subordinated Loan shall be made without a withholding or deduction for or on account of any present or future taxes, duties or governmental charges of whatever nature imposed, levied or collected by or in or on behalf of the Federal Republic of Germany or any political subdivision or any authority therein or thereof having power to tax, unless the withholding or deduction of such taxes, duties, assessments or other charges is required by law or regulation. In such event, the Borrower shall pay such additional amounts (for avoidance of doubt, this applies to amounts of interest

only) as shall be necessary to ensure that the net amounts received by the Lender after such withholding or deduction shall be not less than the respective amounts of interest which would have been receivable in respect of the Subordinated Loan in the absence of such withholding or deduction (the "**Additional Amounts**").

However, the Borrower shall not be obliged to pay any such additional amounts which:

- (a) are payable otherwise than by withholding or deduction from payments of principal or interest made by the Borrower under this Subordinated Loan; or
- (b) are payable by reason of the Lender having some connection with the Federal Republic of Germany other than by reason only of the entitlement to the Subordinated Loan or the receipt of the relevant repayment thereof; or
- (c) are payable because such deduction or withholding is pursuant to (i) any European Directive or Regulation concerning the taxation of interest income, or (ii) any international treaty, agreement or understanding relating to such taxation and to which the Federal Republic of Germany or the European Union is a party, or (iii) any provision of law implementing, or complying with, or introduced to conform with, such Directive, Regulation, treaty, agreement or understanding; or
- (d) are payable by the Lender who could lawfully avoid, but has not so avoided, such deduction or withholding by complying or procuring any statutory requirements or by making or procuring a declaration of non-residence or other similar claim for exemption to any tax authority in the place where the payments under the Subordinated Loan are made; or
- (e) are payable by reason of a change in law that becomes effective more than thirty (30) days after the relevant payment becomes due.

#### 8.

##### **Applicable Law, Place of Performance, Jurisdiction**

- (1) The Subordinated Loan as well as the rights and duties arising there from shall be governed by the laws of the Federal Republic of Germany except for the conflict of law rules of German private international law.
- (2) Place of performance and place of jurisdiction shall be Düsseldorf, Federal Republic of Germany.

#### 9.

##### **Miscellaneous**

- (1) Any amendment of or change to this Subordinated Loan, including this paragraph (1), must be made in writing and is subject to the compliance with the regulatory prerequisites for the Subordinated Loan to be classified as regulatory Tier 2 capital.
- (2) Should any provision of this Subordinated Loan be or become in whole or in part void or invalid or impracticable, the remaining provisions of this Subordinated Loan shall thereby not be affected. Any deficiency in this Subordinated Loan which might result from the voidness or invalidity or impracticability of any provision shall be remedied by way of interpretation according to the spirit and intent of this Subordinated Loan.

- (3) This agreement may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same agreement, and any party may enter into this agreement by executing a counterpart.

Düsseldorf, 7 December 2018

**HSBC Trinkaus & Burkhardt AG**

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Die

**HSBC Trinkaus & Burkhardt  
Kommanditgesellschaft auf Aktien  
Düsseldorf**  
(die "Darlehensnehmerin")

bekannt, von der

(die "Darlehensgeberin")

ein Darlehen

in Höhe von

**EUR 10.000.000,--**  
(in Worten: Euro zehn Millionen)

erhalten zu haben.

Für das Darlehen gelten die folgenden Bedingungen:

1.  
Verzinsung

- (1) Das Darlehen ist ab dem Valutierungstag (einschließlich), dem 25. Juni 2002, mit 5,5 % jährlich zu verzinsen. Die Zinsen werden jährlich nachträglich am 26. Juni eines jeden Jahres entrichtet. Erster Zinstermin ist der 26. Juni 2003 für den Zeitraum vom Valutierungstag bis zum 25. Juni 2003 (einschließlich).
- (2) Die Zinsen werden auf der Basis eines Jahres mit 360 Tagen im Jahr und 30 Tagen im Monat berechnet.
- (3) Der Zinslauf des Darlehens endet mit Ablauf des dem Fälligkeitstag vorhergehenden Tages; dies gilt auch dann, wenn die Leistung gemäß § 193 BGB bewirkt wird.

2.  
Rückzahlung

- (1) Das Darlehen ist am 26. Juni 2028 zum Nennbetrag zurückzuzahlen.
- (2) Nach Rückzahlung des Darlehens ist der Schuldschein zurückzugeben.

