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NETTING ANALYSER LIBRARY

Legal opinion for CCP – Situs Version

The Futures and Options Association
2nd Floor
36-38 Botolph Lane
London
EC3R 8DE

27 February 2013

Dear Sirs

CCP Opinion in relation to Központi Elszámolóház és Értéktár (Budapest) Zrt. and KELER KSZF Központi Szerződő Fél Zrt.

You have asked us to give an opinion in respect of the laws of Hungary ("**this jurisdiction**") as to the effect of certain netting and set-off provisions and collateral arrangements in relation to **Központi Elszámolóház és Értéktár (Budapest) Zrt.** (in English "*the Central Clearinghouse and Depository (Budapest) Ltd.*") (the "**KELER**") and **KELER KSZF Központi Szerződő Fél Zrt.** (in English: "*KELER CCP Central Contracting Party Ltd.*") (the "**KELER CCP**") (KELER and KELER CCP are together the "**Clearing House**") as between the Clearing House and its clearing members (each a "**Member**").

We understand that your requirement is for the enforceability and validity of such netting and set-off provisions and collateral arrangements to be substantiated by a written and reasoned opinion letter.

References herein to "**this opinion**" are to the opinion given in Section 3.

1. TERMS OF REFERENCE

- 1.1 Except where otherwise defined herein, terms defined in the Rules have the same meaning in this opinion letter.
- 1.2 The opinions given in Section 3 are in respect of a Member's powers under the Clearing House Documentation as at the date of this opinion. We express no opinion

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as any provisions of the Rules of the Clearing House other than those on which we expressly opine.

1.3 Where Contracts are governed by laws other than the laws of this jurisdiction, the opinions contained in Section 3 are given in respect of only those Contracts which are capable, under their governing laws, of being terminated and liquidated in accordance with the provisions of the Netting Provision.

1.4 The opinions given in paragraph 3.8 are given only in relation to Non-cash Collateral comprising securities credited to an account.

1.5 Definitions

In this opinion, unless otherwise indicated:

- (a) **"Assessment Liability"** means a liability of a Member to pay an amount to the Clearing House (including a contribution to the assets or capital of the Clearing House, or to any default or similar fund maintained by the Clearing House); but excluding:
 - (i) any obligations to provide margin or collateral to the Clearing House, where calculated at any time by reference to Contracts open at that time;
 - (ii) membership fees, fines and charges;
 - (iii) reimbursement of costs incurred directly or indirectly on behalf of or for the Member or its own clients;
 - (iv) indemnification for any taxation liabilities;
 - (v) payment or delivery obligations under Contracts; or
 - (vi) any payment of damages awarded by a court or regulator for breach of contract, in respect of any tortious liability or for breach of statutory duty.
- (b) **"Banking Act"** means Act CXII of 1996 on credit institutions and financial services enterprises;
- (c) **"Capital Markets Act"** means Act CXX of 2001 on capital markets;
- (d) **"Civil Code"** means Act IV of 1959 on the Hungarian civil code;
- (e) **"Clearing House Documentation"** means the Clearing Agreement, the Contract on the Maintenance of Accounts and Rules;
- (f) **"Collateral"** means any asset provided by the Member for securing the performance of its obligations, including any Non-cash Collateral;



- (g) **"Companies Act"** means Act IV of 2006 on business associations;
- (h) **"Contract"** means the smallest standardized tradable unit of cleared exchange traded derivatives contracts predefined by products which is registered at the Clearing House;
- (i) **"Contract on Maintenance of Accounts"** means the agreement entered into by the Member and the Clearing House in the form attached hereto at Annex 2 (in relation to bank accounts), Annex 3 (in relation to securities accounts) and Annex 4 (in relation to securities custody accounts), pursuant to which the Clearing House opens and maintains an Individually Segregated Client Account or Omnibus Client Account or a House Account for the Member;
- (j) **"Court Enforcement Act"** means Act LIII of 1994 on judicial enforcement;
- (k) **"Court of Registration"** means the relevant Hungarian court of registration having jurisdiction over the relevant company or branch;
- (l) **"Clearing Agreement"** means a Model Form Clearing Agreement or an Equivalent Clearing Agreement;
- (m) **"Equivalent Clearing Agreement"** means any agreement or other document entered into by or on behalf of a Member pursuant to which such Member agrees to be bound by the Rules as a Member but which contains no other provisions which may be relevant to the matters opined on in this opinion letter;
- (n) **"EU"** means the European Union;
- (o) **"Financial Collateral Directive"** means Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements;
- (p) a reference to **"FSMA"** is to the UK Financial Services and Markets Act 2000;
- (q) **"General Terms of Business"** means the General Terms of Business of KELER as of January 1, 2013, available at:

http://www.keler.hu/keler/keler_files/File/szab%20E1lyzatok/KELER_szabalyzatok/%C1%DCSZ_pdf/2013/keler_general_business_rules_27_august_2012_update%20jan%202013.pdf

the Hungarian version as of January 1, 2013, is available at:

http://www.keler.hu/keler/keler_files/File/szab%20E1lyzatok/KELER_szabalyzatok/%C1%DCSZ_pdf/2013/keler_ausz_kornelk0130.pdf



"**General Terms of Business of CCP**" means the General Terms of Business of KELER CCP as of January 1, 2013, available at:

http://www.kelerkszf.hu/kelerkszf_files/File/Szabályzatok/2013/general%20business%20rules%20of%20keler%20ccp_04%2006%202012_update%20jan%202013.pdf

the Hungarian version as of January 1, 2013, is available at:

http://www.kelerkszf.hu/kelerkszf_files/File/Szabályzatok/2013/kszf_ausz_20130101_uj.pdf

- (r) "**HFSA**" means the Hungarian Financial Supervisory Authority;
- (s) "**House Account**" means the Member's own account opened and maintained with the Clearing House pursuant to section 2.4 of the General Terms of Business;
- (t) "**Individually Segregated Client Account**" means any account opened as a sub-account in respect of a client of the Member pursuant to section 2.4 of the General Terms of Business;
- (u) "**Insolvency Act**" means Act XLIX of 1991 on Bankruptcy Proceedings and Liquidation Proceedings;
- (v) "**Insolvency Representative**" means a liquidator (in Hungarian: "felszámoló"), administrator or bankruptcy trustee (in Hungarian: "vagyonfelügyelő"), administrative receiver (in Hungarian: "végelszámoló"), or analogous or equivalent official in this jurisdiction;
- (w) "**Investment Firms Act**" means Act CXXXVIII of 2007 on investment firms and commodity dealers, and on the regulations governing their activities;
- (x) "**Model Form Clearing Agreement**" means the clearing membership agreement entered into between each Member and the Clearing House in the form attached hereto at Annex 1;
- (y) "**Netting Provision**" means a provision under which the parties to an agreement may perform close-out netting that take effect on the default and/or insolvency of the Clearing House;
- (z) "**Non-cash Collateral**" means the non-cash collateral provided to the Clearing House as margin under the Clearing House Documentation;
- (aa) "**Omnibus Client Account**" means the consolidated Members' account regarding clients maintained with the Clearing House pursuant to section 2.4 of the General Terms of Business;



- (bb) "**Party**" means the Clearing House or the relevant Member;
- (cc) "**Rules**" means the rules of the Clearing House, including the General Terms of Business and the General Terms of Business CCP, in force as at the date of this opinion;
- (dd) "**Securities Settlement Act**" means Act XXIII of 2003 on settlement finality in payment and securities settlement systems;
- (ee) "**Set-off Provision**" has the meaning ascribed to set-off under article 296.(1) of the Civil Code;
- (ff) pursuant to the Civil Code, **security deposit** may be granted to secure a claim in the form of cash, bank account balance, securities and other financial instruments, upon the conclusion of a financial collateral (security deposit) arrangement and the delivery of the collateral. Such provisions of the Civil Code have implemented the Financial Collateral Directive;
- (gg) references to a "**section**" or to a "**paragraph**" are (except where the context otherwise requires) to a section or paragraph of this opinion (as the case may be); and
- (hh) in this opinion, references to the word "**enforceable**" and cognate terms are used to refer to the ability of a Party to exercise its contractual rights in accordance with their terms and without risk of successful challenge. We do not opine on the availability of any judicial remedy.

2. ASSUMPTIONS

We assume the following:

- 2.1 That, except with regards to the provisions discussed and opined on in this opinion letter, the Clearing House Documentation and Contracts are legally binding and enforceable against both Parties under their governing laws.
- 2.2 That each Party has the capacity, power and authority under all applicable law(s) to enter into the Clearing House Documentation and Contracts; to perform its obligations under the Clearing House Documentation and Contracts; and that each Party has taken all necessary steps to execute and deliver and perform the Clearing House Documentation and Contracts.
- 2.3 That each Party has obtained, complied with the terms of and maintained all authorisations, approvals, licences and consents required to enable it lawfully to enter into and perform its obligations under the Clearing House Documentation and Contracts and to ensure the legality, validity, enforceability or admissibility in evidence of the Clearing House Documentation in this jurisdiction.



