

TIPS CONNECTIVITY

HOSTING TERMS AND CONDITIONS

- Attachment to the "HARMONISED CONDITIONS FOR THE OPENING AND OPERATION OF A TIPS DEDICATED CASH ACCOUNT (DCA) IN TARGET2" -

This Agreement regarding External Networks Hosting Terms and Conditions for the Target Instant Payment Settlement (hereinafter also "TIPS") service (hereinafter the "**Agreement**") was entered into on [date] between

(1) Banca d'Italia, with registered offices at Via Nazionale, 91, 00184 Roma, (hereinafter the "**TIPS Operator**")

and

(2) [Network Service Provider], with registered offices at [address] (hereinafter the "**Network Service Provider**" or "**NSP**")

Unless otherwise stated, the TIPS Operator and the Network Service Provider shall hereinafter be jointly referred to as the "**Parties**" and, individually, as a "**Party**".

WHEREAS:

- (1) On [21 June 2017], the Governing Council of the European Central Bank approved the launch of the Target Instant Payment Settlement service ("**TIPS Service**");
- (2) The Governing Council mandated the 4CBs, i.e. Deutsche Bundesbank, Banco de España, Banque de France and Banca d'Italia, to develop and operate the TIPS Service;
- (3) Within the 4CBs, Banca d'Italia is responsible for developing and operating the TIPS Service and, hence, it shall act as the TIPS Operator, as better explained below;
- (4) The NSP acts as the TIPS Connectivity Services (as defined below) provider for at least one participant to the TIPS platform (the "**TIPS Participant/s**"), on the basis of a contract between the latter and the NSP;
- (5) For the purposes of this Agreement, the NSP is introduced to the TIPS Operator by at least one TIPS Participant, for which it provides TIPS Connectivity Services;
- (6) To provide TIPS Connectivity Services to the TIPS Participant/s, the NSP requests the TIPS Operator, and the latter agrees, to install a technical infrastructure and the necessary software components (the "**NSP Infrastructure**") at the data centers of the TIPS Operator in (*specify relevant locations*) (the "**TIPS Sites**").

THEREFORE, IN CONSIDERATION OF THE ABOVE, THE PARTIES AGREE ON THE FOLLOWING:

1 Definitions and construction

1.1 Definitions

As used herein, the following terms shall have the meaning ascribed to them below:

- (1) **“Operations Manual”** means the document to be agreed by the Parties in accordance with the TIPS Connectivity-Technical Requirement TIPS.UC.TC.51020 "Operation and Escalation Manual" setting out specific details and arrangements related to the hosting of the NSP Infrastructure at the TIPS Sites in effect from time to time;
- (2) **“TIPS Connectivity Documentation”** means the TIPS Connectivity-Technical Requirements, including MEPT – Message Exchange Processing for TIPS; TIPS Connectivity-Compliance Check Procedures and this Agreement;
- (3) **“TIPS Connectivity Services”** means the connectivity services and related products and services provided by the NSP the aim of which is to grant TIPS Participants access to the TIPS Platform in accordance with the TIPS Connectivity Documentation, the TARGET 2 Guideline and the Annex to the TARGET 2 Guideline on the Harmonised Conditions for the Opening and Operation of a TIPS Dedicated Cash Account (“DCA”) in TARGET2, as applicable from time to time;
- (4) **“TIPS Dedicated Cash Account (TIPS-DCA)”** means an account held by a TIPS-DCA holder, opened in TARGET2, and used for the provision of TIPS Service;
- (5) **“TIPS Go-Live Date”** means the date on which the first payment is settled in TIPS in production;
- (6) **“TIPS Operator”** means Banca d’Italia as the Central Bank within the 4CBs responsible for the development and operation of the TIPS Service;
- (7) **“TIPS Participant/s”** means an entity that holds at least one TIPS-DCA and/or PM-account and/or one Dedicated Cash Account (DCA holder) with a Eurosystem Central Bank;
- (8) **“TIPS Platform”**, in this Agreement, means the central technical infrastructure, operated by Banca d’Italia, for the provision of the TIPS Service.