### 3. Zahlungen

Falls eine Zahlung von Kapital oder Zinsen an einem Tag zu leisten ist, der kein Geschäftstag ist, so erfolgt die Zahlung am nächstfolgenden Geschäftstag. In diesem Fall steht der Darlehensgeberin weder eine Zahlung noch ein Anspruch auf Verzugszinsen oder eine andere Entschädigung wegen dieser Verzögerung zu. Als „Geschäftstag“ in diesem Sinne gilt ein Tag (außer Samstag und Sonntag), an dem das TARGET-System und Banken in Düsseldorf Zahlungen in EUR abwickeln.

### 4. Kündigung

Ein Kündigungsrecht besteht weder für die Darlehensnehmerin noch für die Darlehensgeberin.

### 5. Status

- (1) Die Forderungen der Darlehensgeberin oder etwaiger Zessionare gegen die Darlehensnehmerin auf Zahlung von Kapital und Zinsen gehen im Falle der Insolvenz und der Liquidation den gegenwärtigen und zukünftigen Forderungen aller Gläubiger der Darlehensnehmerin, die nicht ebenfalls nachrangig sind, im Range nach. Zahlungen von Kapital und Zinsen auf das Darlehen erfolgen in einem solchen Fall erst nach Begleichung aller anderen nicht ebenfalls nachrangigen Verbindlichkeiten der Darlehensnehmerin. Die Darlehensnehmerin muß auf ihre Verbindlichkeiten nach diesem Vertrag weder Tilgungs- noch Zinszahlungen leisten, wenn dies zur Folge hätte, daß das haftende Eigenkapital bzw., bei einer Restlaufzeit von weniger als zwei Jahren, die Eigenmittel der Darlehensnehmerin oder der Gruppe im Sinne des Kreditwesengesetzes (KWG), zu der die Darlehensnehmerin gehört, die gesetzlichen Anforderungen nicht mehr erfüllen. Vorzeitige Tilgungs- und Zinszahlungen sind der Darlehensnehmerin unbeschadet entgegenstehender Vereinbarungen zurückzuerstatten. Die Aufrechnung von Kapital- und Zinsforderungen der Darlehensgeberin oder etwaiger Zessionare aus dem Darlehen gegen Forderungen der Darlehensnehmerin ist ausgeschlossen.
- (2) Nachträglich können die Nachrangigkeit gemäß Absatz (1) nicht beschränkt, die Laufzeit gemäß Ziffer 2. nicht verkürzt sowie die Unkündbarkeit gemäß Ziffer 4. nicht aufgehoben werden. Der Darlehensnehmerin ist ein vorzeitiger Rückerwerb oder eine anderweitige Rückzahlung ohne Rücksicht auf entgegenstehende Vereinbarungen zurückzugewähren, sofern nicht das Kapital durch die Einzahlung anderen, zumindest gleichwertigen haftenden Eigenkapitals bzw., bei einer Restlaufzeit von weniger als zwei Jahren, durch die Einzahlung anderer, zumindest gleichwertiger Eigenmittel ersetzt worden ist oder die Bundesanstalt für Finanzdienstleistungsaufsicht der vorzeitigen Rückzahlung zugestimmt hat.
- (3) Für die Verbindlichkeiten aus diesem Darlehensvertrag dürfen keine vertraglichen Sicherheiten durch die Darlehensnehmerin oder durch Dritte bestellt werden. Früher oder künftig im Zusammenhang mit anderen Verbindlichkeiten bestellte Sicherheiten haften nicht für die Forderungen aus diesem Darlehen.

6.  
Aufrechnung

Die Darlehensnehmerin verzichtet hinsichtlich der Darlehensforderung auf Aufrechnung und Zurückbehaltungsrechte, solange und soweit das Darlehen zum gebundenen Vermögen im Sinne von § 54 a des Versicherungsaufsichtsgesetzes oder zu einer aufgrund inländischer gesetzlicher Vorschriften gebildeten Deckungsmasse für Schuldverschreibungen gehört; das gilt auch im Falle der Insolvenz.

7.  
Abtretung

Eine Abtretung der Darlehensforderung ist in einer Summe oder in Teilbeträgen von mindestens EUR 1.000.000,-- oder einem ganzzahligen Vielfachen davon jederzeit unbegrenzt zulässig. Jede Abtretung ist der Darlehensnehmerin unverzüglich anzuzeigen.

