

MR01  
Particulars of a charge



Companies House

103114/52

A fee is payable with this form  
Please see 'How to pay' on the  
last page

You can use the WebFiling service to file this form online.  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument Use form MR08

For further information, please  
refer to our guidance at  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

This form must be delivered to the Registrar for registration within  
21 days beginning with the day after the date of creation of the charge  
delivered outside of the 21 days it will be rejected unless it is accompanied  
by a court order extending the time for delivery



You must enclose a certified copy of the instrument with this form. This  
must be scanned and placed on the public record **Do not send the original**

TUESDAY



\*A4MSZ2L4\*

A08

22/12/2015

#124

COMPANIES HOUSE

**1 Company details**

Company number 09160623

Company name in full BYNDER LIMITED

For official use

**Filing in this form**  
Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

**2 Charge creation date**

Charge creation date 04/12/2015

**3 Names of persons, security agents or trustees entitled to the charge**

Please show the names of each of the persons, security agents or trustees  
entitled to the charge

Name ABN AMRO BANK N V

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge

MR01

## Particulars of a charge

4

## Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

5

## Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ Yes

☐ No

6

## Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

## Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

8

Trustee statement <sup>①</sup>

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

<sup>①</sup> This statement may be filed after the registration of the charge (use form MR06)

9

## Signature

Please sign the form here

Signature

Signature

X *Holman Fenwick Willer LLP* X

This form must be signed by a person with an interest in the charge

# MR01

## Particulars of a charge

### Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name ROBIN OSBORNE (RGO/38414/135)

Company name HOLMAN FENWICK WILLAN LLP

Address FRIARY COURT

65 CRUTCHED FRIARS

Post town LONDON

County/Region

Postcode E C 3 N 2 A E

Country UNITED KINGDOM

DX 1069 LONDON CITY EC3

Telephone +44 (0)20 7264 8448

### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.

### Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy

### Important information

Please note that all information on this form will appear on the public record.

### How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'.

### Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

**For companies registered in England and Wales:**

The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

**For companies registered in Scotland**

The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post)

**For companies registered in Northern Ireland:**

The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG  
DX 481 N R Belfast 1

### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)



**FILE COPY**

## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 9160623

Charge code: 0916 0623 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th December 2015 and created by BYNDER LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 22nd December 2015.

Given at Companies House, Cardiff on 31st December 2015



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**



## **Notes on netting agreement with annual transfer of balances**

The parties referred to in the netting agreement have accounts at the bank between which balance netting is or will be applied. One of these accounts has been or will be designated as the principal account.

Due to IFRS regulations, the bank will once a year transfer amounts between this principal account and the other current accounts (other than savings accounts such as deposits) involved in the balance netting in order to reach a zero balance on the other current accounts.

The annual transfers take place in the week notified to you by the bank. The bank will send you a letter each year reminding you of the next annual transfer(s). This letter will also state on what day the netting transfers are to take place. This day is known as the settlement day. The transfers take place at approximately 22:00 hrs. This is at the end of the booking day.

You can use *Access Online* or *Internet Banking* to see what transfers have been made.

### **Limiting the impact of the annual netting transfer**

You can limit the impact of the annual netting transfer on your accounting system. You can do this by instructing the bank to reverse the transfer immediately. The bank will do this with the value date of the initial transfer.

To instruct the bank to do so, please sign and return the enclosed reverse transfer form.

If you do not sign and return the reverse transfer form, this may have the following consequences:

- you can no longer transfer funds from your current account if you are not allowed to have a debit balance on that account,
- there may be tax implications if current accounts are held in the names of different accountholders.

### **What should you do?**

You have to arrange for the netting agreement to be signed by all parties to this agreement and then return it to the bank. If you wish to make use of the reverse transfer option, you must also arrange for the reverse transfer form to be signed by all parties<sup>1</sup> and then return it to the bank.

