

## GENERAL TERMS AND CONDITIONS

**These General Terms and Conditions (hereinafter the “General Terms and Conditions”) contain important provisions governing the contractual relationship between the client (hereinafter the “Client”) and Swissquote Bank Ltd (hereinafter the “Bank”). For ease of reading, the masculine form refers to any gender.**

### 1. BASIS OF BUSINESS RELATIONSHIP

1.1 These General Terms and Conditions, together with the Account Opening Form, the terms and conditions applicable to any specific Service (as defined below) provided by the Bank (hereinafter the “**Special Terms and Conditions**”), and any document referred to by these documents, if any, and any document amending them and/or expressed to be supplemental thereto shall hereinafter collectively be referred to as the “**Agreement**” and shall collectively serve to regulate the business relationship between the Bank and the Client.

1.2 Except as otherwise agreed, the Agreement applies to any and all accounts (hereinafter individually, the “**Account**” and collectively, the “**Accounts**”) opened by the Client at any time with the Bank.

1.3 All new business relationships, including the opening of an Account and the provision of additional Services (as defined below), shall be decided on by the Bank at its sole discretion. The Bank shall only be bound by the Agreement once it has confirmed the new business relationship to the Client.

### 2. SERVICES OF THE BANK

2.1 The Bank may offer various Services to the Client (hereinafter the “**Services**”) the terms of which it will define in the relevant Special Terms and Conditions as it considers appropriate for any such Service. The Bank may, at its sole discretion, decide not to provide certain Services, or to allow only limited access, to certain Clients or Client groups.

2.2 The Bank may in particular offer platforms (hereinafter the “**Trading Platforms**”) for the execution of transactions (hereinafter the “**Transactions**”) in all sorts of financial instruments, such as securities, book-entry securities, non-securitised rights, investment fund units, commodities and all associated derivatives, contracts and options, etc. (hereinafter the “**Financial Instruments**”)

### 3. INVESTMENT DECISIONS

3.1 Except as otherwise agreed, the Client acknowledges that the Bank provides neither advice of legal, tax-related or any other nature, nor any investment advice or other recommendation to perform any Transaction or other operation.

3.2 Except as otherwise indicated, the information on the Bank's website (such as, without limitation, research reports, investment ideas and results of selection or other

tools), on a Trading Platform or in any other form provided by the Bank (e.g. as a hard copy or electronically) does not constitute a solicitation, an offer, investment advice or a recommendation on the part of the Bank. The Bank gives no guarantee that such information is correct, accurate and complete. The Bank shall not be liable for any losses, lost profits, moral prejudice, liability, tax, costs (including lawyer's and other professional's fees) and any other negative consequence of any nature whatsoever (hereinafter the “**Damages**”) incurred as a result of any information issued exclusively through distribution channels or to the public by the Bank.

3.3 Unless indicated otherwise, the obligations of the Bank in relation to Transactions are limited to execution-only services. **The Bank will not perform any verification of suitability or appropriateness as part of execution-only services provided to the Client.** This information is provided to the Client only once in these General Terms and Conditions and will not be repeated each time the Client enters into a Transaction.

3.4 Before investing in a particular financial instrument, **the Client should carefully consider any prospectus, termsheet, key investor information document and financial reports published in respect of the relevant financial instruments.** If they are not displayed on the Trading Platforms and upon request, the Bank will provide the Client with electronic copies of such documents, provided they have been produced and the Bank has received them beforehand.

3.5 Instructions and orders given by the Client or a person authorised by him (hereinafter the “**Instructions**”) shall be based on such person's own assessment of the Client's personal (in particular financial and tax) situation and investment objectives, as well as upon his own interpretation of the information to which he has access.

3.6 Unless otherwise indicated by the Bank, the Bank understands, in accordance with the information which the Client has provided, that the Financial Instruments that the Client trades are appropriate and/or suitable for him. The Client confirms the Bank's above-mentioned understanding and confirms that he possesses the knowledge and experience required for the Transactions that are carried out by him. The Client further confirms to be aware of the regulations, directives, terms of business, standard practices, and other rules applicable to Financial Instrument trading and agrees to abide by those rules.

3.7 The Client acknowledges that possession of the required knowledge and experience in no way guarantees the success of his Transactions. The Client understands and acknowledges that past yields and profits are no indication of future performance and that the Bank does not guarantee any profit or freedom from loss.

3.8 The Client is aware that, unless otherwise requested by the Bank, the Bank has no or only partial knowledge of his personal (in particular financial and tax) situation.

3.9 **The Client acknowledges that he is solely responsible for taking investment decisions and deciding whether the Transactions he carries out are suitable in view of his personal (in particular financial and tax) situation, his investment objectives and other relevant circumstances; and the Client understands that he alone shall, and accepts to, bear all (financial, tax and other) consequences connected to his investment decisions.** The fact that the Bank agrees to execute a Transaction on behalf of the Client in no way means that the Bank recommends such Transaction or considers the same to be suitable or appropriate for the Client. In no event shall the Bank examine the suitability or the appropriateness of the Transactions that the Client carries out and the Bank shall have no responsibility to advise him in this respect.

3.10 **The Client accepts that, unless otherwise agreed in writing, he is solely responsible for the management and monitoring of any position opened following a Transaction** (hereinafter an “**Open Position**”). The Client agrees to frequently consult the Trading Platform and/or his Account and to constantly monitor Open Positions.

#### 4. RISKS

4.1 **The Client accepts and acknowledges that Transactions in Financial Instruments may be very speculative and may involve significant financial risks which may result in losses either in the amount of or in excess of the amount deposited by the Client.** For a description of the risks involved for each Service, reference is made to the Special Terms and Conditions in relation thereto.

4.2 All Transactions shall be entered into at the Client's risk, and the Client shall be solely responsible under all circumstances for the Transactions and their results. The Client accepts to assume the risks involved in carrying out his Transactions.

#### 5. PROVISION OF CROSS-BORDER SERVICES (LOCAL RESTRICTIONS)

5.1 The Client accepts and understands that the policy of the Bank is not to appeal to persons resident abroad to contract its Services. The Client confirms that he took the steps to request opening of an Account out of his own initiative and that the Bank did not approach him in this regard; if this is not the case, the Client undertakes not to finalise the account opening process.

5.2 The Client is aware that the Bank may not be able to provide him with all or some of its Services and/or products based on his place of residence and/or status.

5.3 Similarly, the Bank's website may not be accessible in part or in full based on the Client's place of residence or his current location. This applies in particular to clients residing in a country where the distribution of information contained on the Bank's website contravenes the laws in effect in that country.

#### 6. DECLARATION OF NON-US STATUS OR US STATUS

6.1 The Bank has entered into a so-called Qualified Intermediary Agreement and into a so-called Foreign Financial Institution Agreement pursuant to the Agreement between Switzerland and the United States of America (hereinafter the “**USA**”) for cooperation to facilitate the implementation of the “Foreign Account Tax Compliance Act” (hereinafter, together with the Foreign Financial Institution Agreement, the “**FATCA Regulations**”) with the US tax authorities (hereinafter the “**IRS**”).

