

**Luminor Bank AS Latvian branch  
Rules for Issue of Guarantees**

APPROVED  
at AS DNB banka Management Board Meeting  
of 29.01.2013, Minutes No. 5  
Effective from 18.02.2013

Amendments – by the decision of the Management Board  
of AS DNB banka dated 30.10.2013  
Effective from 01.01.2014

Amendments – by the decision of the Management Board  
of AS DNB banka dated 19.12.2013  
Effective from 01.01.2014

**1. TERMS USED IN THE RULES AND INTERPRETATION OF THE RULES**

1.1. The following terms are used in these Rules (hereinafter – the „Rules“):

- 1.1.1. **Bank** – Luminor Bank AS Latvian branch (registered in the Commercial Register maintained by the Register of Enterprises of the Republic of Latvia; unified registration number: 40203154352; legal address: Skanstes iela 12, Riga, LV-1013; homepage address in the Internet: www.luminor.lv; electronic mail address: info@luminor.lv) which represents Luminor Bank AS, registered with Estonian Commercial Register, reg. no. 11315936, Liivalaia 45, 10145 Tallinn, Estonia;
- 1.1.2. **Banking Day** – any day on which the Bank is open for general business;
- 1.1.3. **Principal Debtor** – the person indicated in the Guarantee, performance of whose obligation arising out of the Underlying Transaction is secured by the Guarantee. The Principal Debtor may be the Customer or another person indicated by the Customer;
- 1.1.4. **Suretyship** – suretyship (Article 1692 and further Articles of the Civil Law) that the Bank as the surety issues in accordance with the Rules under the Application in favour of the Beneficiary in relation to the Underlying Transaction;
- 1.1.5. **Guarantee** – Suretyship, Demand Guarantee or another similar deed of obligation that the Bank issues in accordance with the Rules under the Application in favour of the Beneficiary and by which the Bank undertakes the obligation of liability towards the Beneficiary for the debt of the Principal Debtor in relation to the Underlying Transaction;
- 1.1.6. **Beneficiary** – a person in whose favour the Guarantee is issued;
- 1.1.7. **Guarantee Amount** – the maximum amount that the Bank agrees to pay to the Beneficiary under the Guarantee;
- 1.1.8. **Customer** – a person who requests the Bank to issue the Guarantee and gives to the Bank the instructions for the issue of the Guarantee as well as undertakes to indemnify the Bank against payments made by the Bank under the Guarantee and to make other payments to the Bank in relation to the Guarantee;
- 1.1.9. **Parties** – all Obligors and the Bank (all collectively);
- 1.1.10. **Contractual Payment** – the payment that the Customer is obliged to pay to the Bank under the Agreement;
- 1.1.11. **Agreement** – an agreement between the Customer and the Bank for the issue of the Guarantee. The provisions of the abovementioned agreement are set by the Application and the Rules, as well as other legal acts that, in accordance with the Rules, apply to the legal relationships between the Customer and the Bank arising out of the abovementioned agreement;
- 1.1.12. **Secured Obligations** – the Customer's payment obligations towards the Bank arising out of the Agreement;
- 1.1.13. **Underlying Transaction** – the transaction between the Beneficiary and the Principal Debtor or other legal relationship between the Beneficiary and the Principal Debtor on which the Guarantee is based;
- 1.1.14. **Demand Guarantee** – a demand guarantee which is subject to the URDG and which is issued by the Bank as the guarantor in accordance with the Rules under the Application in favour of the Beneficiary in relation to the Underlying Transaction;
- 1.1.15. **Application** – the written application, in the form set by the Bank, that the Customer and the Cover Amount Pledgor have delivered to the Bank and which contains the Customer's request to the Bank to issue the Guarantee in accordance with the Rules and the Customer's instructions to the Bank for the issue of the Guarantee, as well as the consent of the Cover Amount Pledgor to pledge the Cover Amount to the Bank in accordance with the Rules in order to secure performance of the Secured Obligations;