- 2.4 That both Parties have properly executed either a) the Model Form Clearing Agreement, in substantially identical form to that attached at Annex 1 or b) an Equivalent Clearing Agreement and the Contract on the Maintenance of Accounts;
- 2.5 That the Clearing House Documentation has been entered into prior to the commencement of any insolvency procedure under the laws of any jurisdiction in respect of either Party.
- 2.6 That each Party acts in accordance with the powers conferred by the Clearing House Documentation and Contracts; and that (save in relation to any non-performance leading to the taking of action by the Members under the Netting Provision), each Party performs its obligations under the Clearing House Documentation and each Contract in accordance with their respective terms.
- 2.7 That no provision of the Clearing House Documentation other than an Equivalent Clearing Agreement that is necessary for the giving of our opinions and advice in this opinion letter has been altered in any material respect.
- 2.8 That, apart from any circulars, notifications and equivalent measures published by the Clearing House in accordance with the Clearing House Documentation, there are not any other agreements, instruments or arrangements between the Parties which modify or supersede the terms of the Clearing Agreement.
- 2.9 That the Member is at all relevant times solvent and not subject to insolvency proceedings under the laws of any jurisdiction.
- 2.10 That (save as discussed at paragraph 3.5.2) the obligations assumed under the Clearing House Documentation and Contracts are mutual between the Parties, in the sense that the Parties are each personally and solely liable as regards obligations owing by it and is solely entitled to the benefit of obligations owed to it.
- 2.11 That the Collateral is delivered and is at the disposal of or otherwise held by the Clearing House (or its nominees).
- 2.12 That the Hungarian Party will not be insolvent within the meaning of the Insolvency Act (and similar or equivalent provisions of sector specific acts) as a consequence of entering into any Clearing House Documentation and no action has been taken for the final solvent dissolution of the Hungarian Party or no petition has been filed to initiate any bankruptcy or liquidation proceedings against it which is pending at the date of entering into the relevant Clearing House Documentation.

3. **OPINION**

On the basis of the foregoing terms of reference and assumptions and subject to the qualifications set out in Section 4 below, we are of the following opinions.



3.1 Insolvency Proceedings

The only bankruptcy, composition, rehabilitation (e.g. liquidation, administration, receivership or voluntary arrangement) or other insolvency or reorganisation procedures to which the Clearing House could be subject under the laws of this jurisdiction, and which are relevant for the purposes of this opinion, are:

3.1.1 Liquidation (in Hungarian: "*felszámolás*")

- (a) The HFSA has exclusive competence to initiate a liquidation proceeding against the Clearing House. The HFSA initiates the liquidation proceeding if it has revoked the authorisation of the Clearing House for not having paid its undisputed debts within 5 days following the due date and its assets do not cover the claims of the known creditors. The court shall commence the liquidation proceedings without investigating the solvency status of the Clearing House.
- (b) The liquidation proceedings ends (unless the company manages to become solvent again) by the dissolution of the Clearing House. The court, in its resolution ordering the commencement of the liquidation proceedings designates a professional, independent liquidator. The liquidator has the power to monitor the company's business activities to protect the creditors' interests.
- (c) Under certain circumstances a simplified liquidation procedure applies. In respect of companies with strategic importance to the national economy specific rules apply to the process (as also referred to under paragraph 4 (*Qualifications*)).

3.1.2 Solvent dissolution (in Hungarian "*végelszámolás*")

A resolution on the solvent dissolution may be brought only by the HFSA (as a result of – among others – the withdrawal of license). A receiver should be appointed by the HFSA to fulfil the obligations of the executive officers. The HFSA may also appoint a supervisory officer who shall be in charge until the receiver is appointed. During the winding-up procedure the receiver has to assess the Clearing House's financial position, recover its claims, pay its debts, enforce its claims, discharge its obligations, sell off its assets if necessary, and has to terminate the Clearing House's operations.

3.1.3 Oversight procedure (in Hungarian: "*törvényességi felügyelet*")

- (a) The purpose of the oversight procedure is to restore lawful operation of a company. The oversight procedure is primarily conducted by the Court of Registration but in respect of the Clearing House the HFSA is also responsible for supervision together with the Court of Registration (the Court of Registration has competence basically to supervise lawful operation under the Companies Act and similar laws applicable to



- companies generally, whilst the specific supervisory body supervises the entity in question with respect to the lawfulness of its sector specific operation under the sector specific laws applicable to it).
- (b) The competent Court of Registration may impose the following measures, depending on the reason or the importance of the action based on which the procedure has been opened:
 - (i) notify the company to restore lawful operations within a set deadline;
 - (i) impose a fine;
 - (ii) amend the company's resolution that was found unlawful or in violation of the company's constitutional documents, and instruct the company to adopt a new resolution within the prescribed deadline, if necessary;
 - (iii) convene the executive body of the company in order to have the lawful operation of the company restored;
 - (iv) appoint a supervising commissioner for a maximum period of ninety days if the company's lawful operation cannot be ensured by other means.
 - (c) If lawful operation is not restored following the measures taken by the court, or if the Court of Registration considers that further actions are unlikely to be effective in restoring lawful operations, the Court of Registration may dissolve the company and order the company's liquidation and/or its deregistration.

These procedures are together called "**Insolvency Proceedings**".

The legislation applicable to Insolvency Proceedings are:

- (a) the Insolvency Act;
- (b) the Capital Markets Act; and
- (c) the Banking Act.

3.2 **Special provisions of law**

The following special provisions of law apply to Contracts by virtue of the fact that the Contracts are, or relate to, exchange-traded derivative products and are cleared through a central counterparty:

- (a) part IV of the Civil Code;



- (b) chapter XIII of the Capital Markets Act;
- (c) part X of the Capital Markets Act;
- (d) the definitions section of the Capital Markets Act;
- (e) the Securities Settlement Act;
- (f) (generally for derivative transactions) Investment Firms Act; and
- (g) Regulation No 648/2012 of the European Parliament and of the Council of 6 of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

3.3 Recognition of choice of law

The choice of law provisions of Hungarian law in the Clearing House Documentation would be recognised under the laws of Hungary, even if the Member is not incorporated, domiciled or established in this jurisdiction.

3.4 Netting and Set-off: General

- 3.4.1 Hungarian law recognises close-out netting. Pursuant to the definition set out in point 107 of article 5.(1) of the Capital Markets Act, close-out netting means the conversion of a spot foreign exchange or securities transaction, a derivative transaction, a repo or reverse repo transaction, a securities lending and/or borrowing transaction, any other arrangement concerning collateral security or some other financial transaction into a single net liability or receivable by any set-off method recognized in the market of the financial instrument in question upon a breach or default as stipulated by the parties, in consequence of which the liability or receivable shall be limited to the net amount resulted therefrom. Close-out netting encompasses two different phases: (i) termination of the relevant transactions (close-out) and (ii) netting of the market values of the terminated transactions against each other, i.e. determination of the net balance.

However, the Rules do not contain any specific event of default circumstances. Moreover, the Rules do not contain a specific Netting Provision either.

Considering that no Netting Provision is contained under the Clearing House Documentation it is unlikely that any provisions relating to netting in general under the Clearing House Documentation would be considered as a "close-out netting arrangement" (in Hungarian "*pozíciólezáró nettósításra irányuló megállapodás*") within the meaning of article 36.(2) of the Insolvency Act and therefore it is ambiguous whether or not the Members would be entitled to exercise any netting right immediately (and without fulfilment of any further conditions) so that, whether or not upon the occurrence of the termination of the Clearing House Documentation for a reason attributable to the Clearing House:



- (a) the Member would be entitled immediately to exercise its rights under the Netting Provision; and
- (b) the Member would be entitled to receive or be obliged to pay only the net sum of the positive and negative mark-to-market values of the included individual Contracts, together with other losses or gains referable to the Contracts.

The above analysis has been confirmed by the Clearing House as well. KELER has also confirmed that the reason why the Rules do not contain a specific Netting Provision as far as KELER is concerned is that KELER does not and cannot become a party to the derivative transactions which are cleared through a central counterparty. As far as KELER KSZF is concerned, although KELER KSZF as a “guarantor” of the settlement of the derivative transaction may become a “*quasi*” obligor or obligee under the respective derivative transactions which are cleared through a central counterparty, pursuant to article 347.(1) of the Capital Markets Act, KELER KSZF shall segregate its own accounts and assets and the accounts and assets of the Members. Therefore even if KELER KSZF defaults under any derivative transaction or enters into an insolvency procedure any monies or assets held in such a segregated account would not, and could not, be treated as a property of KELER KSZF and therefore would not, and could not, form the own assets/insolvency estate of KELER KSZF available to its creditors generally, and therefore would be promptly available for the respective Member.