8.  
Anwendbares Recht, Erfüllungsort und Gerichtsstand

- (1) Form und Inhalt dieses Schuldscheins und alle sich aus diesem Darlehen ergebenden Rechte und Pflichten bestimmen sich ausschließlich nach dem Recht der Bundesrepublik Deutschland.
- (2) Erfüllungsort und Gerichtsstand ist Düsseldorf.

Düsseldorf, 26. Juni 2002

Die

**HSBC Trinkaus & Burkhardt KGaA**  
**Düsseldorf**  
(die "Darlehensnehmerin")

bekannt, von der

(die "Darlehensgeberin")

ein Darlehen

in Höhe von

**EUR 10.000.000,--**  
(in Worten: Euro zehn Millionen)

erhalten zu haben.

Für das Darlehen gelten die folgenden Bedingungen:

1.

Verzinsung

- (1) Das Darlehen ist ab dem Valutierungstag (einschließlich), dem 7. Juli 2005, mit 4,21 % jährlich zu verzinsen. Die Zinsen werden jährlich nachträglich am 7. Juli eines jeden Jahres entrichtet. Erster Zinstermin ist der 7. Juli 2006 für den Zeitraum vom Valutierungstag bis zum 6. Juli 2006 (einschließlich).
- (2) Die Berechnung der Zinsen erfolgt auf der Basis der abgelaufenen Tage einer Zinsperiode und der tatsächlichen Anzahl der Tage eines Jahres (365 bzw. 366) nach näherer Maßgabe der Bestimmungen der ISMA-Regel 251 (actual/actual).
- (3) Der Zinslauf des Darlehens endet mit Ablauf des dem Fälligkeitstag vorhergehenden Tages; dies gilt auch dann, wenn die Leistung gemäß § 193 BGB bewirkt wird.

2.

Rückzahlung

- (1) Das Darlehen ist am 7. Juli 2025 zum Nennbetrag zurückzuzahlen.
- (2) Nach Rückzahlung des Darlehens ist der Schuldschein zurückzugeben.

3.

Zahlungen

Falls eine Zahlung von Kapital oder Zinsen an einem Tag zu leisten ist, der kein Geschäftstag ist, so erfolgt die Zahlung am nächstfolgenden Geschäftstag. In diesem Fall steht der Darlehensgeberin weder eine Zahlung noch ein Anspruch auf Verzugszinsen oder eine andere Entschädigung wegen dieser Verzögerung zu. Als „Geschäftstag“ in diesem Sinne gilt ein Tag (außer Samstag und Sonntag), an dem das TARGET-System und Banken in Düsseldorf Zahlungen in EUR abwickeln.

4.

Kündigung

Ein Kündigungsrecht besteht weder für die Darlehensnehmerin noch für die Darlehensgeberin.

5.

Status

- (1) Die Forderungen der Darlehensgeberin oder etwaiger Zessionare gegen die Darlehensnehmerin auf Zahlung von Kapital und Zinsen gehen im Falle der Insolvenz und der Liquidation den gegenwärtigen und zukünftigen Forderungen aller Gläubiger der Darlehensnehmerin, die nicht ebenfalls nachrangig sind, im Range nach. Zahlungen von Kapital und Zinsen auf das Darlehen erfolgen in einem solchen Fall erst nach Begleichung aller anderen nicht ebenfalls nachrangigen Verbindlichkeiten der Darlehensnehmerin. Die Darlehensnehmerin muß auf ihre Verbindlichkeiten nach diesem Vertrag weder Tilgungs- noch Zinszahlungen leisten, wenn dies zur Folge hätte, daß das haftende Eigenkapital bzw., bei einer Restlaufzeit von weniger als zwei Jahren, die Eigenmittel der Darlehensnehmerin oder der Gruppe im Sinne des Kreditwesengesetzes (KWG), zu der die Darlehensnehmerin gehört, die gesetzlichen Anforderungen nicht mehr erfüllen. Vorzeitige Tilgungs- und Zinszahlungen sind der Darlehensnehmerin unbeschadet entgegenstehender Vereinbarungen zurückzuerstatten. Die Aufrechnung von Kapital- und Zinsforderungen der Darlehensgeberin oder etwaiger Zessionare aus dem Darlehen gegen Forderungen der Darlehensnehmerin ist ausgeschlossen.
- (2) Nachträglich können die Nachrangigkeit gemäß Absatz (1) nicht beschränkt, die Laufzeit gemäß Ziffer 2. nicht verkürzt sowie die Unkündbarkeit gemäß Ziffer 4. nicht aufgehoben werden. Der Darlehensnehmerin ist ein vorzeitiger Rückerwerb oder eine anderweitige Rückzahlung ohne Rücksicht auf entgegenstehende Vereinbarungen zurückzugewähren, sofern nicht das Kapital durch die Einzahlung anderen, zumindest gleichwertigen haftenden Eigenkapitals bzw., bei einer Restlaufzeit von weniger als zwei Jahren, durch die Einzahlung anderer, zumindest gleichwertiger Eigenmittel ersetzt worden ist oder die Bundesanstalt für Finanzdienstleistungsaufsicht der vorzeitigen Rückzahlung zugestimmt hat.
- (3) Für die Verbindlichkeiten aus diesem Darlehensvertrag dürfen keine vertraglichen Sicherheiten durch die Darlehensnehmerin oder durch Dritte bestellt werden. Früher oder künftig im Zusammenhang mit anderen Verbindlichkeiten bestellte Sicherheiten haften nicht für die Forderungen aus diesem Darlehen.

6.  
Aufrechnung

Die Darlehensnehmerin verzichtet hinsichtlich der Darlehensforderung auf Aufrechnung und Zurückbehaltungsrechte, solange und soweit das Darlehen zum gebundenen Vermögen im Sinne von § 54 des Versicherungsaufsichtsgesetzes oder zu einer aufgrund inländischer gesetzlicher Vorschriften gebildeten Deckungsmasse für Schuldverschreibungen gehört; das gilt auch im Falle der Insolvenz.

7.  
Abtretung

Eine Abtretung der Darlehensforderung ist in einer Summe oder in Teilbeträgen von mindestens EUR 1.000.000,-- oder einem ganzzahligen Vielfachen davon jederzeit unbegrenzt zulässig. Jede Abtretung ist der Darlehensnehmerin unverzüglich anzuzeigen.

8.  
Anwendbares Recht, Erfüllungsort und Gerichtsstand

Form und Inhalt dieses Schuldscheins und alle sich aus diesem Darlehen ergebenden Rechte und Pflichten bestimmen sich ausschließlich nach dem Recht der Bundesrepublik Deutschland.

Erfüllungsort und Gerichtsstand ist Düsseldorf.

Düsseldorf, 8. Juli 2005

**HSBC Trinkaus & Burkhardt KGaA**

Die

**HSBC Trinkaus & Burkhardt KGaA**  
**Düsseldorf**  
(die "Darlehensnehmerin")

bekannt, von der

(die "Darlehensgeberin")

ein Darlehen

in Höhe von

**EUR 5.000.000,--**  
(in Worten: Euro fünf Millionen)

erhalten zu haben.

Für das Darlehen gelten die folgenden Bedingungen:

1.

Verzinsung

- (1) Das Darlehen ist ab dem Valutierungstag (einschließlich), dem 8. Juli 2005, mit 4,21 % jährlich zu verzinsen. Die Zinsen werden jährlich nachträglich am 8. Juli eines jeden Jahres entrichtet. Erster Zinstermin ist der 8. Juli 2006 für den Zeitraum vom Valutierungstag bis zum 7. Juli 2006 (einschließlich).
- (2) Die Berechnung der Zinsen erfolgt auf der Basis der abgelaufenen Tage einer Zinsperiode und der tatsächlichen Anzahl der Tage eines Jahres (365 bzw. 366) nach näherer Maßgabe der Bestimmungen der ISMA-Regel 251 (actual/actual).
- (3) Der Zinslauf des Darlehens endet mit Ablauf des dem Fälligkeitstag vorhergehenden Tages; dies gilt auch dann, wenn die Leistung gemäß § 193 BGB bewirkt wird.

2.

Rückzahlung

- (1) Das Darlehen ist am 8. Juli 2025 zum Nennbetrag zurückzuzahlen.
- (2) Nach Rückzahlung des Darlehens ist der Schuldschein zurückzugeben.

### 3.

#### Zahlungen

Falls eine Zahlung von Kapital oder Zinsen an einem Tag zu leisten ist, der kein Geschäftstag ist, so erfolgt die Zahlung am nächstfolgenden Geschäftstag. In diesem Fall steht der Darlehensgeberin weder eine Zahlung noch ein Anspruch auf Verzugszinsen oder eine andere Entschädigung wegen dieser Verzögerung zu. Als „Geschäftstag“ in diesem Sinne gilt ein Tag (außer Samstag und Sonntag), an dem das TARGET-System und Banken in Düsseldorf Zahlungen in EUR abwickeln.

### 4.

#### Kündigung

Ein Kündigungsrecht besteht weder für die Darlehensnehmerin noch für die Darlehensgeberin.

### 5.

#### Status

- (1) Die Forderungen der Darlehensgeberin oder etwaiger Zessionare gegen die Darlehensnehmerin auf Zahlung von Kapital und Zinsen gehen im Falle der Insolvenz und der Liquidation den gegenwärtigen und zukünftigen Forderungen aller Gläubiger der Darlehensnehmerin, die nicht ebenfalls nachrangig sind, im Range nach. Zahlungen von Kapital und Zinsen auf das Darlehen erfolgen in einem solchen Fall erst nach Begleichung aller anderen nicht ebenfalls nachrangigen Verbindlichkeiten der Darlehensnehmerin. Die Darlehensnehmerin muß auf ihre Verbindlichkeiten nach diesem Vertrag weder Tilgungs- noch Zinszahlungen leisten, wenn dies zur Folge hätte, daß das haftende Eigenkapital bzw., bei einer Restlaufzeit von weniger als zwei Jahren, die Eigenmittel der Darlehensnehmerin oder der Gruppe im Sinne des Kreditwesengesetzes (KWG), zu der die Darlehensnehmerin gehört, die gesetzlichen Anforderungen nicht mehr erfüllen. Vorzeitige Tilgungs- und Zinszahlungen sind der Darlehensnehmerin unbeschadet entgegenstehender Vereinbarungen zurückzuerstatten. Die Aufrechnung von Kapital- und Zinsforderungen der Darlehensgeberin oder etwaiger Zessionare aus dem Darlehen gegen Forderungen der Darlehensnehmerin ist ausgeschlossen.
- (2) Nachträglich können die Nachrangigkeit gemäß Absatz (1) nicht beschränkt, die Laufzeit gemäß Ziffer 2. nicht verkürzt sowie die Unkündbarkeit gemäß Ziffer 4. nicht aufgehoben werden. Der Darlehensnehmerin ist ein vorzeitiger Rückerwerb oder eine anderweitige Rückzahlung ohne Rücksicht auf entgegenstehende Vereinbarungen zurückzugewähren, sofern nicht das Kapital durch die Einzahlung anderen, zumindest gleichwertigen haftenden Eigenkapitals bzw., bei einer Restlaufzeit von weniger als zwei Jahren, durch die Einzahlung anderer, zumindest gleichwertiger Eigenmittel ersetzt worden ist oder die Bundesanstalt für Finanzdienstleistungsaufsicht der vorzeitigen Rückzahlung zugestimmt hat.
- (3) Für die Verbindlichkeiten aus diesem Darlehensvertrag dürfen keine vertraglichen Sicherheiten durch die Darlehensnehmerin oder durch Dritte bestellt werden. Früher oder künftig im Zusammenhang mit anderen Verbindlichkeiten bestellte Sicherheiten haften nicht für die Forderungen aus diesem Darlehen.

6.  
Aufrechnung

Die Darlehensnehmerin verzichtet hinsichtlich der Darlehensforderung auf Aufrechnung und Zurückbehaltungsrechte, solange und soweit das Darlehen zum gebundenen Vermögen im Sinne von § 54 des Versicherungsaufsichtsgesetzes oder zu einer aufgrund inländischer gesetzlicher Vorschriften gebildeten Deckungsmasse für Schuldverschreibungen gehört; das gilt auch im Falle der Insolvenz.

7.  
Abtretung

Eine Abtretung der Darlehensforderung ist in einer Summe oder in Teilbeträgen von mindestens EUR 1.000.000,-- oder einem ganzzahligen Vielfachen davon jederzeit unbegrenzt zulässig. Jede Abtretung ist der Darlehensnehmerin unverzüglich anzuzeigen.

8.  
Anwendbares Recht, Erfüllungsort und Gerichtsstand

Form und Inhalt dieses Schuldscheins und alle sich aus diesem Darlehen ergebenden Rechte und Pflichten bestimmen sich ausschließlich nach dem Recht der Bundesrepublik Deutschland.

Erfüllungsort und Gerichtsstand ist Düsseldorf.