6.2 If the Client is an individual, he has confirmed that:

a) he is a “non-US person”, i.e. he is not a US citizen (be it by single, dual or multiple nationalities) and does not have a “resident alien” status (e.g. he is not holding a “Green Card” and has not been a long-term resident in the USA in the current year and the previous two years). Further, the Client confirms that he is the beneficial owner of the securities held and the income generated therewith in accordance with US tax law. In the event of an existing double taxation treaty between the USA and the Client's country of residence, the Client asks for and the Bank grants to the Client, in principle, a reduction of the US withholding tax on income of US origin. In such a case, and depending on the circumstances, the Bank is entitled to ask for additional documentation. The Bank is also entitled to ask for further documentation if US indicia are identified; OR

b) he is a “US person”, i.e. he is a US citizen (be it by single, dual or multiple nationalities) or he has a “resident alien” status (e.g. because he is holding a “Green Card” or has been a long-term resident in the USA in the current year and the previous two years). Further, the Client confirms that he is the beneficial owner of the securities held and the income generated therewith in accordance with US tax law. If the Client is or becomes a US person, the FATCA Regulations require that the Client provides the Bank with a Form W-9. By providing a Form W-9 to the Bank, the Client accepts that the Bank shall provide, directly or indirectly, the IRS, the Bank's withholding agents and custodians, or any related parties, with confidential and personal information about the Client and his Accounts with the Bank, such as the Client's identity, name and address, his Tax Identification Number (“TIN”), the Account number, the Account value and income and gains as well as documents such as IRS forms. The Client hereby irrevocably consents to such disclosure and fully releases the Bank from its obligations of banking secrecy, confidentiality and/or data protection under Swiss or any other applicable law(s) which might otherwise preclude the disclosure of such information (hereinafter “**Banking Secrecy Waiver**”).

6.3 If the Client is not an individual, it has confirmed that:

a) it is a “non-US person”, i.e. it has not been created, is not registered or incorporated in the USA and it is not a US person for any other reason. Further the Client confirms that it is the beneficial owner of the securities held and the income generated therewith in accordance with US tax law. In the event of an existing double tax treaty between the USA and the Client's country of incorporation or organization, the Client asks for and the Bank grants to the Client a reduction of the US withholding tax on income of US origin

only when the Bank receives the requested documents. In such a case, and depending on the circumstances, the Bank is entitled to ask for additional documentation; OR

b) it is a “US person”, i.e. it has been created, is registered or incorporated in the USA or it is a US person for any other reason. Further the Client confirms that it is the beneficial owner of the securities held and the income generated therewith in accordance with US tax law. If the Client is or becomes a US person, the FATCA Regulations require that the Client provides the Bank with a Form W-9. By providing a Form W-9 to the Bank, the Client accepts that the Bank shall provide, directly or indirectly, the IRS, the Bank’s withholding agents and custodians, or any related parties, with confidential and personal information about the Client and its accounts with the Bank, such as the Client’s identity, name and address, its Tax Identification Number (“TIN”), the account number, the account value and income and gains as well as documents such as IRS forms. The Client hereby irrevocably consents to such disclosure and fully releases the Bank from their obligations of banking secrecy, confidentiality and/or data protection under Swiss or any other applicable law(s) which might otherwise preclude the disclosure of such information (hereinafter also “**Banking Secrecy Waiver**”).

6.4 In the case where the Client is not the beneficial owner of the securities held and the income generated therewith in accordance with US tax law, the Client shall inform the Bank and communicate the details about the beneficial owner.

6.5 If the Client is an individual, he shall inform the Bank immediately of any change to his “non-US person” status. In such event, the FATCA Regulations require that the Client provides the Bank with a Form W-9 within 90 days and the above Banking Secrecy Waiver shall apply in full force upon the receipt of the Form W-9. If no Form W-9 is provided, the Client acknowledges that, in accordance with the FATCA Regulations, the Bank shall (a) report his Account(s) details to the IRS in an aggregated form, (b) deliver under a mutual assistance procedure specific information concerning his Account(s) to the Swiss Federal Tax Administration, which may exchange this information under the double taxation agreement with the IRS and (c) under certain circumstances set forth in the FATCA Regulations, levy a withholding tax of 30% on his income and earnings in accordance with US tax law.

6.6 If the Client is not an individual, it shall inform the Bank immediately of any changes to its “non-US person” status or its FATCA status. In such event, the FATCA Regulations require that the Client provides the Bank within 90 days with a Form W-9 if its status changed to US person or a Form W-8 if its FATCA status changed. If the Client’s status changed to US person, the above Banking Secrecy Waiver shall apply in full force upon the receipt of the Form W-9. If no Form W-9 or W-8 is provided, the Client acknowledges that, in accordance with the FATCA Regulations, the Bank (a) may be obliged to report its account(s) details to the IRS in an aggregated form, (b) may be obliged to deliver under a mutual assistance procedure specific information concerning its account(s) to the Swiss Federal Tax Administration,

which may exchange this information under the double taxation agreement with the IRS and (c) under certain circumstances set forth in the FATCA Regulations, may levy a withholding tax of 30% on its income and earnings in accordance with US tax law. The Bank may ask for further documentation/confirmation to confirm the Client’s FATCA status according to the FATCA Regulations.

6.7 The Client acknowledges that, for legal and operational reasons, the Bank reserves the right to prevent US persons from trading any US securities (either listed on US markets or on other markets) as well as investment funds offered on the Bank’s Trading Platform. In view of the above, in particular where the Client holds US securities in the Account at the time he/it becomes a US person, the Client agrees that the Bank may ask the Client to sell all US securities held in the Account and that, if no Form W-9 is provided within 90 days, the proceeds of the sale of the US securities may be subject to “Backup Withholding Tax” at the rate applicable at the time of the sale, which is to be paid to the IRS.

## 7. RESIDENCE FOR TAX PURPOSES

7.1 On 21 July 2014, the Organisation for Economic Cooperation and Development (OECD) released a Standard for Automatic Exchange of Financial Account Information in Tax Matters (the “**Standard**”). The Standard and its current and future related international and national laws (together, the “**AEOI Regulations**”) call on governments that have signed at least one automatic exchange of tax information agreement (the “**Reporting Jurisdictions**”):

- a) to obtain, from their financial institutions, detailed account information and
- b) to have their respective competent authorities exchange that information automatically with other Reporting Jurisdictions on an annual basis, where both respective jurisdictions have entered into a mutual agreement to exchange such tax information.

Since Switzerland is a Reporting Jurisdiction, the Bank, as a Swiss financial institution, is required to apply enhanced due diligence procedures and may need to report some financial account information to the Swiss competent authority, namely the Swiss Federal Tax Administration (the “SFTA”), in accordance with the AEOI Regulations.

7.2 The Client understands that the Bank may need to apply enhanced due diligence procedures to record the residence for tax purposes of the Client, including where the Client is not a resident for tax purposes in a Reporting Jurisdiction. In the above-mentioned context and, in particular, as part of the account opening process, the Client:

- a) confirms his/her/its residence(s) for tax purposes (i.e. the jurisdiction(s) in which the Client is treated as being tax resident, according to each such jurisdiction’s domestic tax legislation),

- b) provides the Bank with one or more valid Taxpayer Identification Number(s) (the “**TIN(s)**”) or any other high integrity number with an equivalent level of identification (as determined by each jurisdiction for AEOI purposes),
- c) provides the Bank with his/her date of birth, and
- d) if requested by the Bank, provides any reasonable documentation or explanations in order to support the above.

In addition, where the Client must be regarded as an entity, the Client:

- a) confirms its status as a reporting financial institution (FI), non-reporting FI, active non-financial entity (NFE) or a passive NFE,
- b) ensures the provision of the residence(s) for tax purposes, TINs and dates of birth of every controlling person (as defined by the AEOI Regulations and provided that the entity must be regarded as having one or more controlling person(s) pursuant to the AEOI Regulations), and
- c) if requested by the Bank, provides any reasonable documentation or explanations in order to support the above.