The bank advises you to check that no large payments, for example batch payments, are scheduled for execution around the settlement day. Payments from a current account participating in the netting agreement may be rejected by the bank if that account may not be overdrawn. It is important that you notify the users of the current accounts in time. This will enable them to take action if necessary.

Please note for technical reasons that it may not be possible to execute the annual netting transfer on the settlement day. If this happens, the bank will make the transfer on the Thursday or Friday in the same week as the week of the settlement day.

<sup>1</sup> In the case of netting agreements that relate to clients with and without a facility, the reverse transfer form should be signed only by the clients with a facility.

# Netting Agreement

## Balance netting - Clients with a Facility

### The parties

- 1 Bynder B V , having its registered office in Amsterdam,  
Schiehavenkade 280, Rotterdam,  
"the Principal Client"  
LUMA Marketing Technologies B V , having its registered office in Amsterdam,  
BYNDER LIMITED, having its registered office in London,  
Bynder Holding B V , having its registered office in Amsterdam,  
each referred to hereinafter both jointly and individually as "you",
- 2 ABN AMRO Bank N V , having its registered office in Amsterdam The bank has a branch at  
Coolingsingel 93 Rotterdam  
referred to hereinafter as "the Bank"

### Whereas

You have asked the Bank to apply balance netting to (a number of) your accounts. These accounts are or will be linked to one or more Facilities under which sums may be withdrawn from the Bank in current account

### Have agreed to the following

Each of you declares

- that you share a common interest in organisational, financial and economic sense (*belangengemeenschap*),
- that you participate in the Facility, and
- that the application of balance netting is in your common interest

The Bank will apply balance netting. In addition to the arrangements in this netting agreement with annexes, the General Conditions for Balance Netting apply, *inter alia*

You will find the following subjects in this netting agreement

- 1 Balance netting
  - 1.1 Explanation
  - 1.2 Operation
  - 1.3 Rates
  - 1.4 Balance Netting Limit
- 2 Annexes
- 3 Netting Documents
- 4 Signatures

Capitalised terms are defined in this netting agreement or in the General Conditions for Balance Netting

## **1 Balance netting**

### **1.1 Explanation**

Balance netting is a way of providing credit in which the Bank allows you to have (additional) debit balances on certain accounts. This is only allowed if these (additional) debit balances can be compensated by credit balances on other accounts. All of these accounts are referred to jointly hereinafter as "**the Netting Accounts**". Any other accounts are not included.

The maximum of the additional debit allowance is determined by the credit balances on the Netting Accounts and the Balance Netting Limit.

### **1.2 Operation**

The operation of the balance netting is explained in more detail in the General Conditions for Balance Netting.

### **1.3 Rates**

#### *Debit interest*

If the balance on your Netting Account is debit, you pay debit interest. The debit interest is equal to the interest rate agreed for the relevant Facility. If no debit interest is agreed for a currency, the Bank will determine that interest.

#### *Costs*

Not applicable at this time.

### **1.4 Balance Netting Limit**

The Balance Netting Limit is 150% of the Credit Limit. However, if an Overdraft Limit applies to the Facility, the Balance Netting Limit is 150% of this limit.

## **2 Annexes**

The following annexes belong to this Netting Agreement:

- 1 model change form,
- 2 model overview of Netting Accounts,
- 3 model accession agreement.

## **3 Netting Documents**

In addition, the following documents apply to this netting agreement:

- 1 the General Conditions for Balance Netting for multiple clients (December 2013),
- 2 the General Conditions ABN-AMRO Bank N.V., which consist of
  - the General Banking Conditions, and
  - the Client Relationship Conditions,
- 3 the List of Terms dated November 2013.

You declare that you have received these documents.

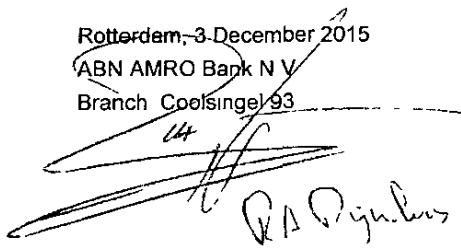
All of the documents referred to in Clause 3 (including the netting agreement and, in so far as applicable, the completed annexes) are collectively referred to as "**the Netting Documents**".

