

General Terms and Conditions (January 2012)

1. **Scope** All capitalised terms used herein shall have the same meaning as ascribed to them in Section 2, except where otherwise indicated herein. These Terms shall govern the legal relationship between CelsiusPro and its Clients. In signing the Application the Client agrees to be bound by these Terms. CelsiusPro reserves the right at its sole discretion to reject the establishment of any business relationship without having to disclose any reason. These Terms shall be applicable for all services provided by CelsiusPro, even if not explicitly referred to in other contracts or agreements between the Client and CelsiusPro. Additionally, these Terms in their relevant version apply to all future contracts with the Client concerning the services provided by CelsiusPro. Differing terms and conditions of the Client do not apply, unless explicitly accepted by CelsiusPro.

2. Definitions

“**Application**” shall mean the document designated as such which the prospective client will complete, sign and file with CelsiusPro in order to apply for its Services.

“**Bank Account**” shall mean the bank account of CelsiusPro.

“**Business Day**” shall mean any day on which the commercial banks in Zurich are open for normal business transactions.

“**CelsiusPro**” shall mean CelsiusPro AG whose registered office is at Lavaterstrasse 44, 8002 Zurich, Switzerland.

“**Client**” shall mean any individual or legal entity that completes, signs and files an Application with CelsiusPro.

“**Contract**” shall mean each contract for the purchase or sale of weather derivatives between CelsiusPro and the Client.

“**Date of Offer**” shall mean the date on which CelsiusPro issues the Offer to the Client.

“**Offer**” shall mean a written or electronic document issued by CelsiusPro, showing its revocable willingness for a specified time period to contract on certain terms, which will be sent to the Client on the Client’s inquiry.

“**Payment Date**” shall mean the date, on or before which the Premium Amount shall be credited to the Bank Account.

“**Payment Instruction**” shall mean CelsiusPro’s instruction to the Client about Premium Amount, Bank Account and Payment Date.

“**Payout**” shall mean any payment of CelsiusPro to the Client in connection with the Contract.

“**Payout Amount**” shall mean the amount of a Payout.

“**Premium Amount**” shall mean the amount which the Client shall pay in order to conclude a Contract.

“**Quotes**” shall mean any indicative price for a Contract submitted by CelsiusPro to the Client prior to the Client having requested an Offer.

“**Services**” shall mean any service provided by CelsiusPro to the Client pursuant to these Terms.

“**Terms**” shall mean these General Terms and Conditions.

“**Trade Confirmation**” shall mean a confirmation, which confirms the details of the Contract, which will be provided by CelsiusPro to the Client.

3. **Services of CelsiusPro** CelsiusPro may provide and perform the sales and risk management of financial products, in particular of weather derivatives. Other services may be provided on terms to be separately agreed upon for each particular matter.

4. **Signatures** Until revocation in writing, the Client shall be deemed to be duly represented, apart from its ordinary signatories, by the person(s) which has/have been indicated as such in the corresponding board resolution, regardless of any entry to the contrary in the commercial register and other publications. CelsiusPro will compare the signature of the Client with the sample signature held in its records. CelsiusPro is deemed to have acted properly, provided that such comparison displays no noticeable discrepancies. In any event, CelsiusPro shall not be held liable for mistaken or inaccurate authentication of the Client’s identity, fraudulent use of signatures or failure to detect forgery, insofar as CelsiusPro is not guilty of gross negligence.

