

# **FINAL TERMS**

relating to

## **COMMERZBANK AKTIENGESELLSCHAFT**

EUR 15,000,000 Structured Notes of 2008/2011  
linked to the Carmignac Patrimoine Fund

to be offered under the  
Notes/Certificates Programme

of

## **COMMERZBANK AKTIENGESELLSCHAFT**

Date of the Final Terms: 18 August 2008

Series No.: A2916

Tranche No.:1 of that Series

This document constitutes the Final Terms relating to the issue of Notes under the Notes/Certificates Programme of Commerzbank Aktiengesellschaft (the "**Programme**") and shall be read in conjunction with the Base Prospectus dated 29 November 2007 as supplemented from time to time. Full information on the Issuer and the offer of the Notes is only available on the basis of the combination of these Final Terms and the Base Prospectus and supplements thereto, if any. The Base Prospectus and any supplements will be available free of charge at the head office of the Issuer, Kaiserplatz, 60261 Frankfurt am Main, Federal Republic of Germany and at the following website of Commerzbank Aktiengesellschaft: [www.commerzbank.com](http://www.commerzbank.com). These Final Terms are available on the website [www.warrants.commerzbank.com](http://www.warrants.commerzbank.com).

## I. Terms and Conditions:

The Programme Terms and Conditions dated 29 November 2007 (the "**Programme Terms and Conditions**") shall be amended by incorporating the terms of the Final Terms, and by deleting all provisions not applicable to the respective Tranche of the respective Series (the "**Consolidated Terms**") in the form attached hereto as Annex 1. The Consolidated Terms shall replace the Programme Terms and Conditions in their entirety. If and to the extent the Consolidated Terms deviate from the Programme Terms and Conditions, the Consolidated Terms shall prevail.

## II. Other Conditions

Issue Date	23 September 2008
Issue Price	101%
Offer Period	18 August 2008 - 16 September 2008 (both inclusive)
German Securities Identification No.	CB89HK
Common Code	038124684
ISIN	XS0381246841
Listing	Euronext Amsterdam by NYSE Euronext
Targeted investor category	Dutch and Belgian Public Offer
Additional Risk Factors	<b>Product specific Risks</b>

The redemption of the Notes is linked to the EUR-denominated class A units in Carmignac Patrimoine (the "**Fund Shares**" or the "**Underlying**"), a French mutual fund (the "**Fund Company**"). There are no periodic interest payments or other distributions during the term of the Notes. The Notes shall be redeemed upon maturity at their nominal amount plus the payment of an additional amount which is calculated as the nominal amount multiplied with a percentage equal to the average performance of the Underlying observed quarterly during the life of the Notes.

The potential profit from an investment in the Notes is therefore limited to such additional amount which may be zero if the average of the net asset value as observed during the life of the Notes is equal to or below the net asset value of the Underlying as observed on the Strike Date.

Investors should expect that market prices for the Notes will be volatile, depending upon the development of the prices of the Underlying, interest rates, remaining term of the Notes and other factors.

In addition, the value of the Underlying depends on a number of interrelated factors, including economic, financial and political events and including factors affecting capital markets in general. The price at which a Noteholder will be able to sell Notes prior to maturity may be at a discount, which, among other reasons, could be substantial from the nominal amount thereof, if, at such time, the market price of the Underlying is below, equal to or not sufficiently above the market price of the Underlying at the date of these Final Terms. The historical market prices of the Underlyings should not be taken as an indication of the Underlying's future performance during the lifetime of the Notes.

Investors should be aware that the performance of the Underlying is generally reduced by fees at the level of the Fund Company as well as at the level of the investments made by the Fund Company, including, but not limited to, management and administration fees, performance fees or transaction fees. Such fees may adversely affect the value of the Notes as well as the amounts payable under the Notes.

Further to this, the Fund Company may invest to a significant extent in illiquid assets. This can lead to difficulties in calculating the net asset value and to a reduction in the value of the investment and even to a sale thereof. In addition, the Fund Company's net assets are exposed to the equity and interest rate risk of the eurozone, international and emerging markets through its investments in financial instruments. In case of an unfavourable development of the relevant financial instrument or in the relevant country, market or industry, the value of the Underlying may be affected disproportionately by this adverse development. In markets with limited certainty of law there are additional risks as they may

not be regulated as reliably as others. A potential risk, amongst others, may be government interventions which could lead to a total or partial loss of the invested capital or of access to the capital invested there. For a detailed analysis of the risks related to an investment in the Fund Company or the Fund Shares, investors should refer to the prospectus of the Fund Company (see below p. 4).