3.4.2 The Set-off Provision will be immediately (and without fulfilment of any further conditions) enforceable in accordance with its terms so that upon the termination of the Clearing House Documentation in relation to the Clearing House:

- (a) the Member would be immediately entitled to exercise its rights under the Set-Off Provision; and
- (b) any and all amounts owed by the Member to the Clearing House would be set off against any such amounts owed by the Clearing House to the Member.

We are of this opinion because Hungarian law recognises Set-off Provisions. Pursuant to article 296.(1) of the Civil Code if two persons owe each other obligations, which are (i) substantially of the same nature (for example both are expressed in monetary terms) and (ii) are already due and payable, each party may set off its claim against the claim of the other party by a unilateral declaration to the other party.



Further, apart from what is set out in the Qualifications, there is no rule of the laws of this jurisdiction which would impose a moratorium or stay which would prevent, delay or otherwise affect the exercise of such rights by the Member.

3.5 Netting and Set-Off: House Accounts, Individually Segregated Client Accounts and Omnibus Client Accounts

Considering that the Rules contain no Netting Provision, any amount payable as a result of the termination of the Clearing House Documentation on any of the types of accounts listed below would not be aggregated with or netted against any such amount payable on any of the other types of accounts listed below:

- (a) House Account of the Member;
- (b) Omnibus Client Account of the Member;
- (c) Individually Segregated Client Account of the Member

This is because as a basic principle of the Hungarian law, reflected, among others, under articles 87/P.(1) and (2) b) of the Banking Act and 57.(2) and (3) b) of the Investment Firm Act, the Members shall segregate their own accounts and assets (such as the House Account) and the accounts and assets of their clients (such as the Omnibus Client Account and the Individually Segregated Client Account).

3.6 Netting and Set-Off: Cross-Product Netting

Generally, the effect of the Netting Provision would be to apply close-out netting to all Contracts cleared by the Member with the Clearing House. However, considering that the Rules do not contain any Netting Provision, we consider it ambiguous whether or not the Members would be entitled to exercise any netting right to all Contracts upon the insolvency of the Clearing House.

3.7 Cash Collateral

Payments made by a Member to the Clearing House as cash margin do not constitute an absolute transfer of cash, so that, in the event of Insolvency Proceedings relating to the Clearing House, such cash would not be treated as the property of the Clearing House available to its creditors generally.

However, the amount of cash so provided would not constitute a debt owed by the Clearing House to the Member as principal.

We are of this opinion because under article 353.(2) of the Capital Markets Act any collateral and security deposit provided to the Clearing House as a financial collateral securing the Member's performance under the relevant Clearing House Documentation shall not be treated as an asset of the Clearing House upon the Clearing House's insolvency.



3.8 Non-cash Collateral

Any securities provided to the Clearing House as cover for margin and constituting Non-cash Collateral would not be treated as the property of the Clearing House and would be returnable to the Member, even in the event of Insolvency Proceedings relating to the Clearing House, subject to the Member satisfying its obligations to the Clearing House.

This is because under article 353.(4) of the Capital Markets Act any Non-cash Collateral (such as securities) provided to the Clearing House as a financial collateral securing the Member's performance under the relevant Clearing House Documentation shall not be treated as an asset of the Clearing House upon the Clearing House's insolvency.

However, the value of the Non-cash Collateral provided would not constitute a debt owed by the Clearing House to the Member as principal.

3.9 Members' Assessment Liabilities

A Member's Assessment Liability are as follows.

3.9.1 Basic financial collateral

Under section 6.3 of the General Terms of Business of CCP the Members shall provide a basic financial collateral to cover the eventual losses of new positions not yet covered by collaterals. The amount is determined by KELER CCP by sections and by range of transactions.

The amount of the basic financial collateral as of the date of this opinion is HUF 10,000,000 (approx. EUR 35,000) for each range of transactions on the derivative market (i.e. securities, monetary and commodities).

3.9.2 Initial margin

KELER CCP calculates the initial margin payable by the Members on a portfolio basis, by means of a special software to secure the risk associated with any price shift taking place on the day following settlement, i.e. cover additional costs connected to the closing of the position that may arise until the next day.

3.9.3 Settlement of variation margin

- (i) Under section 6.7.1 of the General Terms of Business of CCP, if as a result of a multinet settlement the calculated variation margin is negative, the Member has to provide additional collateral to cover the difference.



- (ii) Under section 6.7.1 of the General Terms of Business of CCP, in case of derivative positions, both the positive and negative variation amount will be settled by KELER on the Member's relevant account.

3.9.4 Additional financial collateral

Under section 6.4 of the General Terms of Business of CCP, KELER CCP may impose an additional financial collateral on a Member in certain cases, e.g. if the Member, despite KELER CCP's request, refuses to name its client or exceeds its market position or capital position limits.

3.9.5 Guarantee funds

Under section 6.9 of the General Terms of Business of CCP, the Members shall provide financial contribution to the guarantee fund.

The payments to the guarantee fund are calculated on the basis of the average amount of the last three months' basic financial collateral needs. Each member shall pay 10% of such amount, within the range from HUF 5,000,000 (approx. EUR 17,500) through HUF 175,000,000 (approx. EUR 600,000).

Moreover, if a Member does not perform its payment obligations to the guarantee fund, under section 6.9.9.2 even those Members who have already paid up their shares may be ordered to contribute again to the revolving of the guarantee fund.

If a Member fails to provide the necessary financial contribution to the guarantee fund or it does not perform its revolving obligation, KELER CCP may impose sanctions in accordance with section 7.2.2 (*Financial default*) of the General Terms of Business of CCP and thus, among others, may initiate the compulsory sale of securities taken on behalf of the Member.

3.9.6 Obligation to share losses

In case of default related to the settlement of a derivative transaction, the order of using the guarantee elements is defined under section 6.12.3 of the General Terms of Business of CCP. If such event occurs, even the financial contributions and Collaterals of the non-defaulting Members may be utilised for the purposes of the settlement.

3.9.7 Sanctions against a Member

In case of infringement of the obligations of Clearing Members laid down in the Rules, KELER CCP is entitled to take the following measures against the Member:

- (i) to impose an additional financial collateral on the Member;



- (ii) to hold an on-site investigation at the Member or to initiate a Member investigation or measures taken by the Budapest Stock Exchange and/or HFSA against the Member;
- (iii) to suspend the clearing right of the Member;
- (iv) to terminate the Member's relevant membership agreement with an extraordinary notice.

4. QUALIFICATIONS

The opinions in this opinion letter are subject to the following qualifications.

4.1 Limits of opinion

The opinions given in this opinion letter are strictly limited to the matters stated in paragraph 3 (*Opinion*) and do not extend to any other matters. This opinion letter and the opinions given in it are governed by Hungarian law and relate only to Hungarian law as applied by the Hungarian courts as at today's date. All non-contractual obligations and any other matters arising out of or in connection with this Opinion Letter are governed by Hungarian law.

We express no opinion as to:

- 4.1.1 the laws of any jurisdiction other than Hungary;
- 4.1.2 the capacity, authority of, and fulfilment of legal requirements by, any Party to lawfully enter into the Clearing House Documentation and whether there are restrictions (whether statutory, contractual or based on constitutional documents) in respect of any party to conclude the Clearing House Documentation;
- 4.1.3 the details of any Insolvency Proceedings, deadlines available for creditors to report their claims or legal remedies available for such creditors; the waterfall of satisfying creditor claims or issues relating to the types of assets forming part of the liquidation pool and the details of any judicial or notarial enforcement procedure;
- 4.1.4 the means under which a creditor may enforce (collect) its monetary claim (for instance in respect of close-out netting this opinion letter is limited to the issues of recognition and exercise of close-out netting under Hungarian law but does not cover the issues relating to the collection of the net amount determined following the exercise of the close-out netting);
- 4.1.5 whether the Clearing House Documentation breaches any other agreement or instrument.



4.2 Insolvency

The opinions set out in this opinion letter are subject to any limitations arising from insolvency, liquidation, bankruptcy, moratorium, reorganisation, compulsory dissolution, enforcement and similar laws affecting the rights of creditors or secured creditors generally.

