

DRAFT

TERMS OF THE CROSS-BORDER MERGER

BETWEEN

DINERS CLUB CS, S.R.O.

AND

DINERS CLUB POLSKA, SP. Z O.O.

DATE OF THE DRAFT 18 SEPTEMBER 2020

CONTENTS:

Article	Page
1. PREAMBLE.....	3
2. DEFINITIONS	4
3. OPENING PROVISIONS.....	4
4. REGISTERED CAPITAL AND SHARES.....	5
5. CORPORATE CHANGES.....	6
6. REPRESENTATIONS.....	7
7. ACCOUNTING ASPECTS	7
8. EMPLOYEES' PARTICIPATION AND LIKELY IMPACT OF THE MERGER ON THE LEVEL OF EMPLOYMENT	8
9. CREDITORS' CLAIMS.....	9
10. ARTICLES OF ASSOCIATION.....	9
11. MISCELLANEOUS	9
12. CLOSING PROVISIONS	9

These Terms of cross-border merger, forming the Contract on cross-border merger (herein further "**Contract**") are concluded between:

1. **Diners Club CS, s.r.o.**

Limited liability company organized and existing under the Slovak law

Id. No. (ICO): 35 757 086

registered office: Nám. Slobody 11, 811 06 Bratislava, Slovakia

registered in the Commercial register of the District court Bratislava I, section Sro, file 18227/B

represented by: Nikolaus Renner and Mag. Peter Schroll, executives

herein further "**DC CS**" or "**Acquiring company**"

and

2. **Diners Club Polska Spółka z ograniczoną odpowiedzialnością**

Limited liability company organized and existing under the Polish law

registered in the register of entrepreneurs of the National Court Register, maintained by the 12th Economic Department of the National Court Register under KRS no 0000025953;

Statistic number (REGON): 01241123100000

Tax Identification Number (NIP): 5271728928

registered office and address: ul. Senatorska 12, 00 082 Warszawa, Poland

represented by: Nikolaus Renner and Mag. Peter Schroll, members of the Management Board

herein further "**DCP**" or "**Acquired company**"

Both, herein further the "**Parties**" or "**Merging companies**"

1. **PREAMBLE**

- 1.1 Whereas the Executives of DC CS and the Management Board of DCP, in line with expectations of and the discussions with the Shareholder of the Merging companies (as defined here below) have decided to perform their cross-border merger;
- 1.2 And whereas the Executives and the Management Board reports of the Merging companies have shown that the planned cross-border merger will be in benefit of rationalization and harmonization of processes and provision of the services in both Slovakia and Poland;
- 1.3 And whereas the planned cross-border merger of the Merging companies will be in the best interest of the Merging companies, their Shareholder, customers, business partners and for continuity of employment;
- 1.4 Now therefore the Merging companies have decided to conclude this Contract setting the conditions of their cross-border merger.

2. DEFINITIONS

2.1 For the purposes of this Contract:

- (a) **Merger** shall have the meaning as defined in Article 3 sec. 3.1. of the Contract;
- (b) **Merging companies** shall mean both Acquiring company and Acquired company, they can be further referred to also as "**Parties**";
- (c) **Shareholder** shall mean DC Bank AG, joint stock company organized and existing under Austrian law, with the registered office at Lassallestrasse 3, 1020 Vienna, Austria, registered in the Companies book of the Commercial court in Vienna under no. 57273a,
- (d) **Decisive date of the Merger** shall mean the date when the Merger is registered with the commercial register of the District court Bratislava I, which shall be January 1, 2021, unless the Merger is registered at a later date;
- (e) **Decisive date for the accounting purposes** shall mean the date since when the acts of the Acquired company are deemed for the purposes of accounting as the acts performed on the account of the Acquiring company, established in line with the Slovak sec. 69 par. 6 letter d) of the Commercial Code and Polish Act of September 29, 1994 on Accountancy;
- (f) **Polish branch** shall mean an organizational branch of the Acquiring company which will be established in Poland under the name: Diners Club CS, s.r.o. (Spółka z ograniczoną odpowiedzialnością) Oddział w Polsce, with the registered office at ul. Senatorska 12, 00 082 Warszawa, Poland;
- (g) **Commercial Code** shall mean Slovak act no. 513/1991 Coll. Commercial Code as further amended;
- (h) **Commercial Companies Code** shall mean Polish act dated September 15, 2000 Commercial Companies Code (unified text Journal of Laws 2020, item 1526 as amended);
- (i) **Creditor** shall mean any natural person or legal entity or an organizational unit without legal personality, which holds any unpaid receivables against any of the Merging companies;
- (j) **Act on Participation of Employees** shall mean the Polish act of 25 April 2008 on the participation of employees in a company created as a result of cross-border merger of companies (consolidated text Journal of Laws of 2019, item 2384 as amended).

2.2 The headings contained in this Contract are inserted for convenience of reference only and are not intended to be a part of, or to affect the meaning or interpretation of, this Contract.

3. OPENING PROVISIONS

3.1 The Merger under this Contract shall be a merger by acquisition, the operation whereby the Acquired company will be wound up without going into liquidation and all its assets and liabilities will be transferred as of the Decisive date of the Merger to the Acquiring company, which will become the legal successor of the Acquired company. As the result of the Merger,

the Acquired company will cease to exist and will be deleted from the Polish commercial register.

- 3.2 This Contract is concluded and signed under sections 69 par. 6, sec. 69aa par. 2 and 7, sec. 152a and sec. 218a par. 1 of the Commercial Code and Articles 516⁴, 498 and 492 § 1 point 1 (with respect to the method of merger) of the Commercial Companies Code. The Contract will be concluded also in the form of notary deed prepared by the Slovak notary, whose name was published in advance in accordance with the provisions of the Commercial Code.
- 3.3 The Report of Executives was prepared on September 4, 2020 for the Acquiring company and the Management Board report was prepared on September 4, 2020 for the Acquired company and both have shown that the Merger is justified. The reports contain all the particularities required under sec. 218b par. 1 of the Commercial Code and Article 516⁵ of the Commercial Companies Code.
- 3.4 The Parties confirm that the Merger does not require any approval of the Anti-monopoly authorities, as the Merging companies belong to the same group of companies and are under the same control, this control will not be affected as a result of the Merger.

4. REGISTERED CAPITAL AND SHARES

- 4.1 The registered capital of the Acquiring company is 995,000 EUR, formed by full paid up monetary and non-monetary contributions of the Shareholder.
- 4.2 The registered capital of the Acquired company is 7,500,000 PLN, formed by full paid up monetary contribution of the Shareholder.
- 4.3 The registered capital of the Acquiring company will be unaffected by the Merger and will remain in the amount of 995,000 EUR, as was fully paid by the Shareholder. The Shareholder will remain to be 100% shareholder of the Acquiring company. All the registered capital of the Acquired company will be transferred through its incorporation into capital funds of the Acquiring company.
- 4.4 The share of the Shareholder in the Acquired company is not subject to exchange for the share in the Acquiring company, as it is agreed under sec. 69 par. 5 of the Commercial Code that the sole Shareholder of the Acquired company will not become a separate shareholder of the Acquiring company, being already owned solely by it and its share therein is not changed. For the reasons above it is not necessary to set the time when the shareholder of the Acquired company becomes entitled to receive a share on the profit of the Acquiring company or any specifics related to the entitlement to profit. The exchange rate of the share in the Acquiring company is not set, no cash payment, settlement share or other performance will be provided to the Shareholder of the Merging companies in relation to the Merger.
- 4.5 Although the Merger is the merger by acquisition in the meaning of Article 492 § 1 point 1) of the Commercial Companies Code, the Acquiring company will not issue additional (new) shares to the Shareholder of the Acquired company. It is due to the specifics of the Slovak law (sec. 114 par. 2 of the Commercial Code) according to which a shareholder of a limited liability company may hold only one share in the company. Whereas the Shareholder (DC Bank AG) is the sole shareholder of both Merging companies and therefore already holds the share of the Acquiring company.
- 4.6 Due to the circumstances described in section 4.5. above, the Merging companies do not have to agree and therefore this Contract does not specify the ratio of exchange of the shares of the

Acquired company for shares of the Acquiring company, as mentioned in Article 516¹ point 2 of the Commercial Companies Code.