According to the terms and conditions of the Notes as set forth in the Final Terms the Issuer may be entitled to make adjustments to the terms and conditions of the Notes or to early terminate the Notes if certain circumstances occur. Any such adjustment may have a negative effect on the value of the Notes and the redemption amount. The amount at which the Notes are redeemed in the event of an early termination may be lower than the amount the holders of the Notes would have received without such early termination. The redemption amount paid in the case of an early termination may include a deduction in respect of early redemption unwinding costs.

The potential early redemption of the Notes may lead to negative deviations from the expected yield and the redemption amount may be lower than the purchase price paid by the holder of the Notes or zero and thus the invested capital may be partially or completely lost.

There can be no assurance as to how the Notes will trade in the secondary market or whether such market will be liquid or illiquid. Application has been made to list the Notes on Euronext Amsterdam by NYSE Euronext. No assurance can be given that there will be a market for the Notes. The investment in the Notes does not result in any right to receive information on the Underlying, to exercise voting rights or to receive distributions on the Underlyings.

#### **Risks relating to the Issuer**

Investors are exposed to the default risk of the Issuer.

The value of the Notes is not only subject to the performance of the Underlyings, but among others also to the creditworthiness of the Issuer, which may vary over the term of the Notes.

The Notes represent general contractual unsecured, unsubordinated obligations of the Issuer and are ranking pari passu with all other unsecured unsubordinated obligations of the Issuer, save for obligations preferred by operation of law.

For further information on risk factors, especially to risk factors relating to Commerzbank Aktiengesellschaft reference is made to the Base Prospectus, in particular the consideration set forth therein under "RISK FACTORS".

Reasons for the offer, estimated net proceeds and total expenses

(i) Reasons for the offer

The net proceeds from the issue of Notes will be applied by the Issuer for its general corporate purposes, which include making a profit.

(ii) Estimated net proceeds

EUR 15,150,000

(iii) Estimated total expenses

EUR 5,000

Floating Rate Notes only - past and future interest rates

Not Applicable

Redemption Structured Notes and Reverse Convertible Notes only - performance of and other information concerning the Underlying, explanation of effect on value of investment and associated risks

The information included herein with respect to the Fund Company and the Shares (as defined in § 3 of the Terms and Conditions of the Notes contained in Annex 1 to these Final Terms) to which redemption under the Notes is linked consists only of extracts from, or summaries of, publicly available information. The Issuer accepts responsibility that such information has been correctly extracted or summarised. No further or other responsibility in respect of such information is accepted by the Issuer. In particular, the Issuer accepts no responsibility in respect of the accuracy or completeness of the information set forth herein concerning the Underlyings or the Companies or that there has not occurred any event which would affect the accuracy or completeness of such information.

Past and future performance and volatility of the Fund Companies and the Fund Shares can be obtained free of charge from the management company of the Fund Company:

Carmignac Gestion, Société Anonyme  
24, place Vendôme  
75001 Paris  
France

and from its web page: [www.carmignac-gestion.com](http://www.carmignac-gestion.com).

For further information see Annex 1.

## Annex 1

The following terms and conditions apply to the Notes issued as Series No. A2916 and Tranche No. 1 of that Series under the Notes/Certificates Programme of Commerzbank Aktiengesellschaft (the "**Programme**").