4.2.1 General remarks

(a) Close-out netting arrangement

Considering that the Clearing House Documentation does not contain a Netting Provision, it is unlikely that any provisions relating to netting in general under the Clearing House Documentation would be considered as a "close-out netting agreement" ("*pozíciólezáró nettósításra irányuló megállapodás*") within the meaning of article 36.(2) of Insolvency Act. Notwithstanding, would the parties wish to include a Netting Provision which could as a whole represent a close-out netting arrangement as defined in the Capital Markets Act, it would be advisable for the parties to expressly stipulate that "*the Agreement shall be considered as a "close-out netting agreement" ("pozíciólezáró nettósításra irányuló megállapodás") in accordance with article 36.(2) of Insolvency Act*".

However, even if such wording is incorporated, the courts might reach a different view and hold that the close-out netting arrangement comes into existence when the parties agree to net i.e. when the relevant netting provisions are exercised.

(b) Currency

Insolvency Proceedings under Hungarian law are conducted with reference to Hungarian forint, the official currency of Hungary. There is no specific provision under the Insolvency Act for the conversion of non-forint assets into Hungarian forints but in practice the Insolvency Representatives may require that all claims or debts be converted to an equivalent amount in Hungarian forints. The claim against the Clearing House, therefore, if not expressed in Hungarian forint, may need to be converted into Hungarian forint in order for it to be enforced in the relevant Insolvency Proceedings.

(c) Set-off under Hungarian law

Pursuant to article 296 of the Civil Code, the general requirements in order for two claims to be set-off against each other are as follows:



- (i) both claims must be *homogeneous* ("egynemű"): this means that both debts must be either cash claims or claims for the redelivery of the same type of equivalent assets;
- (ii) both claims must be *due and payable* ("lejárt") (i.e. matured); and
- (iii) set-off occurs by delivering the statement of set-off to the other party. No set-off shall occur without such statement.

Any provision in the Clearing House Documentation which confers, purports to confer or waives a right of set-off or similar right may be ineffective against a liquidator or creditor as the Insolvency Act itself contains certain restrictions to exercise a set-off right. Among others, set-off right may be exercised only within the course of the liquidation procedure, which means that the creditor needs to register its claim before exercising any set-off right. Further, no set-off right may be exercised by a "creditor" in a lawsuit initiated by the liquidator on behalf of the debtor company for the collection of a monetary claim, if the "creditor" (i.e. the holder of the claim to be set-off against the debtor's respective claim) was not qualified as a creditor as of the date of the commencement of the liquidation proceeding, i.e. the claim was later assigned to the "creditor" or the claim itself has arisen following the commencement of the liquidation proceeding. Moreover, no set-off right may be exercised during the sale of the debtor company's assets, i.e. the creditor may not acquire any asset by requesting the set-off of its claim against the purchase price of such asset.

4.2.2 Liquidation

- (a) Any creditor of an insolvent company or the Insolvency Representative has the right to challenge transactions concluded by such insolvent company which is of a type falling under any of the criteria set out under subparagraphs (i)-(iii) below. The persons referred to above have the right to challenge such transactions within 90 days from the date of becoming aware of the existence of such transactions, but in any event within one year from the date of publication of a court order relating to the commencement of the liquidation proceedings. The types of transactions open to challenge are the following:
 - (i) contracts concluded or legal declarations made by the insolvent company within five years of the date preceding the date when a competent court received a petition for the initiation of liquidation proceedings or at any time thereafter, if such contract or legal declaration resulted in the decrease in the value of the insolvent company's assets, and the intent of the



insolvent company was to defraud any or all of the creditors, and the contracting party, or beneficiary of the legal declaration had or should have had knowledge of such intent;

- (ii) contracts concluded or legal declarations made by the insolvent company within two years of the date preceding the date when a competent court received a petition for the initiation of liquidation proceedings or at any time thereafter, if the subject matter of such contract or legal declaration is (A) a free asset transfer by the insolvent company; (B) an undertaking by the insolvent company in respect of its assets for no consideration; or (C) an arrangement resulting in evidently disproportional benefit in value to the contracting party;
 - (iii) contracts concluded or legal declarations made by the insolvent company within ninety days of the date preceding the date when a competent court received a petition for the initiation of liquidation proceedings or at any time thereafter, if the subject matter of such contract or legal declaration is to grant preference to any one creditor, in particular an amendment of an existing contract for the benefit of such creditor, or provision of collateral to an unsecured creditor.
- (b) The Insolvency Representative, acting on behalf of the insolvent company, is entitled to seek to recover within the time periods referred to in the first paragraph of section (a) above, any service rendered by the insolvent company within 60 days of the date preceding the date when a competent court received a petition for the initiation of liquidation proceedings or at any time thereafter, if the provision of such service resulted in a preference to any one creditor and was not made in its normal course of business. In particular, payment of a debt prior to its original maturity is considered as granting preference to a creditor. The right to seek recovery as set out in this paragraph does not apply in the case of netting under a close-out netting arrangement, i.e. the application of close-out netting in accordance with the Clearing House Documentation in itself cannot be regarded as a trigger for seeking recovery.
- (c) The Insolvency Representative is entitled to terminate the contracts previously concluded by the insolvent company with immediate effect, in which case the other contracting party has 40 days from the date of such termination to enforce its claim arising as a result of the termination by reporting the claim to the liquidator. However, the Insolvency Representative is not entitled to terminate only some of the agreements/transactions falling under the provisions of the contract stipulating the application of close-out netting, but only concurrently all agreements/transactions, i.e. the liquidator is not entitled to "cherry pick" the transactions where the insolvent company is "in the money".



- (d) Pursuant to the Insolvency Act, in connection with any agreement for close-out netting concluded prior to the commencement date of the liquidation proceedings, the creditor shall submit the net claim it has against the insolvent company to the liquidator and the liquidator shall acknowledge such net claim. When calculating the amount of net claim under a close-out netting provision, the settlement date shall be the date specified by the parties to the agreement for such purpose, being in each case a date not later than the final date which is generally available for the filing of creditors' claims.
- (e) In the course of liquidation proceedings creditors may seek satisfaction from security deposits granted prior to the commencement date of the liquidation proceedings within three (3) months therefrom.
- (f) However, pursuant to article 40.(4) of the Insolvency Act:
 - (i) the contractual close-out netting; and
 - (ii) the substitution of securities under a security deposit agreement governed by Hungarian law;could not be challenged by the liquidator under paragraph (a)(iii) and the liquidator's right to seek recovery (as set out under paragraph (b) above) could neither be exercised.
- (g) In a liquidation proceedings, set-off may be exercised against the insolvent company only if the underlying claim has been registered by the liquidator as non-disputed claim and provided that the underlying claim has not been assigned (transferred). A managing director (or equivalent officer), executive employee, any member of any of the formers' kin and mate, any company being under the influential control of the debtor or which possesses an influential control over the debtor company may not exercise any set-off right. If the beneficiary of a call option or repurchase arrangement exercises the option and the purchase, no set-off may be exercised. This applies also to the person acquiring to an asset of the insolvency estate within a public auction.
- (h) Pursuant to article 181.(2) of the Banking Act, the HFSA may prohibit any payment by a regulated entity within the period of submission the application for initiation of liquidation proceedings and the date of publication of the court order on the commencement of liquidation proceedings in the Company Gazette. In the absence of case-law it is uncertain whether or not close-out netting could be exercised in such a scenario despite the fact that in respect of financial collaterals (security deposits) granted by a counterparty, exercising the close-out netting should be available in accordance with Article 7 of the Financial Collateral Directive.



(i) Specific proceedings against strategic companies

- (i) The Hungarian government may mandate a state-owned liquidator for procedures involving companies of special importance to the national economy. The government may decide on a case by case basis by decree which entity should qualify as such a company. The state-owned liquidator is conferred with extra powers, whilst creditors' rights are significantly narrowed compared to "normal" liquidation and bankruptcy procedures. The state-owned liquidator may decide in its sole discretion, without notifying the creditors, whether to proceed with public or private sale of the insolvency estate.
- (ii) Under certain circumstances (in particular, if a company's activity is considered by the government as important for public purposes, for the national security or for military purposes), more specific rules may apply. For example, if such a company becomes bankrupt/insolvent, and an insolvency procedure is initiated, a special moratorium shall apply (before the actual commencement of the insolvency procedure). The special moratorium commences on the day on which the court publishes in the Company Gazette the fact that a liquidation proceeding was initiated against the debtor company and, pursuant to a governmental decree, the company is a company with strategic importance. If the court orders the commencement of the liquidation of the company, the period of the special moratorium is extended with 90 days. The purpose of the special moratorium is to temporarily secure the operation of the debtor company. During the effectiveness of the special moratorium no payment may be made without the counter-signature of the appointed state-owned liquidator and the counterparty to the agreement concluded with the debtor company may not terminate, or rescind from, the respective agreement; moreover, such agreements may not be terminated on the basis of the insolvency of the debtor company or the commencement of the special moratorium.
- (iii) The above rules, however, does not affect the analysis set out above under this paragraph 4.2 (*Insolvency*) regarding the exercise of close-out netting save for the 3-months period to enforce a security deposit which, in respect of proceedings dealt with under this paragraph (i) is only 2 months.