5. **Conclusion of the Contract** The Services will be offered only if, inter alia, the Application has been approved by CelsiusPro. Even if the Application has been approved, CelsiusPro reserves the right at its absolute discretion to decline to offer its Services without having to disclose any reason for such a decline. The Quotes provided by CelsiusPro are of indicative nature only. Only Offers are binding for CelsiusPro. Offers shall contain the essential terms of a potential Contract and the Payment Instruction. Furthermore such Offer shall expressly declare that the Client can only accept such Offer by full payment of the Premium Amount within 5 (five) Business Days upon Date of Offer. Provided that (condition precedent) the premium amount will be received on the Bank Account by Payment Date such payment shall be deemed to be an acceptance by performance. Accordingly the Contract between Client and CelsiusPro is concluded. Thereafter CelsiusPro will send a Trade Confirmation to the Client and enregister such Con-



tract in its books. In case of non receipt of the Premium Amount in full on the Bank Account by Payment Date, no legal relationship shall neither arise nor exist between the Client and CelsiusPro.

6. **Reporting / Payout** CelsiusPro shall inform the Client about the Contract's result, particularly with regard to a potential Payout, by submitting a report in the form it considers appropriate to the Client within 5 (five) Business Days of the expiration of the Contract. In the event of a Payout, such Payout Amount shall be paid in the same currency as the payment of the Premium Amount was made. Furthermore, CelsiusPro shall be entitled to transfer such Payout Amount to the Client's bank account, which was used for the payment of the Premium Amount.
7. **Settlement** Settlement shall be based on the highest quality of data available at the settlement date which shall be 5 days from the end of the contract period. The weather data used will be as provided from the respective weather data provider according to the following hierarchy: 1. Official Climate Data quality-controlled, 2. Official Climate Data not quality-controlled, 3. Synop Data quality-controlled. Note: It is possible that weather measurements are modified retrospectively by the national meteorological service. Such a change will not be considered. Only the data available on settlement date is relevant.
8. **Settlement Fallback Methodology** Any missing data shall be replaced with data measured on the corresponding dates of the most recent available 5 historical years on an iterative basis. If more than one data point is missing, all the data used for filling in each iteration shall be taken from the same historical year. In each iteration, the payout shall be calculated. The settlement amount shall be the average of these 5 payouts.
9. **Accumulated Rainfall** If during the Measuring Period, rainfall data at any Reference Weather Station is reported as an accumulation over a number of days rather than as daily rainfall, the measured accumulated rainfall for that Reference Weather Station shall be allocated evenly over the number of days for which the precipitation was accumulated.
10. **Communications from CelsiusPro** Communications from CelsiusPro shall be deemed to have been duly transmitted if sent to the last address supplied by the Client to CelsiusPro. The date of dispatch shall be deemed to be the date shown on the copy or the mailing list in CelsiusPro's possession. Mails to be retained by CelsiusPro upon request of the Client shall be deemed to have been delivered to the Client on the date it bears.
11. **Errors in Transmission** Damage resulting from the use of postal services, telephone or other means of communication or transport, and in particular from loss, delay, misunderstandings or duplicate dispatch shall be borne by the Client provided that CelsiusPro has not acted with gross negligence.
12. **Complaints** Complaints by a Client relating to a transaction carried out by CelsiusPro must be filed upon the Client receiving notice of the matter for complaint, at the latest within three (3) Business Days upon receipt of such notice. Any damage arising from delay in making a complaint shall be borne by the Client. Upon expiry of this period the respective communication shall be deemed to have been approved. If the Client fails to notify CelsiusPro of a complaint within the prescribed timeframe, the Client shall be deemed to have acknowledged and agreed to the content of the respective communication.
13. **Client's Representations, Warranties and Covenants** The Client makes representations, warranties and covenants to the effect that:
 - The Client has and shall continue to have all necessary consents, authorisations, approvals, powers and authorities to effect all transactions with CelsiusPro under these Terms and under any agreement or arrangements of any kind concluded between the Client and CelsiusPro;
 - The Client shall immediately notify CelsiusPro on the Client's own accord of any change of name or address; the Client shall be under the same obligation as regards the persons authorised to act on the Client's behalf; said obligations shall stand even if such change occurred by way of an entry in a public register or any other form of publication;
 - The Client is obliged to keep passwords secret and to ensure that third parties do not obtain access to the transaction facilities;
 - The Client will be liable to CelsiusPro for transactions executed by means of the Client's password, even if such use may be wrongful.
14. **Telephone Recording** The Client accepts and agrees that CelsiusPro may in its absolute discretion record telephone conversations without the use of a warning tone or message. Such voice records shall be conclusive evidence of the notices, demands or requests so recorded and the Client agrees that such voice records shall be admissible as such evidence in any legal proceedings. The period of retention of any voice records shall be at CelsiusPro's sole discretion.
15. **Company Registration and Transaction Information** The Client accepts that where necessary CelsiusPro may make company registration and transaction related information available to associated business partners
16. **Exclusion and Restriction of Liability** Any liability of CelsiusPro and its employees, officers, directors and agents for services provided by CelsiusPro according to these Terms and to any agreement or arrangements of any kind