1.2 Construction

- (1) The headings of the sections and subsections in this Agreement are for convenience purposes only, and shall not affect the interpretation of any of the provisions hereof.
- (2) Words such as "hereof", "herein" or "hereunder" shall, unless the context requires otherwise, refer to this Agreement as a whole and not to a specific provision of this Agreement. The term "including" shall mean "including, without limitation".
- (3) Terms starting with a capital letter shall have the meaning defined in Article 1.1. or elsewhere in the Agreement. Terms defined in the singular have a comparable meaning when used in the plural, and vice versa.
- (4) Any reference to "applicable law" or "applicable laws" contained in this Agreement shall include any statute, code, regulation, directive, ordinance, binding guideline or other legally binding general rule or decree applicable in Italian jurisdiction and relating to any matter whatsoever.

2 Objective

- (1) In line with the Technical Requirements listed in the TIPS Connectivity Documentation, the NSP shall be responsible for the provision of TIPS Connectivity Services to the TIPS Participants. In order to provide TIPS Connectivity Services in a secure and efficient manner, the NSP must install its NSP Infrastructure at the TIPS Sites.
- (2) The Parties agree that costs for the hosting and any other related expenses to be borne by the NSP shall be determined by the TIPS Operator in accordance with (a) the specifics of the NSP Infrastructure installed at the TIPS Sites and (b) the criteria set out in the Operations Manual.

3 Preparation of Installation of Components

- (1) The NSP shall provide the TIPS Operator a written list of the components, including the number of racks and switches it will provide, and requirements (e.g. space, power supply, environmental controls, network connection, etc.) for its NSP Infrastructure to be hosted at the TIPS Sites. The NSP will provide such list at least thirty (30) Business Days (or such shorter period as reasonably agreed by the NSP and the TIPS Operator) before the installation of the relevant components of the NSP Infrastructure takes place.
- (2) The TIPS Operator shall host the NSP Infrastructure at the TIPS Sites in accordance with the requirements notified by the NSP to the TIPS Operator for the installation of the components of its NSP Infrastructure.

- (3) The NSP and the TIPS Operator will agree on the organizational details of the installation of the components of the NSP Infrastructure at the TIPS Sites.

4 Provision and Installation of the NSP Infrastructure

4.1 Provision of the NSP Infrastructure

- (1) The NSP shall be responsible for the provision of the components of its NSP Infrastructure as notified by the NSP, from time to time, to the TIPS Operator, in accordance with clause 3.

4.2 Installation and Maintenance of the NSP Infrastructure

- (1) The NSP shall be responsible for the installation and maintenance of its NSP Infrastructure in the specific areas indicated by the TIPS Operator at the TIPS Sites where the TIPS Operator's Infrastructure is installed. The NSP shall install and maintain its NSP Infrastructure at the TIPS Sites under its sole responsibility.
- (2) The TIPS Operator shall provide the necessary facilities and services for the hosting of the NSP Infrastructure at the TIPS Sites in accordance with the requirements as notified by the NSP from time to time to the TIPS Operator as per clause 3. The connection to power supply, the environmental controls and the connection to the TIPS Operator's network will be based on conditions already in place at the TIPS Sites and used for the TIPS Operator's Infrastructure, as notified by the TIPS Operator to the NSP at least thirty (30) Business Days (or such shorter period as reasonably agreed by the NSP and the TIPS Operator) before the installation of the relevant components of the NSP Infrastructure at the TIPS Sites. The NSP shall be responsible for verifying the suitability of these conditions for the installation and use of its NSP Infrastructure at the TIPS Sites. The performance of any installation or maintenance activity shall not affect negatively the continuity of the operation of the TIPS Service or of any other service provided by Banca d'Italia.

5 Access to and Operation of the NSP Infrastructure

- (1) The NSP shall be permitted to remotely access the components of its Infrastructure installed at the TIPS Sites. Physical access by personnel of the NSP (including its agents, subcontractors and suppliers) to the NSP Infrastructure at the TIPS Sites shall be allowed where necessary. As far as physical access is necessary, such access will be granted by the TIPS Operator on the basis of and in accordance with the rules of access in place from time to time at the TIPS Sites as notified by the TIPS Operator to the NSP in advance. Physical access to the TIPS Sites will be restricted to authorized personnel only. Access authorization must be requested by the NSP (information to be communicated: Name, Surname, Birth Date, ID number). Authorized personnel of the NSP shall always be escorted at the TIPS Sites by, and under the surveillance of, staff members of Banca d'Italia. Physical access to the TIPS Sites is possible on each day from 08:00 AM to 05:00 PM; access outside these hours is possible only in case of emergency.

- (2) The NSP shall be responsible for the on-going remote monitoring of the orderly functioning of its infrastructure installed at the TIPS Sites.
- (3) The TIPS Operator shall monitor the orderly hosting of the NSP Infrastructure and, in the event of a natural disaster or other unforeseen circumstances of force majeure, as described in clause 8,, which may adversely affect the continuity of the hosting operations, the TIPS Operator shall inform the NSP thereof in accordance with the applicable procedure(s) set out in the Operations Manual.
- (4) The TIPS Operator will inform the NSP reasonably in advance about any scheduled interventions or other activities that may adversely affect the hosting or operation of the NSP Infrastructure at the TIPS Sites.
- (5) Structural alterations to the TIPS Sites for the installation or operation of the NSP Infrastructure will be limited to the minimum extent absolutely necessary for the proper installation or operation of the NSP Infrastructure. If any such structural alteration is deemed necessary, the NSP shall request the TIPS Operator's consent to such alteration. The NSP shall bear the costs for such alteration, including any costs for returning the structure of the TIPS Sites to its original state upon the termination or expiration of this Agreement.
- (6) Each Party shall ensure, within its respective domain of responsibility under this Agreement, that it does not adversely affect the operations of the other Party or of another NSP.

6 Security

- (1) The TIPS Operator and the NSP shall agree on the security controls and arrangements, covering inter alia physical security, information security and confidentiality and application security. These controls and arrangements will be documented in the Operations Manual.

7 Liability

- (1) The hosting of the NSP Infrastructure as specified in this Agreement shall not be considered as a contract of safekeeping. The TIPS Operator shall not have any obligation to safeguard, maintain or ensure the NSP Infrastructure nor any other obligation with regard to the NSP Infrastructure which is not expressly provided for in this Agreement or by the TIPS Operator and the NSP, with the exception of fraud, willful misconduct and gross negligence.
- (2) The TIPS Operator shall not be deemed liable for damages caused to third parties by the NSP. The NSP will indemnify the TIPS Operator and hold it harmless from any cost, charge, damages, expense or loss suffered by the TIPS Operator as a result of a NSP's material breach of any of the provisions of this Agreement.

8 Force Majeure

- (1) If a Force Majeure Event occurs, the obligations affected by such Force Majeure Event shall be suspended and the Party affected by such Force Majeure Event shall not be bound to perform such obligations for the period during which the Party is affected by such Force Majeure Event, save what provided in clause 12.4 below. The Party affected by the Force Majeure Event shall use commercially reasonable efforts to procure that it is able to perform the obligations affected by the Force Majeure Event as soon as possible after the occurrence of the Force Majeure Event. A “Force Majeure Event” shall include political disturbance, catastrophes in nature, fire, war, epidemics, and all other circumstances beyond a Party’s reasonable control which prevent the respective Party against its will from performing its obligations under this agreement
- (2) In case a Force Majeure Event occurs, the NSP and the TIPS Operator shall promptly enter into good faith negotiations in order to agree a mutually acceptable solution to the matters arising therefrom.

9 Compliance with laws and regulations

- (1) Each Party shall perform its obligations and responsibilities under this Agreement in accordance with all laws and regulations applicable to it and with the Governing Law as set out in clause 15 below.

10 Governance, Change Management and Communications

- (1) The TIPS Operator and the NSP shall agree the governance, change management and communications arrangements, which will underlie the relationship of the Parties in connection with the hosting of the NSP Infrastructure; these arrangements will be documented in the Operations Manual. Any change to this Agreement shall only be valid and enforceable if expressly agreed by the Parties in writing.

11 Assistance

- (1) Without prejudice to either Party's obligations under this Agreement, the Parties shall cooperate closely and transparently in order to enable each other to perform their respective obligations and responsibilities under this Agreement in a timely and orderly manner. Each Party shall perform its obligations and responsibilities and exercise its rights and remedies under this Agreement in good faith. Each Party shall, without undue delay, give the other Party notice of any facts, events, circumstances or other information that may reasonably be expected to materially affect its or the

other Party's ability to perform its obligations and responsibilities under this Agreement or, in the case of the NSP, the provision of the TIPS Connectivity Services to the TIPS Sites.

12 Term and Termination

- (1) This Agreement shall become effective as of the date on which it has been duly signed by both Parties. It shall be terminated automatically, without requiring a notice of termination, when the Eurosystem will award Licence(s) for the provision of the connectivity services for its market infrastructure services, or in any case after (3) three years from the Go-Live Date ("Term"). The Go-Live Date is currently envisaged to occur on [DD/MM/YY]. The Tips Operator may, in its sole discretion, postpone the Go-Live Date. Any postponement of the Go-Live Date shall be communicated to the NSP as soon as the Tips Operator is aware of circumstances which require such postponement.

