

**COMMERZBANK AKTIENGESELLSCHAFT**  
Frankfurt am Main

**Final Terms**

dated 23 October 2012

with respect to the

**Base Prospectus**

dated 27 June 2012

relating to

**Structured Certificates**  
**("Unlimited Short x5 NDXF Index Certificates" or**  
**"Unlimited Factor 5 Short NDXF Index Certificates")**

to be publicly offered in the French Republic,  
the Kingdom of Belgium and the Italian Republic  
and to be admitted to trading on Euronext Paris S.A.  
and Euronext Brussels N.V./S.A.

*In addition to the information relevant to individual issues, these Final Terms repeat some of the information set out in the Base Prospectus dated 27 June 2012 regarding the Certificates where the Issuer deems such information necessary in order to satisfy the investor's need for information in relation to the respective issue of Certificates.*

## RISK FACTORS

The purchase of unlimited structured certificates (the "**Certificates**") is associated with certain risks. The information set forth hereinafter merely describes the major risks that are associated with an investment in the Certificates in the Issuer's opinion. In this regard, however, **the Issuer expressly points out that the description of the risks associated with an investment in the Certificates does not purport to be exhaustive.**

In addition, the order in which such risks are presented does not indicate the extent of their potential commercial effects in the event that they are realised, or the likelihood of their realisation. The realisation of one or more of said risks may adversely affect the assets, finances and profits of Commerzbank Aktiengesellschaft or the value of the Certificates themselves.

Moreover, additional risks that are not known at the date of preparation of the Base Prospectus and these Final Terms or are currently believed to be immaterial could likewise have an adverse effect on the value of the Certificates.

The occurrence of one or more of the risks disclosed in the Base Prospectus, any supplement and/or these Final Terms or any additional risks may lead to a material and sustained loss and, depending on the structure of the Certificate, even result in the partial loss or even **total loss** of the investor's capital.

**Investors should purchase the Certificates only if they are able to bear the risk of losing the capital invested, including any transaction costs incurred.**

Potential investors in the Certificates must in each case determine the suitability of the relevant investment in light of their own personal and financial situation. In particular, potential investors should in each case:

- have sufficient knowledge and experience to make a meaningful evaluation of the Certificates, the merits and risks of investing in the Certificates and/or the information contained or incorporated by reference in the Base Prospectus or any applicable supplement and all the information contained in these Final Terms;
- have sufficient financial resources and liquidity to bear all of the risks associated with an investment in the Certificates;
- understand thoroughly the Terms and Conditions pertaining to the Certificates (the "**Terms and Conditions**") and be familiar with the behaviour of any relevant underlier and the financial markets; and
- be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect the value of their investment and be able to bear the associated risks.

These risk warnings do not substitute advice by the investor's bank or by the investor's legal, business or tax advisers, which should in any event be obtained by the investor in order to be able to assess the consequences of an investment in the Certificates. Investment decisions should not be made solely on the basis of the risk warnings set out in the Base Prospectus, any supplement and/or these Final Terms since such information cannot serve as a substitute for individual advice and information which is tailored to the requirements, objectives, experience, knowledge and circumstances of the investor concerned.

The Certificates are subject to - potentially major - price fluctuations and may involve the risk of a **complete or partial loss** of the invested capital (including any costs incurred in connection with the

purchase of the Certificates). Since, in the case of Certificates, the Redemption Amount is linked to an underlier (share, index, metal (i.e. precious or industrial metal), futures contract, bond, currency exchange rate, interest rate, fund, or a basket or an index that is composed of any of the aforementioned values, commodities or rates, or to one or more formulae ("**Structured Certificates**")), Certificates are investments that might not be suitable for all investors.

The Certificates may have complex structures, which the investor might not fully understand. The investor might therefore underestimate the actual risk that is associated with a purchase of the Certificates. Therefore, potential investors should study carefully the risks associated with an investment in the Certificates (with regard to the Issuer, the type of Certificates and/or the Underlier, as applicable), as well as any other information contained in the Base Prospectus, any supplements thereto as well as these Final Terms, and possibly consult their personal (including tax) advisors. Prior to purchasing Certificates, potential investors should ensure that they fully understand the mechanics of the relevant Certificates and that they are able to assess and bear the risk of a **(total)** loss of their investment. Prospective purchasers of Certificates should in each case consider carefully whether the Certificates are suitable for them in the light of their individual circumstances and financial position.

It is possible that the performance of the Certificates is adversely affected by several risk factors at the same time. The Issuer, however, is unable to make any reliable prediction on such combined effects.

**Other general risks associated with the purchase of the Certificates (such as factors influencing the price of the Certificates at the time of issue and in the secondary market, conflicts of interest, hedging risks, interest rate and inflationary risks, as well as currency risks) are set out in the detailed provisions of the Base Prospectus dated 27 June 2012.**

#### **Special risks relating to Unlimited Short x5 NDXF Index Certificates or Unlimited Factor 5 Short NDXF Index Certificates**

- **General**

The Unlimited Index Certificates (the "**Certificates**") will grant the investor the right to request from the Issuer at specific Redemption Dates the payment of a Redemption Amount per Certificate corresponding to the Reference Price of the underlying Short x5 NDXF Index (the "**Index**" or the "**Underlier**") on the respective Valuation Date expressed in USD (for the purposes of these calculation, one index point shall be equal to USD 1.00) and multiplied by the Multiplier, whereby the result of such calculation shall be converted into EUR. The "**Valuation Date**" in that context will always be the specific Redemption Date, whereas the payment of the Redemption Amount will be due on the Maturity Date which will be the fifth Payment Business Day following the Redemption Date.

The Index will be calculated and published by Commerzbank in its capacity as Index Calculation Agent. The Index is a strategy index that is composed of a leverage and an interest component and relates to the NASDAQ-100 Futures (the "**Futures Contract**") which is traded on the CME (Chicago Mercantile Exchange) (as detailed in the Index Description). The leverage component will, in percentage terms, correspond inversely to five times the daily movements of the Futures Contract.

It is a feature of the Certificates that no automatic payment of the Redemption Amount represented by the Certificates is scheduled at any time during the term of the Certificates. Payment of the Redemption Amount will generally be contingent upon prior request for redemption of the Certificates by the Certificateholder in accordance with the Terms and Conditions.

In addition, investors should pay particular attention to the following points:

- **Loss risks**

A change in the price of one or several Index components may result in a significant reduction of the Redemption Amount of the Certificates below the initial purchase price in line with the performance of the Index and, thus, a significant loss for the Certificateholder in relation to the purchase price paid for the Certificates.

Investors should pay particular attention to the fact that the daily changes in relation to the Futures Contract (i.e., the change between two subsequently following Closing Prices of the Futures Contract as defined in the description of the Index attached to the Terms and Conditions (the "**Index Description**")) and the value of the Index and, thus, the value of the Certificate correlate negatively. This means that, the more the price of the Futures Contract increases on a trading day, the lower the Index level will be on that trading day and vice versa, with the daily changes in relation to the Index being intensified in both directions as a result of the quintuple leverage.

**In the case of an unfavourable performance of the Index, there is a risk that some or all of the invested capital may be lost.**

In addition, any economic considerations regarding an investment in the Certificates must also take into account the costs associated with their purchase or sale.

- **Currency risk**

The prices of the Index are expressed in USD that is different from the currency in which the Certificates are issued (EUR). Therefore, the Redemption Amount of the Certificates, during their term, does not only depend on the performance of the Index, but also on the development of the EUR/USD exchange rate.

- **Adjustments and extraordinary termination by the Issuer**

The Issuer may be entitled to perform adjustments in accordance with the Terms and Conditions. Such adjustments may have an adverse effect on the value of the Certificates.

In addition, the Issuer may be entitled to extraordinarily terminate the Certificates in accordance with the Terms and Conditions. If the Issuer gives notice of an extraordinary termination regarding the Certificates, all outstanding Certificates shall be redeemed at the Extraordinary Termination Amount. The Issuer shall determine the Extraordinary Termination Amount for the Certificates in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)) by taking into account prevailing market conditions and any proceeds realised by the Issuer in connection with transactions concluded by it in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)) for hedging measures in relation to the assumption and fulfilment of its obligations under the Certificates (the "**Hedging Transactions**"). Expenses for transactions that were required for winding up the Hedging Transactions will be taken into account as deductible items.