**4 Signatures**

Rotterdam, 3-December 2015

ABN AMRO Bank N.V.

Branch: Coolingsingel 93

  
RA Dijkhuis  
**Gijs Vreeburg**

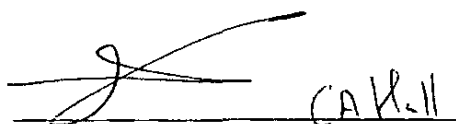
Amsterdam, 4-12-2015

Bynder B.V.

  
CA Hall

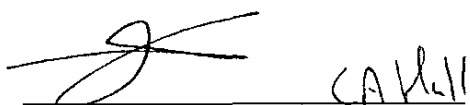
Amsterdam, 4-12-2015

LUMA Marketing Technologies B.V.

  
CA Hall~~HANDTEKENING  
AKKOORD~~

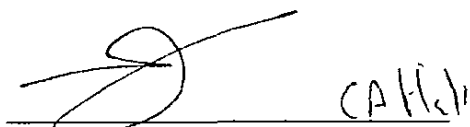
London, 4-12-2015

BYNDER LIMITED

  
CA Hall

Amsterdam, 4-12-2015

Bynder Holding B.V.

  
CA Hall



## Model overview of Netting Accounts

Overview of Netting Accounts to the netting agreement  
version of 3 December 2015

This overview accompanies the netting agreement concluded on 3 December 2015 between the Bank and the client

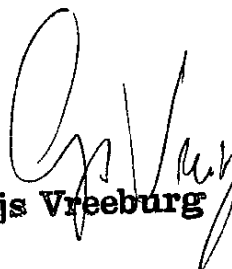
The terms used in the Netting Documents have the same meaning in this overview

Facility	Netting Accounts	Credit Limit	Balance Netting Limit*
Multi Purpose Facility	NL68 ABNA 0523 6929 27 in the name of Bynder B V  NL66 ABNA 0523 6881 13 in the name of Bynder B V NL05 ABNA 0617 4007 17 in the name of LUMA Marketing Technologies B V NL62 ABNA 0404 5027 33 in the name of LUMA Marketing Technologies B V NL69 ABNA 0483 5320 96 in the name of BYNDER LIMITED NL30 ABNA 0483 6110 77 in the name of BYNDER LIMITED NL32 ABNA 0460 6706 38 in the name of Bynder Holding B V	EUR 720,000 00	EUR 1,080,000 00

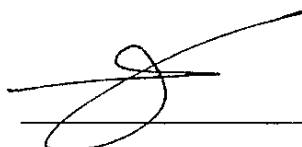
\* The Balance Netting Limit is calculated on the basis of the Credit Limit of the relevant Facilities, as applicable on the date of this overview. For a Multi Purpose Facility with an Overdraft Limit, the Overdraft Limit as applicable on the date of this overview is used.

**Signatures**

Rotterdam, 3 December 2015  
ABN AMRO Bank N V  
Branch Coolsingel 93

  
RA Dijkster  
**Gijs Vreeburg**

Amsterdam, 4 - 12 - 2015  
Bynder B V

  
CA Hall

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acting hereby in its own name and for the other parties (except for the Bank) to the netting agreement

## Reverse transfer form

### Recurring payment instructions

Bynder B V , having its registered office in Amsterdam,  
Rotterdam,

Bynder B V , having its registered office in Amsterdam,  
Adress Schiehavenkade 280, Rotterdam,

LUMA Marketing Technologies B V , having its registered office in Amsterdam,  
BYNDER LIMITED, having its registered office in London,  
Bynder Holding B V , having its registered office in Amsterdam,  
hereinafter referred to as "**the Client**"


The Client has entered into or will be entering into a netting agreement with the Bank. The terms used in the Netting Documents have the same meaning in this form