7.3 The Client understands that the Bank may be required to report certain Client information and, where relevant, information on the entity’s controlling persons (including, but not limited to, name, address and date of birth) as well as certain Client’s account(s) information (including, but not limited to, balance, interest, dividends and sales proceeds from financial assets) to the SFTA. The Client understands that the SFTA may then pass on such information to the tax authorities of each Reporting Jurisdiction for which the Client is regarded, pursuant to the AEOI Regulations, as a resident for tax purposes, but only to the extent that there is an agreement in place for the exchange of tax information between Switzerland and the other Reporting Jurisdiction(s). **By agreeing to the General Terms and Conditions, the Client hereby acknowledges that such information may be reported to the SFTA, provided that the Bank, in its sole discretion, determines that such information must be reported pursuant to the AEOI Regulations.**

7.4 The Client acknowledges that his/her/its information may then be used, by the competent authorities of these Reporting Jurisdictions, for other purposes than those set forth by the AEOI Regulations, albeit within the confines of any applicable law.

7.5 The Client shall inform the Bank immediately of any change to his/her/its residence(s) for tax purposes, TIN(s) or of any other relevant change in circumstances. In such event, the Client shall provide the Bank, in due time, with any documentation or explanations that the Bank can reasonably expect in order to comply with the AEOI Regulations. **The Client understands that, where the information provided to the Bank is inaccurate or incomplete, the Bank may need to report the Client as being resident for tax purposes in more than one Reporting Jurisdiction.**

7.6 The Client understands that if he/she/it provides the Bank with incorrect information, be it intentionally or negligently, the Client may incur a fine imposed by any competent authority.

7.7 In complying with the above, the Client may need to refer to a tax advisor and/or to sources publicly available.

7.8 Without prejudice to the above, the Client may also qualify as a U.S. person. This Section must therefore be read in conjunction with Section 6.

## 8. MARKET RULES

8.1 The Client acknowledges and accepts that a Transaction may be subject to market rules laid down in by-laws, rules, provisions, customs and practices of an exchange, a market, a clearing house, a body or any other organisation (including, if applicable, entities of the group to which the Bank belongs) involved in the execution, clearing, and/or settlement of said Transaction and/or in the custody of Financial Instruments linked to such Transaction. The Client acknowledges and accepts that such market rules may offer wide powers to the involved organisations, in particular in exceptional circumstances or undesirable situations.

8.2 **Should any such organisation take decisions or measures which affect a Transaction or an Open Position, the Bank shall be entitled to take any action (including liquidate any Open Position of the Client) which it, at its sole discretion, considers desirable to protect the interests of the Client and/or those of the Bank.** The Client shall be bound by any such action and the Bank shall not be liable for any Damages suffered by the Client.

## 9. CONFIRMATIONS

9.1 As of the date of the opening of the Account, the date of any Transaction or other operation (such as a payment) in relation to the Account and any date on which the Agreement or any part thereof is revised, updated or amended, the Client confirms to the Bank and agrees to the following for the benefit of the Bank that:

a) The Client is not legally incapacitated or interdicted to act in respect of the establishment of the business relationship with the Bank or the conclusion of any and all Transactions or other operations and is not bound by any law or regulation preventing him from entering into such a business relationship, from accessing the Trading Platforms or the Bank’s website or from concluding any form of Transaction or other operation whatsoever with the Bank.

b) In case of a corporation, limited liability company, trust, partnership, unincorporated association, entity without legal personality or another non-natural person, the Client is duly organised and validly existing under the applicable laws of the jurisdiction of its organisation and the Bank will be notified in writing of any changes to the powers held by representatives or agents. The Client confirms that if such written notice is not provided, the Bank shall not assume any liability and that no official publication shall be binding on the Bank.

- c) The Client has obtained all necessary (corporate or other) consents and authorisations and is competent to establish a business relationship with the Bank.
- d) The monies and assets credited on the Account are and will remain, subject to the provisions of the Agreement, free of any charge, encumbrance, right of retention, pledge, lien, constraint or other forms of security.
- e) The Client has taken note of and undertakes to comply with all laws, market rules and regulations applicable to him, notably as a result of his place of domicile and nationality, including, without restriction, all regulations and requirements in respect of foreign exchange controls.
- f) **The Client confirms that he is in compliance with all tax rules and requirements by tax authorities of the country or countries in which he assumes fiscal responsibility.** Article 22.2 applies by analogy to the Client's duty to provide information and documentation to the Bank as regards his fiscal integrity. The Bank is not responsible for advising the Client on any tax liabilities or obligations whatsoever that may arise directly or indirectly in relation to the Accounts. The Client will, if need be, request advice from tax experts.
- g) The information that the Client has given to the Bank is complete, accurate, up to date and not misleading.

9.2 The Client undertakes to inform the Bank immediately by written notice of any changes regarding any information provided to the Bank herein, in the Account Opening Form or otherwise, whether in relation to himself, any person authorised by him or the beneficial owner.

## 10. CLIENT ASSETS

10.1 The Bank may, but is not obliged to, convert all monies it holds for the Client into any currency it deems necessary or desirable to cover the Client's obligations or liabilities in this currency, in application of the exchange rate chosen by the Bank.

10.2 When the Client gives an Instruction to the Bank to carry out a Transaction at any given time, the Bank shall be entitled to use the Client's assets to secure the Client's actual or potential obligations towards the Bank in respect of such Transactions.

10.3 If assets are credited to the Client's Account and if the Client knows or should in good faith know that such assets were credited erroneously, the Client shall notify the Bank immediately of said credit entry and shall return the funds to the account as specified by the Bank. If assets are credited to the Client's Account and if the Client should in good faith question whether such assets were rightly credited to his Account, the Client shall notify the Bank immediately of said credit entry.

## 11. RIGHT OF LIEN AND SET-OFF

11.1 In order to secure any present or future (including merely hypothetical) indebtedness or other obligations at any time owing from the Client to the Bank, **the Client hereby grants to the Bank a right of lien over and a right of set-off against all of the Client's Accounts and all**

**monies, Open Positions, Financial Instruments held with the Bank or elsewhere and any other property in the Client's Accounts and all proceeds therefrom.**

11.2 **The Bank shall be entitled, at any time and without prior Notice (as defined below), to set off against any amounts due by the Bank any of its claims against the Client, regardless of whether such claims are due, regardless of the currencies in which they are denominated or, in the case of loans granted by the Bank to the Client, regardless of whether they are unsecured or secured by collateral.** The Bank shall be entitled to set off even if the Bank's and the Client's claims are not identical. The Bank shall notify the Client of any set-off carried out pursuant to this Article.

11.3 **The Bank shall further be entitled, in the event of default by the Client on any of his obligations to the Bank, at any time and where permitted without prior Notice or any further formality, to realise or make use in whatsoever manner and in any order it sees fit of the right of lien over the Client's assets either by forced or by private sale.** To the extent permissible under applicable laws, in particular legal provisions on the realisation of collateral, for the purposes of the sale or appropriation of Financial Instruments, the value of Financial Instruments shall be the market value of that Financial Instrument determined reasonably by the Bank by reference to public index or by such other process as the Bank may select. It is agreed that the method of valuation provided for herein shall be deemed commercially reasonable.

11.4 The Bank is also entitled to net off the Client's Accounts at any time, irrespective of their type or the currency in which they are denominated. The Bank shall be entitled to net off even if the Bank's and the Client's claims are not identical, if the claim to be netted constitutes the return of an object or security deposited with the Bank or its custodians, or is subject to objections or exceptions. The Bank shall notify the Client of any netting carried out pursuant to this Article. If the amounts payable are denominated in a currency other than Swiss francs, they shall be converted into Swiss francs at an exchange rate to be determined by the Bank.