- 1.1.16. **Obligor** – the Customer or the Cover Amount Pledgor;
- 1.1.17. **Demand for Payment** – a written request by the Beneficiary that has been delivered to the Bank and by which the Beneficiary requests the Bank to make payment under the Guarantee;
- 1.1.18. **Cover Account** – a current or term deposit account of the Cover Amount Pledgor opened with the Bank and containing the Cover Amount;
- 1.1.19. **Cover Amount** – the funds in the Cover Account that is pledged to the Bank in accordance with the Rules in order to secure performance of the Secured Obligations;
- 1.1.20. **Cover Amount Pledge Agreement** – a financial pledge agreement between the Cover Amount Pledgor and the Bank on pledging of the Cover Amount to the Bank in order to secure performance of the Secured Obligations. The provisions of the abovementioned agreement are set by the Application and the Rules, as well as other legal acts that, in accordance with the Rules, apply to the legal relationships between the Cover Amount Pledgor and the Bank arising out of the abovementioned agreement;
- 1.1.21. **Cover Amount Pledgor** – a person who has the Cover Account opened with the Bank and who pledges the Cover Amount to the Bank in accordance with the Rules in order to secure performance of the Secured Obligations. The Cover Amount Pledgor may be the Customer or another person;
- 1.1.22. **URDG** – the Uniform Rules for Demand Guarantees (2010 Revision, International Chamber of Commerce Publication No. 758);
- 1.1.23. **General Financial Collateral** – all deposits of the Customer with the Bank (both present and future) and all funds that otherwise owed (that will be owed in the future) by the Bank to the Customer and which, in accordance with the law, may be an object of financial pledge;
- 1.1.24. **General Terms** – the General Terms and Conditions of the Bank.
- 1.2. Unless otherwise provided in the Rules and unless the context requires otherwise:
  - 1.2.1. references to Chapters, Clauses or sub-Clauses in the Rules mean references to the Chapters, Clauses or sub-Clauses of the Rules (respectively);
  - 1.2.2. terms, that are explained in singular in Clause 1, shall be interpreted accordingly also when in the Rules these terms are used in plural and vice versa;
  - 1.2.3. the terms used in the Rules, that are not explained in Clause 1, correspond to the terms used in the General Terms;
  - 1.2.4. for the purposes of the Rules the term “person” shall also mean a group of persons that does not have the status of a legal person, but which is recognized as a subject of the law (e.g., a partnership);
  - 1.2.5. reference in the Rules to any document includes a reference to that document with all amendments thereto and any novation thereof.
- 1.3. The reference to the Agreement or Cover Amount Pledge Agreement in the Rules also includes reference to the Rules.
- 1.4. Headings of Chapters in the Rules are intended for convenience only, not for interpretation of the Rules.
- 1.5. If any of the parts of the Rules is invalid or becomes such, the other parts of the Rules shall not be affected by this.
- 1.6. In case of discrepancies between the text of the Rules in Latvian and the text of the Rules in foreign language the text of the Rules in Latvian shall prevail.

## 2. GENERAL PROVISIONS

- 2.1. The Rules govern the legal relationships between the Parties in relation to the Guarantee.
- 2.2. The List of Conditions and the General Terms shall also apply to the legal relationships between the Parties in relation to the Guarantee, unless otherwise provided in the Rules.
- 2.3. The Bank is entitled to amend the Rules unilaterally in accordance with the General Terms. Amendments to the Rules made in such manner shall not apply to the legal relationships between the Parties in relation to the Guarantee, if the Application for the issue of that Guarantee has been delivered to the Bank before the respective amendments have become effective.
- 2.4. The URDG shall also apply to the Guarantee and the legal relationships related thereto, where such is specified in the Guarantee. In respect of the Demand Guarantee the Rules shall apply only insofar as not stated otherwise in the URDG.

## 3. GENERAL PROVISIONS REGARDING FINANCIAL PLEDGES

- 3.1. In order to secure performance of the Secured Obligations, by delivery of the Application to the Bank:
  - 3.1.1. the Customer shall pledge to the Bank the General Financial Collateral through establishing a financial pledge over it in favour of the Bank in accordance with the Rules;
  - 3.1.2. the Cover Amount Pledgor shall pledge to the Bank the Cover Amount in the amount acceptable to the Bank through establishing a financial pledge over the Cover Amount in favour of the Bank in accordance with the Rules.
- 3.2. The financial pledges established under the Rules over the General Financial Collateral and the Cover Amount shall be effective during a period of time that commences at the time when the Application is delivered to the Bank and ends on the next Banking Day following the day on which all obligations of the Bank that it had undertaken under the Guarantee terminate (subject to the provisions of Clause 7.2) and

the Customer has performed all Secured Obligations. If the Bank refuses to issue the Guarantee, the financial pledges that have been established under the Rules over the General Financial Collateral and the Cover Amount shall terminate on the day on which the decision by the Bank to refuse to issue the Guarantee has been made.

- 3.3. If the General Financial Collateral or the Cover Amount are pledged to secure the Bank's claims arising out of several different grounds (agreements), then, upon occurrence of the basis for applying of the General Financial Collateral or the Cover Amount to discharge of the Bank's claims, the Bank is entitled to choose for discharge of what claims and in what amount the General Financial Collateral or the Cover Amount (respectively) shall be applied.
- 3.4. Amendments to and novations of the provisions of the Secured Obligations (including but not limited to the provisions of the Guarantee) shall in no manner whatsoever terminate or limit the financial pledges over the General Financial Collateral and the Cover Amount established under the Rules or other rights of the Bank granted to it by the Rules in respect of the General Financial Collateral or the Cover Amount, and furthermore they shall in no manner whatsoever release the Customer or the Cover Amount Pledgor from the obligations that they have assumed under the Rules in respect of the General Financial Collateral and the Cover Amount.
- 3.5. The financial pledges established under the Rules over the General Financial Collateral and the Cover Amount shall also secure the performance of such Secured Obligations that arise out of any amendments to the provisions of the Secured Obligations (also the Guarantee) and any novations of the provisions of the Secured Obligations (also the Guarantee) (including but not limited to such amendments to the provisions of the Secured Obligations and such novations of the provisions of the Secured Obligations that increase or decrease the payable amount, increase or decrease the interest rate, reduce or extend the payment term).
- 3.6. Unless otherwise provided in the Rules, the provisions of Clauses 3.4 and 3.5 shall also apply in the case the amendments to and novations of the provisions of the Secured Obligations (also the provisions of the Guarantee) have been made without prior notice thereof to the Customer or the Cover Amount Pledgor and without receipt from the Customer or the Cover Amount Pledgor of an agreement thereto, provided that the legal acts which apply to the Secured Obligations allow for such procedure of amending or novation (respectively) of the provisions of the Secured Obligations.

#### **4. FINANCIAL PLEDGE OVER THE COVER AMOUNT**

- 4.1. The Cover Amount may be placed in one or several Cover Accounts. In the latter case it should be indicated in the Application what part of the Cover Amount is placed in (credited to) each of such accounts.
- 4.2. The Cover Amount may be pledged by a number of the Cover Amount Pledgors provided the Cover Amount is placed in (is credited to) the Cover Accounts opened for different Cover Amount Pledgors. In such case the Application shall be signed by all Cover Amount Pledgors.
- 4.3. The financial pledge that has been established over the Cover Amount under the Rules shall apply to any increase of the Cover Amount made in the cases specified by the Rules.
- 4.4. If the currency of the Cover Amount or a part thereof (hereinafter also – the "Cover Amount Currency") differs from the currency of the Guarantee Amount:
  - 4.4.1. prior to the issue of the Guarantee the Cover Amount or the respective part thereof shall be credited to the Cover Account that has been opened in the Cover Amount Currency in the amount specified by the Bank. In such case the amount of the Cover Amount or the respective part thereof specified by the Bank shall be indicated in the Application in the Cover Amount Currency;
  - 4.4.2. in the case if after the Guarantee has been issued, due to currency exchange rate fluctuations, the Cover Amount becomes less than the Guarantee Amount, the Customer shall be obliged, upon request of the Bank, to ensure that the Cover Amount is increased by the amount specified by the Bank within the term indicated by the Bank. In such case a written consent, in the form and substance acceptable to the Bank, by the Cover Amount Pledgor to pledge to the Bank the increase amount of the Cover Amount in accordance with the Rules in order to secure performance of the Secured Obligations shall be delivered to the Bank. In order to establish that the Cover Amount is less than the Guarantee Amount the Cover Amount shall be converted into the currency of the Guarantee Amount at the Euro Foreign Exchange Reference Rate published by European Central Bank subject to the provisions on application of this rate set out in the General Terms.
- 4.5. By delivery of the Application to the Bank the Cover Amount Pledgor represents to the Bank that the Cover Amount Pledgor is entitled to freely deal with the Cover Amount (also to pledge it in accordance with the Rules) and that the Cover Amount is not pledged to any other person or otherwise encumbered. In respect of the increase of the Cover Amount the representations indicated in this Clause shall be deemed to be made by the Cover Amount Pledgor at the time when the Cover Amount is increased by the respective amount in the cases specified in the Rules.
- 4.6. During the time when the financial pledge established over the Cover Amount under the Rules is effective:
  - 4.6.1. debit Operations with the Cover Amount (any part thereof), except the debit Operations that are necessary for execution of the Contractual Payments in accordance with the Rules in the cases specified in the Rules, shall be suspended;
  - 4.6.2. the Cover Amount Pledgor shall not, without prior written consent of the Bank, pledge or otherwise encumber the Cover Amount (any part thereof) or exercise its other rights in respect of the Cover

Amount (any part thereof) if such exercising of the rights contradicts the obligations of the Cover Amount Pledgor arising out of the Rules or in any manner whatsoever terminates or limits the rights of the Bank granted to it by the Rules.

- 4.7. If claims by third person have been addressed to the Cover Amount (any part thereof) or the financial pledge established under the Rules over the Cover Amount (any part thereof) has been challenged or become invalid, the Customer shall, upon the request of the Bank, provide to the Bank additional security, acceptable to the Bank, in order to secure performance of the Secured Obligations. Such security shall be provided within the term indicated by the Bank.