- **Risks resulting from the way the Index works**

The Index is composed of a so-called leverage component and an interest component.

Leverage component: When calculating the Index, the leverage component reflects the sale of the Futures Contract (short position) that underlies the Index with a quintuple leverage effect on the leverage component. A price loss in relation to the Futures Contract as compared to the Closing Price of the Futures Contract as defined in the Index Description on the preceding day will lead to a **quintuple increase** in the leverage component in percentage terms and **vice versa**. If the **price loss** as compared to the previous day is 10%, the value of the leverage component will **increase** by 50%; if the price of the Futures Contract as compared to the previous day **increases** by 10%, the value of the leverage component will **fall** by 50%.

However, investors should note that the calculation of the Index will be influenced by the daily price performance of the Futures Contract during the entire term of the Certificates commencing from their issuance; the daily price performance in percentage terms will in each case be determined by reference to the Closing Price of the Futures Contract on the preceding day. A comparison of the price of the Futures Contract at the time of the issue of the Certificates and the price of the Futures Contract on the relevant Valuation Date is of no relevance.

The following phenomena may occur in that regard:

If the price of the Futures Contract consistently increases from, for instance, USD 10.00 over 10 days by USD 0.10 to USD 11.00, the price gain in relation to the Futures Contract will be 10%, while the value of the leverage component will not have fallen by 50%, but instead by only 38.78%. If the price of the Futures Contract consistently decreases by USD 0.10 to USD 9.00, the value of the leverage component will not have increased by 50%, but instead by 66.65%.

If the price of the Futures Contract moves in different directions after the issue date of the Certificates (i.e. if both price gains and price losses occur) and if the price of the Futures Contract returns to its level at issuance, the value of the leverage component will **not** revert to, but will be (as a result of the leverage effect possibly significantly) below its initial level.

If the price of the Futures Contract increases significantly at any time during the term of the Certificates, the value of the leverage component will fall to a very low level. Although this means that all later price losses in relation to the Futures Contract will lead to price gains in relation to the leverage component and thus the Index, investors must note in this regard that the initial level for a price recovery in relation to the Index may be very low and that, therefore, significant price losses in relation to the Futures Contract will only have a moderate effect on the recovery of the Index.

Interest component: The interest component results from an investment in a riskless money market instrument (USD-LIBOR O/N), less the Index Fees and less a per annum rate (ICS), which takes into account the Index Calculation Agent's costs for margins regarding futures contracts. If, on any day, the margin costs (ICS), plus the Index Fees, exceed the interest income based on the USD-LIBOR O/N rate for that day, losses will be incurred instead of interest gains. In that case, the interest component would be negative and would reduce the value of the Index on that day.

- **ICS rate**

The ICS rate is to take account of the fact that the Index Calculation Agent incurs margin costs when trading in futures contracts. Investors should note that the respective margin costs could substantially deviate from the ones which could be observed in the market.

The Index Calculation Agent is entitled to adjust the ICS rate on each ICS Adjustment Date in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)) in such a way that it corresponds to the current market conditions and apply the adjusted rate from that time onwards as detailed in the Index Description.

The ICS rate is not limited. Consequently, and under disadvantageous circumstances the ICS rate may increase substantially. This would result in a negative interest component for these days, so that the loss in the interest component could exceed any increase in the value of the leverage component. Investors should note that under such scenario the Index will decrease despite a price loss of the Futures Contract.

- **"Unlimited" certificates; exercise requirement; sale of the Certificates**

It is a feature of these Certificates that no automatic payment of the Redemption Amount per Certificate represented by them is scheduled at any time during the term of the Certificates. Any payment of the Redemption Amount is contingent upon either (i) the Certificateholder submits a redemption notice to the paying agent designated pursuant to the Terms and Conditions in order to attain a redemption of the Certificates or (ii) the Issuer terminates the Certificates by virtue of an ordinary or extraordinary termination notice, all in accordance with the Terms and Conditions. In the absence of submitting a redemption notice by the Certificateholder or termination by the Issuer, there can be no guarantee that the investor will receive the Redemption Amount represented by the Certificates. Since it is uncertain whether the Issuer will terminate the Certificates, the Certificateholder will be forced voluntarily to submit a redemption notice to the paying agent in accordance with the Terms and Conditions if he intends to receive the Redemption Amount represented by the Certificate.

However, investors should note that the Issuer, despite the Certificates being referred to as "Unlimited", is entitled to the termination rights described above. That means that the Issuer is able to limit the term of the Certificates, which is initially indefinite, and may exercise its termination right at a

time that might be unfavourable from the investor's point of view because the investor expects a further price increase in relation to the Index underlying the Certificates at that time.

Certificateholders should note that redemption of the Certificates is possible only with effect as of the last Payment Business Day in December (as set out in detail in the Terms and Conditions). In between these Redemption Dates, the economic value represented by the Certificates can be realised solely by virtue of a sale of the Certificates.

A sale of the Certificates, however, will be dependent upon the availability of market participants who are prepared to purchase the Certificates at a corresponding price. If no such market participants can be found, it may be impossible to realise the value of the Certificates. Investors cannot rely upon the availability of a liquid market for the Certificates and, thus, the possibility to realise the assets invested in the Certificates by selling the Certificates. Investors should thus be prepared to hold the Certificates until the next available Redemption Date.

- **Short x5 NDXF Index is not an established index**

When evaluating the Certificates, investors must take into account that the Index is not an index that has been established in the market. Instead, the main reason why Commerzbank Aktiengesellschaft calculates this Index is so that it may serve as a reference for the Certificates underlying these Terms and Conditions.

- **Conflicts of interest**

Regarding the issuance of the Certificates, Commerzbank Aktiengesellschaft performs a number of functions. On the one hand, Commerzbank Aktiengesellschaft acts as Issuer of the Certificates, and on the other hand, it acts as the Index Calculation Agent and Index Sponsor and therefore decides upon the composition of the Index. It cannot be ruled out that Commerzbank Aktiengesellschaft will be subject to certain conflicts of interest in performing these various functions.

When pursuing business activity not directly related to the issuance of the Certificates or the composition and calculation of the Index, the Issuer or any of its affiliates may pursue actions and take steps that it deems, or they deem, necessary or appropriate to protect its or their respective interests without regard to any negative consequences this may have for the Certificateholders.

- **Deduction of an Index Fee**

Investors must note that the Index level includes an Index Fee of 0.001111% of the Index level per calendar day (0.4% p.a.) for the management and calculation of the Index. The Index Fee will be deducted daily during the calculation of the Index. This means that the Index will fall, or not gain in value, in the case of constant or slightly increasing prices of the Index components. In the case of falling prices of the Index components, the deduction of the Index Fee will reinforce the negative price performance of the Index. Generally, the deduction of the Index Fee will result in a reduction of the value of the Index and, thus, the Certificates.

- **No interest payments or other distributions**

The Certificates do not provide for periodic interest payments or other distributions during their term. Investors should be aware that the Certificates will not generate any current income. Possible losses in relation to the value of the Certificates can therefore not be compensated by any other income from the Certificates

- **Certificates are unsecured obligations (Status)**

The obligations under the Certificates constitute direct and unconditional and unsecured obligations of the Issuer that are not subject to a real charge (*nicht dinglich besichert*) and, unless otherwise provided by applicable law, rank at least *pari passu* with all other unsubordinated obligations of the Issuer that are not subject to a real charge. They are neither secured by the Deposit Protection Fund of the Association of German Banks (*Einlagensicherungsfonds des Bundesverbandes deutscher*

Banken e.V.) nor by the German Deposit Guarantee and Investor Compensation Act (*Einlagensicherungs- und Anlegerentschädigungsgesetz*).