### § 1 (FORM, TRANSFERABILITY)

- (1) This issue of Commerzbank Aktiengesellschaft, Frankfurt am Main, Federal Republic of Germany (the "**Issuer**") is issued in Euro ("**EUR**") (the "**Issue Currency**") represented by notes (the "**Notes**") payable to bearer and ranking *pari passu* among themselves in the denomination of EUR 1,000 (the "**Denomination**") each.
- (2) The Notes will be represented by a permanent global bearer note (the "**Global Note**") without interest coupons. No definitive Notes will be issued and the right of delivery of definitive Notes is excluded. The Global Note shall be deposited with Deutsche Bank AG, Große Gallusstraße 10 - 14, 60272 Frankfurt am Main, as common depositary for Clearstream Banking, société anonyme, Luxembourg and Euroclear Bank S.A./N.V. as operator of the Euroclear System (together the "**Clearing System**").
- (3) The Global Note shall only be valid if it bears the hand-written signatures of two authorised officers of the Issuer.
- (4) The Noteholders shall receive co-ownership participations in or rights with respect to the Global Note which are transferable in accordance with applicable law and the rules and regulations of the Clearing System.
- (5) The term "**Noteholder**" in these Terms and Conditions refers to the holder of a co-ownership participation in or right with respect to the Global Note.
- (6) The Notes can be transferred individually via the Clearing System.
- (7) The Issuer reserves the right to issue from time to time without the consent of the Noteholders another tranche of Notes with substantially identical terms, so that the same shall be consolidated to form a single Series and increase the aggregate principal amount of the Notes. The term "Notes" shall, in the event of such consolidation, also comprise such additionally issued notes.

### § 2 (INTEREST)

The Notes shall not bear any interest.

### § 3 (REPAYMENT)

- (1) The Notes will be redeemed at the Final Redemption Amount on 26 September 2011 (the "**Redemption Date**").
- (2) The "**Final Redemption Amount**" per Note shall be determined by the Calculation Agent (§ 9) as the sum of (i) the Denomination per Note and (ii) an additional amount (the "**Additional Amount**") calculated in accordance with the following formula:

$$AA = N \times \text{Max} \left( 0; \frac{\text{Fund}_{\text{final}}}{\text{Fund}_{\text{initial}}} - 1 \right)$$

where

AA = Additional Amount per Note

N = Denomination

Fund<sub>final</sub> = The arithmetic mean on the NAVs of the Fund Shares on the Valuation Dates

Fund<sub>initial</sub> = Initial NAV

For the avoidance of doubt: The Final Redemption Amount per Note cannot be less than EUR 1,000.

- (3) For the purposes of these Terms and Conditions of the Notes, the following definitions shall apply:

**"Fund Business Day"** with respect to the Fund Company and the Fund Shares means a day on which the Fund Company (or any third party appointed by the Fund Company) is (or but for the occurrence of a Substitution Event would have been) due to calculate the NAV of the Fund Shares in accordance with the Prospectus.

**"Fund Company"** means, subject to a Substitution of the Fund Company in accordance with paragraph (4), Carmignac Patrimoine ("**Richelieu France**"), a mutual fund (*Fond Commun de Placement (FCP)*) under French law established conforming to European standards (EC Directive 85/611, amended by Directive 2001/107) and approved by the relevant French authority on 3 November 2004.

**"Fund Share"** means a EUR-denominated class A unit in Carmignac Patrimoine with ISIN code FR0010135103 and displayed on Bloomberg Ticker CARMPAT FP Equity.

**"Initial NAV"** means the NAV of the Fund Share on the Strike Date. If, on the Strike Date, the NAV of the Fund Share is not determined and published, then the next calendar day on which the NAV of the Fund Share is determined and published again shall be deemed to be the Strike Date.

**"Management Company"** means Carmignac Gestion.

**"NAV"** with respect to the Fund Share means the net asset value of the Fund Share as determined and published in accordance with the provisions of the Prospectus.

**"Prospectus"** means the prospectus of Carmignac Patrimoine, as supplemented and amended from time to time and available from the Management Company.

**"Strike Date"** means 18 September 2008. If, on the Strike Date, the NAV of the Fund Share is not determined and published, then the next calendar day on which the NAV of the Fund Share is determined and published again shall be deemed to be the Strike Date.

**"Substitution Event"** means any of the following events which, in the sole opinion of the Calculation Agent, the Calculation Agent considers to be a Substitution Event:

1. The implementation of any change to the terms and conditions of the Fund Company, as detailed in the Prospectus which, in the sole opinion of the Calculation Agent, is of a material nature including but not limited to such changes as (i) a change in the risk profile of the Fund Company; (ii) a change in the voting rights, if any, associated with the Fund



Shares of the Fund Company; (iii) an alteration to the investment objectives of the Fund Company; or (iv) a change in the currency in which the Fund Shares of the Fund Company are denominated so that the NAV is quoted in a different currency from that in which it was quoted on the Strike Date;