The Client hereby gives the Bank recurring payment instructions to transfer the amount that it receives in its Netting Account through a balance netting transfer or has received through the most recent balance netting transfer back to the Netting Account from which this amount was received

If this form is signed by multiple Clients, it applies as separate instructions from each of those Clients for that Client's Netting Account(s). The Bank will only perform the aforementioned payment instructions if it has received signed payment instructions in this form from each Client

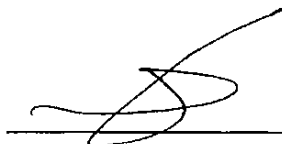
### Signatures

Amsterdam, 4-12-2015  
Bynder B V

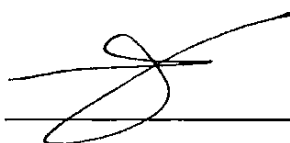
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TEKENING  
AKKOORD  
12/12/15

Amsterdam, 4 - 12 - 2015  
LUMA Marketing Technologies B V

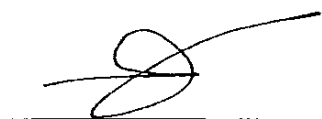
  
CA Hall

London, 4 - 12 - 2015  
BYNDER LIMITED

  
CA Hall

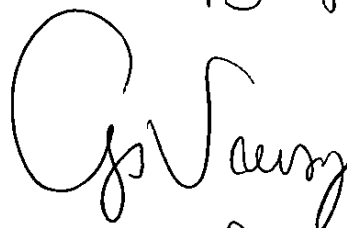
HANDTEK  
AKKOORD  
H01901

Amsterdam, 4 - 12 - 2015  
Bynder Holding B V

  
CA Hall

Principal Account NL66 ABNA 0523 6881 13

We hereby certify this to be a true, correct and complete copy of the original.

  
**Gijs Vreeburg**

For and behalf of the ABN-AMRO Bank NV

*we hereby certify this to be a true, correct and complete copy of the original.*  
*Holman Fenwick Willan LLP*

**General Conditions for Balance Netting for multiple clients (December 2013)**

*The terms used in these General Terms for Balance Netting and in the netting agreement are defined in Clause 19*

**1 Balance Netting**

**1.1** This Clause 1.1 applies if you have one or more Facilities in the form of an Overdraft Facility

For each Facility, the total sum of the debit and credit balances of the Netting Accounts linked to the Facility may not exceed the Credit Limit of the Facility

If a Balance Netting Limit has been agreed with you, Clause 1.4 also applies

**1.2** This Clause 1.2 applies if you have one or more Facilities in the form of a Multi Purpose Facility

For each Facility, the sum of

(i) the aggregate of the debit and credit balances of the Netting Accounts linked to the Facility,

(ii) the aggregate of short-term loans, and

(iii) the aggregate of contingent liabilities may not exceed the Credit Limit of the Facility

If you have a Multi Purpose Facility with an Overdraft Limit, the total sum of the debit and credit balances of the Netting Accounts linked to the Facility may not exceed the Overdraft Limit either. If a Balance Netting Limit has been agreed with you, Clause 1.4 also applies

**1.3** This Clause 1.3 applies if you have no Facility. The sum of

(i) the aggregate of the debit balances of the Netting Accounts, and

(ii) the aggregate of contingent liabilities (contingent liabilities that are booked under a contingent liability facility are not included in the sum)

may not exceed the total of the credit balances of the Netting Accounts. If a Balance Netting Limit has been agreed with you, Clause 1.4 also applies

**1.4** This clause applies if a Balance Netting Limit has been agreed with you. For each of you, the Bank will calculate the total sum of the debit and credit balances of the Netting Accounts linked to the Facility. This will result in a debit balance or credit balance for each of you. The Bank will then add up the debit balances referred to in the previous sentence. That sum shall not exceed the Balance Netting Limit. The Bank may always adjust the Balance Netting Limit