## **5. FINANCIAL PLEDGE OVER THE GENERAL FINANCIAL COLLATERAL**

- 5.1. By delivery of the Application to the Bank the Customer represents to the Bank that the Customer may freely deal with the General Financial Collateral (also to pledge it in accordance with the Rules) and also that the General Financial Collateral has not been pledged to any other person or otherwise encumbered. In respect of the Customer's future deposits with the Bank and the funds which otherwise will be owed in the future by the Bank to the Customer and which, in accordance with the law, may be an object of financial pledge the representations indicated in this Clause shall be deemed to be made by the Customer at the time when the respective deposits (funds) become a part of the General Financial Collateral.
- 5.2. During the time when the financial pledge established over the General Financial Collateral under the Rules is effective the Customer shall not, without prior written consent of the Bank, pledge or otherwise encumber the General Financial Collateral (any part thereof) or exercise its other rights in respect of the General Financial Collateral (any part thereof) if such exercising of the rights contradicts the obligations of the Customer arising out of the Rules or in any manner whatsoever terminates or limits the rights of the Bank granted to it by the Rules.
- 5.3. Subject to the restrictions regarding dealing with the General Financial Collateral set out in the Rules and in other agreements between the Customer and the Bank, the Customer may deal with the General Financial Collateral. However, if the Bank exercises its rights in respect of the General Financial Collateral in accordance with the Rules, all Bank's claims for the securing of which the General Financial Collateral has been pledged in accordance with the Rules shall be satisfied at first, and only after satisfaction of such claims the Customer shall be entitled to deal with remaining part of the General Financial Collateral (if any).
- 5.4. If the Customer delays the Contractual Payment the Bank shall be entitled, without prior notification thereof to the Customer, to suspend debit operations with the General Financial Collateral (any part thereof) and apply the General Financial Collateral (any part thereof) to make the respective Contractual Payment. In such case at first the funds shall be debited from the accounts opened in the currency in which the respective Contractual Payment shall be made in accordance with the Rules.

## **6. ISSUE OF THE GUARANTEE**

- 6.1. The Bank shall issue the Guarantee within 3 (three) Banking Days after the following conditions precedent have been met in respect of that Guarantee:
  - 6.1.1. the Application, in the form and substance acceptable to the Bank, has been delivered to it;
  - 6.1.2. the Cover Amount in the amount acceptable to the Bank has been credited to the Cover Account and there are no obstacles for utilisation of such Cover Amount for the purposes of the Contractual Payments and for establishing of a financial pledge over such Cover Amount in favour of the Bank in accordance with the Rules;
  - 6.1.3. the Service Fee for execution of the Guarantee and the Service Fee for utilisation of the Guarantee (if, in accordance with the Rules, such is payable prior to the issue of the Guarantee) has been paid to the Bank;
  - 6.1.4. other conditions precedent to the issue of the Guarantee indicated in the Rules have been met.
- 6.2. Even if the conditions precedent to the issue of the Guarantee indicated in the Rules have been met, the Rules do not oblige the Bank to issue the Guarantee if the Bank does not agree to issue the Guarantee. If the Bank refuses to issue the Guarantee the Bank shall notify the Customer on its refusal to issue the Guarantee and repay to the Customer the Service Fee that the Customer has paid to the Bank for the execution of this Guarantee. The Bank is not obliged to inform the Customer about the reasons due to which the Bank refused to issue the Guarantee.
- 6.3. Prior to the issue of the Guarantee the Customer shall, upon request of the Bank, provide to the Bank such additional information, in the form and substance acceptable to the Bank, which, in the opinion of the Bank, is necessary to it for the issue of the Guarantee.
- 6.4. Unless expressly provided in the Application or unless it clearly follows from the wording of the Guarantee specified by the Customer (if the Customer has delivered such to the Bank together with the Application) in what form of a deed of obligation the Guarantee should be issued – as a Suretyship, Demand Guarantee or other – then the Bank shall issue the Guarantee in the form of a Demand Guarantee.
- 6.5. Upon request of the Customer the Bank may instruct another person (e.g. another credit institution) (hereinafter – the "Issuer") to issue a guarantee (suretyship, demand guarantee or another deed of obligation similar to suretyship or demand guarantee in terms of legal consequences) (hereinafter – the "Indirect Guarantee") in favour of such beneficiary and containing such provisions that the Customer has indicated to the Bank and to undertake liability towards the Issuer regarding reimbursement of such

amounts that the Issuer pays under the Indirect Guarantee. In such case the Bank shall issue a relevant Guarantee (hereinafter also – the “Counter-guarantee”) by which the Bank undertakes to reimburse the Issuer for the amounts that it has paid under the Indirect Guarantee. Unless otherwise provided in the Indirect Guarantee or applicable regulatory enactments, the Indirect Guarantee and the related legal relationships shall be governed by the regulatory enactments of the country in which the Issuer is located (registered).