concluded between the Client and CelsiusPro as well as for any ancillary obligations provided by CelsiusPro vis-à-vis the Client shall be limited to gross negligence and intent. CelsiusPro and its employees, officers, directors and agents shall in no event whatsoever be liable to the Client for any indirect, incidental, consequential or punitive damages or loss of profit.

17. Written Notice All notices required to be given in writing under these Terms and under any agreement or arrangements of any kind concluded between the Client and CelsiusPro shall be addressed as follows:

If to the Client: At the last address notified to CelsiusPro in writing

If to CelsiusPro: Lavaterstrasse 44, CH-8002 Zurich, Switzerland, Telefax: +41 44 205 99 19

Both the Client and CelsiusPro may at any time change its address by giving notice to the other party in writing.

18. Assignment The Client may not assign or transfer any of his rights and obligations under these Terms and under any agreement or arrangements of any kind concluded between the Client and CelsiusPro to a third party without the prior written consent of CelsiusPro.

19. Confidentiality Except as otherwise required by law or any relevant regulatory or governmental body, the parties shall keep confidential all aspects of the terms and the contents of any agreement or arrangement of any kind concluded between the Client and CelsiusPro.

20. Amendments CelsiusPro reserves the right to amend or supplement these Terms at any time. Such amendments or supplements will be notified by CelsiusPro to the Client in writing or by electronic communication.

21. Severability Should any part or provision of these Terms or of any agreement or arrangements of any kind concluded between the Client and CelsiusPro be held to be invalid or unenforceable by any competent court, governmental or administrative authority having jurisdiction, the other provisions of such contractual relationship shall nonetheless remain valid. In this case, the parties shall endeavour to negotiate a substitute provision that best reflects the economic intentions of the parties without being unenforceable, and shall execute all agreements and documents required in this connection.

22. End of the Business Relationship CelsiusPro may terminate its business relationship with the Client at any time with immediate effect and without being required to provide any reason therefore. The Client may terminate its business relationship with CelsiusPro at any time by giving notice in writing, which notice shall become effective upon receipt or, should receipt occur on a day which is not a Business Day, upon the first Business Day thereafter. The termination of this contractual relationship shall not affect outstanding transactions or any legal rights or obligations which may have already arisen, and transactions in progress at such time shall be completed by CelsiusPro as soon as practicable thereafter unless the parties agree otherwise.

23. Entering into Force These Terms shall enter into force upon signing of the Application.

24. Language These Terms have been translated into German. If there is any inconsistency or conflict between the English and German version, the English version shall prevail.

25. Governing Law and Jurisdiction These Terms and any agreement or arrangements of any kind concluded between the Client and CelsiusPro shall be governed by and construed in accordance with the laws of Switzerland. For any disputes between the Client and CelsiusPro arising out of or in connection with these Terms or any agreement between CelsiusPro and the Client the Commercial Court of the Canton of Zurich (Handelsgericht des Kantons Zürich), Switzerland, shall have exclusive jurisdiction, provided that CelsiusPro shall also have the right to take legal action or legal measures against the Client with any other competent court.

Name:

Signature:

Date and Place:

