

General Terms and Conditions of Usage and Auction

Debitos – The Receivables Exchange

1. DEFINITION OF TERMS

- 1.1 **"Acceptance of bid"** means the electronic acceptance of any bid that is made for a sales offer by the system of the receivables exchange in an auction following a bid at the minimum price or for a bid at a fixed price in the Buy-Now option.
- 1.2 **"Adapted Contract Model"** means the contract and processing models provided by Debitos in accordance with item 14.1 below or provided by the user, for the purchase and sale agreement, and "Adapted Contract Model" shall mean every individual model of contract and a majority of contract models.
- 1.3 **"Auction"** means the electronic virtual auction of a receivable on the receivables exchange, in which the user participates, either at a fixed price or on highest bidder basis.
- 1.4 **"Auction fee"** means the fee to be paid by the user for the successful sale of a receivable through the receivables exchange. The amount of fee for an auction can be determined by using a fee calculator on the website; it shall be calculated on the basis of the type of receivables and the price, at which such receivables shall be sold (selling price) or it shall be regulated by virtue of individual agreements.
- 1.5 **"Bid"** means the offers made by a bidder in the effort to buy a receivable in an auction at a price determined by it, whereby the rule may be stipulated that every bid made shall raise the price of a receivable by the amount that is defined for the respective auction.
- 1.6 **"Bidder"** refers to a user who bids for receivables in an auction.
- 1.7 **"Business days"** are weekdays with the exception of Sundays and nationwide uniform public holidays.
- 1.8 **"Buyer"** means the successful bidder, who enters into a purchase and sale agreement with the seller in respect of a receivable.
- 1.9 **"Buy-Now option"** means the variation of an auction as described in item 11.3 below, in which the seller links its sales offer to a fixed price and the acceptance of bid is made at the first bid.
- 1.10 **"Confirmation of registration"** means the confirmation described in item 4.2 below with respect to the conclusion of an agreement between Debitos and the user.
- 1.11 **"Data room"** means the digital documents specified in item 7.2(b) below and information regarding one or several receivable(s).
- 1.12 **"Debitos"** refers to Debitos GmbH, Platz der Einheit 2, 60327 Frankfurt am Main, (HRB 93190, Local Court of Frankfurt am Main).
- 1.13 **"Debtor"** means the debtor of a receivable.
- 1.14 **"Duration of Auction"** means the period, within which bidding can be made for the sales offer in an auction in accordance with the detailed provision of item 11.2 below.
- 1.15 **"End of Auction"** means the conclusion of auction either after the acceptance of bid or at the end of the duration of auction depending on which of both events occurs first.
- 1.16 **"Exclusion from usage"** means the exclusion of a user and the deletion of registration in accordance with item 6 below.
- 1.17 **"External data"** means such information and documents as are obtained from third parties with respect to the debtor or the receivable, such as address information, credit-rating information and excerpts from the commercial register in accordance with the provision of item 17 below.

- 1.18 "**Fees**" means the auction fee and additional costs for special services.
- 1.19 "**Fixed price**" means the price of a receivable as specified by a seller for a sales offer in the choice of the Buy-Now option.
- 1.20 "**Highest bid**" means the highest bid that is followed by the acceptance of bid.
- 1.21 "**Indicative bid**" means a not binding bid, to give the seller an orientation.
- 1.22 "**Indicative phase**" means a period, where a buyer can place an indicative bid.