**1.5** If a Credit Limit, an Overdraft Limit or a Balance Netting Limit has been agreed with you, it may not be exceeded. If this happens nevertheless, you must immediately repay the amount by which you have exceeded the relevant agreed limit

**1.6** If the Bank deems the debit balance on a Netting Account too high, you must immediately reduce that debit balance to a level that is acceptable to the Bank

**2 Documentation and Changes**

**2.1** The Netting Accounts are listed in an overview of Netting Accounts. The Bank itself will determine whether and when an overview of Netting Accounts will be compiled and sent to you

**2.2** For each Facility, the overview of Netting Accounts will list, among other things, the following information

- which Netting Accounts are linked to the Facility,
- in whose name the Netting Accounts are held,
- the Credit Limit, and
- the Balance Netting Limit if agreed

**2.3** If you have no Facility, the overview of Netting Accounts includes, among other things

- which Netting Accounts are included in the balance netting,
- in whose name the Netting Accounts are held, and
- the Balance Netting Limit if agreed

**2.4** You may ask the Bank to change the composition of the Netting Accounts. This can be done using the change form. The Bank may refuse a request. The Bank will inform you of such refusal

**2.5** An account may only be added as a Netting Account if the account is held with the Bank in the Netherlands. If the account is not denominated in euros, it may only be added if the currency

- may be freely converted into euro,
- is transferable, and
- is regularly traded on the interbank lending market in London in the Bank's opinion

**2.6** The Bank may change the format of the annexes to the netting agreement, including the overview of Netting Accounts, without consulting you and without your consent

**3 Fees and costs**

**3.1** If a Credit Limit, an Overdraft Limit or a Balance Netting Limit has been agreed with you and it is exceeded, the Bank may require you to pay a fee. The Bank determines the

- amount of this fee Clause 1.5 will continue to apply
- 3.2** The Bank may at any time charge you costs for applying balance netting. You must furthermore pay all costs incurred by the Bank in connection with the netting agreement. These may include, among other things, the costs of compiling the overview of Netting Accounts at your request and the costs of legal proceedings.
- 4 Pledge**
- 4.1** You are required to pledge your Claims to the Bank to secure payment of all Bank Claims. You hereby pledge your Claims to the Bank and, in advance, all Claims that you may acquire in the future. The Bank hereby accepts this pledge. The Parties hereby declare that notice of the right of pledge has been given and received.
- 4.2** You hereby declare
- that you are authorised to grant the pledge, and
  - that your Claims are not and will not be subject to any other limited right (*beperkt recht*), with the exception of a right of pledge created earlier in accordance with the General Banking Conditions. An example of a limited right is a security interest.
- 4.3** If your Claims prove to be subject to a right of pledge created prior to the creation of the Bank's right of pledge, the Bank will have a right of pledge nevertheless. This does not affect the Bank's rights as caused by this breach of contract by you.
- 4.4** Your Claims are not eligible for transfer or pledge to another person or entity (unless the Bank has granted its prior written consent).
- 4.5** The Bank may also have other security interests. You hereby declare to waive the rights referred to in Article 3:234 of the Dutch Civil Code. The Bank is not required to give notice as referred to in Articles 3:249(1) and 3:252 of the Dutch Civil Code. You hereby declare that you will not petition the preliminary relief judge to sell your Claims in a manner other than at a public auction or at a market or exchange as referred to in Article 3:251(1) of the Dutch Civil Code.
- 4.6** You hereby grant the Bank an irrevocable and unconditional power of attorney
- to pledge your Claims now and in the future to the Bank on your behalf to secure payment of all Bank Claims, and

- to do whatever is necessary or useful in connection with this pledge.

The Bank may use this power of attorney at any time and as often as it wishes. The Bank may act with itself on your behalf.

**5 Joint and several liability**

- 5.1** All of you are jointly and severally liable (*hoofdelijk verbonden*) for all Bank Claims. The Bank may demand payment of all Bank Claims from each of you individually.
- 5.2** A person who is jointly and severally liable has legal defences and rights in respect of the creditor. You hereby waive all of those defences and rights that a jointly and severally liable party or surety (*borg*) is entitled to.
- 5.3** Recourse claims (*regresvorderingen*) are claims that come into existence against other jointly and severally liable parties when you, as a jointly and severally liable party, pay part or all of the Bank Claims to the Bank. By means of subrogation, you obtain the Bank Claims if and to the extent that you, as jointly and severally liable party, pay part or all of the Bank Claims (*vorderingen uit subrogatie*). The following applies with regard to such recourse claims and subrogation claims:
- a** You hereby undertake to pledge your recourse claims and subrogation claims against the other jointly and severally liable parties to the Bank. This pledge provides security to the Bank for all Bank Claims. Pursuant to this obligation, you hereby pledge to the Bank as security for all Bank Claims your present and future recourse claims against the other jointly and severally liable parties and the claims against the other jointly and severally liable parties in which you are or will at any time be subrogated. The Bank accepts this pledge. The parties declare that notice of the right of pledge has been given and received hereby. As the pledgee of your claims against the other jointly and severally liable parties, the Bank is authorised to waive such claims or to terminate the security rights connected with such claims.
- b** In the event that the pledge of the claims in which you are subrogated is not created or is invalid, you waive the security rights that are connected to the claims in which you are subrogated. This applies to security interests provided by the jointly and severally liable parties or another party in connection with the Bank Claims.

- c In the event that the pledge of recourse claims against the jointly and severally liable parties and/or the claims in which you are subrogated is not created or is invalid, a characteristic of these claims is that they are always subordinated within the meaning of Article 3:277(2) of the Dutch Civil Code to all Bank Claims and only become due and payable when none of the jointly and severally liable parties has a debt to the Bank anymore. The recourse claims and the claims in which you are subrogated may not be satisfied by payment, set-off or in any other way until the parties that are jointly and severally liable no longer owe anything to the Bank.
- d No recourse claims against any other jointly and severally liable party will come into existence and you shall not subrogate in claims against another jointly and severally liable party if
- the pledge of those claims pursuant to these General Conditions for Balance Netting is not created or is invalid, and/or
  - a common interests in organisational, financial and economic sense (*belangengemeenschap*) between you and the other jointly and severally liable party is or will be terminated as a result of the transfer of such other jointly and severally liable party
  - In the event that the aforementioned situation occurs and recourse claims have nevertheless come into existence and/or subrogation has occurred, you waive such recourse claims and claims in which you are subrogated
- e Moreover, recourse claims do not come into existence and subrogation does not occur if the Bank cannot invoke the rights and legal consequences described above under b, c or d
- f To the extent necessary, you and the Bank hereby agree that the debt repaid to the Bank pertains to each of you in your interrelationship (*aangaat in uw onderlinge verhouding*) for such a sum that no recourse claims come into existence and no subrogation occurs
- g You hereby grant the Bank an irrevocable and unconditional power of attorney to create the rights of pledge you have agreed to in this clause. The Bank may use that power of attorney at any time

and as often as it wishes. The Bank may act with itself on your behalf

## 6 Set-off

The Bank may set off all Bank Claims with all of your Claims at any time and without a prior set-off notice (*verrekeningsverklaring*). In respect of such set-off, it is irrelevant

- whether the Bank Claims or your Claims are due and payable or in which currency they are denominated,
- whether the Bank Claims are conditional

The Bank may also set off Claims against one of you with Bank Claims against another one of you. Claims and Bank Claims denominated in different currencies are set off by the Bank at the exchange rate of the day of set-off. The Bank will inform you of the set-off afterwards. Each account statement mentioning the set-off applies as a set-off notice from the Bank.

## 7 Netting transfers

7.1 The Bank may execute netting transfers as often as it desires and at any time. A netting transfer means the following money is transferred by the Bank from one Netting Account (only a current account) with a credit balance to a Netting Account chosen by the Bank. This account is referred to hereinafter as "**the Principal Account**". Subsequently, the Bank will transfer money from the Principal Account to Netting Accounts with a debit balance. The result is that the balance of the Netting Accounts (with the exception of the Principal Account) will be zero. The Bank itself may determine how the netting transfers are performed.

7.2 Each of you may give the Bank recurring payment instructions. Such instructions cover every amount received by you on your Netting Account (including the Principal Account) as a result of a netting transfer. That amount will be reversed to the Netting Account (including the Principal Account) from which the amount was received. The payment instruction is executed as if no netting transfer has taken place. The fact that the Bank executes a netting transfer or executes the recurring payment instructions does not mean that the Bank waives any of its rights under the Netting Documents, other agreements or the law. The provisions of this clause also do not in any way prejudice the Bank's rights as referred to in Clause 6.

7.3 The Bank will only execute the payment instructions if it has received recurring payment instructions from each of you. You

must use the reverse transfer form for that purpose. The Bank may stipulate that it must have received the recurring payment instructions by a certain day.

## **8 Common interest**

### **8.1** Each of you hereby declares

- that you have a common interest in organisational, financial and economic sense (*belangengemeenschap*), and
- that you also have an interest in the arrangements described in the Netting Documents

### **8.2** You must immediately inform the Bank in writing of all developments that could have a material effect on

- your financial position,
- your business operations, and/or
- the aforementioned common interest in organisational, financial and economic sense (*belangengemeenschap*)

## **9 Accession of parties and power of attorney**

You hereby grant the Principal Client an irrevocable and unconditional power of attorney to, in your name and on your behalf

- sign the overview of Netting Accounts,
- sign an accession agreement for the accession of a party,
- sign a change form in the event you are given the status of client with a Facility or such status is withdrawn,
- sign a change form if you wish to add an account to or exclude it from the balance netting, and
- sign a new netting agreement for the situation referred to in Clause 10.5

## **10 Cancellation, Suspension and Liability**

### **10.1** You may cancel the netting agreement. You must do so by registered letter to the Bank. The cancellation will take effect thirty days after receipt by the Bank of said letter, unless agreed otherwise.

### **10.2** The Bank may cancel the netting agreement on any day. The Bank's cancellation has immediate effect. The Bank may opt to only have the cancellation of the netting agreement apply to one or more of you. The netting agreement will then be continued with the others.

### **10.3** After cancellation of the netting agreement, the right of pledge, the joint and several liability and the Bank's set off right continue to apply. These will only end if expressly waived by the Bank.

### **10.4** You must immediately satisfy your obligations under the Netting Documents. You may not postpone such performance. This also applies if you do not agree with the amount that you must pay the Bank.

### **10.5** If a Facility is terminated, the Bank may decide to continue the existing arrangements in the Netting Documents. In that event, the arrangements continue to apply until you and the Bank have signed a new netting agreement. The Bank may, however, immediately change the debit interest.

### **10.6** The Bank is not liable for any damage incurred by you in connection with the Netting Documents. This does not apply to damage as a result of wilful misconduct (*opzet*) or gross negligence (*grove nalatigheid*) by the Bank.

## **11 Continuation with changes**

If you already have a legal relationship with the Bank in which balance netting is applied, the following applies. Each account that has been included in that legal relationship in the balance netting qualifies as a Netting Account under the Netting Documents. All of the Bank's rights under that legal relationship continue to exist (e.g. security interests).

## **12 Changes to the General Conditions for Balance Netting**

The Bank may change and/or supplement these General Conditions for Balance Netting. The amendments and/or supplements in the new version of these General Conditions for Balance Netting apply to you if

- the Bank has notified you in writing or electronically of the amendment to these General Conditions for Balance Netting, and
- you have not objected in writing and with good reason within one month after the aforementioned notification by the Bank.

If you have objected with good reason and in good time, the following applies. These General Conditions for Balance Netting continue to apply to you. The Bank may then cancel the balance netting and terminate the netting agreement. However, the Bank must inform you of this in good time.