This means that the investor bears the risk that the Issuer's financial situation may worsen - and that the Issuer may be subjected to a reorganisation proceeding (*Reorganisationverfahren*) or transfer order (*Übertragungsanordnung*) under German bank restructuring law or that insolvency proceedings might be instituted with regard to its assets - and therefore payments due under the Certificates can not or only partially be done. **Under these circumstances, a total loss of the investor's capital might be possible.**

The Issuer may enter into hedging transactions in the underlying Index components, but is under no obligation to do so. If hedging transactions are entered into, they shall exclusively inure to the benefit of the Issuer, and the investors shall have no entitlement whatsoever to the underlying Index components or with respect to the hedging transaction. Hedging transactions entered into by the Issuer shall not give rise to any legal relationship between the investors and those responsible for the underlying Index components.

- **Risk factors relating to the Index components**

Certificates relating to futures contract (as index components) are associated with particular risks beyond the Issuer's control. Futures contracts are standardised forward transactions relating to financial instruments shares, indices, interest rates or foreign currencies (so-called financial futures) or commodities such as copper and uranium, wheat or sugar (so-called commodities futures).

A futures contract represents the contractual obligation to purchase or sell a certain quantity of the relevant contractual object at a certain date and price. Futures contracts are traded on futures and options exchanges and are standardised for that purpose with regard to size of contract, type and quality of the contractual object and potential delivery places and dates.

As a rule, there is a close correlation between the price performance of the financial instrument that underlies a futures contract and is traded on a spot market and the corresponding futures market. However, futures contracts are generally traded at a premium or discount in relation to the spot price of the underlying financial instrument. This difference between the spot and futures price, which is referred to as "basis" in futures and options exchange jargon, on the one hand results from the inclusion of the costs that are normally incurred in spot transactions (delivery, transaction, etc.) and/or the revenues that are normally associated with spot transactions (interest, dividends, etc.), and on the other hand from the differing valuation of general market factors in the spot and the futures market. In addition, depending on the value, there can be a significant gap in terms of the liquidity in the spot and the corresponding futures market.

As the Certificates relate to the Index specified in the Index Description, investors, in addition to knowing the market for the financial instrument that underlies the Index, must have know-how as to the workings and valuation factors of forward/futures transactions in order to be able to correctly assess the risks associated with an investment in the Certificates.

As futures contracts expire on a certain date, the Index Description provides that the Issuer, at a time stipulated in the Index Description, replaces the Underlier provided for as the asset underlying the Index in the Index Description by another futures contract that has a later expiry date than the previous Underlier, but is otherwise subject to the same contractual specifications (so-called "**Roll-Over**"). Costs associated with such a Roll-Over which may occur can be taken into account in connection with the determination of the Reference Price and may have an effect on the value of the Certificates. The Index Description may provide for additional cases in which the Issuer may replace the previous futures contract and/or change parameters of the Index Description.

## GENERAL INFORMATION

### Prospectus liability

Commerzbank Aktiengesellschaft (the "**Issuer**", the "**Bank**" or "**Commerzbank**", together with its consolidated subsidiaries "**Commerzbank Group**" or the "**Group**") with its registered office at Frankfurt am Main, Federal Republic of Germany, accepts responsibility for the information contained in this Final Terms. The Issuer hereby declares that the information contained in these Final Terms is, to the best of its knowledge, in accordance with the facts and contains no material omission. The Issuer has taken all reasonable care to ensure that such is the case, the information contained in these Final Terms is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

No person is or has been authorized by the Issuer to give any information or to make any representation not contained in or not consistent with these Final Terms or any other information supplied in connection with these Final Terms, the Certificates and, if given or made, such information or representation must not be relied upon as having been authorized by the Issuer. The information contained herein relates to the date of the Final Terms and may have become inaccurate and/or incomplete as a result of subsequent changes.

### Availability of Documents

The Base Prospectus dated 27 June 2012 and any supplements thereto and these Final Terms will be made available in electronic form on the website of Commerzbank Aktiengesellschaft at [www.warrants.commerzbank.com](http://www.warrants.commerzbank.com). Hardcopies of the Base Prospectus and any supplements and these Final Terms may be requested free of charge from the Issuer's head office (Kaiserstraße 16 (Kaiserplatz), 60311 Frankfurt am Main, Federal Republic of Germany).

Furthermore, the Articles of Association of Commerzbank Aktiengesellschaft (as amended), the Financial Statements and Management Reports of Commerzbank Aktiengesellschaft as well as the Annual Reports of the Commerzbank Group for the financial years of 2010 and 2011 (audited) and the Interim Report of the Commerzbank Group as of 30 June 2012 (reviewed) will be available for inspection at the Issuer's head office (Kaiserstraße 16 (Kaiserplatz), 60311 Frankfurt am Main, Federal Republic of Germany) or for electronic viewing at [www.commerzbank.com](http://www.commerzbank.com) for a period of twelve months following the date of the publication of the Base Prospectus.

### Offer and Sale

Commerzbank publicly offers from 23 October 2012 in the French Republic, the Kingdom of Belgium and the Italian Republic Structured Certificates ("Unlimited Short x5 NDXF Index Certificates" or "Unlimited Factor 5 Short NDXF Index Certificates") with an issue size of 1,000,000 and at an initial issue price of EUR 7.69 per Certificate.

### Security Codes

ISIN            DE000CK9PW14

### Calculation Agent

In cases requiring calculation, Commerzbank acts as the Calculation Agent.

### Securitisation

The Certificates are issued in dematerialized form (*dématérialisation*). Title to the Certificates will be evidenced by book entries (*inscription en compte*) in accordance with the provisions of the French Monetary and Financial Code relating to Holding of Securities (currently, Articles L.211-3 *et seq.* and R. 211-1 *et seq.* of the French Monetary and Financial Code). No physical document of title (including *certificats représentatifs* pursuant to Article R. 211-7 of the French Monetary and Financial Code) will be issued in respect of the Certificates.



Transfers of the Certificates and other registration measures shall be made in accordance with the French Monetary and Financial Code, the regulations, rules and operating procedures applicable to and/or issued by Euroclear France, 115 rue Réaumur, 75081 Paris, France.

### **Minimum Trading Unit**

1 (one) Certificate

### **Listing**

The application for the listing and trading of the Certificates on Euronext Paris S.A. and Euronext Brussels N.V./S.A. has been submitted. The first day of trading is envisaged to take place on 23 October 2012.

### **Payment Date**

23 October 2012

### **Information regarding the underlier**

The asset underlying the Certificates is the Index as detailed in the attachment to the Terms and Conditions of the Certificates, as determined by Commerzbank Aktiengesellschaft.

The Index will be permanently calculated on each Index Calculation Day and published on the internet page [www.warrants.commerzbank.com](http://www.warrants.commerzbank.com).

### **Influence of the Underlier on the Securities**

The Certificates will grant the investor the right to request from the Issuer at specific Redemption Dates the payment of a Redemption Amount per Certificate corresponding to the Reference Price of the underlying Index on the respective Valuation Date expressed in USD (for the purposes of these calculation, one index point shall be equal to USD 1.00) and multiplied by the Multiplier, whereby the result of such calculation shall be converted into EUR. The "**Valuation Date**" in that context will always be the specific Redemption Date, whereas the payment of the Redemption Amount will be due on the Maturity Date which will be the fifth Payment Business Day following the Redemption Date.

The Index will be calculated and published by Commerzbank in its capacity as Index Calculation Agent. The Index is a strategy index that is composed of a leverage and an interest component and relates to the Futures Contract. The leverage component will, in percentage terms, correspond inversely to five times the daily movements of the Futures Contract.

It is a feature of the Certificates that no automatic payment of the Redemption Amount represented by the Certificates is scheduled at any time during the term of the Certificates. Payment of the Redemption Amount will generally be contingent upon prior request for redemption of the Certificates by the Certificateholder in accordance with the Terms and Conditions.

### **TAXATION**

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

#### **Taxation in the Federal Republic of Germany**

Currently, there is no legal obligation for the Issuer (acting as issuer of the Certificates and not as disbursing agent (*auszahlende Stelle*) as defined under German tax law) to deduct or withhold any German withholding tax (*Quellensteuer*) from payments of interest, principal and gains from the disposition, redemption or settlement of the Securities or on any ongoing payments to the holder of any Securities. Further, income and capital gains derived from particular issues of Securities can be

subject to German income tax (*Einkommensteuer*). All tax implications can be subject to alteration due to future law changes.