- 1.23 "**Marketing Agreement**" ("*Einlieferungsvertrag*") means the contractual relation between Debitos and the seller of a receivable regarding the marketing of a receivable for sale on the receivables exchange.
- 1.24 "**Minimum price**" means the minimum amount fixed by a seller for a bid in an auction.
- 1.25 "**Prohibition of circumvention**" ("*Umgehungsverbot*") means each clause of prohibition directed at a user pursuant to item 18 below.
- 1.26 "**Purchase and sale agreement**" ("*Kaufvertrag*") means the agreement that is concluded between the seller and the successful bidder in respect of the sales and acquisition of a receivable after an auction.
- 1.27 "**Receivable**" means one or more receivable(s) that is/are traded on the receivables exchange and is/are put up for auction.
- 1.28 "**Receivables documents**" are documents, which directly or indirectly serve the purpose of providing proof of the receivable, particularly specifications, tender documents, drawings, acceptance protocols, invoices, business correspondence and title obtained over receivable, however, only such as the seller is in possession of.
- 1.29 "**Receivables exchange**" means the Internet-based and access-restrained trade platform for receivables operated by Debitos on the website.
- 1.30 "**Registration**" means the process described in item 5 below.
- 1.31 "**Registration information**" means the information and declarations contained in item 5.2 below.
- 1.32 "**Sales distribution agreement**" ("*Vertriebsvereinbarung*") means the contractual relation between Debitos and the sales distribution partner regarding the provision of a user for the usage of the receivables exchange.
- 1.33 "**Sales distribution partners**" are users, with whom a separate sales distribution agreement has been entered into and who have the task to recruit other users who will use the receivables exchange or offer receivables on their behalf for sale on the receivables exchange.
- 1.34 "**Sales offer**" means the offer made to an undefined multitude of users upon consignment by the seller, calling on it to make bids for a receivable in an auction as well as conclude a purchase and sale agreement immediately after the auction.
- 1.35 "**Seller**" means a user, who has consigned a receivable to auction on the receivables exchange.
- 1.36 "**Special services**" means further services rendered to users by Debitos in addition to the basic services (item 7.2 below), particularly services in the sense of item 7.3 below.
- 1.37 "**Successful buyer**" means the bidder that made the highest bid within the duration of auction, who attained the fixed or minimum price stipulated by the seller and whose bid was accepted.
- 1.38 "**Terms and conditions of usage**" means the following General Terms and Conditions of Usage and Auctioning for the Receivables Exchange.
- 1.39 "**To consign**" or "**Consignment**" means the process described in item 11 below.
- 1.40 "**Usage Agreement**" is the agreement in the sense of items 2 and 3 below.

- 1.41 **"User"** means a person, who is registered in accordance with item 5 below, who is or may be a sales partner, seller, bidder or buyer of receivables.
- 1.42 **"User's Account"** means access authorization to the receivables exchange that is acquired by virtue of registration. The user shall authenticate itself during login using email and a password. The system identifies the individual users through the user's account. The user's account shall be created during registration. The user's account shall also serve the purpose of registering and capturing the value of the business transactions of the user in its relation to Debitos.
- 1.43 **"Website"** means the domain of the homepage www.debitos.de and all related sub-domains, particularly www.debitos.com and all other domains, on which Debitos operates the receivables exchange.

2. CONTRACT PARTNER

The contract partners of the usage agreement in accordance with the terms and conditions of usage are Debitos and the users of the receivables exchange.

3. OBJECT OF AGREEMENT

- 3.1 The object of the usage agreement is detailed in the terms and conditions of usage, marketing agreement (*Einlieferungsvertrag*) and the sales distribution agreement.
- 3.2 In conjunction with other components of the agreement detailed in item 3.1 above, the terms and conditions of usage regulates the usage of the receivables exchange. Based on the detailed provisions of the terms and conditions of usage, the receivables exchange shall facilitate the online selling and offering of all sorts of receivables or the submission of offers for the purchase of such receivables by way of virtual auctioning or fixed price procedure. In addition to the provision of the receivables exchange, the terms and conditions of usage regulates the initiation and handling of purchase and sale agreements with respect to such receivables as were offered through the receivables exchange.
- 3.3 The terms and conditions of usage shall apply exclusively to the business relations between Debitos and users of the receivables exchange, in the version that is applicable on the day of the conclusion of the agreement. By using the receivables exchange, the user accepts the terms and conditions of usage and the *modus operandi* (*Funktionsweise*) of the receivables exchange as described on the website. Debitos will not accept any such terms and conditions of trade provided by the user, as are in deviation from the terms and conditions of usage unless Debitos has explicitly consented to their validity in text form.
- 3.4 The object of the usage agreement shall not be the terms and conditions of the purchase and sale agreement on the receivables as facilitated by the receivables exchange. Item 13 below shall apply to the legal relations between seller and buyer.

4. CONCLUSION OF THE USAGE AGREEMENT

- 4.1 Usage of the receivables exchange shall be based on prior registration as well as the conclusion of an agreement between Debitos and the user that accommodates the terms and conditions of usage.
- 4.2 Unless otherwise agreed, the usage agreement shall be deemed concluded after complete registration by the user (item 5 below) and the receipt of the acknowledgement of registration that will be transmitted in text form, latest however, upon the provision of services by Debitos.

5. REGISTRATION AS USER, ACCESSIBLE ONLY TO ENTREPRENEURS (*UNTERNEHMERS*)

- 5.1 Users shall register online on the website of the receivables exchange, following which a user's account will be created. The user shall choose a user name and a password during registration. User names and passwords shall be kept confidential and shall not be transferred or ceded to third parties for use.
- 5.2 The receivables exchange will be accessible only to entrepreneurs and persons of full age who are entrepreneurs and for whom the information demanded during registration has been truthfully, completely and verifiably furnished. Registration information comprises information relating to the user and the declarations of identity, entrepreneurial properties and contact data, particularly as far as they relate to name, age, company name, postal address, commercial register or any comparable registration agency, turnover tax identification number, representation details and information regarding a valid email address and if applicable, other information and declarations. No person who is a consumer or representative of a consumer shall have the right to be registered or use the receivables exchange.
- 5.3 Should there be changes in the registration information after registration, the user shall correct them without delay.
- 5.4 Debitos reserves the right to verify registration information through the submission of adequate documents as well as reject incomplete or non-verifiable registrations. There shall be no basic right to the conclusion of a usage agreement.

6. EXCLUSION OF USERS

- 6.1 Debitos may temporarily or permanently exclude a user from using the receivables exchange and/or deprive it of access to a sales offer or from making a bid on a temporary or permanent basis as well as delete the registration, if:
- (a) there are sufficient indications implying that the user is violating statutory provisions, third-party rights or the terms and conditions of usage or that such a breach is impending, and the user fails to correct the breach immediately in spite of warning,
 - (b) the prohibition of circumvention has been breached,
 - (c) Debitos has called on the user to furnish proof of its identity and the user fails to furnish such proof within an adequate period in spite of having been warned of an impending exclusion,
 - (d) the user has furnished incomplete or false information during registration and fails to complement or correct such information within an adequate period in spite of being requested to do so.
- 6.2 Exclusion from usage shall be without prejudice to the obligation of the user to pay agreed fees and other rights of Debitos.

7. SERVICES RENDERED BY DEBITOS

- 7.1 In addition to basic services, the services owed by Debitos shall entail (if applicable) other services that are subject to payment.
- 7.2 The basic services of Debitos shall be:
- (a) Within the scope of technical possibilities (item 19 below), Debitos shall make the receivables exchange available for the initiation and preparation of the conclusion of agreements with respect to the purchase and selling of receivables. The receivables exchange shall facilitate the presentation of sales offers by the seller and the submission of bids by the buyer and the fixing of the price of a receivable as well as the price for the buyer of a receivable, who is active in the process of acquisition.

- (b) The receivables exchange shall facilitate the provision of digital documents and information for a sales offer regarding the receivables.
 - (c) Debitos shall make available to users for download, contract models and other such documents as are useful to the initiation, conclusion and if applicable, the handling of purchase and sale agreements through the receivables exchange.
- 7.3 Based on a special agreement, Debitos shall render special services in addition to the basic services, particularly the following:
 - (a) Assistance in the preparation of the data room as well as in the processing of agreements through the receivables exchange;
 - (b) The digitalization of documents that are meant for the data room through a service provider chosen by Debitos;
 - (c) Provision of external data in the data room.
- 7.4 Debitos reserves the right to amend the terms and conditions of usage as long as this does not affect material regulations of the contractual relation and is required for adaptation to developments that were not foreseeable at the time of the conclusion of contract and would lead to an imbalance of the contractual relation. Material regulations are particularly such regulations as are in respect of the type and scope of the contractually agreed services and the term including the regulation of terminations. Clause 1 shall apply analogously as far as required for the elimination of difficulties in the implementation of the agreement following the detection of regulatory loopholes after the conclusion of the agreement, particularly in the event of an amendment of the law or adjustment of jurisdiction.
- 7.5 The *modus operandi* of the receivables exchange may be modified if deemed necessary for cause, if the user is not subjected to worse conditions in the aftermath thereof as compared to the *modus operandi* that was presupposed during the conclusion of the agreement from the point of view of an objective third party, if there is no major deviation from functionalities in the event of the retention or improvement of the functionalities of the website. Cause will be deemed given for instance in the event of technical innovations or in case of amendments to the services provided by third parties, from whom Debitos obtains the relevant preliminary services to be able to render its own services.
- 7.6 Agreed fees may be increased to offset increased costs. This will be the case e.g. if third parties, from whom Debitos obtains the relevant preliminary services to be able to render its own services, increase their prices. Moreover, increase in fee will be possible in the scope necessitated by any increase in turnover tax.
- 7.7 Debitos shall inform users of any amendment that is made in accordance with items 7.4 to 7.6 above at least four weeks prior to effectiveness. The user shall have a special right of termination at the time of the effectiveness of such amendments. Should the user fail to terminate the agreement in writing within four weeks of the receipt of the amendment notification, the amendments shall become an integral part of the agreement at the time of effectiveness. Debitos shall explicitly draw the attention of the user to the consequences of the amendment notification.
- 7.8 Debitos is neither a credit institution nor is it a financial service provider in the sense of Section 1 of the Banking Act (*KWG*). Debitos does not render debt-collection services nor does it render banking or financial services; it shall confine itself solely to the operation of the receivables exchange in accordance with the terms and conditions of usage.
- 7.9 Debitos shall have the right to use the services of third parties (vicarious agents) (*Erfüllungsgehilfen*) for the purpose of living up to its contractual obligations towards its users.

8. OBLIGATIONS OF THE USER

- 8.1 The user itself shall be responsible for establishing connection with the receivables exchange through the Internet. This includes the usage of sufficiently dimensioned state-of-the-art hardware and software for the usage of the receivables exchange as well as the respective telecommunication infrastructure.
- 8.2 In case of the unforeseeable failure of the receivables exchange or its Internet connection that cannot be ruled out in state-of-the-art technology, the user shall take precautions with regards to the backing up of data.
- 8.3 The user shall use the receivables exchange and the range of information offer provided therein, solely for the designated purpose of acquiring information and/or initiating and concluding purchase and sale agreements.
- 8.4 The user shall make no such contents accessible with or through the receivables exchange, as are in breach of statutory regulations, particularly provisions of the criminal (*Strafbestimmungen*) or competition law (*Wettbewerbsrecht*) or infringes on third-party rights (*Rechte Dritter*), including copyrights (*Urheberrechte*), industrial property rights (*gewerbliche Schutzrechte*) (e.g. trademark or other labeling rights) (*z.B. Marken- oder sonstige Kennzeichenrechte*) or personality rights (*Persönlichkeitsrechte*). The same shall apply to offensive contents.
- 8.5 The user undertakes not to impede the smooth operation of the receivables exchange and particularly, not to undertake, mandate or tolerate any action that may disrupt the designated function of the receivables exchange and/or the designated access of other users to the receivables exchange.
- 8.6 Users are obligated to prevent criminally-motivated transactions and contribute to uncovering and fighting them. This relates particularly, to transactions serving the purpose of money laundering or financing terrorism as well as other punishable actions that may constitute hazards to the property of a user or Debitos. Sellers and buyers are particularly obligated to comply with statutory provisions on combating money laundering in accordance with the law on the tracing of profits realized through serious criminal offenses (Money Laundering Act – *GwG*). This shall include the transmission of information to the other respective contract partner for identity verification, latest before the conclusion of the purchase and sale agreement.

9. FEE OBLIGATION, FOLLOW-UP PERIOD

- 9.1 Registration on the receivables exchange shall be free of charge.
- 9.2 Participation in an auction and the utilization of special services shall be subject to the payment of fees. The seller shall pay the fee of the auction unless it is otherwise stated in the sales offer that the buyer shall pay such fee. The costs of special services shall be taken from the price list unless otherwise agreed in text form.
- 9.3 All fees shall be net of turnover tax in the statutorily fixed amount if it applies.
- 9.4 The user shall be able to set-off accounts against Debitos only if the receivables are not disputed or have been legally ascertained. The user shall be able to base withholding right only on such receivables as are due to it from Debitos by virtue of the respective agreement.
- 9.5 Remuneration shall be made even if the user sells a consigned receivable to a user that is registered in Debitos within one year (follow-up period) of the revocation of a sales-offer (item 12 below). In such case, the user will be obligated to inform Debitos of such successful sale within the follow-up period.

10. CHARGING OF FEES, TERMS OF PAYMENT, ADVANCED PAYMENT

- 10.1 Auction fees will be charged on an acceptance of bid in an auction. In deviation from clause 1, auction fees will be charged if:
- (a) the auction fee is to be paid by the seller when
 - (i) the seller has revoked its sales offer in accordance with item 12.2 below and the buyer is able to demand the refund of its verification expenses from the seller in the cases of item 12.3 below; or
 - (ii) the seller waives the conclusion of the purchase and sale agreement in the case of item 16.3;
 - (b) or if the auction fee is to be paid by the buyer when the seller waives the conclusion of the purchase and sale agreement in the cases of item 16.4 below.
- 10.2 Other fees, which are not auction fees, including fees for special services, shall be charged after the service has been rendered.
- 10.3 Fees will be due for payment upon the receipt of an invoice. Invoiced amounts shall be paid into the bank account specified on the invoice. They shall be credited not later than the fifteenth day of the receipt of such invoice.
- 10.4 Debitos shall refund advanced payments to the user if the fee for which such advanced payment was made has not been charged.

11. CONSIGNMENT OF RECEIVABLES

- 11.1 The user, who doubles as the seller of a receivable shall consign receivables to auction and offer same for sale only if it will be in a position to meet the conditions of the purchase and sale agreement and if it is the owner with the right of disposition over such receivables or a third party has authorized and empowered it to dispose of such receivable.
- 11.2 During marketing, the seller shall determine the duration of auction within the scope of the minimum and maximum limits that are predetermined by Debitos and if the seller wants to place an Indicative phase preliminary to an auction. In the process, the seller may decide at its own discretion, to extend the duration of auction by the respective length of time to be specified by it if the minimum price has not yet been attained. This shall be without prejudice to the authority of Debitos to automatically extend the duration of the auction in accordance with item 15.3 below.
- 11.3 Receivables may be consigned to auction with the Buy-Now option. In such case, the acceptance of bid shall be made independent of the duration of an auction at a fixed price and upon the first bid.
- 11.4 In consigning the receivable to auction, the seller shall furnish such information as is required for the assessment of the receivable and for the conclusion and fulfillment of the purchase and sale agreement in a truthful manner or post same in the data room or both. It shall not knowingly withhold any such information from the buyer in the sales offer, as may reduce the value of the receivable (this shall include particularly, insolvency proceedings, statutory declaration in lieu of oath (*eidesstattliche Versicherung*), relocation overseas). This shall include any such information and documents as are requested on the website in the course of consigning the receivable to auction, particularly:
- (a) the basis of the receivable (invoice, reminder, court judgment etc.);
 - (b) a declaration that the receivable is undisputed unless it is identified as disputed;
 - (c) information on the person owing the receivables;
 - (d) information on all securities that are sold in connection with the receivable;
 - (e) consent of the owner of receivable to the cession and assumed obligations; and

(f) a written power of attorney in case of representation of the owner by an attorney.

11.5 For the purpose of ensuring data protection, the user shall observe – while furnishing information in accordance with item 11.4 above – that it enters the information in respect of the debtor into the data fields (debtor-related data) that are specifically designated for this purpose and not in the heading of the receivable.

12. REVOCATION OF A SALES OFFER

12.1 The seller undertakes towards Debitos not to revoke the consignment of a receivable within the duration of auction subject to item 12.2 below.

12.2 The seller shall have the right to revoke a sales offer before the acceptance of bid if the receivable has been satisfied in part or in whole within the duration of auction or if material legal relations undergo changes in any other way with respect to the receivable, and the seller has informed Debitos of the withdrawal of the receivable in advance.

12.3 Should bidding have been made at the minimum price before the revocation, the seller shall – in the event of revocation – furnish the buyer proof of the reasons that have led to such revocation. Should the proof not be furnished or should the proof be insufficient to justify the revocation of a sales offer, the seller shall compensate the buyer the costs of verifying the receivable at an adequate amount. The buyer shall own direct entitlement towards the seller by virtue of the obligation of clause 2 (real agreement in favor of third parties) (*echter Vertrag zugunsten Dritter*).

12.4 The seller can revoke a sale offer during and after the Indicative phase.

13. LEGAL RELATIONSHIP BETWEEN USERS

13.1 The receivables exchange shall provide, in accordance with the provisions of the terms and conditions of usage, the virtual opportunity for the initiation of a purchase and sale agreement between the seller and a bidder in an auction-type environment with Debitos serving as an agent (*Vermittler*).

13.2 In deviation from Section 156 of the Civil Code (*BGB*), the purchase and sale agreement shall neither be deemed concluded upon the acceptance of bid nor by virtue of other declarations or actions on the receivables exchange. The purchase and sale agreement shall be deemed exclusively concluded between the successful bidder and the seller as an after-effect of the auction. Unless otherwise agreed, content and fulfillment as well as the processing of the purchase and sale agreement shall only involve the parties to the purchase and sale agreement and be deemed done at their own risk and on their own account.

13.3 The user agrees to comply on its own responsibility with all the legal provisions that are of relevance to the user during the initiation, conclusion and processing of the purchase and sale agreement, including the provisions on distance selling (*Fernabsatz*) and electronic business operations (*elektronischer Geschäftsverkehr*), data protection (*Datenschutz*) as well as the Banking Act and the relevant provisions of the fiscal law (*Steuerrecht*) (e.g. user-relevant disclosure obligations) and all statutory user-related teleservices-related requirements (e.g. the obligation to affix a provider marking as per Section 5 of the Telemedia Act (*TMG*)).

13.4 Debitos shall render no legal services in connection with the conclusion and processing of a purchase and sale agreement.

14. CONTRACT AND PROCESSING MODEL

- 14.1 The seller shall have the option of either using the contract and processing model that is available for download on the website for the conclusion of the purchase and sale agreement and the processing thereof, in the interest of a uniformed and safe processing of the auction, or use its own contract model.
- 14.2 Should the seller choose to use its own contract model, it shall be obligated to submit deviating drafts, upload it to the data room as well as refer to it while consigning the receivable to auction before activating the auction.
- 14.3 Should the deviating draft be made the basis of the auction by mutual agreement with Debitos, the successful bidder agrees to accept the deviating draft. The seller shall ensure on its own responsibility that the terms and conditions of its own purchase and sale agreement do justice to the distinctive features of website auctioning through the receivables exchange. The parties to a purchase and sale agreement may mutually agree on the terms and conditions of a purchase and sale agreement with regards to the revolving selling and acquisition of receivables at the end of an auction.

15. EXPIRATION OF AN AUCTION, BIDDING AND CONCLUSION OF AGREEMENT

- 15.1 The website offers the option of selecting sales offers through a search function and submitting a bid within the period of the auction. Prices specified in bids may contain incurring turnover taxes in the statutory amount.
- 15.2 A bid shall take effect upon its submission to the website and its transmission to the receivables exchange. Except for the case of the Buy-Now option, a bid shall be subject to the deleting condition that a higher bid may be submitted during the period of the auction.
- 15.3 Debitos shall have the right to extend the duration of the auction at its reasonable discretion for the purpose of considering higher bids. Should the extended duration of auction expire without the submission of a higher bid, the auction shall be closed. Should another higher bid be submitted within the final three minutes preceding the expiry of the auction duration, Debitos shall have the right to automatically extend the period by three more minutes. In this case, the duration of auction shall be extended automatically.
- 15.4 Within a period of six months of an unsuccessful auction, a bidder shall have the opportunity of specifying a new price (relisting) for the receivable through the receivables exchange. In such case, the seller may choose to renew the sales offer and consign the receivables to auction once again.

16. CONCLUSION AND PROCESSING OF THE PURCHASE AND SALE AGREEMENT

- 16.1 Users will be constantly informed of the status of the auction by Debitos. Following the end of the auction, Debitos shall brief the seller and the successful bidder on the acceptance of bid as well as transmit to both parties the adapted contract model.
- 16.2 The purchase and sale agreement shall be concluded after the end of the auction without delay and on the basis of the adapted contract model. If the agreement is not concluded in the presence of seller and buyer at the same time and if not otherwise agreed, buyer shall send a minimum of two copies of the adapted contract model duly completed and signed in the required form to seller for countersigning without delay after the end of the auction. Seller shall countersign the copy that is meant for it and send it back without delay, including the receivables documents.
- 16.3 Buyer shall have the right to refrain from concluding a purchase and sale agreement if the seller fails to submit to buyer all documents relating to the receivables and a legally and if applicable, formally valid declaration of cession within 25 business days of the end of the auction.
- 16.4 Seller shall have the right to refrain from concluding a purchase and sale agreement if the purchaser declines using the adapted contract model for the conclusion of the purchase and sale agreement

or demands amendments or deviations from the terms and conditions of the adapted contract model or the highest bid in a manner that is in breach of good faith.

- 16.5 Seller and buyer may refrain from concluding the purchase and sale agreement if the commencement of business relations will be in breach of criminal statutes or fails to meet the standards required for authentication examination in accordance with the Money Laundering Act (item 8.6 above) or if the user's in-house guidelines for combating money laundering forbid, in conjunction with the Money Laundering Act, any form of engagement in a business relation.
- 16.6 Seller and buyer agree to report the conclusion of the purchase and sale agreement to Debitos without delay.

17. OBTAINMENT AND PROVISION OF EXTERNAL DATA

- 17.1 Debitos cooperates with service providers in the provision of external data; in cases of information on credit-worthiness, it works with the service provider Bürgel Wirtschaftsinformationen GmbH & Co. KG, Hamburg; in cases of digitalization, with the service provider ScanDOK GmbH, Frankfurt am Main.. Debitos shall have the right to replace one service provider with another or complement the same at all times without prior notification.
- 17.2 Debitos does not subject external data to verification.
- 17.3 External data that are provided in the data room particularly information on credit-worthiness shall exclusively serve the purpose of easing virtual trading on the Debitos website. They shall be used solely for these purposes.
- 17.4 No such assessment symbols, certification labels or other third-party symbols as may strengthen the impression of user's reliability and as are made available by such third parties for classification or assessment purposes, shall be applied by the user on the website particularly on the offer pages and profile pages unless they are authorized by Debitos.

18. PROHIBITION OF CIRCUMVENTION, CONTRACT PENALTY

- 18.1 No user shall either directly or indirectly circumvent or attempt to circumvent the receivables exchange and its procedures governing the conclusion of a purchase and sale agreement in matters affecting the selling or the purchase of a receivable that has been consigned to auction in order to facilitate the avoidance of the payment of a fee that is due to Debitos.
- 18.2 In accordance with item 18.1 above, seller is particularly obligated to refrain from making the following sales offers:
- (a) Sales offers or contact requests in which a bidder is required not to submit bids in an auction but to establish direct contact with the seller to facilitate the initiation and conclusion of an agreement outside the receivables exchange.
 - (b) Sales offers that seek to achieve in any other way, the goal of selling or purchasing a receivable that has been consigned to auction, outside or by bypassing the receivables exchange.
 - (c) Such sales offers as design the on-screen information regarding the receivable on the offer pages of the receivables exchange in such a way that the contact information of the seller (e.g. email address, web address, telephone number or the like) is made visible on subtitles, in the description of the receivable or in any other form.
 - (d) Sales offers in which the highest bid or fixed price is not the final price for the purchase of a receivable. This includes sales offers in which payment by installment is permitted

(e.g. leasing or hire financing) and the final price displayed is only one or several installments of the overall price of a receivable. Exempted from this are sales offers for revolving receivables (*revolvierende Forderungen*).

- (e) Sales offers that fail to assign receivables to the appropriate category of receivables on the receivables exchange in order to circumvent the payment of fees in the appropriate category.
- (f) Sales offers in which the purchase of further receivables of the seller is demanded in addition to the receivable specified in the sales offer. Exempted from this are sales offers for revolving receivables.
- (g) Sales offers containing brochures, presentations and descriptions of receivables that are supposed to be purchased directly from the seller by bypassing the receivables exchange.
- (h) Sales offers in which further receivables – identical receivables or different variations of the receivable on offer – are offered for purchase within the description of receivables. Exempted from this are sales offers for revolving receivables.

18.3 According to item 18.1 above the purchaser is obligated to refrain from the following purchase offers:

- (a) Bids or requests for contact in which a seller is expected to discontinue auction in order to establish direct contact with the buyer for the purpose of initiating and concluding an agreement outside the receivables exchange.
- (b) Bids or requests for contact with the aim of selling or purchasing a receivable in any other way that has been consigned to auction, outside or by circumventing the receivables exchange.
- (c) Bids in which the purchase of further receivables of the seller is demanded in addition to the receivable specified in the sales offer. Exempted from this are sales offers for revolving receivables.
- (d) Bids or requests for contact containing the brochures, presentations and descriptions of services that are offered directly by the purchaser in circumvention of the receivables exchange.

18.4 Moreover, users who have acquired information through the receivables exchange about the contact data and the interest of a seller in selling and buying a receivable are barred for a period of two years beginning from the end of an auction from carrying out debt-collection or any other business in connection with a consigned receivable with other users, for which fees are not charged. Debitos shall have the right to demand information from the user with respect to such evasive transactions.

18.5 In case of the breach of the prohibition of circumvention, the user shall pay a contract penalty amounting to twice the fee that would normally have been due for payment. The contract penalty shall be set off against any claim for damages.

19. TECHNICAL FAILURE AND MAINTENANCE

19.1 Based on the state of the art, the risk of the unforeseeable breakdown of the receivables exchange cannot be ruled out.

19.2 In the event of an unforeseeable breakdown of the receivables exchange, Debitos shall keep the user informed as far as feasible at reasonably expectable expenditure within the scope of existing technical possibilities. Should the duration of an auction come to an end during an unforeseeable failure of the receivables exchange, Debitos shall extend the period adequately at its own reasonable discretion unless the seller informs Debitos that it does not require any extension. Debitos

shall refund fees that have already been paid for offers that could not be posted in the aftermath of the unforeseen failure unless Debitos is not responsible for the failure.

- 19.3 Debitos shall inform users of impending maintenance work on the receivables exchange and the presumable duration of such work by posting messages on the receivables exchange, taking the rightful interests of users into due consideration during the execution of such work. The duration of auction will not be extended as a result of failures caused by maintenance work; fees will also not be refunded in such cases.

20. LIABILITY OF DEBITOS

- 20.1 Debitos shall be liable to the user in all cases of contractual and extra-contractual liabilities for intent (*Vorsatz*) or gross negligence (*grobe Fahrlässigkeit*) in accordance with statutory provisions relating to damages (*Schadenersatz*) or reimbursement of frustrated expenditure (*Ersatz vermeintlicher Aufwendungen*).
- 20.2 In other cases, Debitos's liability only applies to a breach of a contractual obligation the fulfillment of which is a material prerequisite for the execution of the agreement and on whose fulfillment the user may generally rely (cardinal obligation); such liability shall be limited to the compensation of foreseeable and typical damages unless this is otherwise regulated in item 20.6 below. In all other cases liability on our part shall be excluded subject to the regulation of item 20.6 below.
- 20.3 Debitos shall particularly not be liable for:
- (a) external data that are available on the receivables exchange, particularly the up-to-date status of such external data;
 - (b) faults/errors in the digitalization of the receivables documents ;
 - (c) information provided in respect of the receivables, including the actual existence of receivables, the information furnished by the seller regarding the receivables, and the debtor's solvency status (*Zahlungsfähigkeit*) and willingness to pay (*Zahlungsbereitschaft*);
 - (d) the adapted contract model, including its suitability for the purchase transaction. Debitos shall, however, not assume legal or fiscal consultancy in this respect.
- 20.4 Every user is advised to enquire the legal and fiscal implications of a purchase and sale agreement.
- 20.5 Debitos shall be liable for any breach of obligations by vicarious agents (*Erfüllungsgehilfen*) pursuant to Section 278 of the Civil Code within the scope of the limitations and exclusions regulated in this item 20.
- 20.6 The foregoing limitations and exclusions of liability shall be without prejudice to the liability of Debitos for damages resulting from injury to life, limb or health.

21. LIABILITY OF THE USER, INDEMNIFICATION OBLIGATION (*FREISTELLUNGSVERPFLICHTUNG*)

- 21.1 The user shall be liable to Debitos in accordance with statutory provisions.
- 21.2 The user shall hold Debitos harmless from all such claims against Debitos as are asserted by other users or third parties contending that the usage of the receivables exchange by the user, including the declarations or other contents that are posted on the receivables exchange by the user, are in breach of their rights and other legal provisions. The indemnification obligation shall also cover the assumption of such expenses in adequate amount incurred by Debitos in connection with its legal defense. The user shall not be obligated to ensure indemnification if it is not responsible for the breach.
- 21.3 The user agrees to make all such information available to Debitos without delay, truthfully and completely in the event that claims are invoked by a third party, as will be required for the assessment of claims and for its defense.

22. TERM OF CONTRACT AND TERMINATION

- 22.1 The usage agreement shall be concluded for an indefinite period. Every party shall have the right to terminate the usage agreement with statutory notice (*ordentlich*) at all times without providing reasons.
- 22.2 Every termination shall require the text form for validity.
- 22.3 Termination shall be without prejudice to the accrual of any fee.

23. COPYRIGHTS

Debitos reserves all rights to all images and texts on the website. The usage of images and texts shall not be permitted without the express consent of Debitos.

24. FINAL PROVISIONS, APPLICABLE LAW AND PLACE OF JURISDICTION

- 24.1 The laws of the Federal Republic of Germany shall apply with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) (*UN-Kaufrechts*). This Agreement and its terms shall be construed according to German law. If the English legal meaning differs from the German legal meaning of this Agreement and its terms, the German meaning shall prevail.
- 24.2 As far as legally permissible, the sole place of jurisdiction for all disputes in connection with any agreement that has been concluded between Debitos and any user shall be Frankfurt am Main.
- 24.3 Contract-related notifications by Debitos that are addressed to the user or such that are addressed to Debitos by the user shall be furnished in text form, including by email or facsimile, if not otherwise agreed.