2. The breach of the investment objectives of the Fund Company (as defined in the Prospectus) if such breach, in the sole opinion of the Calculation Agent, is of a material nature;

3. The imposition or increase of subscription and/or redemption fees, or taxes or other similar fees, payable in respect of a purchase or redemption of the shares of the Fund Company after the Strike Date;

4. If the NAV of the Fund Shares of the Fund Company are, for reasons other than of a technical or operational nature, not calculated for 15 calendar days;

5. If the activities of the Fund Company or its management are placed under review by their regulators for reasons of wrongdoing, breach of any rule or regulation or other similar reason;

6. The compulsory redemption of the Fund Shares of the Fund Company for any reason prior to the Redemption Date of the Notes described in these Terms and Conditions of the Notes;

7. The suspension of the issue of additional shares of the Fund Company or the redemption of existing shares and any such suspension continues for 15 calendar days;

8. The winding-up or termination of the Fund Company for any reason prior to the Redemption Date of the Notes described in these Terms and Conditions of the Notes;

9. If the Fund Company is superseded by a successor fund (the "**Successor**") following a merger or similar event unless, in the sole opinion of the Calculation Agent, the Successor has similar investment objectives to those of the Fund Company, is incorporated in the same jurisdiction as the Fund Company (or another jurisdiction acceptable to the Calculation Agent), is denominated in the same currency as the Fund Company and is managed and administered by one or more individuals who, or corporate entities which, are reputable and experienced in their field;

10. The cancellation of the registration, or of the approval, of the Fund Company or its management by any relevant authority or body;

11. The replacement of the management of the Fund Company by an individual or person unless, in the sole opinion of the Calculation Agent, the relevant replacement is an individual or group of individuals who, or a corporate entity which, is reputable and experienced in their field;

12. If the Issuer is required, pursuant to any accounting or other applicable regulations in accordance with which it prepares financial statements, to consolidate the Fund Company in its accounts or financial statements;

13. If the management of the Fund Company fails for any reason to communicate to the Calculation Agent any information which it has agreed to provide within the time frame stipulated; or

14. Any other event in respect of the Fund Company which, in the opinion of the Calculation Agent, has an analogous effect to any of the events specified above.

"**Valuation Date**" means any of the following dates:

18 December, 2008	18 March, 2009	18 June, 2009	18 September, 2009
18 December, 2009	18 March, 2010	18 June, 2010	20 September, 2010
20 December, 2010	18 March, 2011	20 June, 2011	19 September, 2011

or, if any such date is not a Fund Business, the immediately following day that is a Fund Business Day.

If, on a Valuation Date, the NAV of the Fund Share is not determined and published, then the next calendar day on which the NAV of the Fund Share is determined and published again shall be deemed to be the ValuationDate, subject to a substitution of the Fund Company in accordance with Paragraph (4).

If the final Valuation Date is postponed in accordance with the above provisions and if on the third Fund Business Day prior to the Redemption Date, the NAV of the Fund Share is still not determined and published, then the Calculation Agent will, in its own reasonable discretion, determine the NAV of the Fund Share on the Valuation Date in accordance with the prevailing market conditions and considering the last available NAV of the Fund Share.

#### **§ 4 (EARLY REDEMPTION, REPURCHASE OF NOTES)**

- (1) Except as provided in § 4 paragraph (3), the Issuer shall not be entitled to redeem the Notes prior to the Redemption Date.
- (2) Except as provided in § 11, the holders of the Notes shall not be entitled to call for a redemption of the Notes prior to the Redemption Date.
- (3) If an Extraordinary Event (as defined in § 7) has occurred, the Issuer is entitled, but not obligated, to redeem the Notes prematurely by giving notice in accordance with § 13.

If the Notes are called for redemption due to an Extraordinary Event or an event having occurred as described in § 11, as the case may be, they shall be redeemed at the early redemption amount (the "**Early Redemption Amount**") which shall be calculated by the Issuer in its reasonable discretion (§ 315 of the German Civil Code) as the fair market value of the Notes at the date as determined by the Issuer in the notification of the termination. The rights arising from the Notes will terminate upon the payment of the Early Redemption Amount.

- (4) The Issuer may at any time purchase Notes in the market or otherwise. Notes repurchased by or on behalf of the Issuer may be held by the Issuer, re-issued, resold or surrendered to the Principal Paying Agent for cancellation.