## 12. JOINT ACCOUNT

12.1 If more than one person executes the Agreement as the Client, they shall collectively be joint account holders. Each joint account holder shall both be a joint and several creditor and a joint and several debtor within the meaning of the Swiss Code of Obligations (CO) in respect of all claims and obligations assumed in accordance with the Agreement or any part thereof, including any amounts due to the Bank, either currently or in the future, even if such liabilities arise as a result of one joint account holder acting on his own.

12.2 The Bank is authorised to send and provide all Notices and any other communication to any one of the joint account holders, and such Notices and other communication shall be deemed to have been duly delivered to all of the joint account holders.

12.3 Unless otherwise agreed with the Bank in writing, each joint account holder shall have full authority to operate the Account and shall be entitled to dispose of any or all of the assets in the Account individually and without restriction. Each joint account holder is in particular entitled to individually give Instructions to the Bank, to appoint any person authorised on behalf of the joint account holders, and to terminate the relationship with the Bank. Any such Instructions or actions shall bind all other joint account holders and the Bank shall not be liable for any Damages resulting therefrom. Notwithstanding the foregoing and regardless of individual signature authorisations, the Bank is authorised but not obliged to require a joint Instruction from all joint account holders whenever it deems fit.

12.4 In the event of the death of any of the joint account holders, the Bank shall be entitled to execute any Instructions that it may have received individually from the surviving joint account holder(s) or from the heirs of the deceased joint account holder(s), including instructions to close the Account. However, should the Bank decide, for any reason whatsoever, not to execute the Instructions received from the surviving joint account holder(s) or from the heirs of the deceased joint account holder, it shall not be held liable for any Damages arising therefrom unless it can be proved that the Bank acted with gross negligence or showed wilful misconduct. Additionally, the Bank remains free to take such action, require such documents and restrict Transactions or other operations in the Account as it may deem advisable to protect the Bank against any Damages. The estate(s) of the deceased joint account holder shall be liable, and the survivor(s) shall continue to be liable, to the Bank for any debit balance or loss in the Account resulting from Instructions received prior to the receipt by the Bank of the written notice of the death of the said joint account holder, or incurred in the liquidation of the Account, respectively.

### 13. POWER OF DISPOSAL

13.1 Only those signatures communicated to the Bank are deemed valid until such time as the Client notifies the Bank that these signatures are to be modified or revoked, notwithstanding any official registration (such as in any commercial register) or any other communication. If several persons are able to sign for an Account or on behalf of the Client, signature rights for the Accounts are deemed to be individual, unless otherwise agreed with the Bank in writing.

13.2 Using the Bank's standard form available on its website, the Client may vest a third person with an unrestricted power of attorney (without power of substitution), thereby enabling the person so authorised to represent him in all aspects of the business relationship with the Bank, after the said power of attorney is accepted by the Bank. In principle the Bank does not accept powers of attorney granted without using the form provided by the Bank.

13.3 The Bank may require the concerned signatures to be certified. Once granted a power of attorney remains in force until the Bank receives a written notice from the Client stating that it has been revoked. A power of attorney does not expire on the death or legal incapacity

of the Client.

13.4 The Client shall immediately inform the Bank with a written notice if any person authorised by him has become legally or otherwise incapable of acting. Until receipt of such written notice, or if the Client himself becomes incapable of acting without the Bank being duly informed thereof, any Damages arising from such incapacity shall be borne by the Client. No official publication shall be binding on the Bank.

## 14. COMMUNICATIONS AND INSTRUCTIONS

### Notices from the Bank

14.1 **All notices or communications (hereinafter the "Notices") from the Bank to the Client will normally be made by means of posting a Notice in the Client's Account (including on a Trading Platform). The Bank may issue any Notice, at its sole discretion, via any other means of communication, e.g. via letter, e-mail, fax or telephone.** The Client expressly agrees to receive correspondence also in electronic format and is aware of, and accepts, any consequences, losses and risks that might result from the electronic transmission of information.

14.2 The Client shall ensure that he or any person authorised by him can be contacted by the Bank at all times by telephone, fax or e-mail. If, at its sole discretion, the Bank believes it to be in its interest and/or that of the Client, the Bank may, but is not obliged to, contact the Client even if he has issued Instructions to the contrary, without incurring any liability for contacting (or failure to contact) the Client.

14.3 All Notices from the Bank to the Client shall be deemed as having been duly issued to the Client when sent to the address, e-mail address or fax number most recently supplied by the Client, when provided orally via telephone or when made available on a Trading Platform, in the Account or on the Bank's website.

14.4 Notices from the Bank sent via letter shall be deemed as having been duly received one Business Day (as defined below) after dispatch to a Swiss address, or four Business Days after dispatch to a foreign address. Where the Bank holds no valid address for the Client, the Bank's address shall be considered the Client's address; in that event, the date of dispatch shall be the date found on the Notice copies in the Bank's possession, the date of the mailing lists, or any other relevant date found on the Notice.

14.5 Notices from the Bank sent by fax shall be deemed as having been duly received upon receipt of a successful transmission report. Notices from the Bank posted, sent or given, where relevant, on a Trading Platform, in the Account or on the Bank's website, via e-mail or telephone shall be deemed as having been duly received as soon as they are posted, sent or given. The Client shall be responsible for regularly consulting the Trading Platform, his Account and the Bank's website in order to take note of any Notices from the Bank.

14.6 Following a specific request from the Client, the Bank may exceptionally agree to withhold its Notices. Notices withheld by the Bank shall be deemed as having been duly issued to, and received by, the Client on the date shown on the Notices. The Client undertakes to take delivery of such withheld Notices at least once every twelve months and accepts that the Bank may destroy the Notices it withholds for the Client after a period of twelve months has elapsed. The Client releases the Bank from any and all liability whatsoever in this respect.

#### **Instructions from the Client**

14.7 Instructions from the Client shall, generally, be submitted via the Account or a Trading Platform. If the Client submits an Instruction by letter or fax, the Bank will verify the signature by comparing said signature against the specimen lodged at the Bank applying due business diligence.

14.8 The Bank is authorised, but not obliged to, carry out all Instructions issued by telephone, e-mail, fax or any other means of electronic communication, even where these Instructions are not subsequently confirmed in writing with an original signature. However, the Bank reserves the right to carry out such Instructions only after it has obtained a confirmation in writing with an original signature or in such form as the Bank may request or after it has taken any further measures for the purposes of identification. The Bank shall not be liable for any Damages resulting from any delay caused by such request for a confirmation or such further measures. Unless clearly marked as confirmation of an Instruction previously given, the Bank shall not be held liable for executing the said Instruction twice.

14.9 The Client is solely responsible for all Instructions and communications issued with his passwords and other personal identification codes (hereinafter the “**Identification Codes**”) as well as for all Transactions and other operations carried out with his Identification Codes. Any person using the Client’s Identification Codes or identifying himself by telephone or over the Internet (as defined below) by using the correct Identification Codes shall be considered by the Bank as authorised to act on behalf of the Client, notwithstanding the absence of a power of attorney in favour of this person. The Bank shall not be liable for any Damages suffered by the Client as a result of Instructions, communications, Transactions or other operations (such as payments) carried out using his Identification Codes even in cases where such have been used fraudulently, illegally and/or against the wishes of the Client.