Düsseldorf, 11. Juli 2005

**HSBC Trinkaus & Burkhardt KGaA**

Die

**HSBC Trinkaus & Burkhardt  
Kommanditgesellschaft auf Aktien  
Düsseldorf**

(die "Darlehensnehmerin")

bekannt, von der

(die "Darlehensgeberin")

ein Darlehen

in Höhe von

**EUR 10.000.000,--**

(in Worten: Euro zehn Millionen)

erhalten zu haben.

Für das Darlehen gelten die folgenden Bedingungen:

1.

Verzinsung

- (1) Das Darlehen ist ab dem Valutierungstag (einschließlich), dem 25. Juni 2002, mit 5,5 % jährlich zu verzinsen. Die Zinsen werden jährlich nachträglich am 26. Juni eines jeden Jahres entrichtet. Erster Zinstermin ist der 26. Juni 2003 für den Zeitraum vom Valutierungstag bis zum 25. Juni 2003 (einschließlich).
- (2) Die Zinsen werden auf der Basis eines Jahres mit 360 Tagen im Jahr und 30 Tagen im Monat berechnet.
- (3) Der Zinslauf des Darlehens endet mit Ablauf des dem Fälligkeitstag vorhergehenden Tages; dies gilt auch dann, wenn die Leistung gemäß § 193 BGB bewirkt wird.

2.

Rückzahlung

- (1) Das Darlehen ist am 26. Juni 2023 zum Nennbetrag zurückzuzahlen.
- (2) Nach Rückzahlung des Darlehens ist der Schuldschein zurückzugeben.

### 3. Zahlungen

Falls eine Zahlung von Kapital oder Zinsen an einem Tag zu leisten ist, der kein Geschäftstag ist, so erfolgt die Zahlung am nächstfolgenden Geschäftstag. In diesem Fall steht der Darlehensgeberin weder eine Zahlung noch ein Anspruch auf Verzugszinsen oder eine andere Entschädigung wegen dieser Verzögerung zu. Als „Geschäftstag“ in diesem Sinne gilt ein Tag (außer Samstag und Sonntag), an dem das TARGET-System und Banken in Düsseldorf Zahlungen in EUR abwickeln.

### 4. Kündigung

Ein Kündigungsrecht besteht weder für die Darlehensnehmerin noch für die Darlehensgeberin.

### 5. Status

- (1) Die Forderungen der Darlehensgeberin oder etwaiger Zessionare gegen die Darlehensnehmerin auf Zahlung von Kapital und Zinsen gehen im Falle der Insolvenz und der Liquidation den gegenwärtigen und zukünftigen Forderungen aller Gläubiger der Darlehensnehmerin, die nicht ebenfalls nachrangig sind, im Range nach. Zahlungen von Kapital und Zinsen auf das Darlehen erfolgen in einem solchen Fall erst nach Begleichung aller anderen nicht ebenfalls nachrangigen Verbindlichkeiten der Darlehensnehmerin. Die Darlehensnehmerin muß auf ihre Verbindlichkeiten nach diesem Vertrag weder Tilgungs- noch Zinszahlungen leisten, wenn dies zur Folge hätte, daß das haftende Eigenkapital bzw., bei einer Restlaufzeit von weniger als zwei Jahren, die Eigenmittel der Darlehensnehmerin oder der Gruppe im Sinne des Kreditwesengesetzes (KWG), zu der die Darlehensnehmerin gehört, die gesetzlichen Anforderungen nicht mehr erfüllen. Vorzeitige Tilgungs- und Zinszahlungen sind der Darlehensnehmerin unbeschadet entgegenstehender Vereinbarungen zurückzuerstatten. Die Aufrechnung von Kapital- und Zinsforderungen der Darlehensgeberin oder etwaiger Zessionare aus dem Darlehen gegen Forderungen der Darlehensnehmerin ist ausgeschlossen.
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- (3) Für die Verbindlichkeiten aus diesem Darlehensvertrag dürfen keine vertraglichen Sicherheiten durch die Darlehensnehmerin oder durch Dritte bestellt werden. Früher oder künftig im Zusammenhang mit anderen Verbindlichkeiten bestellte Sicherheiten haften nicht für die Forderungen aus diesem Darlehen.

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Aufrechnung

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Form und Inhalt dieses Schuldscheins und alle sich aus diesem Darlehen ergebenden Rechte und Pflichten bestimmen sich ausschließlich nach dem Recht der Bundesrepublik Deutschland.

Erfüllungsort und Gerichtsstand ist Düsseldorf.

Düsseldorf, 26. Juni 2002