Prospective investors are advised to consult their own advisors as to the tax consequences of an investment in the Certificates, also taking into account the rules on taxation in the investor's country of residence or deemed residence.

### **Taxation in the Kingdom of Belgium**

The following description is only a summary of current Belgian tax law which can change over time. The summary does not purport to be a comprehensive description of all of the tax considerations that may be relevant to any particular Certificateholder, including tax considerations that arise from rules of general application or that are generally assumed to be known to Certificateholders. It is not intended to be, nor should it be construed to be, legal or tax advice. Prospective Certificateholders should consult their tax advisor on the basis of their own particular situation.

Please note that in addition to the explanation below, payments on the Certificates may be subject to tax law or other laws or regulations in force in the countries where such payments occur.

#### *Income tax*

The Belgian tax authorities have not issued any guidance in relation to the Belgian tax treatment of investment products such as the Certificates. The description of the tax regime below is based on the analysis according to which the Certificates should be classified as securities which do not constitute claim rights for Belgian tax purposes.

##### *- Belgian resident individual investors*

Belgian resident individual investors holding the Certificates as a private investment are not subject to Belgian tax on capital gains realized upon the exercise or the disposal of the Certificates. Belgian resident individual investors may, however, be subject to a 33% tax (to be increased with local surcharges) if the capital gain so realized is deemed to be 'speculative'.

Belgian resident individual investors who hold the Certificates within the framework of their professional activity are taxable at the ordinary progressive income tax rates for business income on any gains realized on the disposal or the exercise of such Certificates.

##### *- Belgian resident corporate investors*

Belgian resident corporations will be subject to Belgian capital gains taxation on the disposal or the exercise of the Certificates, irrespective of whether such Certificates relate to shares or other assets or indices. Current normal corporate tax rate in Belgium is 33.99%.

Capital losses realised on the transfer, exercise or expiry of the Certificates are deductible for Belgian corporate tax purposes.

##### *- Belgian resident legal entities*

Belgian resident entities subject to the tax on legal entities will not be subject to taxation in Belgium on the capital gains realized upon the exercise or the disposal of the Certificates.

##### *- Non-resident individual or corporate investors*

Non-resident individuals or corporations are in principle not subject to taxation on capital gains realized on Certificates, unless the non-resident acquired the Certificates for a business conducted in Belgium through a fixed base or a Belgian establishment, to which the Certificates are attributable. In such a case, the same principles apply as described with regard to Belgian resident individuals (holding the Certificates for professional purposes) or corporations (see above).

### *Tax on stock exchange transactions*

Investors acquiring or selling Certificates through a professional intermediary established in Belgium, other than upon initial subscription, are subject to a Belgian tax on stock exchange transactions. This tax currently amounts to 0.25 per cent for transactions executed until 31 December 2014 and is applicable both by reason of the acquisition and of the sale of the Certificates in Belgium. It is currently capped to EUR 740 per transaction and per party for transactions executed until 31 December 2014.

Exemptions apply for certain categories of institutional investors and non-residents.

### **Taxation in the Italian Republic**

The following is a general discussion of certain Italian tax consequences of the acquisition, holding and disposing of Warrants. However, each series of Warrants may be subject to a different tax treatment due to the specific terms of such series as set out in the respective Final Terms. The following summary, therefore, does not purport to be a comprehensive description of all the tax considerations which may be relevant to a decision to subscribe for, purchase, own or dispose of the Warrants and does not consider any specific facts or circumstances that may apply to a particular investor.

This summary regarding taxation is based on the laws of Italy currently in force and as applied on the date of this Base Prospectus, which are subject to any changes in law occurring after such date, which changes could be made on a retroactive basis. Prospective Holders of Warrants are advised to consult their own tax advisers concerning the overall tax consequences of their interest in the Warrants.

### **Income Taxation**

Warrants and other securitised derivatives are subject to Article 67 of Presidential Decree No. 917 of 22 December 1986 and Legislative Decree No. 461 of 21 November 1997, as subsequently amended, where the Italian resident Warrantholder is (i) an individual not engaged in an entrepreneurial activity to which the Securities are connected, (ii) a non-commercial partnership, (iii) a non-commercial private or public institution, or (iv) an investor exempt from Italian corporate income taxation, capital gains realised upon sale or exercise of the Securities are subject to a 20 per cent. substitute tax (*imposta sostitutiva*).

The recipient may opt for three different taxation criteria:

- (a) Under the tax declaration regime (*regime della dichiarazione*), which is the default regime for Italian resident individuals not engaged in an entrepreneurial activity to which the Warrants are connected, the *imposta sostitutiva* on capital gains will be chargeable, on a cumulative basis, on all capital gains, net of any incurred capital loss, realised by the Italian resident individual holding the Warrants not in connection with an entrepreneurial activity pursuant to all sales or redemptions of the Warrants carried out during any given tax year. Italian resident individuals holding the Warrants not in connection with an entrepreneurial activity must indicate the overall capital gains realised in any tax year, net of any relevant incurred capital loss, in the annual tax return and pay *imposta sostitutiva* on such gains together with any balance income tax due for such year. Capital losses in excess of capital gains may be carried forward against capital gains realised in any of the four succeeding tax years. Carried forward capital losses in excess of capital gains realised prior to 1 January 2012 may be used against capital gains realised in any of the four succeeding tax years limited to 62.5 per cent of their amount.
- (b) As an alternative to the tax declaration regime, Italian resident individuals holding the Warrants not in connection with an entrepreneurial activity may elect to pay the *imposta sostitutiva* separately on capital gains realised on each sale or redemption of the Warrants (the "*risparmio amministrato*" regime). Such separate taxation of capital gains is allowed subject to: (i) the Warrants being deposited with Italian banks, SIMs or certain authorised financial intermediaries; and (ii) an express election for the *risparmio amministrato* regime being timely made in writing by the relevant Warrantholder. The depository is responsible for accounting for *imposta sostitutiva* in respect of capital gains realised on each sale or redemption of the Warrant (as well

as in respect of capital gains realised upon the revocation of its mandate), net of any incurred capital loss, and is required to pay the relevant amount to the Italian tax authorities on behalf of the taxpayer, deducting a corresponding amount from the proceeds to be credited to the Warrantholder or using funds provided by the Warrantholder for this purpose. Under the *risparmio amministrato* regime, where a sale or redemption of the Warrants results in a capital loss, such loss may be deducted from capital gains subsequently realised, within the same securities management, in the same tax year or in the following tax years up to the fourth. Capital losses realised prior to 1 January 2012 may be carried forward against capital gains realised after such date within the same securities management, according to the same conditions above described, limited to 62.5 per cent. of their amount. Under the *risparmio amministrato* regime, the Warrantholder is not required to declare the capital gains in the annual tax return.

- (c) Any capital gains realised by Italian resident individuals holding the Warrants not in connection with an entrepreneurial activity who have entrusted the management of their financial assets, including the Warrants, to an authorised intermediary and have opted for the so-called "*risparmio gestito*" regime will be included in the computation of the annual increase in value of the managed assets accrued, even if not realised, at year end, subject to a 20 per cent substitute tax, to be paid by the managing authorised intermediary. Under this *risparmio gestito* regime, any decrease in value of the managed assets accrued at year end may be carried forward against increase in value of the managed assets accrued in any of the four succeeding tax years. Any decrease in value of the managed assets accrued until 31 December 2011 may be carried forward against increase in value of the managed assets accrued after such date limited to 62.5 per cent. of their amount. Under the *risparmio gestito* regime, the Warrantholder is not required to declare the capital gains realised in the annual tax return.

Where an Italian resident Warrantholder is a company or similar commercial entity, or the Italian permanent establishment of a foreign commercial entity to which the Warrants are effectively connected, income arising from the Warrants will not be subject to *imposta sostitutiva*, but must be included in the relevant Warrantholders income tax return and are therefore subject to Italian corporate tax.

Income realised by non-Italian resident Warrantholders is not subject to Italian taxation, provided that the Warrants are held outside of Italy.