14.10 The Client shall take any and all measures necessary in order to protect his Identification Codes and to ensure that unauthorised third parties do not have access to the Trading Platforms made available to him by the Bank or to his Account. The Bank strongly recommends to the Client that he regularly change his passwords. If the Client stores his Identification Codes or any other confidential information in an accessible manner on his computer or anywhere else, he does so at his own risk. The Client shall immediately inform the Bank if he suspects his Identification Codes to be known by an unauthorised

third party and if the access to the Trading Platforms and/or his Account needs to be blocked. The Client shall bear any and all consequences linked directly or indirectly to the blocking and unblocking of the Trading Platforms or of his Account.

14.11 Without giving any reason or being liable for any Damages resulting from such decision, the Bank may at its sole discretion decline to execute Instructions it believes to be in infringement of any applicable legal provisions, market rules or internal or external rules for the Bank.

14.12 The Bank shall be authorised at any time to reverse any Transactions and other operations (such as payments and transfers of Financial Instruments) made by mistake.

14.13 The Client acknowledges that it might be impossible to rescind, withdraw or amend a given Instruction, even if it is not yet executed at the time of the Client’s request to do so. The Client acknowledges that he is solely liable for any Damages resulting from any rescinding, withdrawal or amendment of an Instruction which is in the process of being executed.

14.14 Subject to other provisions of the Agreement, all instructions and other communications from the Client shall be made in such language as shall be offered by the Bank.

#### **Telephone**

14.15 Any price given by the Bank over the telephone prior to execution of a Transaction is deemed to be indicative. The Bank does not warrant that a Transaction carried out over the telephone will be carried out at the price displayed on a Trading Platform. The relevant price is the price that is booked in the Client’s Account.

14.16 The Bank shall not be liable for any Damages suffered by the Client due to misunderstandings over the phone due to, without limitation, poor or faulty connection, background noise at the Client’s location, language used, etc.

#### **Internet**

14.17 The Bank offers the Client the possibility of carrying out Transactions and other operations (e.g. payments) via the Internet and, as the case may be, via other means of electronic communication such as mobile applications (hereinafter collectively, the “**Internet**”). The Bank reserves the right at its sole discretion to conduct technical maintenance, during which time, access to a Trading Platform or to the Bank’s website may not be possible and it may also not be possible to carry out Transactions and other operations.

14.18 The Client shall be liable for any Damages in connection with his technical access to the Trading Platforms and/or his Account. The Client shall use the appropriate hardware and software, in order to connect to the Trading Platforms and/or his Account.

14.19 The Client is aware of the risks inherent in using a Trading Platform or the Bank's website or otherwise in using the Internet, including the risk of using open, generally public networks for what regards the transmission of data from the Client to the Bank and from the Bank to the Client. He is also aware that data are regularly transmitted in an unsupervised manner beyond Switzerland's borders, even if the sender and the recipient are both located in Switzerland. Even where the data themselves are encrypted, the sender and recipient can sometimes remain unencrypted, such that third parties may be able to infer their identity.

14.20 The Bank expressly disclaims any liability for any Damages incurred by the Client in connection with transmission errors and failures (including delays in the transmission of Instructions, misunderstandings, duplications, etc.), breakdowns (e.g. caused by any maintenance), slowdowns, overloads, transmission cut-outs, technical defects, service interruptions (e.g. systems maintenance), disruptions, interference, illegal attacks (e.g. hacking) and wilful blockage of telecommunication devices and networks (e.g. "mail bombing", denial of service) or in connection with other malfunctions, errors or deficiencies on the part of telecommunication and network operators, exchanges, settlement or clearing systems, other financial service providers or the Client (including Client's hardware and software).

14.21 The Bank accepts no liability and gives no guarantee that data transmitted and published via the Internet are correct, accurate and complete. In particular, account-related data (e.g. account balances in the Account) and information in the public domain (e.g. stock exchange prices or exchange rates) shall not be binding. **The Client is particularly aware of the following Internet-specific risks** for which the Bank cannot accept liability:

- a) Inadequate knowledge of the system and defective security measures can facilitate unauthorized access. The Client is aware of the risk that his Account may be infiltrated by computer viruses and other harmful programs that infected the Client's hardware or software (e.g. via the Internet, e-mails or the exchange of data carriers) or may be misused by an unauthorized third party. The hardware and software used by the Client should always be from a trustworthy source. The Client shall be responsible for informing himself of the necessary security measures (e.g. anti-virus programs, firewalls) and for taking such measures;
- b) The preparation by Internet providers of user statistics, from which it may be deduced that the Client has contacted the Bank;
- c) The use of the Client's hardware and software by persons other than the Client brings additional risks. If the Client uses and stores any information (notably his password, user ID, portfolio information, account statements, etc.) on an accessible manner on his hardware, he does so at his own risk and is fully responsible for all consequences.

14.22 The Client acknowledges that certain software components, such as coding algorithms, may be subject to (in particular import and export) restrictions in certain

countries. The Client must inform himself accordingly and shall assume sole liability for risks in this regard. The Bank accepts no liability for the infringement of provisions governing the import, export and use of prohibited software components.

## Common provisions / Liability

14.23 The Bank shall verify the signature of the Client or a person authorised by him on any written Instruction with due business diligence. The Bank shall not be obliged to take further measures for identification and shall not be liable for any Damages resulting from falsification, identification error or misuse by third parties.

14.24 Any Damages resulting from the use of postal, courier, telephone, e-mail or fax services or any other means of communication, such as delays, misunderstandings, transmission or other errors, data losses, repetition, technical faults, overloads, (system) breakdowns or interruptions, malfunctions, interference, etc. shall be borne by the Client.

## 15. CONFIRMATIONS, STATEMENTS AND COMPLAINTS

15.1 Unless otherwise agreed, the confirmations of Transactions and other operations will be only made available in the Account.

15.2 The Client shall immediately verify the contents of all statements, confirmations, reports and other similar documents (hereinafter the "**Reports**") received from the Bank or made available on his Account. **Any complaint by the Client (e.g. concerning the execution or non-execution of any order, and any objections concerning a Report or a Notice from the Bank) must be made by letter sent to the Bank's head office (chemin de la Crétaux 33, P.O. Box 319, 1196 Gland, Switzerland) immediately upon receiving the corresponding Report or Notice, but not later than thirty days after receipt.** After this period, the execution or non-execution or, as applicable, the Report or Notice concerned shall be deemed to have been approved. The Client shall bear the consequences of any delay in making the complaint.

15.3 Where a Report or a Notice is expected by the Client but is not received, the Client shall notify the Bank of this without delay.

15.4 Express or tacit acknowledgement of a Report shall be deemed to constitute approval of all the items it includes, also of any reservation made by the Bank.