(j) Reliance on public records

The relevant public records do not contain information with respect to whether any steps have been taken or any petition has been filed by any person to initiate a bankruptcy, liquidation, final solvent



dissolution or any other similar proceedings of a company or any of its assets. Such information only appears after the competent Hungarian court issues a final and non-appealable order to this effect. Therefore, it is not possible to determine on the basis of searches of public registers whether any such steps have been taken or whether any such court order has been made in relation to a company. In particular, notice of these matters may not yet have been filed with the Court of Registration at the time of concluding the Clearing House Documentation (or if filed, may not yet be publicly available).

(k) Insolvency of Foreign Parties

Subject also to the considerations mentioned under paragraph 4.2.1 (*General Remarks*) where the defaulting Member is incorporated or formed under the laws of another jurisdiction (a "**foreign Defaulting Member**") there can be no separate Insolvency Proceedings in this jurisdiction in relation to the foreign Defaulting Member and the authorities in this jurisdiction would defer to the proceedings in the foreign Defaulting Member's home jurisdiction.

4.3 **Membership of the financial institutions**

While the Clearing House keeps securities accounts for all its Members, only a part of the cash accounts are maintained within the system of the Clearing House (cash accounts of broker companies), as the National Bank of Hungary keeps the cash accounts of credit institutions and financial enterprises incorporated under the Banking Act. Notwithstanding the foregoing, through the SWIFT communication link the Clearing House is entitled to access the cash accounts kept by the National Bank of Hungary for the purposes of executing the relevant transactions and debiting/crediting such accounts.

4.4 **Risks associated with amounts and securities standing on the balance of a person's bank account**

Under Hungarian law it is presumed that amounts and securities standing on the balance of a person's bank account belong to, and owned by, such person (unless the account is blocked for a beneficiary or an entry otherwise indicates that the balance is encumbered to a beneficiary). Consequently, within an insolvency, a Hungarian court, bankruptcy trustee or liquidator may not consider automatically these amounts as falling outside the pool of assets of the Clearing House and such fact will need to be properly evidenced. Similarly, amounts standing to the credit of any person's accounts could be subject of a prompt collection, blocking or other similar actions of third party creditors, judicial enforcement officers, account holder banks and similar persons, in which case the beneficiary of a Collateral might need to provide evidence and commence legal proceedings in respect of collecting amounts so blocked or transferred, but to which it has legal title in accordance with the Clearing House Documentation. In respect of amounts already blocked for the benefit of the beneficiary or carved out by statutory law (please see paragraphs 3.7 and 3.8) or



already transferred further from such accounts to it or otherwise collected in accordance with the provisions of the Clearing House Documentation and thus are standing to the credit of accounts of the beneficiary, will not be subject to the above considerations.

4.5 Challenge outside insolvency

If any Party to the Clearing House Documentation has failed to comply with regulatory rules or restrictions on investment or mandatory legal requirements, the supervisory entity (e.g. the HFSA, prosecutor) may challenge the Clearing House Documentation or any transaction thereunder or otherwise may impose a fine, prohibit the respective Party to conduct its business under the Clearing House Documentation or apply any other measure available to it. For instance, if the Clearing House Documentation is concluded with consumers in breach of regulatory or consumer protection laws, the HFSA may resolve that concluding the Clearing House Documentation with consumers was unlawful. In this case consumers may successfully challenge the Clearing House Documentation in front of courts.

4.6 Further acts

If any act, condition or thing required to be fulfilled, performed or effected in connection with the Clearing House Documentation (for instance, appropriateness and suitability tests) has not been duly fulfilled, performed and effected and if to the extent applicable to the relevant Party, it does not duly provide the other Party with information required in respect of that Party in accordance with its client classification and otherwise as required under the laws of this jurisdiction then the Clearing House Documentation (or any related provision or transaction of it) may become subject of challenge or otherwise a Hungarian court might determine that the Clearing House Documentation (or an provision or transaction of it) is null and void further to the breach of mandatory laws.

4.7 Public policy

We are not aware of any principle of public policy in Hungary which is contradicted by the Clearing House Documentation, although it should be noted that it is not possible to express a definitive view of the exact scope of Hungarian public policy at any particular time. Where any obligations of a person are to be performed outside Hungary, those obligations may not be enforceable under Hungarian law to the extent the performance of such would be illegal or contrary to public policy under the laws of that other jurisdiction.

Hungary is a civil law jurisdiction and it should be noted that, generally speaking, save from certain decisions of the Hungarian Supreme Court, a decision of a Hungarian court is not binding on subsequent courts. Hungarian courts base their decisions entirely on legislation, rather than on a combination of statutes and legal precedents. The published decisions of the Hungarian courts, however, provide guidance to the lower-grade courts to make an appropriate decision.



4.8 Application of a special regime

In case of extreme circumstances (temporary) requisition may be effected by the Hungarian Government or other designated authorities through ordering a special regime. Such circumstances includes the state of national crisis, state of emergency, state of preventive protection, unexpected attacks, and state of danger. Under the special regime the exercise of fundamental rights may be suspended or restricted which may affect the Agreement. The procedural rules on such special regime are detailed, among others, by Act CXIII of 2011 on home-defence and Act CXXVIII of 2011 on defence in case of catastrophe (each of them entered into force on 1 January 2012).

4.9 KELER's right in respect of defaulting clients' accounts

Notwithstanding the principle that Members shall segregate their own accounts and assets and the accounts and assets of their clients as detailed under paragraph 3.5, under section 6.6.9.6.3 (T+2 day) of the General Terms of Business, if a Member fails to meet its obligation for providing Collateral and making payment as a result of the default of a client, KELER may close the opposite open positions for such defaulting clients and/or may transfer the positions of the defaulting clients to the Member's account (House Account) to close the opposite open positions and may proceed with the compulsory liquidation of the positions of the Member. Such procedure of KELER may, in our view, be considered as a *de facto* netting.

4.10 Sanctions

If any Party to the Clearing House Documentation is controlled by a person or is itself incorporated in the laws of a country which is subject of United Nations or European Union sanctions, as implemented, the obligations of the other Party to such Party may be unenforceable or void.

4.11 Discharging liability

The effectiveness of provisions of the Clearing House Documentation discharging any Party thereto from certain duty or liability duty otherwise imposed on or owed by such Party may be limited by law.

4.12 Consequences of delay or failure to exercise right

A failure to exercise a right which is or becomes open for a Party under the Clearing House Documentation may result in the waiving of such right, notwithstanding any provision in the Clearing House Documentation to the contrary which purports to preserve such right.

4.13 Severability provisions

The question as to whether or not any provision of the Clearing House Documentation which may be declared invalid may be severed from the other provisions thereof would be determined by a Hungarian court in its discretion; the severability of



provisions of any agreement is generally accepted if the agreement so provides, but the invalidity of certain provisions may cause the entire agreement to be invalid.

4.14 Exercise of statutory power

Any provision of the Clearing House Documentation which constitutes, or purports to constitute, a restriction on the exercise of any statutory power by any Party to the Clearing House Documentation or any other person may be ineffective.

4.15 Enforceability of claims

In this Opinion Letter "**enforceable**" has the meaning ascribed thereto under Section (ii). However, it does not mean that those obligations will be enforced in all circumstances in accordance with the terms of the relevant Clearing House Documentation. In particular:

- 4.15.1 the power of a Hungarian court to order specific performance of, or to issue any injunction, for an obligation or other remedy is discretionary and, accordingly, a Hungarian court might make an award of damages where specific performance of an obligation or other equitable remedy is sought;
- 4.15.2 where any Party to the Clearing House Documentation is vested with a discretion or may determine a matter in its opinion, Hungarian law requires that such discretion cannot be abused;
- 4.15.3 claims under the Clearing House Documentation may be or become subject to a defence of set-off or counterclaim;
- 4.15.4 if any arbitral award or judgement is obtained in a currency other than forint it is possible that it could only be enforced in Hungary in forints. In the event of any proceeding being brought in a Hungarian court in respect of a monetary obligation expressed to be payable in a currency other than Hungarian forints, a Hungarian court may give judgement as an order to pay the Hungarian forints equivalent of such currency at the time of actual payment of the debtor;
- 4.15.5 any provision providing that any calculation, determination or certification is to be conclusive and binding may not be effective if such calculation, determination or certification is fraudulent or manifestly incorrect and a Hungarian court may regard any certification, determination or calculation as no more than *prima facie* evidence; and
- 4.15.6 The obligations of the respective Parties can be cancelled or modified by a competent court if, following an extraordinary change of circumstances, the performance of the agreement in question would result in excessive difficulties or threaten one of the Parties with substantial loss which the Parties did not foresee when concluding such agreement.