#### **§ 5 (PAYMENTS)**

- (1) The Issuer irrevocably undertakes to pay in the Issue Currency, as and when due, all amounts payable pursuant to these Terms and Conditions.
- (2) Payments of all amounts payable pursuant to the Terms and Conditions will be made only against presentation, and in the case of the last payment, against surrender of the Global Note to the Principal Paying Agent for transfer to the Clearing System or pursuant to the Clearing System's instruction for credit to the relevant accountholders of the Clearing System. Payment to the Clearing System or pursuant to the Clearing System's instruction shall release the Issuer from its payment obligations under the Notes in the amount of such payment.

- (3) If any payment of principal or interest with respect to a Note is to be effected on a day other than a Payment Business Day, payment shall be effected on the next following Payment Business Day. In this case, the relevant Noteholder shall neither be entitled to any payment claim nor to any interest claim or other compensation with respect to such delay.

**"Payment Business Day"** means a day on which the Trans-European Automated Real-Time Gross settlement Express Transfer system (TARGET-System) and the Clearing System settle payments in the Issue Currency.

- (4) Any reference in these Terms and Conditions to principal in respect of the Notes shall include:
- (a) the Final Redemption Amount of the Notes at the Redemption Date;
  - (b) the Early Redemption Amount in the case of early redemption of the Notes pursuant to § 11 and § 4.
- (5) All payments are subject in all cases to any applicable fiscal or other laws, regulations and directives.
- (6) The Issuer may deposit with the Amtsgericht, Frankfurt am Main, principal not claimed by Noteholders within 12 months after its respective due date, even though the respective Noteholders may not be in default of acceptance. If and to the extent that the deposit is made under waiver of the right of withdrawal, the respective claims of the respective Noteholders against the Issuer shall cease.

## § 6 (TAXES)

All present and future taxes, fees or other duties in connection with the Notes shall be borne and paid by the Noteholders. The Issuer is entitled to withhold from payments to be made under the Notes any taxes, fees and/or duties payable by the Noteholder in accordance with the previous sentence.

## § 7 (ADJUSTMENTS)

- (1) Upon the occurrence of an event which the Calculation Agent determines to be a Substitution Event as defined in § 3 paragraph (3), the Calculation Agent may, but is not required to:
- (a) determine the NAV of the Fund on the basis of the next available NAV of the Fund (the "**Removal Value**"). The date on which the Removal Value is determined shall be the "**Removal Date**"; and
  - (b) use reasonable efforts to identify an alternative fund or funds in substitution for the Fund Company (the "**Successor Fund**"). The Successor Fund shall be a fund with similar characteristics, investment objectives and policies to those of the Fund Company, immediately prior to the occurrence of the Substitution Event. Any reference made herein to the Fund Company shall, with effect from the Removal Date, be read as reference to the Successor Fund, and any reference made herein to the Fund Share shall be read as reference to the shares or units of the Successor Fund. All related definitions shall be deemed to be amended accordingly. Furthermore, the Calculation Agent will make all necessary adjustments to the Terms and Conditions of the Notes resulting from a substitution of a Fund Company.
- (2) If the Issuer is unable to identify a Successor Fund in accordance with § 3 Paragraph (3) for whatever reason (the "**Extraordinary Event**"), the Issuer may early terminate the Notes in accordance with § 4 paragraph (3).

- (3) Adjustments take effect as from the date determined by the Issuer. Adjustments as well as the effective date shall be notified by the Issuer in accordance with § 13. Adjustments pursuant to this paragraph are, in the absence of a manifest error, binding on all parties.

## § 8 (PRESENTATION PERIODS, PRESCRIPTION)

The period for presentation of the Notes (§ 801, paragraph 1, sentence 1 of the German Civil Code) shall be ten years and the period of limitation for claims under the Notes presented during the period for presentation shall be two years calculated from the expiry of the relevant presentation period.

## § 9 (STATUS)

The obligations under the Notes constitute direct, unconditional and unsecured obligations of the Issuer and rank at least *pari passu* with all other unsecured and unsubordinated obligations of the Issuer (save for such exceptions as may exist from time to time under applicable law).