- 6.6. In the case when the Indirect Guarantee has been issued the Customer’s instructions to the Bank in respect of the Guarantee set out in the Application (including but not limited to the Customer’s instructions regarding the Beneficiary, the Underlying Transaction and the Guarantee Amount as well as regarding the language, type and term of the Guarantee) are deemed to be the Customer’s instructions to the Bank also in respect of the Indirect Guarantee, unless it is expressly provided otherwise in the Application and the Rules or unless it follows otherwise from the context.
- 6.7. The Bank shall unilaterally determine the term of the Counter-guarantee with consideration of the term of the Indirect Guarantee that is issued on the basis of such Counter-guarantee and of the requirements of the Issuer who issues the Indirect Guarantee on the basis of that Counter-guarantee. The term of the Counter-guarantee shall exceed the term of the Indirect Guarantee issued on the basis of that Counter-guarantee by at least 15 (fifteen) days. When extending or reducing the term of the Indirect Guarantee, the term of the Counter-guarantee shall be respectively extended or reduced.
- 6.8. For the purposes of drafting and execution of the Guarantee (also the wording of the Indirect Guarantee incorporated in the Counter-guarantee to the extent possible with consideration of the nature of the Counter-guarantee and the Indirect Guarantee and the Issuer’s requirements) the Bank shall use a model Guarantee wording which the Bank has developed for the respective type of the Guarantee. Such model wordings of the Guarantee are available to the Customer in the Bank’s premises (Customer service halls) or on the Bank’s Website. The Bank will issue the Guarantee with the wording indicated by the Customer that has been delivered by the Customer to the Bank together with the Application, if the particular wording of the Guarantee is acceptable to the Bank. The Bank may amend the wording of the Guarantee indicated by the Customer to the Bank, if, in the opinion of the Bank, such amendments specify the wording of the Guarantee, correct a mistake in the wording of the Guarantee or otherwise improve the wording of the Guarantee.
- 6.9. The Demand Guarantee establishes such obligations of the Bank that are not related to the provisions of the Underlying Transaction (the document certifying it) on the basis of which the Demand Guarantee is issued and the Application for the Issue of the Demand Guarantee, and the provisions of the Underlying Transaction (the document certifying it) shall not be binding on the Bank in any manner whatsoever, although the Demand Guarantee contains a reference thereto.
- 6.10. For the purposes of drafting and execution of the Suretyship the Bank shall use a model Suretyship wording which the Bank has developed and which states among other things that:
  - 6.10.1. the Bank is not entitled to request that the Beneficiary shall first address the demand to perform the respective payment obligation or other obligations to the Principal Debtor (even in the case where the Beneficiary may as successfully and easily receive satisfaction of the respective claim from the Principal Debtor);
  - 6.10.2. on the basis of the Suretyship the Bank undertakes to pay to the Beneficiary the amount requested by it waiving the rights of any objections of the Principal Debtor against the Beneficiary’s request to pay the respective amount;
  - 6.10.3. the Suretyship shall be effective even when the obligation that arises out of the Underlying Transaction and is secured by the Suretyship would not be effective due to whatever reasons;
  - 6.10.4. the Suretyship shall remain effective also in the case when the provisions of the obligation that arises out of the Underlying Transaction and is secured by the Suretyship or any other provisions of the Underlying Transaction are amended, and also in the case when the obligation that arises out of the Underlying Transaction and is secured by the Suretyship or any other obligations that arise out of the Underlying Transaction are novated (except such novations as a result of which any party to the novated obligation is changed). Such amendments and novations may be made without notice thereof to the Bank and without obtaining of the Bank’s consent thereto;
  - 6.10.5. the rights of claim towards the Bank that arise out of the Suretyship (including but not limited to the right of claim with regard to payment of any amount under the Suretyship) may not be assigned to a third person without prior written consent of the Bank.
- 6.11. If the provisions of execution, issue or utilisation (application) of the Guarantee are governed by any special regulatory enactments (e.g. in the case when the Guarantee secures payment of a customs debt or payment of other tax, duty or similar payments to customs authorities or other tax administration authorities) the Bank shall, upon executing and issue of such Guarantee, also consider the provisions of the relevant special regulatory enactments and the requirements of such other special legal acts that are binding on the Bank in relation to the respective Guarantee.

## **7. EFFECTIVENESS OF THE GUARANTEE AND AMENDMENTS TO THE PROVISIONS OF THE GUARANTEE**

- 7.1. After the Guarantee has been issued the Bank may not unilaterally withdraw from the obligations that the Bank has undertaken under the Guarantee. The Guarantee is effective until the expiry of the term

indicated therein, or the payment of the entire Guarantee Amount under the Guarantee, or until the Guarantee terminates on other grounds indicated in the Guarantee, applicable regulatory enactments or the URDG (if applicable in respect of the Guarantee).

- 7.2. If the applicable regulatory enactments state that for the receipt of the payment under the Guarantee the Beneficiary may also present the Demand for Payment to the Bank after the expiry of the term of effectiveness (period of validity) of the Guarantee indicated therein (e.g. in the case when the Guarantee secures payment of a customs debt or payment of other tax, duty or similar payments to customs authorities or other tax administration authorities) then the Guarantee is deemed effective for the purposes of the Rules until the next Banking Day that follows the day on which all obligations of the Bank that it had undertaken under the Guarantee terminate.
- 7.3. Should it be necessary to amend the provisions of the issued Guarantee the Customer shall deliver to the Bank a written application in the form set by the Bank that contains the Customer's instructions to the Bank regarding amendments to the provisions of the Guarantee. The Customer shall pay to the Bank a Service Fee for the amendments to the provisions of the Guarantee prior to making of such amendments.
- 7.4. The provisions of the issued Guarantee may be amended if the Bank, the Customer and the Beneficiary agree thereto.
- 7.5. If, in accordance with the amendments to the provisions of the Guarantee, the Guarantee Amount shall be increased, then, unless the Customer and the Bank have agreed otherwise, the Customer shall ensure that, before such amendments are made, the existing Cover Amount is increased by the amount specified by the Bank. In such case the application indicated in Clause 7.3 shall also contain the consent of the Cover Amount Pledgor, in the form and substance acceptable to the Bank, to pledge the increase of the Cover Amount to the Bank in accordance with the Rules in order to secure performance of the Secured Obligations.