- 4.7 The Merging companies additionally confirm and agree that within the framework of the Merger:
- 4.7.1. no other securities of the Acquired company will be exchanged for securities of the Acquiring company (sec. 218a par. 1 letters a) and c) of the Commercial Code and Article 516¹ point 3 of the Commercial Companies Code);
 - 4.7.2. there will be no additional payments whatsoever to be made to the Shareholder (provided for in sec. 218a par. 1 letters b) and d) of the Commercial Code and Article 516¹ point 2 and 3 of the Commercial Companies Code), nor other rights granted by the Acquiring company to DCP Shareholder or persons entitled under other securities in DCP (sec. 218a par. 1 letter f) of the Commercial Code and Article 516¹ point 4 of the Commercial Companies Code);
 - 4.7.3. consequently, there will be no terms concerning the allocation of the shares or other securities in the Acquiring company, as well as it is not necessary to agree the date as of which the shares (nor other securities) give the right to participate in the profits of the Acquiring company; the Shareholder already has and will retain the right to 100% profits of the Acquiring company (sec. 69 par. 6 letters b) and c) and sec. 218a par. 1 letter e) of the Commercial Code and Article 516¹ point 5, 6 and 7 of the Commercial Companies Code),
 - 4.7.4. as there are no minority shareholders in any of the Merging companies, there is no need to agree on the terms for the exercise of the rights of the minority shareholders.

5. CORPORATE CHANGES

- 5.1 The functions of the existing members of the Supervisory Board of the Acquiring company will not be affected by the Merger and they will continue to perform their functions after the Merger. There is a planned change of the executives of the Acquiring company as of the Decisive date of the Merger, whereas the executive Mr. Nikolaus Renner will be replaced by the current President of the Management Board of the Acquired company Mr. Pawel Pomianowski, upon receiving necessary regulatory approvals for the change and respective resolution of the Shareholder.
- 5.2 The functions of the members of the Management Board and members of the Supervisory Board of the Acquired company will be terminated as of the Decisive date of the Merger.
- 5.3 There will be no change of business name, registered office, legal form, registered scope of business or the Shareholder of the Acquiring company. Nor will there be a change of Articles of Association of the Acquiring company or its Statutes.
- 5.4 The Acquiring company will continue to provide services of the Acquired company in Poland after the Decisive date of the Merger through the Polish branch, after receiving all necessary regulatory approvals and complying with legal requirements.
- 5.5 The members of the statutory bodies and the members of the Supervisory Boards of the Merging companies will not be entitled to receive any special benefits in relation to the Merger. The Shareholder informed the Merging companies that, on the basis of a separate statement to be delivered to each of the Merging Companies, the Shareholder will waive the right for review

of the draft of this Contract by an independent expert; independent experts or auditors will not be entitled to receive any special benefits in relation to the Merger.

6. REPRESENTATIONS

- 6.1 The Merging companies declare that they duly exist and have been registered in the respective commercial registers.
- 6.2 The Merging companies declare that they are not in liquidation, no bankruptcy or restructuring have been declared against either of them and they are not subject to proceedings that that can lead to their dissolution by the court.