## 16. LIABILITY

16.1 The Bank will perform its contractual and legal obligations towards the Clients with the ordinary business diligence as is required from any bank in Switzerland. The Bank shall only be liable to the Client for direct losses caused by fraudulent or grossly negligent breaches of the Bank's obligations under applicable Swiss law or the Agreement. In particular, the Bank shall not be liable for:

- a) Damages arising from the access to and use, or any hindrance to the access and use, of the Bank's website,

the Client's Account and any of the Trading Platforms, the use of the information and Services available thereon;

- b) Damages arising from the Bank's lawful intervention pursuant to legal requirements and/or the Agreement, including the liquidation of Open Positions;
  - c) Damages arising from events as described in Articles 14.20 and 14.21 or any other materialisation of any risks associated with Internet;
  - d) Damages brought about directly or indirectly by extraordinary circumstances beyond the reasonable control of the Bank, which it may determine at its reasonable discretion and may only affect part of the Bank, and may include (but are not limited to) (i) technical difficulties (such as an electrical power cut, failures or breakdowns of information technology or communication channels and equipment), (ii) unavailability and/or malfunctioning of the Bank's website or the Trading Platform and/or non- or malfunctioning of software to access the said Trading Platform for any reason whatsoever, (iii) declared or imminent wars, terrorist attacks, revolutions, civil unrest, hurricanes, earthquakes, floods and other natural disasters, (iv) mandatory provisions, steps taken by authorities, riots, strikes, lock-outs, boycotts, blockades and other significant labour disputes, regardless of whether or not the Bank is a party to the conflict, (v) the suspension, cessation or closure of any market, (vi) the imposition of limits or special or unusual terms on the trading in any market, (vii) the occurrence of a market disruption or of an exceptional movement in any market or any Financial Instrument, (viii) any other act or event that the Bank considers a hindrance to the maintaining of an orderly market, including the bankruptcy or default of a counterparty or major business relationship of the Bank, and (ix) any other situation that may be defined as "act of God" (hereinafter collectively, "**Force Majeure Events**").
- 16.2 Under no circumstances shall the Bank be liable for indirect, accumulated or subsequent Damages, nor shall it have any liability whatsoever for Damages caused by failure on the part of the Client to mitigate any Damages, in particular by failing to take immediate measures to prevent potential Damages or reduce existing Damages known or foreseeable or that should have been known or foreseeable if the Client had exercised due care and diligence. For instance, in the event that the Bank's website, the Account and/or the Trading Platforms are unavailable (e.g. due to technical problems), the Client shall use any available means of sending Instructions (e.g. telephone) or use the services of another bank or broker (e.g. to cover his Open Positions or similar positions).
- 16.3 The Bank may use the services of third parties, and in those circumstances the Bank shall select and appoint third parties which have the ability, capacity and are duly authorised to perform the functions and services for which they are being appointed. However, in the event of any Damages arising from an act or omission on the part of any such third party, the Bank shall not accept any liability once it has selected and appointed said third party with due care, and upon request of the Client may assign its rights, if and to the extent legally possible,

against the third party to the Client.

- 16.4 If the Bank has failed to apply due business diligence, its liability for any Damages suffered by the Client as a result of Instructions which are not executed in time or are not executed correctly shall in any case be limited to an amount equal to the loss of interest by the Client.

## 17. INDEMNIFICATION

- 17.1 The Client hereby accepts to indemnify and hold harmless the Bank, its affiliates, the Bank's and its affiliates' directors, corporate bodies, officers and employees (the "Indemnified Persons") from and against any Damages, any other costs (including, without limitation, travel expenses, costs for the services of a debt collection company and internal handling costs, as defined by the Bank at its reasonable discretion), and any commitments (present, future, hypothetical, unexpected or otherwise) that the Indemnified Persons may sustain or incur as a result of, or in relation to, (i) the Client's failure to fully and timely perform his obligations under the Agreement or any part thereof, (ii) his failure to comply with any laws and regulations applicable to him, (iii) any measures taken by the Bank to safeguard its interests or otherwise to enforce any of the provisions of the Agreement and any other agreement between the Bank and the Client and any Transaction hereunder, (iv) an Event of Default (as defined below), (v) the Client's incorrect, incomplete and/or misleading confirmations and information, in particular as regards his fiscal situation, e.g. a status as a US person, and similar information, (vi) a freezing order, an attachment, a seizure or a similar proceeding, whether civil, criminal or administrative, in relation to the Account or (vii) any event comparable to (i)-(vi).
- 17.2 These indemnities shall be in addition to any other right, indemnity or claim which the Indemnified Persons may have under the Agreement or the applicable laws.
- 17.3 The obligations of this Section 17 shall remain in force notwithstanding the termination of the Agreement or any part thereof.

## 18. FEES AND CHARGES TO THE CLIENT

- 18.1 The Bank shall be entitled to debit from any Account the fees, commissions and costs stipulated in the current fee schedule appearing on the Bank's website or agreed separately in writing.
- 18.2 The Bank reserves the right to amend its fees, commissions and costs at any time, and the Client shall be notified of such amendments accordingly. Save where otherwise advised by the Bank in its Notice, such amendments shall be deemed as having been approved if they are not contested in writing within thirty days of the date of the Notice.
- 18.3 For any non-standard Services performed upon the Client's Instruction or in his presumed interests for which no indication are found on the Bank's website but that should, based on general experience, normally be performed against compensation, the Bank may use its own discretion to calculate and debit from the Account a

reasonable compensation.

## 19. INTEREST IN INSTRUMENTS, FINANCIAL BENEFITS OF THE BANK

19.1 The Bank, its affiliates, the Bank's and its affiliates' employees or directors may hold positions in financial instruments that may be acquired through the Trading Platforms.

19.2 The Client acknowledges and accepts that the Bank may receive, directly or indirectly, fees, commissions (e.g. sales, distribution, trailing or acquisition commissions), retrocessions, indemnities, discounts or other benefits (hereinafter the "**Financial Benefits**") from third parties (including entities of the Swissquote Group) in connection with the Services provided to the Client. Financial Benefits can lead to conflicts of interest. The Client acknowledges and accepts that the nature, amount and calculation of the Financial Benefits may vary. Further information on such Financial Benefits can be found in the information sheet which is published in the web pages related to fees and commissions on the Bank's website. The Client may request that the Bank provides him with further information regarding the Financial Benefits.

19.3 The Client waives any claim in respect of the Financial Benefits and accepts that the Bank may retain them as additional compensation for its Services or redistribute them to third parties as it sees fit. If a conflict of interest arises as a result of the payment of Financial Benefits, the Bank shall ensure that the Client's interests are safeguarded.

## 20. BANK CLIENT CONFIDENTIALITY AND DATA PROTECTION

20.1 The Bank is required by law to maintain strict confidentiality in respect of the relationship between the Client and the Bank. The Bank may be required to disclose to authorities, brokers, custodians, issuers of certain products, etc. personal, financial and other data relating to the Client, the Account, the beneficial owner of the account and any other person related to the Account (hereinafter "**Personal Data**") in accordance with the applicable laws, market rules or contracts with the respective third parties.

20.2 **The Client releases the Bank from its duty of confidentiality (including the banking secrecy) if this is necessary in view of Article 20.1 or to safeguard the legitimate interests of the Bank and/or the Client.** This in particular applies:

- a) in the event of any legal action taken by the Client against the Bank;
- b) if the Bank needs to secure claims and realise collateral provided by the Client or by third parties;
- c) in debt recovery proceedings or other proceedings instigated by the Bank against the Client;
- d) if the Bank is the subject of allegations made by the Client in public or to Swiss or foreign authorities.

e) to domestic or cross-border payments or transfers. The Bank is entitled to communicate the Client's information, in particular his name and address, IBAN (International Bank Account Number) or his account number, to the banks concerned (in particular, the correspondent banks of the Bank in Switzerland and abroad), to operators of payment transaction systems in Switzerland and abroad (e.g. Swiss Interbank Clearing [SIC]), SWIFT (Society for Worldwide Interbank Financial Telecommunication) and to beneficiaries;

f) to national and cross-border Transactions and other operations (as part of corporate actions or otherwise), as well as to transactions executed by SIC/SWIFT. The Bank is in particular entitled to communicate to the banks, central securities depositories and Swiss and foreign system operators concerned the name, address, IBAN, account number or custody account number of the final beneficiary account holder, the registered shareholder or other parties involved in the Transaction or the other operation;

g) **to disclosures of Personal Data to the relevant Bank's counterparty, the relevant authority or any other relevant third party where, as a result of Transactions of the Client in Financial Instruments subject to domestic or foreign market rules, such disclosures are necessary for the said Transaction or related Transactions to be executed in accordance with the applicable market rules and/or allow avoiding that (i) the Client's account or the Bank's account be blocked, (ii) the Bank's contract with a counterparty be terminated, (iii) the Bank be subject to prosecution or other proceedings, and/or (iv) an event arise that might have negative consequences for the Bank;**

h) to any other cases described in the dedicated notice on the Bank's website, as may be amended from time to time without prior Notice to the Client.