There are no other material issues relevant to the issues addressed in this opinion which we wish to draw to your attention.



LAKATOS, KÖVES ÉS TÁRSAI
ÜGYVÉDI IRODA

This opinion is given for the sole benefit of the Futures and Options Association and such of its members (excluding associate members) as subscribe to the Futures and Options Association's opinions library (and whose terms of subscription give them access to this opinion). This opinion may not be relied upon by any other person unless we otherwise specifically agree with that person in writing, although we consent to it being shown (on a non-reliable basis) to members of the Futures and Options Association and their affiliates (being members of such persons' groups, as defined by the UK Financial Services and Markets Act 2000) and to the UK Financial Services Authority (and its successor organisations) in connection with the compliance of such members and such affiliates with their obligations under prudential regulation.

Yours faithfully,

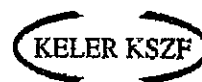
Dr. Péter Köves,

Lakatos, Köves és Társai Ügyvédi Iroda



LAKATOS, KÖVES ÉS TÁRSAI
ÜGYVÉDI IRODA

Annex 1: Form of Clearing Agreement



Kódszám/Code	Dátum/Date	Sorszám/Serial number
21/	2013/01/01	

KELER KSZF
Központi
Szerződő Fél Zrt.

amely létrejött egyrészről a KELER KSZF Központi Szerződő Fél Zártkörűen Működő Részvénytársaság (1075 Budapest, Asbóth u. 9-11. cégjegyzékszáma: 01-10-046985, tevékenységi engedélyszám: E-III/1012/2008) továbbiakban: KELER KSZF képviselében aláírásra jogosultak, másrészről a	made and entered into between KELER CCP Ltd. (1075 Budapest, Asbóth u. 9-11., Trade Register No.: 01-10-046985, Activity licence No.: E-III/1012/2008) hereinafter referred to as: KELER CCP represented by the undersigned with the right of signature on the one hand, and on the other hand
..... (teljes cégnév) / (complete company name)	
..... (rövid cégnév) / (short-form trade name)	
..... (székhely) / (registered address)	
..... (Adószáma) / (Tax No.)	
..... (levelezési cím) / (mailing address)	
..... (számlázási e-mail cím) / (invoicing e-mail address)	
..... (Cégjegyzékszáma) / (Trade Register No.)	
..... (Felügyeleti engedély száma) / (Supervisory license number)	
..... képviselében (aláírási címpéldány szerint) / represented by (as shown on the Specimen Signature)	
továbbiakban: Klíringtag a továbbiakban együtt: Felek között a mai napon az alábbi feltételekkel:	hereinafter referred to as: Clearing Member hereinafter jointly referred to as Parties on the date specified below, under and subject to the terms and conditions as follows:

Klíringtagsági szerződés / Clearing membership agreement

A formaszerződés érvényes: 2013. január 1. napjától / Standard agreement valid from January 1, 2013

KELER KSZF Zrt. • 1075 Budapest, Asbóth u. 9-11. • Tel.: 483-6100 • Fax: 342-3539 • Cégjegyzékszám: Cg. 01-10-046985 • Cégnyilvántartó: Fővárosi Bíróság mint Cégbíróság • Tevékenységi engedély száma: E-III/1012/2008.

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<p>1. A Felek megállapodnak, hogy a jelen szerződés hatálybalépésével a KELER KSZF az Általános Üzletszabályzatában meghatározott, központi szerződő félként történő klíring szolgáltatást és garanciavállalást nyújt a Klíringtag részére.</p>	<p>1. The Parties hereby agree that with the present agreement taking force that KELER CCP provides clearing services and undertakes the guarantee defined in its General Business Regulations as central counterparty for the Clearing Member.</p>
<p>2. A Klíringtag kötelezettséget vállal, hogy a jelen szerződés hatályba lépését követően teljesíti a KELER KSZF Általános Üzletszabályzatában a klíringtagokat terhelő kötelezettségeket.</p>	<p>2. The Clearing Member hereby undertakes that following the present agreement taking force it shall meet the obligations of Clearing Members specified in the General Business Regulations of KELER CCP.</p>
<p>3. A Klíringtag az alábbi piac(ok)on, szekció(k)ban / ügyletkör(ök)ben rendelkezik általános klíringtagsággal:</p> <p>3. The Clearing Member has a general clearing membership in the below market(s), section(s) / transaction class(es):*</p> <ul style="list-style-type: none"> <input type="checkbox"/> Azonnali piaci Részvény Szekció / <i>Cash market Equities section</i> <input type="checkbox"/> Azonnali piaci Hitelpapír Szekció / <i>Cash market Debt securities section</i> <input type="checkbox"/> Származékos piaci Részvény Ügyletkör / <i>Derivatives market Indices and single equities transaction class</i> <input type="checkbox"/> Származékos piaci Pénzügyi Ügyletkör / <i>Derivatives market Financial transaction class</i> <input type="checkbox"/> Származékos piaci Áru Szekció / <i>Derivatives market Commodities section</i> <input type="checkbox"/> MTS piac / <i>MTS market</i> <input type="checkbox"/> BÉT MTF piac / <i>BÉT MTF market</i> 	
<p>4. A Klíringtag az alábbi piac(ok)on, szekció(k)ban/ ügyletkör(ök)ben rendelkezik egyéni klíringtagsággal:</p> <p>4. The Clearing Member has an individual clearing membership in the below market(s), section(s) / transaction class(es):*</p> <ul style="list-style-type: none"> <input type="checkbox"/> Azonnali piaci Részvény Szekció / <i>Cash market Equities section</i> <input type="checkbox"/> Azonnali piaci Hitelpapír Szekció / <i>Cash market Debt securities section</i> <input type="checkbox"/> Származékos piaci Részvény Ügyletkör / <i>Derivatives market Indices and single equities transaction class</i> <input type="checkbox"/> Származékos piaci Pénzügyi Ügyletkör / <i>Derivatives market Financial transaction class</i> <input type="checkbox"/> Származékos piaci Áru Szekció / <i>Derivatives market Commodities section</i> <input type="checkbox"/> MTS piac / <i>MTS market</i> <input type="checkbox"/> BÉT MTF piac / <i>BÉT MTF market</i> 	
<p>Amennyiben a Klíringtag nem saját maga, hanem elszámolási megbízott közreműködésével biztosítja ügyleteinek pénzbeli és értékpapír elszámolását, úgy erről a jelen szerződés 1. számú mellékletét képező nyilatkozatban nyilatkozik. Elszámolási megbízott igénybevétele esetén az elszámolási megbízott a nyilatkozat cégszerű aláírásával igazolja a megbízás</p>	<p>If it is not the Clearing Member itself that ensures financial and securities settlement of transactions made but a settlement agent is mandated for this purpose, the Clearing Member shall make a statement thereto in Attachment 1. of this contract. If a settlement agent is mandated the settlement agent shall duly sign the statement to confirm acceptance of the mandate. If the</p>

* A megfelelő „x”-szel jelölendő. / Relevant marked with an „x”.

Klíringtagsági szerződés / Clearing membership agreement

A formasz szerződés érvényes: 2013. január 1. napjától / Standard agreement valid from January 1, 2013