7. ACCOUNTING ASPECTS

- 7.1 Decisive date for the accounting purposes, being the date since when the acts of the Acquired company are deemed for the purposes of accounting as the acts performed on the account of the Acquiring company, shall be January 1, 2021.
- 7.2 According to sec. 69aa par. 2 letter f) of the Commercial Code, 31 August 2020 has been set as the date of financial statements of the Merging companies, under which the conditions of the Merger has been defined.
- 7.3 The Merging companies declare that both of them evaluated their assets and liabilities based on detailed inventory and prepared the balance sheets and planned list of assets.

- (a) The assets and liabilities of the Acquiring company based on financial statements before the Merger:

Total Assets	26 352 505	EUR
Fixed Assets	318 578	EUR
Equity	2 036 504	EUR
Registered Capital	995 000	EUR
Reserves	0	EUR
Liabilities	24 316 001	EUR
Total Assets (financial resources)	26 352 505	EUR

- (b) The valuation of assets and liabilities of the Acquired company being transferred to the Acquiring company as of 31 August 2020 (day in the month preceding the filing of the application for the draft terms of Merger to be announced):

Total Assets	33 276 121	PLN
Fixed Assets	68 661	PLN
Equity	7 269 553	PLN
Registered Capital	7 500 000	PLN
Reserves	0	PLN
Liabilities	26 006 568	PLN
Total Assets (financial resources)	33 276 121	PLN

- (c) The assets and liabilities of the Acquiring company based on the planned financial statements after the Merger:

Total Assets	33 920 248	EUR
Fixed Assets	334 193	EUR
Equity	3 689 765	EUR
Registered Capital	995 000	EUR
Reserves	0	EUR
Liabilities	30 230 483	EUR
Total Assets (financial resources)	33 920 248	EUR

(d) The date of closing of the books of the Acquired company that were used to establish the terms of the Merger shall be the Decisive date of the Merger, as required by Article 12 section 2 point 4) of the Polish Act on Accountancy. The books of the Acquiring company that were used to establish the terms of the Merger shall not be closed.

7.4 According to sec. 69 par. 14 of the Commercial Code, the report confirming that conditions specified in sec. 69 par. 11 of the Commercial Code will be met on the Decisive date of the Merger under the condition that status of the Acquiring company will remain as of Decisive date for the accounting purposes, will be prepared by the company Deloitte Audit s.r.o., registered office Digital Park II, Einsteinova 23, 851 01 Bratislava, Slovakia.

8. EMPLOYEES' PARTICIPATION AND LIKELY IMPACT OF THE MERGER ON THE LEVEL OF EMPLOYMENT

8.1 The Merging companies declare that procedures for employees' participation on the management of the Acquiring company under sec. 69aa par. 2 letter d) and sec. 218la - 218lk of the Commercial Code and Article 1 section 2 of the Act on Participation of Employees do not need to be set, because:

8.1.1. as follows from the above-mentioned provisions of the Commercial Code, neither of the Merging companies does currently apply or has an obligation to apply some procedures for employees' participation on the management, they are both limited liability companies and each has less than 50 employees;

8.1.2. as follows from Article 29 of the Act on Participation of Employees, the Acquiring company is not required to adopt standard rules for employees' participation as no forms of participation were used in any of the Merging companies before the Decisive date of the Merger.

8.2 Additionally, the Polish Act of April 7, 2006 on informing employees and consulting them (Journal of Laws No. 79, item 550) is not applicable to DCP as it employs less than 50 employees.

8.3 Section 8.1. and 8.2. above do not affect other rights of the employees of Merging companies related to the Merger procedure, for DCP employees in particular those following from Articles 516⁵ § 3 and 516⁷ of the Commercial Companies Code.

8.4 As the result of the Merger, employees employed in the Acquired company as at the Decisive date of the Merger will become employees of the Polish branch and the Acquiring company will take over the rights and obligations from their employment relationships. The Merging Companies initially assume that the Merger - as a result of the synergy effect and the limitation of certain procedures on the part of the Acquired Company (the Polish branch) - will be associated with a reduction of a part of FTE (full time equivalents) in the Acquired company.

It is initially assumed that the number of FTE will be reduced in total to approximately 13,25, which will probably translate into a reduction in the number of employees to 14, whereas the number of contractors will probably be reduced to 4 persons and 2 partners engaged on the basis of B2B relation. The possible termination of legal relation with any DCP employee will always be preceded by a detailed analysis and, if such termination is necessary, it will be made in accordance with all requirements provided for by the provisions of Polish law.

8.5 No changes in the workforce of the Acquiring company are planned as a result of the Merger.

9. CREDITORS' CLAIMS

9.1 The Merging companies declare and acknowledge that all existing unpaid receivables of the Creditors will remain unaffected and enforceable, regardless the Merger.

9.2 The Merging companies have agreed for the purposes of sec. 69aa par. 5 of the Commercial Code and Article 516³ point 9) of the Commercial Companies Code that the Creditors of the Acquiring company may after the Decisive date of the Merger claim their receivables against the Acquiring company under Slovak law and before Slovak courts and the Creditors of the Acquired company may after the Decisive date of the Merger claim their receivables with respect to the Polish branch and the Acquired company under Polish law and before Polish courts, without prejudice to applicable provisions of law, in particular regarding exclusive jurisdiction.

9.3 Each Creditor of any of the Merging companies may obtain, free of charge, full information on the terms for the exercise of his/her rights at the address of the Acquiring company or the Acquired company (or, after the Decisive date of the Merger, the address of the Polish branch).

10. ARTICLES OF ASSOCIATION

10.1. The current Articles of Association of the Acquiring company will not be changed as a result of the Merger and shall read as follows

[The text of Articles of Association was skipped in English version, as per section 12.2. below.]

11. MISCELLANEOUS

11.1 The Parties undertake to provide each other all cooperation necessary or appropriate to effectively perform the Merger, including cooperation with the registrations in the respective commercial registers.

11.2 The Parties confirm that they will timely perform all required notifications and publications related to the Merger. The motion to register the Merger will be filed to the commercial register of the Acquiring company.

12. CLOSING PROVISIONS

12.1 This Contract becomes binding and effective on the date of its signing by the Parties.

12.2 The Contract is signed in English, Polish and Slovak language version, in as many counterparts as the parties deem appropriate, with the proviso that the English version shall not contain the text of the Articles of Association of the Acquiring company. Slovak version is decisive for the purpose of preparing the notary deed under sec. 3.2., the Polish language version will be enclosure thereof.

- 12.3 The Contract, rights and duties of the Parties shall be regulated by the respective provisions of the Commercial Code, Commercial Companies Code and other relevant provisions of Slovak and Polish law.
- 12.4 Should any provision of this Contract be invalid or illegal or inapplicable wholly or partially, it will have no effect on validity and exercisability of the remaining part of this Contract. In such case and also in case of invalidity or illegality of the whole Contract, the Parties undertake to replace the affected provisions by new provisions which will correspond, in most appropriate way, to the purpose followed by the affected provisions.
- 12.5 This Contract contains the entire agreement between the Parties and supersedes any and all prior contracts, agreements and understandings; there are no representations, promises, agreements, arrangements or undertakings, oral or written, between the Parties other than those contemplated hereby.

* * *

Signature page:

Diners Club CS, s.r.o.



Name: Nikolaus Renner

Function: executive

In Vienna, on September 18, 2020



Name: Mag. Peter Schroll

Function: executive

In Vienna, on September 18, 2020

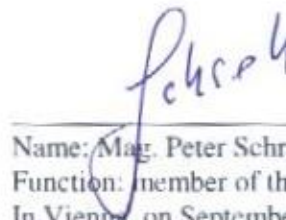
Diners Club Polska Sp. z o.o.



Name: Nikolaus Renner

Function: member of the Management board

In Vienna, on September 18, 2020



Name: Mag. Peter Schroll

Function: member of the Management board

In Vienna, on September 18, 2020