#### **Payments made by a non-resident guarantor (if applicable)**

With respect to payments made to Italian resident Warrantholders by a non-Italian resident Guarantor (if applicable), in accordance with one interpretation of Italian tax law, any such payment made by the non-Italian resident Guarantor could be treated, in certain circumstances, as a payment made by the relevant Issuer and would thus be subject to the tax regime described in the previous paragraphs.

#### **Stamp Duty**

Pursuant to Article 19(1) of Decree No. 201 of 6 December 2011, a proportional stamp duty applies on an annual basis to the periodic reporting communications sent by financial intermediaries to their clients for the securities deposited therewith. The stamp duty applies at a rate of 0.1 per cent for year 2012 and at 0.15 per cent for subsequent years; this stamp duty is determined on the basis of the market value or – if no market value figure is available – the nominal value or redemption amount of the securities held. The stamp duty can be no lower than EUR 34.20 and, for the year 2012 only, it cannot exceed EUR 1,200.

Under a preliminary interpretation of the law, it may be understood that the stamp duty applies both to Italian resident and non-Italian resident Warrantholders, to the extent that the Warrants are held with an Italian based financial intermediary.

## **Wealth tax on securities deposited abroad**

Pursuant to Article 19(18) of Decree 201, Italian resident individuals holding the Warrants outside the Italian territory are required to pay an additional tax at a rate of 0.1 per cent. for 2011 and 2012, and at 0.15 per cent. for subsequent years.

This tax is calculated on the market value of the Warrants at the end of the relevant year or – if no market value figure is available – the nominal value or the redemption value of such financial assets held outside the Italian territory. Taxpayers are entitled to an Italian tax credit equivalent to the amount of wealth taxes paid in the State where the financial assets are held (up to an amount equal to the Italian wealth tax due).

## **Tax monitoring**

Pursuant to Law Decree No. 167 of 28 June 1990, converted by Law No. 227 of 4 August, 1990, as amended, individuals resident in Italy who, at the end of the fiscal year, hold investments abroad or have financial activities abroad must, in certain circumstances, disclose the aforesaid and related transactions to the Italian tax authorities in their income tax return (or, in case the income tax return is not due, in a proper form that must be filed within the same time as prescribed for the income tax return). Such obligation is not provided if, inter alia, each of the overall value of the foreign investments or financial activities held at the end of the fiscal year, and the overall value of the related transfers carried out during the relevant fiscal year, does not exceed EUR 10,000.

## **Transfer taxes**

Article 37 of Law Decree No 248 of 31 December 2007, converted into Law No. 31 of 28 February 2008, published on the Italian Official Gazette No. 51 of 29 February 2008, has abolished the Italian transfer tax, provided for by Royal Decree No. 3278 of 30 December 1923, as amended and supplemented by the Legislative Decree No. 435 of 21 November 1997.

Following the repeal of the Italian transfer tax, as from 31 December 2007 contracts relating to the transfer of securities are subject to the registration tax as follows: (i) public deeds and notarised deeds are subject to fixed registration tax at rate of EUR 168; (ii) private deeds are subject to registration tax only if a case of use occurs or in case of voluntary registration.

## **Inheritance and gift taxes**

Pursuant to Law Decree No. 262 of 3 October 2006, converted into Law No. 286 of 24 November, 2006, the transfers of any valuable asset (including shares, bonds or other securities) as a result of death or donation are taxed as follows:

- (a) transfers in favour of spouses and direct descendants or direct ancestors are subject to an inheritance and gift tax applied at a rate of 4 per cent. on the value of the inheritance or the gift exceeding EUR1,000,000;
- (b) transfers in favour of relatives to the fourth degree or relatives-in-law to the third degree, are subject to an inheritance and gift tax applied at a rate of 6 per cent on the entire value of the inheritance or the gift. Transfers in favour of brothers/sisters are subject to the 6 per cent. inheritance and gift tax on the value of the inheritance or the gift exceeding EUR 100,000; and
- (c) any other transfer is, in principle, subject to an inheritance and gift tax applied at a rate of 8 per cent on the entire value of the inheritance or the gift.

## TERMS AND CONDITIONS

### § 1 FORM

1. The Unlimited Certificates of each series (the "**Certificates**") issued by Commerzbank Aktiengesellschaft, Frankfurt am Main, Federal Republic of Germany (the "**Issuer**") will be issued in bearer dematerialised form (*dématérialisation*). Title to the Certificates will be evidenced by book entries (*inscription en compte*) in accordance with the provisions of the French Monetary and Financial Code relating to Holding of Securities (currently, Articles L. 211-3 et seq. and R. 211-1 et seq. of the French Monetary and Financial Code). No physical document of title (including *certificats représentatifs* pursuant to Article R. 211-7 of the French Monetary and Financial Code) will be issued in respect of the Certificates.
2. Transfers of Certificates and other registration measures shall be made in accordance with the French Monetary and Financial Code, the regulations, rules and operating procedures applicable to and/or issued by Euroclear France, 115 rue Réaumur, 75081 Paris (the "**Clearing System**"; the "**Clearing Rules**").
3. The term "**Certificateholder**" in these Terms and Conditions refers to any person holding Certificates through a financial intermediary entitled to hold accounts with the Clearing System on behalf of its customers (the "**Certificate Account Holder**") or, in the case of a Certificate Account Holder acting for its own account, such Certificate Account Holder.
4. The Issuer reserves the right to issue from time to time without the consent of the Certificateholders additional tranches of Certificates with substantially identical terms, so that the same shall be consolidated to form a single series and increase the total volume of the Certificates. The term "Certificates" shall, in the event of such consolidation, also comprise such additionally issued Certificates.

### § 2 DEFINITIONS

For the purposes of these Terms and Conditions, the following definitions shall apply (subject to an adjustment in accordance with § 6):

"**EUR**" means Euro.

"**Index**" means the Short x5 NDXF index (the "**Underlier**"). The index concept is detailed in the index description which is attached to these Terms and Conditions (the "**Index Description**").

"**Index Calculation Day**" means any day on which the level of the Index is usually determined and published by the Index Calculation Agent.

"**Index Calculation Agent**" and "**Index Sponsor**", respectively, mean Commerzbank Aktiengesellschaft.

"**Market Disruption Event**" means (i) a suspension or limitation of trading in the futures contract contained in the Index on the futures exchange or the trading system the prices of which are used for determining the Index, or (ii) the non-determination of the USD overnight London InterBank Offered Rate (USD-LIBOR O/N), provided that any such suspension or limitation or non-determination is material. The decision whether a suspension or limitation or non-determination is material will be made by the Issuer in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)). The occurrence of a Market Disruption Event shall be published in accordance with § 11.

A limitation regarding the office hours or the number of days of trading will not constitute a Market Disruption Event if it results from an announced change in the regular business hours of

the relevant exchange. A limitation on trading imposed during the course of a day by reason of movements in price exceeding permitted limits shall only be deemed to be a Market Disruption Event in the case that such limitation is still prevailing at the time of termination of the trading hours on such date

"**Maturity Date**" means the fifth Payment Business Day following the relevant Redemption Date.

"**Multiplier**" means 1.0.

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

"**Reference Price**" means the closing level of the Index determined and published by the Index Sponsor on an Index Calculation Day (Official Index Closing Level).

"**Relevant Conversion Rate**" means a price of USD 1.00 in EUR, as actually traded on the *International Interbank Spot Market* on the relevant Valuation Date at or about the time the Reference Price is published.

"**USD**" means United States Dollar.

"**Valuation Date**" means the relevant Redemption Date.

If on the Valuation Date a Market Disruption Event with respect to the Index occurs, the Valuation Date shall be postponed to the next following Index Calculation Day on which a Market Disruption Event with respect to the Index does not occur.

If, according to the before-mentioned, the Valuation Date is postponed to the third Index Calculation Day prior to the Maturity Date and if also on such day a Market Disruption Event with respect to the Index occurs, then the Issuer shall estimate the Reference Price in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)), and in consideration of the prevailing market conditions on such day and make a notification thereof in accordance with § 11.

### **§ 3 MATURITY**

1. Subject to provision of § 4, each Certificateholder has the right to request from the Issuer, with effect as of a Redemption Date and in accordance with the following paragraphs, payment of the Redemption Amount on the Maturity Date.
2. Each Certificate is redeemed at the Redemption Amount.