2

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<p>elvállalását. Amennyiben a Klíringtag elszámolási megbízottat vesz igénybe, az elszámolási megbízottnak rendelkeznie kell a KELER-nél a szükséges értékpapírszámlákkal és az MNB-nél vagy a KELER-nél a szükséges bankszámlákkal.</p>	<p>Clearing Member mandates a settlement agent, the settlement agent shall have the necessary securities accounts at KELER and the necessary bank accounts at the NBH or KELER.</p>
<p>5. Elszámolási megbízott igénybevétele esetén, ha az elszámolási megbízott írásban bejelenti a KELER KSZF felé az elszámolási megbízotti jogviszony megszűnését, a megbízotti jogviszony megszűnésének időpontjában jelen szerződés is automatikusan megszűnik, kivéve, ha a Klíringtag ezen időpontig az 1. sz. mellékletben rögzített ügyletek elszámolását más módon biztosítja és ezt a KELER KSZF felé hitelt érdemlően bizonyítja. Az elszámolási megbízott és a Klíringtag közötti jogviszony megszűnésének időpontja nem lehet korábbi, mint a bejelentést megelőzően megkötött ügyletek elszámolása megtörténtének időpontja.</p>	<p>5. If a settlement agent is mandated and the settlement agent advises KELER CCP in writing on the termination of the settlement agent legal relationship, at the time of termination of the settlement agent legal relationship this contract shall automatically cease to exist, except if until this time the Clearing Member provides for the settlement of transactions stipulated in Attachment 1. in other ways and can prove this to KELER CCP in a credible manner. The time of termination of the legal relationship between the settlement agent and the Clearing Member cannot be earlier than the time of the settlement of transactions closed before the time of the notice.</p>
<p>6. Az Általános klíringtag kötelezettséget vállal, hogy a jelen szerződés 2. számú melléklete szerinti Alklíringtagi bejelentőlapon bejelenti alklíringtagjait adatait, illetve az abban bekövetkező változásokat.</p> <p>A Klíringtag kötelezettséget vállal arra, hogy megszerzi a KELER KSZF-hez bejelentett alklíringtagja hozzájárulását ahhoz, hogy az alklíringtag adatait a KELER kezelje.</p>	<p>6. The General Clearing Member hereby undertakes to announce the information of its non-clearing members or the changes of the information using the Attachment 2. of this agreement.</p> <p>The General Clearing Member undertakes to obtain the permission of its non-clearing member announced to KELER CCP for maintaining the information of the non-clearing member by KELER.</p>
<p>7. A Felek megállapodnak, hogy jelen szerződés abban az időpontban lép hatályba, ha a Klíringtag teljesítette az Általános Üzletszabályzatban előírt, a klíringtagság keletkezéséhez szükséges feltételeket, és a feltételek maradéktalan teljesítését a KELER KSZF a klíringtag részére visszaigazolta. A szerződés hatályának megszüntetésére a KELER KSZF Általános Üzletszabályzatának rendelkezései az irányadók.</p>	<p>7. The Parties hereby agree that the present agreement enters into force when the Clearing Member meets all conditions of become a clearing member as stipulated in the General Business Regulations and KELER CCP confirms to the Clearing Member that all conditions are fully met. The provisions of the General Business Regulations of KELER CCP shall govern the termination of the agreement.</p>
<p>8. Jelen szerződésben nem szabályozott kérdésekben a KELER KSZF Általános Üzletszabályzatát, Kondíciós Listáit, valamint a KELER KSZF Leiratait kell alkalmazni. Az Általános Üzletszabályzat, a Díjszabályzat, a Leiratok és Kondíciós Listák a KELER KSZF hivatalos honlapján () és a KID rendszerben elérhetőek.</p>	<p>8. In issues not regulated in the present agreement the General Business Regulations and the Lists of Conditions of KELER CCP, and the Announcements of KELER CCP shall be applied. The General Business Regulations, the Fee Schedule, the Announcements and the Lists of Conditions are available on the official website of KELER CCP (www.kelerkszf.hu) and in the KID system.</p>

<p>9. Az Általános Üzletszabályzat, a Díjszabályzat, a Leiratok és Kondíciós Listák ismeretét és azok megismerését, értelmezését, rendelkezéseinek maradéktalan elfogadását a Klíringtag jelen megállapodás aláírásával ismeri el. A Klíringtag vállalja, hogy saját szabályzatait, szerződéseit a KELER KSZF Általános Üzletszabályzatában, Díjszabályzatában, Kondíciós Listáiban és Leirataiban foglaltakkal összhangban alakítja ki.</p>	<p>9. By signing the present agreement the Clearing Member hereby acknowledges and confirms to have completely learned, construed and fully accepted the contents and provisions of the General Business Regulations, the Fee Schedule, the Announcements and the Lists of Conditions. The Clearing Member hereby undertakes to establish its own regulations and contracts in accordance with the provisions of the General Business Regulations, the Fee Schedule, the Lists of Conditions and the Announcements of KELER CCP.</p>
<p>10. A KELER KSZF vállalja, hogy Általános Üzletszabályzatának, Díjszabályzatának, Kondíciós Listáinak és Leiratainak módosításáról a Klíringtagot honlapján (www.kelerkszf.hu), a tőkepiaci közzétételi rendszer honlapján (www.kozzetetelek.hu) és a KID-en értesíti. Az Általános Üzletszabályzat, a Díjszabályzat, a Kondíciós Listák, illetve a Leiratok módosítása esetén jelen szerződés rendelkezései a változásnak megfelelően a Felek külön nyilatkozata nélkül módosulnak. A szabályzatváltozásról és a hatályba lépés napjáról szóló tájékoztatás fenti módját a Klíringtag elfogadja.</p>	<p>10. KELER CCP hereby undertakes to inform the Clearing Member regarding modifications of its General Business Regulations, the Fee Schedule, the Lists of Conditions and the Announcements on its website (), the website of the Capital Market Announcement system () and via KID. Modifications of the General Business Conditions, the Fee Schedule, the Lists of Conditions and the Announcements shall result in the modification of the provisions of the present agreement in accordance with the changes thereof without a separate statement by the Parties. The Clearing Member hereby accepts the above method of providing information regarding changes in regulations and the effective date of such changes.</p>
<p>11. A Klíringtag felhatalmazást ad a KELER KSZF részére, hogy a klíring szolgáltatás és a garanciavállalás teljesítése érdekében a Klíringtag pozícióira, kereskedési adataira és biztosítékaira vonatkozó, értékpapírtítoknak minősülő adatait a KELER részére kiadja.</p>	<p>11. The Clearing Member expressly authorizes KELER CCP to give information about its positions, commercial data and collateral to KELER in order to perform clearing services and guarantee undertaking.</p>
<p>12. A Felek rögzítik, hogy jelen megállapodás a KELER KSZF által használt általános szerződési feltételek szerinti, és mint ilyen nem tartalmaz egyoldalú, aránytalan, tisztességtelen kikötést.</p>	<p>12. It is hereby stipulated by the Parties that this agreement is drawn up according to standard contract conditions used by KELER CCP, and as such, it is free from unilateral, disproportionate, or unfair terms, conditions.</p>
<p>13. A jelen szerződésben nem szabályozott kérdésekben a Polgári Törvénykönyvről szóló 1959. évi IV. törvény, és a tőkepiacról szóló 2001. évi CXX. törvény, valamint a hozzá kapcsolódó jogszabályok rendelkezései az irányadók.</p>	<p>13. Issues not regulated in the present agreement shall be governed by Act IV of 1959 on the Civil Code, Act CXX of 2001 on the capital market and the provisions of the related legal regulations.</p>

14. A jelen szerződés azon a napon lép hatályba, amikor a KELER KSZF megkezdí a klíring tevékenység végzését. A hatályba lépés napjáról a KELER KSZF köteles a Klíringtagot a honlapján közzétett hirdmény útján előzetesen értesíteni.	14. This agreement becomes valid on the day when KELER CCP begins its clearing activity. KELER CCP is obliged to inform the Clearing Member about the date of the effectiveness on its website.
15. A jelen szerződés hatályba lépésével egyidejűleg a Klíringtag és a KELER KSZF között korábban létrejött „Klíringtagsági szerződés” automatikusan hatályát veszti.	15. As this agreement becomes effective, the “Clearing membership agreement” previously signed by the Clearing Member and KELER CCP, lost its effect automatically.
16. A jelen szerződés tekintetében az irányadó jog a magyar.	16. The Hungarian law shall apply to this Agreement.
17. A jelen szerződés magyar és angol nyelven készül, azzal, hogy eltérés esetén a magyar nyelvű változat irányadó.	17. This Agreement is drawn up in Hungarian and English, with the provision that the Hungarian version shall govern in the case of any difference.
18. A Felek a jelen szerződést elolvasták, megértették, és mint akaratukkal mindenben megegyezőt jóváhagyólag aláírják.	18. Having perused, construed and accepted this contract to be in full conformity with their will and intentions the Parties put their signature to it in approval.
<div style="display: flex; justify-content: space-between; align-items: flex-end; padding: 20px;"> <div style="text-align: center;"> <div style="border-top: 1px solid black; width: 100%; margin-bottom: 10px;"></div> Klíringtag / Clearing Member </div> <div style="text-align: center;"> <div style="border-top: 1px solid black; width: 100%; margin-bottom: 10px;"></div> KELER KSZF Zrt. / KELER CCP Ltd. </div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-end; padding: 20px;"> <div style="text-align: center;"> <div style="border-top: 1px solid black; width: 100%; margin-bottom: 10px;"></div> Helység / Place, Dátum / Date </div> <div style="text-align: center;"> <div style="border-top: 1px solid black; width: 100%; margin-bottom: 10px;"></div> Helység / Place, Dátum / Date </div> </div>	

1. sz. melléklet

Jelen okirat aláírásával a Klíringtag és az Elszámolási megbízott megállapodnak, hogy a Klíringtag alábbi szabályozott piacon kötött klíringtagi, illetve alkíringtagi azonnali tőzsdeügyleteinek elszámolása az Elszámolási megbízott által a Klíringtag javára vezetett alábbi értékpapír és bankszámláin történjen a KELER KSZF Általános Üzletszabályzata szerint.