20.3 The Client accepts and consents that the Bank collects and processes Personal Data. The type of Personal Data processed by the Bank and how the Bank processes such Personal Data is set out in the Privacy & Cookies Policy. Pursuant to the Privacy & Cookies Policy, the Client acknowledges that the Bank is entitled to process Client Data for different purposes, in particular for the purposes of carrying out Transactions and other operations, providing any Service under the Agreement, fulfilling legal requirements, maintaining the Client relationship, marketing its products and Services, and improving the quality of products and Services.

20.4 **The client consents and explicitly authorises that the bank exchanges information on the client (including personal data) with other entities of the swissquote group, as well as with third party intermediaries and service providers abroad, including in jurisdictions that do not offer a level of protection of personal data equivalent to that of Switzerland.** this consent and authorisation shall also be considered to have been given to the relevant entity of the swissquote group, third party intermediary or service provider which shall also be authorised to process such information on the client, in accordance with applicable laws.

- 20.5 The Client acknowledges and agrees that once Personal Data has been transferred outside of Switzerland, it is generally no longer protected by Swiss law but subject to the applicable legislation, and may be transmitted to third parties or authorities in accordance with any applicable law.
- 20.6 The Client is aware of the fact that any data transmitted via the Internet are regularly transmitted in an unsupervised manner beyond Switzerland, even if the sender and the recipient are both located in Switzerland. Even where the data themselves are encrypted, the sender and recipient can sometimes remain unencrypted, such that third parties may be able to infer their identity.
- 20.7 The Client also acknowledges that the Bank may use a third party supplier's software and that the IP address of the computer or device on which the Client uses the said software may become known to that third party supplier, who may not be located in Switzerland. The Client accepts any and all related consequences, particularly in terms of confidentiality and data protection.

## 21. CLIENTS INTRODUCED BY A THIRD PARTY

- 21.1 If a third party, such as an introducing broker, an asset manager or a third party advisor, introduced the Client to the Bank, the Client understands and agrees that the Bank may pay fees, commissions, retrocessions, indemnities or other benefits to such party for the introduction or the provision of other Services. These compensations may be calculated on a per-trade basis or on another basis, such as the fees and commissions charged by the Bank to the Client or the Client's assets held with the Bank. **The Client understands and agrees such third party shall have the right to access information regarding the Client and his Account.**
- 21.2 The Bank does not control and cannot vouch for the accuracy or completeness of any information or advice the Client may have received or may receive in the future from said third party. If the Client receives information or trading advice from an introducing broker, an asset manager or any other third party, the Bank shall in no way be liable for any Damages resulting from the Client's use of such information or advice.
- 21.3 The Client acknowledges and accepts that such third party does not in any form or manner represent or act for or on behalf of the Bank and is absolutely independent from the Bank or any entity of the Swissquote Group.
- 21.4 The Client understands that such third party may not be regulated by a regulatory authority.
- 21.5 The activities of any person (such as, without limitation, a third party as mentioned herein) who is granted an authorisation to carry out Transactions or other operations on the Client's Account shall be regularly monitored by the Client. The Bank shall not be liable for any Damages caused by any Instructions issued by such authorised person to the Bank.

## 22. MONEY LAUNDERING

- 22.1 The Client confirms that he is aware of the requirements imposed by anti-money laundering legislation and regulations and that he is obliged to co-operate fully with the Bank in order to comply with all applicable requirements. Any other obligations arising out of and in connection with legal and regulatory anti-money laundering measures under any applicable laws remain reserved.
- 22.2 The Client is obliged, and undertakes, to provide the Bank with any and all requested information and documentation concerning his person or, wherever necessary, concerning the identity of any third party on whose behalf and for whose account he acts (such as the beneficial owner), notably in a capacity as agent.
- 22.3 The Bank may in particular request information and supplementary details in respect of the justification for, and economic background of, the Client, the assets on the Account, and any Transaction and other operations associated with his Account. If such information is not provided or is, in the opinion of the Bank, insufficient, it may, without prior Notice to the Client, decline to execute the Instructions of the Client, postpone the execution of such Instructions, block the assets on the Account, notify the relevant authorities and/or terminate the relationship with the Client. Provided that the Bank has complied with applicable legal provisions or internal or external rules and regulations, the Bank shall not be liable for any Damages caused by any or all of these measures.

## 23. RECORDING OF CONVERSATIONS

- 23.1 The Client expressly accepts and grants his consent that the Bank may, but is not obliged to, record conversations conducted between the Bank and the Client via the Internet and by telephone and produce transcripts of conversations and other communication between the Bank and the Client, the Client's representatives and other signatories on his Account.
- 23.2 Such records and transcripts shall remain the property of the Bank and the Client accepts that they may be used by the Bank as evidence, such as in the event of any dispute or in case of requests by an authority. The Bank may, at its entire discretion, disclose such records and transcripts as it deems necessary or adequate.
- 23.3 Any such records and transcripts produced by the Bank will be treated in accordance with its normal practice and may, from time to time, be destroyed in accordance with such practice. The Bank shall not be liable if conversations conducted by telephone and via the Internet were not recorded for any reason whatsoever.

## 24. PAYMENTS

- 24.1 The Client shall promptly deliver any amounts necessary under the Agreement to allow the Bank to carry out Transactions or other operations for the Client and cover any and all obligations arising out of and in connection with Transactions or other operations.

24.2 The Bank is not obliged to execute Instructions from the Client for which there is no cover or credit limit. If the Client has issued Instructions, the total amount of which exceeds the credit balance available or the credit facilities granted, the Bank is entitled to decide, at its own discretion and irrespective of the date or the time of receipt by the Bank, which Instructions, if any, are to be executed in full or in part. The Bank may also decide to reject all the concerned Instructions.

24.3 The Client is advised that the specific characteristics of the systems in place in each country may slow down or even prevent the execution of payments or transfers.

24.4 The Bank is not obliged to execute Instructions for payments or to process incoming payments that infringe applicable laws, regulatory provisions or official orders of authorities, or that in some other way may not be compatible with internal or external rules and regulations for the Bank.

24.5 The Client is aware of the fact that payments in a foreign currency are generally executed through a bank located in a country issuing this currency. The Client is also aware of the fact that certain countries (such as the USA) apply embargoes or similar measures towards certain other countries. The Client shall examine his payment Instruction in the light of such embargoes or similar measures and shall refrain from issuing such payment Instruction, if the concerned payment may be blocked or subject to any other similar measure by a bank, a body or any other organisation. The Bank shall not be obliged to examine the Client's payment Instruction in the light of embargoes or similar measures and shall not be liable for any Damages suffered by the Client as a result of the application of embargoes or similar measures.

## 25. OUTSOURCING

25.1 For the purpose of outsourcing all or part of its activities, the Bank reserves the right to procure services from third parties, including entities of the Swissquote Group, in Switzerland or abroad. Such outsourced activities shall remain under the responsibility and supervision of the Bank to the extent required by applicable laws and regulations. Where Personal Data of the Client is involved, the Bank will ensure its confidentiality in accordance with applicable law.