## **8. DEMAND FOR PAYMENT**

- 8.1. The Bank shall notify the Customer if the Bank receives the Demand for Payment. The Bank is not obliged to notify the Customer that the Demand for Payment has been received before the Bank makes the payment to the Beneficiary in accordance with the Guarantee on the basis of such Demand for Payment or refuses to make such payment.
- 8.2. The Bank shall pay the amount (in the aggregate not exceeding the Guarantee Amount) to the Beneficiary on the basis of the Demand for Payment if, in the opinion of the Bank, the payment of such amount has been duly requested in accordance with the provisions of the Guarantee. The amount shall be paid in the currency indicated in the Guarantee. After the Bank has made the payment on the basis of the Guarantee, the Bank shall notify the Customer thereof.

## **9. SERVICE FEES AND OTHER PAYMENTS**

- 9.1. The Customer shall pay Service Fees to the Bank for the execution and utilisation of the Guarantee and for other services, which are provided by the Bank in relation to the Guarantee, in accordance with the List of Conditions that is effective at the time of providing of the particular service. Unless otherwise provided in the Rules, the abovementioned Service Fees shall be paid in the currency indicated in the List of Conditions.
- 9.2. The Customer shall pay to the Bank the Service Fee for the execution of the Guarantee prior to the issue of the Guarantee.
- 9.3. The Service Fee for utilisation of the Guarantee (hereinafter – the "Utilisation Fee") shall be computed at the rate indicated in the List of Conditions per each calendar day over the time of effectiveness of the Guarantee. Such calculations shall be based on a year which is deemed to have 360 (three hundred sixty) days.
- 9.4. If the Utilisation Fee which is computed for the entire planned time of effectiveness of the Guarantee is less than the minimum Utilisation Fee indicated in the List of Conditions (hereinafter – the "Minimum Utilisation Fee"), the Customer shall pay to the Bank the Minimum Utilisation Fee prior to the issue of the Guarantee.
- 9.5. Except in the case indicated in Clause 9.4:
  - 9.5.1. the Customer shall pay the accrued Utilisation Fee in the currency of the Guarantee Amount on the last day of each calendar month and on the day of termination of the Guarantee. If the last day of a calendar month is not a Banking Day then on the last Banking Day of that calendar month the Customer shall pay the accrued Utilisation Fee computed for the period of time until the last day of the particular calendar month;
  - 9.5.2. on the due date for payment of the Utilisation Fee, as indicated in sub-Clause 9.5.1, the Customer shall ensure that the amount necessary to make the respective payment is freely available on the Customer's current accounts, which are opened with the Bank, in accordance with the Rules. In accordance with the procedure set by the Rules, the Bank shall debit from the abovementioned accounts the amount necessary for the payment of the Utilisation Fee for the current calendar month no later than on the first day of the next calendar month;
  - 9.5.3. if the Guarantee terminates before the end of the Guarantee term indicated therein and the Utilisation Fee that the Customer has paid in accordance with sub-Clause 9.5.1 before the actual day of