The "**Redemption Amount**" shall be an amount per Certificate (commercially rounded, if necessary, up or down to the nearest EUR 0.01) equal to the product of the Reference Price of the Index on the respective Valuation Date expressed in USD and the Multiplier, the result being converted into EUR.

For the purposes of calculations made in connection with these Terms and Conditions, one point of the Index level shall be equal to USD 1.00.

The conversion shall be made at the Relevant Conversion Rate.

3. In order to validly call the Certificates for redemption with respect to a Redemption Date the Certificateholder is obliged to instruct the account holding bank to

- (a) deliver a written redemption notice (the "**Redemption Notice**") via the account holding bank to the Paying Agent in the form available at the Paying Agent or by providing all information and statements requested therein;
- (b) deliver the Certificates via the account holding bank by crediting the Certificates to the account of the Paying Agent with the Clearing System.

After the end of the tenth Payment Business Day prior to the relevant Redemption Date (i) the Redemption Notice has to be received by the Paying Agent and (ii) the Certificates has to be booked at the account of the Paying Agent with the Clearing System.

The Redemption Notice shall be binding and irrevocable. A Redemption Notice submitted with regard to a specific Redemption Date shall be void if the above-mentioned provisions are not fulfilled. Any Redemption Notices that are deemed void in accordance with the preceding sentence shall not be treated as Redemption Notices relating to a later Redemption Date. If the number of Certificates stated in the Redemption Notice, for which redemption is requested, differs from the number of Certificates transferred to the Paying Agent, the Redemption Notice shall be deemed submitted only with regard to the smaller number of Certificates. Any excess Certificates shall be re-transferred for the cost and the risk of the Certificateholder to the account holding bank.

"**Redemption Date**" means, subject to paragraph 3, be each last Payment Business Day in the month of December of each year, starting in December 2012.

- 4. Following the valid submission of Certificates for redemption, the Issuer shall ensure that the Redemption Amount is made available to the Paying Agent, which shall in turn transfer such amount to an account of the account-holding bank for forwarding on to the Certificateholders.

Upon transfer of the Redemption Amount to an account of the account-holding bank for forwarding on to the Certificateholders, all rights in connection with the redeemed Certificates shall expire.

#### **§ 4**

#### **ORDINARY TERMINATION BY THE ISSUER; REPURCHASE**

- 1. The Issuer shall be entitled, in each with effect to the last Payment Business Date of each month, for the first time with effect as of 30 November 2012 (each an "**Ordinary Termination Date**"), to ordinarily terminate the Certificates in whole but not in part (the "**Ordinary Termination**").
- 2. Any such Ordinary Termination must be announced at least 28 days prior to the Ordinary Termination Date in accordance with § 11. Such announcement shall be irrevocable and must state the Ordinary Termination Date.
- 3. In the case of an Ordinary Termination each Certificateholder shall receive a payment per Certificate as determined in accordance with the provisions of § 3 paragraph 2 and paragraph 4; in this regard, the Ordinary Termination Date shall in all respects supersede the Redemption Date.
- 4. The right of the Certificateholders to request redemption of the Certificates with effect as of the Redemption Dates preceding the relevant Ordinary Termination Date shall not be affected by such Ordinary Termination by the Issuer in accordance with this § 4.
- 5. The Issuer may at any time purchase Certificates in the market or otherwise. Certificates repurchased by or on behalf of the Issuer may be held by the Issuer, re-issued or resold.



**§ 5**  
**PAYMENTS**

1. All amounts payable pursuant to these Terms and Conditions shall be made to the Paying Agent, subject to the provision that the Paying Agent transfers such amounts to the Clearing System on the dates stated in these Terms and Conditions so that they may be credited to the accounts of the relevant custodian banks and then forwarded on to the Certificateholders.
2. If any payment with respect to a Certificate 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 Certificateholder shall neither be entitled to any payment claim nor to any interest claim or other compensation with respect to such delay.
3. All payments are subject in all cases to any applicable fiscal or other laws, regulations and directives.

**§ 6**  
**ADJUSTMENTS; EXTRAORDINARY TERMINATION RIGHT OF THE ISSUER**

1. The Issuer is entitled to appoint in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)) another person, company or institution as the new Index Calculation Agent (the "**Successor Index Calculation Agent**"). Such appointment shall be notified pursuant to § 11. The Redemption Amount will be determined on the basis of the Index being calculated and published by the Successor Index Calculation Agent and any reference made to the Index Calculation Agent in these Terms and Conditions shall, if the context so admits, then refer to the Successor Index Calculation Agent.
2. If the Index is cancelled or replaced the Issuer will determine in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)) another index on the basis of which the Redemption Amount will be determined (the "**Successor Index**"). The respective Successor Index as well as the time of its first application will be notified pursuant to § 11. Any reference made to the Index in these Terms and Conditions shall, if the context so admits then refers to the Successor Index. All related definitions shall be deemed to be amended accordingly. Furthermore, the Issuer will make all necessary adjustments to the Terms and Conditions resulting from a substitution of the Index.
3. If (i) in the case of paragraph 1 in the reasonable discretion of the Issuer (*billiges Ermessen*, § 315 German Civil Code (*BGB*)) the Successor Index Calculation Agent is not qualified or (ii) the determination of a Successor Index in accordance with paragraph 2 is not possible or is unreasonable (*unzumutbar*) or (ii) if the Successor Index Calculation Agent materially modifies the calculation method of the Index with effect on or after the first issue date of the Certificates, or materially modifies the Index in any other way (except for modifications which are contemplated in the calculation method of the Index relating to a change with respect to the Index components, the market capitalisation or with respect to any other routine measures), then the Issuer is entitled to (a) continue the calculation and publication of the Index on the basis of the former concept of the Index and its last determined level or (b) terminate the Certificates extraordinarily with respect to an Index Calculation Day (the "**Extraordinary Termination Date**") with a prior notice of seven Payment Business Days in accordance with § 11. Any termination in part shall be excluded.
4. In the case of a termination of the Certificates pursuant to paragraph 3 the Certificates shall be redeemed on the Extraordinary Termination Date at the extraordinary termination amount (the "**Extraordinary Termination Amount**") which shall be calculated by the Issuer in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)) by taking into account applicable market conditions and any proceeds realised by the Issuer in connection with transactions concluded by it in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)) for hedging measures in relation to the assumption and fulfilment of its obligations under the Certificates (the "**Hedging Transactions**"). Expenses for transactions that were required for winding up the Hedging Transactions will be taken into account as deductible items.

The Issuer shall pay the Extraordinary Termination Amount to the Certificateholders not later than the tenth Payment Business Day following the Extraordinary Termination Date to the Clearing System for crediting the accounts of the depositors of the Certificates with the Clearing System. The rights in connection with the Certificates shall expire upon the payment of the Extraordinary Termination Amount to the Clearing System.

## **§ 7 TAXES**

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

## **§ 8 STATUS**

The obligations under the Certificates 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).

## **§ 9 PAYING AGENT**

1. BNP Paribas Securities Services, a société en commandite par actions incorporated under the laws of France, registered with the Registre du commerce et des sociétés of Paris under number 552 108 011, the registered office of which is located at 3, rue d'Antin, 75002 Paris, France, acting through its office located at Les Grands Moulins de Pantin, 9 rue du Débarcadère, 93500 Pantin, France, shall be the paying agent (the "**Paying Agent**").
2. The Issuer shall be entitled at any time to appoint another bank of international standing as Paying Agent. Such appointment and the effective date shall be notified in accordance with § 11.
3. The Paying Agent is hereby granted exemption from the restrictions of § 181 of the German Civil Code (*BGB*) and any similar restrictions of the applicable laws of any other country.

## **§ 10 SUBSTITUTION OF THE ISSUER**

1. Any other company may assume at any time during the life of the Certificates, subject to paragraph 2, without the Certificateholders' consent all the obligations of the Issuer under these Terms and Conditions. Any such substitution and the effective date shall be notified by the Issuer in accordance with § 11.

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 § 10, each previous New Issuer) shall be released from its obligations hereunder and from its liability as obligor under the Certificates.