12.1 Extension of the Term

- (1) The Tips Operator shall be entitled to extend the Term of this Agreement once, by a period of up to three (3) years, by giving the NSP notice of its intent to extend the Term of this Agreement not less than one (1) year prior to the expiration of the first three years period after the original signature. In its notice to the NSP the TIPS Operator must indicate the period of time by which the Term is to be extended.

12.2 Termination for convenience

- (1) The Parties shall not be entitled to terminate this Agreement for convenience.

12.3 Termination for breach

- (1) Without prejudice to any other rights or remedies provided for herein or by applicable law, each of the TIPS Operator and the NSP shall be entitled to terminate this Agreement for breach within the meaning of Art. 1453 Codice Civile. The Parties agree that a breach, in particular, exist:
 - if the NSP does not perform or comply with any of its obligations hereunder or is in breach of any representation and warranty or covenant or undertaking under this Agreement, and such non-performance, non-compliance or breach, if it is capable of being cured, has not been cured within twenty (20) Business Days after the TIPS Operator has given the NSP written notice of such non-performance, non-compliance or breach.

12.4 Termination for cause

- (1) The Parties agree that each Party is entitled to terminate this Agreement for cause, with a prior written notice to the other Party, in the following cases:
 - if any event or circumstance, including (but not limited to) a force majeure event (as described under art. 8), which prevents the NSP from providing the Network or the Connectivity Services

to the TIPS Participants in accordance with this Agreement persists for a period of more than three (3) months;

- if, in any moment after the compliance check, the NSP is not compliant anymore with the TIPS Connectivity-Compliance Check Procedures;
- if the NSP has no contract in effect with at least one TIPS Participant for the provision of the connectivity services;
- if the project for the design, development and implementation of TIPS fails or is discontinued;
- if TIPS in production is discontinued.

13 Holding of NSP infrastructure

- (1) Unless otherwise agreed by the Parties, the NSP shall hold the NSP infrastructure at the TIPS Sites in accordance with this Agreement until the expiration or termination of this Agreement. Upon the expiration or termination of this Agreement, the NSP shall continue to hold the NSP Infrastructure at the TIPS Sites and shall use reasonable efforts to ensure an orderly transition of the connectivity services to the Eurosystem or to such other persons or entities designated by the Eurosystem to assume the provision of the Connectivity Services (the "Successor Network Service Provider") until such time as the Eurosystem has notified the NSP of the completion of the transition to the Successor Network Service Provider but in no event longer than two (2) years from the effective date of the termination or the expiration of this Agreement (the "Transition Period"). During the Transition Period, the Network Service Provider shall, in particular, provide to the Eurosystem or the Successor Network Service Provider any information or documentation reasonably required to render the Connectivity Services.

14 Surviving provisions

- (1) For the avoidance of doubt, the termination or expiration of this Agreement shall not release the Parties from any of their obligations under this Agreement which have arisen prior to or in connection with the expiration or termination. Recordkeeping and data protection (as covered in the Operation Manual according to art. 6 of this Agreement), Continuation of Connectivity Services (art. 12), Confidentiality (art. 6), Governing Law (art. 14), Assistance (art. 10) and Escalation Procedure (art. 15) shall survive the termination or expiration of this Agreement.

15 Governing Law

- (1) This Agreement shall be governed by, and construed in accordance with, the laws of Italy (excluding the United Nations Convention on Contracts for the International Sale of Goods, 1980).

16 Escalation Procedure

- (1) In the event of a dispute between the Parties arising out of or in connection with this Agreement the Parties shall use commercially reasonable efforts to resolve the matter on an amicable basis and in a fair and equitable manner in accordance with the procedure set out in this clause 16.
- (2) Upon notification by one Party to the other Party, the matter shall first be referred to the project/service managers. If these persons fail to resolve the matter within a reasonable period of time after it has been referred to them, but in no event more than thirty (30) Business Days the matter shall be further escalated and shall be dealt with according to the procedure defined in the Operations Manual.

17 Unfair contractual terms

- (1) The Parties acknowledge that this Agreement has been individually negotiated. Therefore, the provisions on unfair contractual terms are not applicable to it.