- termination of the Guarantee is less than the Minimum Utilisation Fee then on the actual day of termination of the Guarantee the Customer shall pay to the Bank, in addition, a Service Fee for utilisation of the Guarantee in the amount equal to the difference between the Minimum Utilisation Fee and the Utilisation Fee that the Customer has paid in accordance with sub-Clause 9.5.1 until the actual day of termination of the Guarantee.
- 9.6. For the purposes of Clauses 9.3 – 9.5 the time of effectiveness of the Guarantee is deemed to be the period of time that commences on the day of the issue of the Guarantee and ends on the day on which all obligations of the Bank that it had undertaken under the Guarantee terminate (subject to the provisions of Clause 7.2).
- 9.7. On the due date for payment of each Contractual Payment the Customer shall ensure that that the amount necessary to make the Contractual Payment is freely available on the Customer's current accounts opened with the Bank in the currency in which the Contractual Payment shall be made in accordance with the Rules.
- 9.8. The amounts owed to the Bank in accordance with the Rules shall be debited from the Customer's accounts, which are opened with the Bank, in accordance with the General Terms and the Bank's Account Maintenance and Card Usage Rules.
- 9.9. If the Bank has to perform currency exchange in order to make a Contractual Payment, such currency exchange shall be performed at the currency exchange rate set by the Bank and effective at the time when the respective amount is debited (Clause 9.8) or at the time when the Contractual Payment is made in the manner prescribed by Clause 9.10 (respectively). The provisions of this Clause shall also apply in the case where the Contractual Payment is made through the Bank having exercised its right of financial pledge established under the Rules over the General Financial Collateral and the Cover Amount.
- 9.10. Should it be necessary for the Bank to make a payment under the Guarantee the Bank shall, without special order by the Customer and the Cover Amount Pledgor and without prior notification to the Customer and the Cover Amount Pledgor, apply the Cover Amount to reimburse the payment that the Bank shall make under the Guarantee. The Bank is entitled, without special order by the Customer and the Cover Amount Pledgor and without prior notification to the Customer and the Cover Amount Pledgor, apply the Cover Amount to reimburse the expenses that the Bank has incurred in relation to the Guarantee and to satisfy other claims of the Bank that arise out of the Agreement, although it is not deemed to be the Bank's obligation. The Bank will apply the Cover Amount in accordance with the provisions of this Clause, unless a prohibition for such application of the Cover Amount established in the manner prescribed by the regulatory enactments.
- 9.11. Upon the request of the Bank the Customer shall immediately indemnify the Bank against all payments that the Bank has made under the Guarantee, all other expenses that the Bank has incurred in relation to the Guarantee (including any service fees payable to the Issuer in relation to the Indirect Guarantee) and all loss caused to the Bank in relation to the Guarantee to the extent such amounts have not been reimbursed by means of the Cover Amount in accordance with the provisions of Clause 9.10.
- 9.12. If by the set due date the Customer does not make to the Bank any of the Contractual Payments the Customer shall pay to the Bank the interest in the amount of 0.05% (zero point zero five per cent) of the overdue Contractual Payment per each day of delay. The provisions of this Clause shall be applicable subject to the restrictions of the amount of interest which are set out in accordance with the regulatory enactments.
- 9.13. The Bank shall apply payments towards the Customer's payment obligations under the Agreement in the following order:
- 9.13.1. Contractual Payments that are not specifically indicated in any other of sub-Clauses of Clause 9.13;
- 9.13.2. interest for delay in making the Contractual Payments set out in Clause 9.12;
- 9.13.3. Service Fee for execution of the Guarantee;
- 9.13.4. Service Fee for utilisation of the Guarantee;
- 9.13.5. reimbursement of payments made by the Bank under the Guarantee.
- 9.14. The Bank shall be entitled, in its discretion, to vary the order of performance of payment obligations set out in Clause 9.13 to the extent such varied order of performance of payment obligations is allowed by the regulatory enactments.

## **10. PROVISION OF INFORMATION TO THE BANK**

- 10.1. By delivery of the Application to the Bank each Obligor confirms to the Bank that:
- 10.1.1. at the time when the Application is delivered to the Bank no court proceedings, arbitration proceedings or administrative proceedings that might materially affect that Obligor's ability to perform its obligations under the Agreement or the Cover Amount Pledge Agreement (respectively) have been commenced against that Obligor and that Obligor is not aware of the contingency of any such court proceedings, arbitration proceedings or administrative proceedings in the future;
- 10.1.2. at the time when the Application is delivered to the Bank no application for legal protection proceedings or insolvency proceedings has been filed with the court in respect of that Obligor and at the time when the Application is delivered to the Bank no legal measures that are similar to the legal protection proceedings or insolvency proceedings are carried out in respect of that Obligor;

- 10.1.3. at the time when the Application is delivered to the Bank the operation of that Obligor has not been terminated and its liquidation has not been commenced;
- 10.1.4. all such actions have been taken and all such consents and all such authorisations have been obtained which under the constitutive documents of that Obligor, other arrangements binding on that Obligor and regulatory enactments are necessary for that Obligor to enter into and perform the Agreement or the Cover Amount Pledge Agreement (respectively), as well as the transactions related to the Agreement or the Cover Amount Pledge Agreement (respectively).
- 10.2. Upon request of the Bank the Obligor shall provide to the Bank the information requested by it regarding the Obligor's financial standing, property and all property encumbrances. Such information shall be provided within the term indicated by the Bank that shall not be less than 5 (five) business days, counting from the day of receipt of the respective request of the Bank.