Az Elszámolási megbízott kifejezetten hozzájárulását adja ahhoz, hogy a lenti számlákkal kapcsolatos adatait a KELER KSZF a klíringtagsági szerződésben vállalt kötelezettségei teljesítése érdekében a KELER részére átadja. A KELER KSZF a megállapodást tudomásul veszi.

1.) A klíringtag adatai:**(Klíringtag tölti ki)**

Klíringtag teljes cégneve:.....

Klíringtag rövid cégneve:.....

A Klíringtag az Elszámolási megbízott megbízását saját magára vonatkoztatja ☐A Klíringtag az Elszámolási megbízott megbízását alkíringtagjára vonatkoztatja ☐**2.) Alklíringtag adatai:****(Klíringtag tölti ki, csak alkíringtag esetén töltendő ki)**

Alklíringtag teljes cégneve:.....

Alklíringtag rövid cégneve:.....

Alklíringtag BÉT tőzsdekódja:.....

3.) Elszámolási megbízott adatai:**(Elszámolási megbízott tölti ki)**

Elszámolási megbízott teljes cégneve:.....

Elszámolási megbízott rövid cégneve:.....

a) Klíringtag saját számlás kereskedésének elszámolására nyitott számlák adatai

Értékpapír számlaszám és alszámlaszám (KELER-kód/alszámlaszám)

Forint bankszámlaszám (IBAN):

KELER devizaszámlaszám IBAN: HU 1440001 00000000

b) Klíringtag megbízotti kereskedésének elszámolására nyitott számlák adatai

Értékpapír számlaszám és alszámlaszám (KELER-kód/alszámlaszám)

Forint bankszámlaszám (IBAN):

KELER devizaszámlaszám IBAN: HU 14400018- 00000000

c) Alklíringtag kereskedésének elszámolására nyitott számlák adatai

Értékpapír számlaszám és alszámlaszám (KELER-kód/alszámlaszám)

Forint bankszámlaszám (IBAN):

KELER devizaszámlaszám IBAN: HU 14400018 00000000

.....
Klíringtag

Dátum:.....

.....
Elszámolási megbízott

Dátum:.....

.....
KELER KSZF

Dátum:.....

Attachment 1.

By signing this document the Clearing Member and the Settlement Agent agree that the settlement of the clearing member and non-clearing member cash transactions of the Clearing Member concluded on the regulated market as follows is to be completed on the following securities and bank accounts of the Clearing Member kept by the Settlement Agent, in accordance with the General Business Rules of KELER CCP.

The settlement agent shall give its explicit consent to KELER CCP to assign its data in connection with the accounts mentioned below to KELER in order to fulfill KELER CCP's obligations from this agreement. KELER CCP acknowledges the agreement made.

4.) Data of Clearing Member: (To be completed by the Clearing Member)

Complete company name of Clearing Member:.....

Short company name of Clearing Member:.....

The Clearing Member mandates the Settlement Agent on its own ☐

The Clearing Member mandates the Settlement Agent for its non-clearing member ☐

5.) Data of Non-clearing member: (To be completed by the Clearing Member, only in case of Non-clearing member)

Complete company name of Non-clearing member:.....

Short company name of Non-clearing member:.....

BSE stock exchange code of Non-clearing member:.....

6.) Data of Settlement Agent: (To be completed by the Settlement Agent)

Complete company name of Settlement Agent:

Short company name of Settlement Agent:.....

a) Data of accounts opened to settle own account trades of Clearing Member

Securities account number and sub-account number (KELER code/sub-account number)

HUF bank account number (IBAN):

KELER foreign exchange account number IBAN:

HU 14400018 -

00000000

b) Data of accounts opened to settle Clearing Member trades on behalf of clients

Securities account number and sub-account number (KELER code/sub-account number)

HUF bank account number (IBAN):

KELER foreign exchange account number IBAN:

HU 14400018

- 00000000

c) Data of accounts opened to settle Non-clearing member trades

Securities account number and sub-account number (KELER code/sub-account number)

HUF bank account number (IBAN):

KELER foreign exchange account number IBAN:

HU 14400018

- 00000000

.....
Clearing Member

.....
Settlement Agent

.....
Date:

.....
KELER CCP

ingtagsági szerződés / Clearing membership agreement
A formaszerződés érvényes: 2013. január 1. napjától / Standard agreement valid from January 1, 2013

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KELER KSZF Zrt. • 1075 Budapest, Asbóth u. 9-11. • Tel.: 483-6100 • Fax: 342-3539 • Cégjegyzékszám: Cg. 01-10-046985 • Cégnyilvántartó: Fővárosi Bíróság, mint Cégbíróság • Tevékenységi engedély száma: E-III/1012/2008.

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Alklíringtagsági nyilatkozat és bejelentőlap **Non-clearing Member Statement and Data Sheet**

Mint a KELER KSZF Általános klíringtagja,

The undersigned as the General Clearing Member of KELER CCP,

..... (cégnév/ company name)

..... (rövid név/ short name)

..... (székhely/ seat)

(Adószáma/ Tax number:

Bankszámlaszám/pénzforgalmi számla száma/ Bank account number:..)

Képviselő/ Representative: ...

Kijelentem, hogy az alábbi piac(ok)on, szekció(k)ban/ügyletkör(ök)/piac(ok)-on
 rendelkezem általános klíringtagsággal:

Hereby we state that in the following market(s), section(s), transaction
 class(es)/market(s) we have general clearing membership:

- ☐ Azonnali piaci Részvény Szekció / Cash market Equities section
- ☐ Azonnali piaci Hitelpapír Szekció / Cash market Debt securities section
- ☐ Származékos piaci Részvény Ügyletkör / Derivatives market Indices and single equities transaction class
- ☐ Származékos piaci Pénzügyi Ügyletkör / Derivatives market Financial transaction class
- ☐ Származékos piaci Áru Szekció / Derivatives market Commodities section
- ☐ MTS piac / MTS market
- ☐ BÉT MTF piac / BÉT MTF market

Bejelentem, hogy köztem, mint Általános klíringtag és

We declare that between our company as General Clearing Member and

..... (cégnév/ company name)

..... (rövid név/ short name)

..... (tőzsdekód/ stock exchange code),

..... (alklíringtagsági kód,PVE azonosító/

non-clearing membership code, PVE)

..... (székhely/ seat)

..... (elérhetőség: tel, fax, e-mail/ contact: phone, fax, e-mail)

Adószáma/ Tax number:.....

Képviselő/ Representative:

mir: Alklíringtag

as Non-clearing Member

között érvényes alklíringtagsági szerződés jött létre-án, mely alábbi
 szekció(k)/ügyletkör(ök)/piac(ok)-ra vonatkozik:

a non-clearing membership agreement was concluded on(date) that covers the
 following section(s) /transaction class(es)/market(s):

- ☐ Azonnali piaci Részvény Szekció / Cash market Equities section
- ☐ Azonnali piaci Hitelpapír Szekció / Cash market Debt securities section
- ☐ Származékos piaci Részvény Ügyletkör / Derivatives market Indices and single equities transaction class
- ☐ Származékos piaci Pénzügyi Ügyletkör / Derivatives market Financial transaction class
- ☐ Származékos piaci Áru Szekció / Derivatives market Commodities section
- ☐ MTS piac / MTS market
- ☐ BÉT MTF piac / BÉT MTF market

Klíringtagsági szerződés / Clearing membership agreement

A formaszervezés érvényes: 2013. január 1. napjától / Standard agreement valid from January 1, 2013

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Általános klíringtag kijelentem, hogy az alkíringtaggal kötött alkíringtagsági szerződés alapján felelősségét vállalok az alkíringtag adott szekció(k)/ügyletkör(ök)/piac(ok)-ban létrejött garantált ügyleteiért és pozícióiért, és kötelezettséget vállalok azok a KELER KSZF Általános Üzletszabályzatában foglaltak szerinti elszámolásáért. Elismerem a kötelezettségemet, hogy a köztem, és az alkíringtag közötti szerződés bármely okból történő megszűnését azonnal be kell jelentenem a KELER KSZF-nek.

As General Clearing Member we state that in line with the non-clearing membership agreement concluded with the Non-clearing Member we assume liability for the guaranteed transactions and positions of the Non-clearing Member made in the section(s)/transaction class(es)/market(s) concerned and we take responsibility for the settlement thereof in compliance with the provisions of the General Business Rules of KELER CCP respectively. We accept the obligation to inform KELER CCP without delay on the termination of the agreement between our company and the Non-clearing Member for any reason.

Budapest,

.....
Általános klíringtag cégszerű aláírása
Authorized signature of General Clearing Member