In the event of such substitution, any reference in these Terms and Conditions to the Issuer shall from then on be deemed to refer to the New Issuer.

2. No such assumption shall be permitted unless
  - (a) the New Issuer has agreed to assume all obligations of the Issuer under the Certificates pursuant to these Terms and Conditions;
  - (b) the New Issuer has agreed to indemnify and hold harmless each Certificateholder against any tax, duty, assessment or governmental charge imposed on such Certificateholder in respect of such substitution;
  - (c) the Issuer (in this capacity referred to as the "**Guarantor**") has unconditionally and irrevocably guaranteed to the Certificateholders compliance by the New Issuer with all obligations under the Certificates pursuant to these Terms and Conditions;
  - (d) 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.
3. Upon any substitution of the Issuer for a New Issuer, this § 10 shall apply again.

## **§ 11 NOTICES**

Notices relating to the Certificates shall be published in the Federal Gazette (*Bundesanzeiger*) and shall be deemed to be effective upon such publication unless such publication gives another effective date.

If the Certificates are offered to the public, notices relating to the Certificates shall in addition be published on the internet page [www.warrants.commerzbank.com](http://www.warrants.commerzbank.com) (or on another internet page notified at least six weeks in advance by the Issuer in accordance with this § 11). If applicable law or regulations of the stock exchange on which the Certificates are listed require a notification in another manner, notices shall also be given in the manner so required.

## **§ 12 LIMITATION OF LIABILITY**

The Issuer shall be held responsible for acting or failing to act in connection with the Certificates only if, and insofar as, it either breaches material obligations under or in connection with the Terms and Conditions negligently or wilfully or breaches other obligations with gross negligence or wilfully. The same applies to the Paying Agent.

## **§ 13 FINAL CLAUSES**

1. The Certificates and the rights and duties of the Certificateholders, the Issuer, the Paying Agent and the Guarantor (if any) shall in all respects be governed by the laws of the Federal Republic of Germany except for § 1 paragraph 1 to 3 of the Terms and Conditions which shall be governed by the laws of the French Republic.
2. In the event of manifest typing or calculation errors or similar manifest errors in the Terms and Conditions, the Issuer shall be entitled to declare rescission (*Anfechtung*) to the Certificateholders. The declaration of rescission shall be made without undue delay upon becoming aware of any such ground for rescission (*Anfechtungsgrund*) and in accordance with § 11. Following such rescission by the Issuer, the Certificateholders may instruct the account holding bank to submit a duly completed redemption notice to the Paying Agent, either by filling in the relevant form available from the Paying Agent or by otherwise stating all information and declarations required on the form (the "**Rescission Redemption Notice**"), and to request

repayment of the Issue Price against transfer of the Certificates to the account of the Paying Agent with the Clearing System. The Issuer shall make available the Issue Price to the Paying Agent within 30 calendar days following receipt of the Rescission Redemption Notice and of the Certificates by the Paying Agent, whichever receipt is later, whereupon the Paying Agent shall transfer the Issue Price to the account specified in the Rescission Redemption Notice. Upon payment of the Issue Price all rights under the Certificates delivered shall expire.

3. The Issuer may combine the declaration of rescission pursuant to paragraph 2 with an offer to continue the Certificates on the basis of corrected Terms and Conditions. Such an offer and the corrected provisions shall be notified to the Certificateholders together with the declaration of rescission in accordance with § 11. Any such offer shall be deemed to be accepted by a Certificateholder (and the rescission shall not take effect), unless the Certificateholder requests repayment of the Issue Price within four weeks following the date on which the offer has become effective in accordance with § 11 by delivery of a duly completed Rescission Redemption Notice via the account holding bank to the Paying Agent and by transfer of the Certificates to the account of the Paying Agent with the Clearing System pursuant to paragraph 2. The Issuer shall refer to this effect in the notification.
4. "**Issue Price**" within the meaning of paragraph 2 and 3 shall be deemed to be the higher of (i) the purchase price that was actually paid by the relevant Certificateholder (as declared and proved by evidence in the request for repayment) and (ii) the weighted arithmetic average (as determined by the Issuer in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)) of the traded prices of the Certificates on the Index Calculation Day preceding the declaration of rescission pursuant to paragraph 1. If a Market Disruption Event exists on the Index Calculation Day preceding the declaration of rescission pursuant to paragraph 1, the last Index Calculation Day preceding the declaration of rescission pursuant to paragraph 1 on which no Market Disruption Event existed shall be decisive for the ascertainment of price pursuant to the preceding sentence.
5. Contradictory or incomplete provisions in the Terms and Conditions may be corrected or amended, as the case may be, by the Issuer in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)). The Issuer, however, shall only be entitled to make such corrections or amendments which are reasonably acceptable to the Certificateholders having regard to the interests of the Issuer and in particular which do not materially adversely affect the legal or financial situation of the Certificateholders. Notice of any such correction or amendment shall be given to the Certificateholders in accordance with § 11.
6. If the Certificateholder was aware of typing or calculation errors or similar errors at the time of the acquisition of the Certificates, then, notwithstanding paragraphs 2 - 5, the Certificateholders can be bound by the Issuer to the corrected Terms and Conditions.
7. Should any provision of these Terms and Conditions be or become void in whole or in part, the other provisions shall remain in force. The void provision shall be replaced by a valid provision that reflects the economic intent of the void provision as closely as possible in legal terms. In those cases, however, the Issuer may also take the steps described in paragraphs 2 - 5 above.
8. Place of performance is Frankfurt am Main.
9. Place of jurisdiction for all disputes and other proceedings in connection with the Certificates for merchants, entities of public law, special funds under public law and entities without a place of general jurisdiction in the Federal Republic of Germany is Frankfurt am Main. In such a case, the place of jurisdiction in Frankfurt am Main shall be an exclusive place of jurisdiction.
10. The English version of these Terms and Conditions shall be binding. Any translation is for convenience only.

## Short x5 NDXF index relating to NASDAQ-100 Futures

### 1. Index Concept

The Short x5 NDXF index relating to the NASDAQ-100 Futures, which is referred to as the Futures Contract in "2. Index Definitions", is a strategy index that participates inversely in the movements of the Futures Contract and that is composed of a leverage and an interest component.

The leverage component reflects the sale of the Futures Contract (short position). This means that a fall in the Futures Contract between two consecutive Official Index Closing Levels will cause the leverage component to increase fivefold in percentage terms. If the Futures Contract increases, the leverage component will be reduced accordingly. This leverage effect will have a disproportionately high effect on the Index, both in the case of positive as well as negative movements of the Futures Contract.

The interest component results from an investment in a riskless money market instrument (USD-LIBOR O/N), less the Index Fees and less a per annum rate (ICS), which takes into account the Index Calculation Agent's costs for margins regarding futures contracts. If, on any day, the margin costs (ICS), plus the Index Fees, exceed the interest income based on the USD-LIBOR O/N rate for that day, losses will be incurred instead of interest gains. In that case, the interest component would be negative and would reduce the value of the Index on that day.

The Index will be continually updated during the Futures Contract's trading hours on the Relevant Futures Exchange by the Index Calculation Agent; this means that the Index will be re-calculated upon each change in the Futures Contract's price. The Index Calculation Agent will charge an annual Index Fee of 0.40% p.a., which will be deducted daily (based on a year comprising 360 days) during the calculation of the Index.

The described Index is not a recognised financial index, but rather a customised strategy index that is calculated by Commerzbank.

### 2. Index Definitions

**"Banking Day"** is a day on which the banks in Frankfurt am Main are normally open for general banking transactions.

**"Closing Price of the Futures Contract"** with regard to an Index Calculation Day is the average of the first jointly determined and published bid and offer prices of the Futures Contract after 3:00 p.m. Central Standard Time (CST).

The **"ICS"** rate is to take into account the fact that the Index Calculation Agent incurs margin costs when trading in futures contracts.

The Index Calculation Agent is therefore entitled to adjust the ICS rate on each ICS Adjustment Date in its reasonable discretion (*billiges Ermessen*, § 315 German Civil Code (*BGB*)) in such a way that it takes the current market conditions into account and apply the adjusted rate from that time onwards. Any such adjustment shall be published as described in "4. Index Publication".

The initial ICS rate is 3.00% p.a. (on the basis of a year comprising 360 days).

The **"ICS Adjustment Date"** shall be the last Index Calculation Day in each month, starting from November 2012.

The **"Index Calculation Day"** shall be any Banking Day on which a price can be determined for the Futures Contract and on which a relevant USD-LIBOR O/N rate has been determined.

The "**Index Calculation Agent**" and/or "**Index Sponsor**" shall be Commerzbank AG.

The "**Index Commencement Date**" shall be 23 October 2012.

The "**Initial Index Level**" shall be 10 index points.

The "**Official Index Closing Level**" shall be determined by the Index Calculation Agent for each Index Calculation Day in accordance with the index calculation formula (see "3. Index Calculation") based on the Closing Price of the Futures Contract and the fixing of the USD-LIBOR O/N rate. If no bid and/or offer price is determined for the Futures Contract after 3:00 p.m. (CST) on an Index Calculation Day, the value of the Index as last calculated on that Index Calculation Day shall be used as the Official Index Closing Level.

The "**Relevant Futures Exchange**" is CME (Chicago Mercantile Exchange), a derivatives exchange operated by the CME Group. The definition of the Relevant Futures Exchange may be amended by the Index Calculation Agent if this is deemed necessary in order to, for instance, take account of the fact that the Relevant Futures Exchange has ceased trading in certain securities. Any changes to the definition of the Relevant Futures Exchange will be published in accordance with "4. Index Publication".

"**Roll-Over Period**" is the period commencing on the second Banking Day prior to a regular Final Settlement Day of the NASDAQ-100 Futures with the shortest maturity after determination of the Closing Price of the Futures Contract and ending on the Final Settlement Day of the NASDAQ-100 Futures with the shortest maturity. If the second Banking Day prior to the Final Settlement Day is not an Index Calculation Day, the start of the Roll-Over Period shall be postponed to the next following Banking Day on which the Index is calculated. If the start of the Roll-Over Period is postponed repeatedly, the Roll-Over Period shall be limited to the Final Settlement Day. In that case, an Extraordinary Index Adjustment will occur for expiration reasons (see "5. Extraordinary Index Adjustment").

"**Futures Contract**" is normally the NASDAQ-100 Futures with the shortest maturity that is traded on the Relevant Futures Exchange. This does not apply during the period commencing on the second Banking Day prior to a Final Settlement Day following determination of the Official Index Closing Level and ending at the Expiration Time on the Final Settlement Day (the "Roll-Over Period"). In that regard, "Final Settlement Day" refers to the final settlement day determined by the Relevant Futures Exchange for the NASDAQ-100 Futures with the shortest maturity. For that period, the NASDAQ-100 Futures with the second-shortest maturity shall be the Futures Contract. The NASDAQ-100 Futures is a futures contract relating to the NASDAQ-100, which is composed, weighted and calculated in accordance with the publications by NASDAQ OMX Group.

"**Futures Contract Price**" shall be the average of the bid and offer price at any time during the trading hours on the Relevant Futures Exchange.

"**USD-LIBOR O/N**": stands for USD overnight London InterBank Offered Rate, the one-day USD rate at which an individual Contributor Panel bank could borrow funds, were it to do so by asking for and then accepting inter-bank offers in reasonable market size, just prior to 11:00 London time. USD-LIBOR O/N is compiled by the BBA (British Bankers' Association) in conjunction with Thomson Reuters and released to the market shortly after 11:00 a.m. London time each day.

### **3. Index Calculation Method**

The Index will initially be calculated on the Index Commencement Date. On the Index Commencement Date, the initial level of the Index will be 10 index points.

From the time at which the first price of the Futures Contract is determined on the Index Commencement Date, the Index Calculation Agent shall calculate the level (price) of the Index on each Index Calculation Day. In that context, 1 index point corresponds to USD 1.00. Calculation takes place on the basis of the following formula:

$$Index_t = \underbrace{Index_T \times \left( -5 \times \frac{Futures Contract_t}{Futures Contract_T} + 6 \right)}_{LEVERAGECOMPONENT} + \underbrace{Index_T \times \left( \frac{LIBOR_T - ICS_t - IF}{360} \right)}_{INTERESTCOMPONENT} \times d$$

$Index_t$	=	Index level at the calculation time t
$Index_T$	=	the Official Index Closing Level as determined on the Index Calculation Day immediately preceding the current Index Calculation Day
$Futures Contract_t$	=	Futures Contract Price at the calculation time t
$Futures Contract_T$	=	the Closing Price of the Futures Contract on the Index Calculation Day immediately preceding the current Index Calculation Day
$LIBOR_T$	=	the USD-LIBOR O/N rate as determined and published on the Index Calculation Day immediately preceding the current Index Calculation Day
$ICS_t$	=	the ICS rate applicable at the calculation time t
$IF$	=	The Index Fee is the index fee stated in clause 6.
$d$	=	number of calendar days between two Index Calculation Days

#### 4. Index Publication

The Index will be continually calculated on each Index Calculation Day and published on the Issuer's website ([www.warrants.commerzbank.com](http://www.warrants.commerzbank.com)), rounded to two decimal places.

#### 5. Extraordinary Index Adjustment

##### a) Extraordinary Index Adjustment for expiration reasons

If the start of the Roll-Over Period has been postponed repeatedly, so that the Roll-Over Period is limited to the Final Settlement Day, an Index Adjustment shall take place during that day by simulating a new day:

$$t = T \text{ (i.e. } Futures Contract_T = Futures Contract_t^{new} \text{ and } Index_T = Index_t)$$

$$d = 0$$

At the time of expiration of the Futures Contract on the Final Settlement Day, the Final Settlement Price of the Futures Contract as determined by the Relevant Futures Exchange shall be used for the calculation of the  $Index_t$  as the price of the Futures Contract. As the  $Futures Contract_T$  for the simulated day, the price of the future determined at that time with the shortest maturity from that time onwards ( $Futures Contract_t^{new}$ ) shall be used. The interest component shall remain unchanged. No additional interest or costs shall be charged for the new day.

## b) Extraordinary Index Adjustment for performance reasons

$$Futures\ Contract_t > 1.15 \times Futures\ Contract_T$$

If the price of the Futures Contract, at a calculation time t, increases by more than 15 percent as compared to the last Closing Price of the Futures Contract, an Index Adjustment shall take place during that day by simulating a new day.

$$\begin{aligned} t &= T \text{ (i.e. } new\_Futures\ Contract_T = old\_Futures\ Contract_t \times 1.15 \text{ and} \\ Index_T &= Index_t) \\ d &= 0 \end{aligned}$$

At the time of adjustment, the immediately preceding Closing Price of the Futures Contract (Futures Contract<sub>T</sub>), multiplied by 1.15, shall be used as the Futures Contract<sub>t</sub> for the calculation of the Index<sub>t</sub>. The interest component shall remain unchanged. No additional interest or costs shall be charged for the new day.

## 6. Index Fee

The Index Fee will be levied on each calendar day, starting on the Index Commencement Day, and will be calculated as the product of 0.40% per annum (on the basis of a year comprising 360 days) and the relevant Official Index Closing Level, i.e. 0.001111% of the Index Level per calendar day. If a calendar day is not an Index Calculation Day, the last calculated Official Index Closing Level will be used.

## 7. Changes to the Calculation of the Index

The Index Calculation Agent determines the Initial Index Level and the Index Calculation Method. Although the Index Calculation Agent intends to apply the Index Calculation Method from the Index Commencement Date onwards, it cannot be ruled out that tax, regulatory, statutory, economic or other circumstances might apply that, in the opinion of the Index Calculation Agent, will necessitate changes with regard to the Index Calculation Method. In that case, the Index Calculation Agent may deviate from, or perform changes to, the Index Calculation Method. Any deviations from the Index Calculation Method are subject to the proviso that the general concept and, thus, the strategy pursued by the Index in particular are maintained. In the event of a change to the calculation method as detailed in the Index Description, the Index Calculation Agent will publish the relevant change in accordance with clause 4.

Frankfurt am Main, 23 October 2012

**COMMERZBANK  
AKTIENGESELLSCHAFT**