## **11. OTHER PROVISIONS**

- 11.1. The Bank shall not be liable for loss that the Customer incurs as a result of that the instructions (including but not limited to the Application) or other information that the Customer has delivered to the Bank for the issue of the Guarantee, are inaccurate or contains mistakes.
- 11.2. The Bank shall review all documents that are indicated in the Guarantee and delivered to the Bank under the Guarantee (including but not limited to the Demand for Payment) with reasonable care in order to determine whether they appear on their face to comply with the provisions of the Guarantee. If the abovementioned documents appear on their face to be inconsistent with one another the Bank will consider that these documents do not comply with the provisions of the Guarantee.
- 11.3. The Bank assumes no liability for the form, sufficiency, accuracy, genuineness or legal effect of any document that is delivered to the Bank in relation to the Guarantee (including but not limited to the Demand for Payment) or any statement made in such document, and neither assumes liability for good faith, acts or omissions of any person in relation to any such document, Guarantee or any transaction related to the Guarantee.
- 11.4. The Bank is not obliged:
  - 11.4.1. to request from the Customer or any third person any information in relation to the documents indicated in the Guarantee and delivered to the Bank under the Guarantee (including but not limited to the Demand for Payment);
  - 11.4.2. to take into consideration any of the statements made by the Customer or any third person in relation to the documents that are indicated in the Guarantee and delivered to the Bank under the Guarantee (including but not limited to the Demand for Payment).
- 11.5. When providing services in relation to the Guarantee and the instructions given by the Customer to the Bank in relation to the Guarantee the Bank shall not be liable for the consequences caused by delay of delivery or loss during the delivery of any notice or other document (also in the event where such is during transmission of any notice or other document through electronic communication networks), as well as for the consequences resulting from mutilation of the content of any notice or document or errors arising in the transmission of any notice or other document through electronic communication networks.
- 11.6. The Bank using the services provided by another person for the purpose of giving effect to the instructions given by the Customer to the Bank in relation to the Guarantee, the Bank shall do so for the account and at the risk of the Customer. The Bank shall not be liable should the instructions given by the Customer to the Bank in relation to the Guarantee and transmitted by the Bank to another person not be carried out. The Bank shall not be released from liability under this Clause if the Bank has acted in bad faith or permitted gross negligence when choosing the service provider indicated in this Clause or using the services indicated in this Clause that are provided by the person chosen by the Bank.
- 11.7. The Bank shall be entitled to provide any information regarding the Customer, the Cover Amount Pledgor, the Agreement, the Cover Amount Pledgor Agreement, the provisions of those agreements and the performance thereof, as well as any information regarding the transactions of the Customer and the Cover Amount Pledgor that the Bank has obtained in relation to the Agreement and the Cover Amount Pledge Agreement (respectively) to the following persons:
  - 11.7.1. persons to whom, in accordance with the General Terms, the Bank is entitled to provide such information regarding the Customer, its accounts and transactions performed by the Customer, secrecy of which the Bank as credit institution shall ensure under the regulatory enactments of the Republic of Latvia;
  - 11.7.2. persons with (or through) whom the Bank has entered into (or intends to enter into) participation (sub-participation) agreement in respect of the Agreement;
  - 11.7.3. persons who have provided or who intend to provide security to the Bank in order to secure performance of the Secured Obligations.
- 11.8. No Obligor may assign rights granted to it by the Agreement or the Cover Amount Pledge Agreement (respectively) and duties assumed by it under the Agreement or the Cover Amount Pledge Agreement (respectively) to a third person without the prior written consent of the Bank.
- 11.9. The Bank performs processing of personal data in accordance with Luminor Privacy Policy available on <https://www.luminor.lv/en/privacy-policy>.



## **12. APPLICABLE REGULATORY ENACTMENTS AND DISPUTE RESOLUTION**

- 12.1. The Rules, the Guarantee and the legal relationships related to them shall be governed by the regulatory enactments of the Republic of Latvia.
- 12.2. Any dispute that arises in respect of the Agreement, the Cover Amount Pledge Agreement or performance of the abovementioned agreements (hereinafter – the “Dispute”) shall be resolved in the Court of Arbitration of the Association of Commercial Banks of Latvia (hereinafter also – the “Court of Arbitration”) in accordance with the Articles of Association of and the Regulations of that court of arbitration and the Regulations on the Costs of the Court of Arbitration of the Association of Commercial Banks of Latvia. The provisions of these documents are deemed included by reference in this Clause. The subject-matter of the Dispute to be resolved in the Court of Arbitration shall be any pecuniary or non-pecuniary disagreement or claim that arise out of the Agreement or the Cover Amount Pledge Agreement, including any disagreement or claim regarding performance of the Agreement or the Cover Amount Pledge Agreement, payment of contractual penalty, compensation for loss or security, as well as any other disagreements and claims that relate to the Agreement or the Cover Amount Pledge Agreement, amending, breach, termination, lawfulness, effectiveness or interpretation of the Agreement or the Cover Amount Pledge Agreement. The award of the Court of Arbitration shall be final, is not subject to appeal and shall be mandatory for the parties of the respective dispute. The number of arbitrators shall be three. All arbitrators shall be appointed in accordance with the Regulations of the Court of Arbitration of the Association of Commercial Banks of Latvia. The language of the arbitration proceedings shall be Latvian.
- 12.3. If the Court of Arbitration of the Association of Commercial Banks of Latvia does not have jurisdiction over the Dispute then, depending on the amount of claim, such Dispute shall be resolved in Riga Regional Court or the City of Riga Vidzeme Urban District Court (as in the court of first instance) in the Republic of Latvia.
- 12.4. The provisions of Clauses 12.2 and 12.3 shall not restrict the rights of the Bank to commence court proceedings against any Obligor in relation to a Dispute in any other court with jurisdiction. To the extent allowed by the regulatory enactments, the Bank may simultaneously commence the respective court proceedings in several courts.
- 12.5. The provisions of Clauses 12.1 – 12.4 shall apply insofar as not otherwise provided in the Guarantee.