## **13 Applicability and General Conditions**

If the netting agreement, these General Conditions for Balance Netting or the General Conditions include a provision that is contrary to another provision in the netting agreement, these General Conditions for



Balance Netting or the General Conditions, then, unless explicitly agreed otherwise

- the provision in the netting agreement prevails over the provision in these General Conditions for Balance Netting or the General Conditions, and
- the provision in these General Conditions for Balance Netting prevails over the provision in the General Conditions

**14 Address and communication**

- 14 1** For the performance of the netting agreement, you elect residence at the address of the Principal Client
- 14 2** The Bank may send communications addressed to you to the Principal Client at the address included in the netting agreement
- 14 3** You may send your communications to the Bank at the address of the Bank included in the netting agreement

**15 No forfeiture of rights**

It is possible that the Bank will not request performance of an obligation you have under the Netting Documents. The Bank may also possibly not exercise any of its rights under the Netting Documents. That will not mean that such obligation no longer applies to you or that the Bank may no longer exercise such right

**16 Termination and nullification**

You hereby declare to waive the right to terminate the Netting Documents. You hereby also declare that you will not contest the validity and enforceability of the Netting Documents on the basis of Article 2:7 of the Dutch Civil Code or any similar legislation in other relevant jurisdictions (*doeloverschrijding*)

**17 Applicable law and competent court**

- 17 1** Dutch law applies to the Netting Documents
- 17 2** A dispute may arise between the parties to the Netting Documents regarding the contents thereof. In that event, a court in Amsterdam has the power to decide that dispute
- 17 3** If the Bank is the claimant in a dispute, it may choose to have the dispute decided by a court outside the Netherlands. If you are the claimant, you are only allowed to apply to a court in Amsterdam to decide the dispute

**18 Use of Dutch legal concepts**

In the Netting Documents, reference is made to Dutch legal concepts. In the event that a

legal concept of another country applies, reference is made to the legal concept of that other country, which resembles the Dutch legal concept the most

**19 Definitions**

- **ABN AMRO Euro Base Rate** (*ABN AMRO Euro Basisrente*) means the interest rate that consists of
  - the leading refi rate (the rate of the main refinancing operation (*basisherfinancieringsrente*)), of the European Central Bank, as applicable at any time, plus
  - a debit interest surchargeThe rate of the main refinancing operation, the debit interest surcharge and the manner in which the ABN AMRO Euro Base Rate are compiled or determined may change. If that happens, the Bank may change the ABN AMRO Euro Base Rate. Changes in the debit interest surcharge and the manner in which the ABN AMRO Euro Base Rate is compiled or determined will be announced by the Bank. The Bank will do so in at least three national newspapers and/or on its website [www.abnamro.nl/basisrente](http://www.abnamro.nl/basisrente)
- **Balance Netting Limit** means the limit that ensures that you cannot withdraw unlimited funds from your Netting Accounts based on credit balances in Netting Accounts that are held in the name of another one of you
- **Bank Claims** means all claims that the Bank has against one or more of you now or in the future. These claims may result from a Netting Account, or any other relationship between you and the Bank
- **Claims** means all claims that any of you have against the Bank now or in the future. These claims may result from a Netting Account, or any other relationship between you and the Bank
- **Credit Limit** means the limit of the Facility
- **Facility** means a credit facility in the form of an Overdraft Facility or a Multi Purpose Facility
- **General Conditions** means the General Conditions ABN AMRO Bank N.V. (*Algemene Voorwaarden ABN AMRO Bank N.V.*) as amended from time to time. Those terms and conditions consist of the General Banking Conditions (part I) and the Client Relationship Conditions (part II)
- **Multi Purpose Facility** (*combinatiefaciliteit*) means a facility that is used, among other things, for withdrawing funds from a current account

- **Overdraft Facility** means a facility used to withdraw funds from a current account
- **Overdraft Limit** means the separate limit for withdrawing funds from a current account with a Multi Purpose Facility