## § 10 (AGENTS)

- (1) Commerzbank Aktiengesellschaft, Main Office, Frankfurt am Main shall be the "**Principal Paying Agent**". The Issuer shall procure that there will at all times be a Principal Paying Agent. The Issuer is entitled to appoint other banks of international standing as Principal Paying Agent or Paying Agents. Furthermore, the Issuer is entitled to terminate the appointment of the Principal Paying Agent as well as of individual Paying Agents. In the event of such termination or such bank being unable or unwilling to continue to act as Principal Paying Agent or Paying Agent, the Issuer shall appoint another bank of international standing as Principal Paying Agent or Paying Agent. Such appointment or termination shall be published without undue delay in accordance with § 13.
- (2) Commerzbank Aktiengesellschaft, Main Office, Frankfurt am Main shall be the "**Calculation Agent**". The Issuer shall procure that as long as determinations have to be made in accordance with these Terms and Conditions there shall at all times be a Calculation Agent. The Issuer reserves the right at any time to terminate the appointment of the Calculation Agent. In the event of such termination or of the appointed office of any such bank being unable or unwilling to continue to act as Calculation Agent (as the case may be) the Issuer shall appoint an appropriate office of another leading bank to act Calculation Agent. The appointment of another Calculation Agent shall be published without delay by the Issuer in accordance with § 13.
- (3) The Principal Paying Agent / Paying Agents and the Calculation Agent shall be held responsible for giving, failing to give, or accepting a declaration, or for acting or failing to act, only if, and insofar as, they fail to act with the diligence of a conscientious businessman. All determinations and calculations made by the Principal Paying Agent / Paying Agents and the Calculation Agent shall be made in conjunction with the Issuer and shall, in the absence of manifest error, be conclusive in all respects and binding upon the Issuer and all Certificateholders.
- (4) The Principal Paying Agent / Paying Agents and the Calculation Agent acting in such capacity, act only as agents of the Issuer. There is no agency or fiduciary relationship between the Principal Paying Agent / Paying Agents and the Calculation Agent on the one hand and the Certificateholders on the other hand. The Principal Paying Agent / Paying Agents and the Calculation Agent are hereby granted exemption from the restrictions of § 181 of the German Civil Code and any similar restrictions of the applicable laws of any other country.

**§ 11  
(TERMINATION)**

- (1) Each holder of Notes is entitled to declare his Notes due and to require the redemption of his Notes at the Early Redemption Amount pursuant to § 4 paragraph (3) as provided hereinafter, if:
- (a) the Issuer is in default for more than 30 days in the payment of principal or interest under these Terms and Conditions;
  - (b) the Issuer violates any other obligation under these Terms and Conditions, and such violation continues for 60 days after receipt of written notice thereof from the respective Noteholder;
  - (c) the Issuer is wound up or dissolved whether by a resolution of the shareholders or otherwise (except in connection with a merger or reorganisation in such a way that all of the assets and liabilities of the Issuer pass to another legal person in universal succession by operation of law);
  - (d) the Issuer ceases its payments and this continues for 60 days, or admits to be unable to pay its debts;
  - (e) any insolvency proceedings are instituted against the Issuer which shall not have been dismissed or stayed within 60 days after their institution or the Issuer applies for the institution of such proceedings, or offers or makes an arrangement for the benefit of its creditors or the Federal Financial Supervisory Authority (BaFin) opens insolvency proceedings against the Issuer; or
  - (f) in the case of a substitution of the Issuer within the meaning of § 12 paragraph (4)(b) any of the events set forth in sub-paragraphs (c)-(e) above occurs in respect of the Guarantor.

The right to declare Notes due shall terminate if the circumstances giving rise to it have been remedied before such right is exercised.

- (2) The right to declare Notes due pursuant to paragraph (1) shall be exercised by a holder of Notes by delivering or sending by registered mail to the Principal Paying Agent a written notice which shall state the principal amount of the Notes called for redemption and shall enclose evidence of ownership reasonably satisfactory to the Principal Paying Agent.

**§ 12  
(SUBSTITUTION OF ISSUER, BRANCH DESIGNATION)**

- (1) Any other company may assume at any time during the life of the Notes, subject to § 12 paragraph (4), without the Noteholders' consent upon notice by the Issuer given through publication in accordance with § 13, all the obligations of the Issuer under these Terms and Conditions.
- (2) Upon any such substitution, such substitute company (hereinafter called the "**New Issuer**") shall succeed to, and be substituted for, and may exercise every right and power of, the Issuer under these Terms and Conditions with the same effect as if the New Issuer had been named as the Issuer herein; the Issuer (and, in the case of a repeated application of this § 12, each previous New Issuer) shall be released from its obligations hereunder and from its liability as obligor under the Notes.
- (3) In the event of such substitution, any reference in these Terms and Conditions (except for this § 12) to the "**Issuer**" shall from then on be deemed to refer to the New Issuer and any reference to the country of the corporate seat of the Issuer which is to be substituted (except for the references in § 15 to the Federal Republic of Germany) shall be deemed to refer to the country of the corporate seat of the New Issuer and the country under the laws of which it is organised.

- (4) No such assumption shall be permitted unless
- (a) the New Issuer has agreed to indemnify and hold harmless each Noteholder against any tax, duty, assessment or governmental charge imposed on such Noteholder in respect of such substitution;
  - (b) the Issuer (in this capacity referred to as the "**Guarantor**") has unconditionally and irrevocably guaranteed to the Noteholders compliance by the New Issuer with all payment obligations assumed by it under guarantee terms usually given by the Guarantor with respect to note issues by any of its finance companies and the text of this guarantee has been published in accordance with § 13; and
  - (c) the New Issuer and the Guarantor have obtained all governmental authorisations, approvals, consents and permissions necessary in the jurisdictions in which the Guarantor and/or the New Issuer are domiciled or the country under the laws of which they are organised.
- (5) Upon any substitution of the Issuer for a New Issuer, this § 12 shall apply again.
- (6) The Issuer may at any time, designate by publication in accordance with § 13 any branch (*Betriebsstätte*) of the Issuer outside the Federal Republic of Germany as the branch (*Betriebsstätte*) primarily responsible for the due and punctual payment in respect of the Notes then outstanding and the performance of all of the Issuer's other obligations under the Notes then outstanding.

Paragraphs (4)(c) and (5) of this § 12 shall apply *mutatis mutandis* to such designation.

### § 13 (NOTICES)

Notices relating to the Notes shall be made to the Clearing System for communication by the Clearing System to the Noteholders or directly to the Noteholders. Notices via the Clearing System shall be deemed to be effected seven days after the notice to the Clearing System, direct notices to the Noteholders shall be deemed to be effected upon their receipt.

### § 14 (AVAILABLE INFORMATION)

Commerzbank hereby undertakes to furnish upon the request of a Noteholder or the holder of any beneficial interest in a Note, upon the request of such holder or to a prospective purchaser designated by such holder or beneficial owner, the information required to be delivered under Rule 144A(d)(4) under the U.S. Securities Act of 1933, as amended if, at the time of the request, Commerzbank is neither a reporting company under Section 13 or 15(d) of the U.S. Securities Exchange Act of 1934, as amended ("**U.S. Exchange Act**"), nor exempt from reporting pursuant to Rule 12g3-2(b) under the U.S. Exchange Act.

### § 15 (FINAL CLAUSES)

- (1) The form and content of the Notes and the rights and duties of the Noteholders, the Issuer, the Calculation Agent and the Paying Agents shall in all respects be governed by the laws of the Federal Republic of Germany.
- (2) The Issuer shall be entitled without the consent of the Noteholders (a) to correct obvious typing, calculation or other errors and (b) to amend or supplement contradictory or incomplete provisions contained in the Terms and Conditions, provided that in the cases of (b) only such

amendments and supplements shall be permitted if such amendments or supplements, having regard to the interests of the Issuer, are reasonably acceptable for the Noteholders, i.e. that do not adversely affect the financial situation of the Noteholders materially. Amendments or supplements of these Terms and Conditions have to be notified without delay in accordance with § 13.

- (3) Should any provision of these Terms and Conditions be or become void in whole or in part, the other provisions shall remain in force. Void provisions shall be replaced in accordance with the meaning and purpose of these Terms and Conditions.
- (4) Place of performance is Frankfurt am Main, Federal Republic of Germany.
- (5) Place of jurisdiction shall be Frankfurt am Main, Federal Republic of Germany.
- (6) The courts of the Federal Republic of Germany shall have exclusive jurisdiction over the annulment of lost or destroyed Notes.
- (7) The English version of these Terms and Conditions shall be binding. Any translation is for convenience only.