25.2 Relevant information on the activities outsourced can be found in the dedicated notice on the Bank's website, as may be amended from time to time without prior Notice to the Client.

## 26. INTELLECTUAL PROPERTY

26.1 All copyrights, trademarks, trade secrets and other intellectual property rights in the Trading Platforms and the Bank's website shall remain at all times the sole and exclusive property of the Bank or of the third-party owners. The Client shall have no right or interest in such intellectual property rights except for the non-exclusive right to access and use them as specified under the Agreement. The Client shall not copy, modify, de-compile, reverse engineer, alter or make derivative works of the

Bank's intellectual property rights or the manner in which they operate. Any violation of the above shall be subject to prosecution.

26.2 It is expressly prohibited for the Client to directly or indirectly use any device, software or other artifice to manipulate or attempt to manipulate the functioning of any electronic system, interface, device, data feed or software of any type or kind made available by the Bank in connection with any Trading Platform or his Account.

## 27. EVENT OF DEFAULT

27.1 Acting at its sole discretion and without being obliged to issue prior Notice to the Client, the Bank is entitled to (i) terminate the Agreement or any part thereof, (ii) liquidate any Open Position, in full or in part, immediately or within a specified period, (iii) in accordance with the right of pledge and netting granted to the Bank pursuant to these General Terms and Conditions, realise any assets the Client holds with the Bank, (iv) cancel any or all outstanding Instructions, (v) block any assets on the Client's Account(s), (vi) suspend the fulfilment of its own obligations or (vii) take any other measures, if the Bank considers it necessary for its own protection, in particular, upon or following the occurrence of a Force Majeure Event or if any of the events set out below (hereinafter individually, an "**Event of Default**") arise or at any time after an Event of Default set out below has arisen:

- a) The Client fails to make any due payment (e.g. delivery of additional margin, if applicable) to the Bank for whatever reason, or provide a guarantee of any kind by its due date.
- b) The Client violates or fails to comply with any or all of the provisions of the Agreement or any part thereof, any or all of the provisions of any other applicable contract between the Bank and the Client, or the terms of a Transaction.
- c) The Client fails to fulfil any obligation towards the Bank or commits a breach of his/her representations, warranties, confirmations or acknowledgements.
- d) The Client dies, is declared missing or is otherwise incapacitated or interdicted.
- e) The Client becomes insolvent, ceases activities, or files for pre-insolvency proceedings or any other comparable proceedings.
- f) The Client is subject to bankruptcy, restructuring proceedings, or any other comparable proceedings, including protective measures pursuant to Article 27 of the Swiss Banking Act and/or reorganisation proceedings pursuant to Articles 47 ss of the FINMA Ordinance on the Insolvency of Banks and Securities Dealers.
- g) Debt enforcement proceedings (incl. foreclosure) are commenced against the Client or the Client is unable or refuses to settle all or part of his/her debts or fulfil his/her financial obligations.
- h) The Client is subject to any other liquidation proceedings, or the appointment of an administrator, liquidator or receiver at the request of or by a regulatory authority or court.

- i) The Client is subject to any procedure equivalent or comparable to those covered under (e) to (h) above.
- j) The Bank or the Client is required to liquidate an Open Position or part of an Open Position by a competent authority.

27.2 Unless otherwise decided by the Bank, where an Event of Default listed under e), f) or h) above occurs, the Agreement shall be deemed to have been terminated immediately prior to the occurrence of said Event of Default and the Service due on or after the termination date shall be superseded by the obligation to pay a Liquidation Amount (as defined below) in the currency chosen by the Bank.

27.3 Where the Bank terminates the Agreement or any part thereof with the Client following the occurrence of an Event of Default, the Bank shall be entitled to have the fulfilment of its Service(s) and its obligations due on or after the termination date be superseded by the obligation to pay a Liquidation Amount in the currency chosen by the Bank.

27.4 The “**Liquidation Amount**” shall be calculated by the Bank and shall consist of:

- a) the difference between the revenue that the Bank would have realised and the expense that the Bank would have incurred (replacement values) if the Bank had executed the Replacement Transactions (as defined below) in the market on the date of termination. A “**Replacement Transaction**” shall be considered to be a Transaction whose financial effects for the Bank would have been the same as those of the liquidated Transaction;
- b) plus any amounts due to the Bank before the date of termination;
- c) minus any amounts already owed by the Bank before the date of termination.

27.5 If the concerned amounts are denominated in a currency other than the currency chosen by the Bank, they shall be converted into the chosen currency at an exchange rate to be determined by the Bank.

27.6 Irrespective of any other guarantees specifically agreed for this purpose, the Bank shall be authorised to set off the Liquidation Amount in accordance with these General Terms and Conditions.

## 28. TERMINATION

28.1 Either the Bank or the Client may terminate, at any time and without stating any reasons, any business relationship arising out of and in connection with the Agreement. The termination notice by the Client shall be provided in writing to the Bank; the Bank is entitled to issue the termination Notice to the Client also using one of the other means mentioned in Section 14, such as via the Account or a Trading Platform. Unless expressly stipulated otherwise in such Notice, the business relationship shall be terminated with immediate effect.

28.2 if the Account still contains Open Positions at the time of the notification of the termination, the Client shall have a period of ten Business Days in order to liquidate or transfer all his Open Positions, failing which the Bank reserves the right to liquidate all the Client’s Open Positions, regardless of the fact that such liquidation may result in a gain or a loss. The Agreement shall continue to bind both the Bank and the Client in relation to the above-mentioned Transactions.

28.3 Upon termination of the business relationship, the Client shall inform the Bank where the Client Assets are to be transferred. If the Client fails to provide relevant Instructions within the deadline set by the Bank, the Bank is entitled to (i) charge reasonable fees for the maintenance of the Account, (ii) arrange for physical or electronic delivery of Financial Instruments to the Client’s address and/or a safe custody account of the Client with another bank, if known to the Bank, and/or (iii) liquidate any Financial Instruments and deposit the proceeds plus any credit balances at the place designated by competent court or send the same to the Client’s last known address by crossed cheque with debt-discharging effect. The Client shall bear all respective costs for, and any other consequences of, such a transfer of the assets.

## 29. ASSETS WITHOUT CONTACT

29.1 The Client shall take all appropriate measures to prevent monies and assets deposited with the Bank from becoming without contact. The Client shall in particular maintain regular contact with the Bank and notify it without delay of any change in name, address, domicile (including fiscal domicile), address for correspondence, e-mail address, and telephone number or any other element of his situation which may result in contact between the Bank and the Client being interrupted, and to take any steps necessary to allow contact to be re-established in that event.

29.2 The Client authorises the Bank to take all appropriate or necessary steps to locate him or his beneficiaries once it notes that communications addressed to the Client are not reaching him or should there be no contact with the Client within a specific period, which the Bank will stipulate at its sole discretion. If such investigation proves unsuccessful and the assets are deemed to be without contact within the meaning of any applicable laws, the Client recognises that the Bank may notify third parties of the existence of the relationship in accordance with any applicable laws.

29.3 The Bank shall debit from any Client’s Account the expenses incurred for the above-mentioned investigation as well as the handling and monitoring of the assets without contact of the Client. The other fees and charges generally debited by the Bank during the business relationship between the Bank and the Client apply for as long as the relationship exists.

29.4 The Bank is authorised to take action that diverges from these General Terms and Conditions if it is in the Client’s assumed interest, which the Bank shall determine at its sole discretion.

### 30. MISCELLANEOUS

30.1 The Bank reserves the right to amend the Agreement or any part thereof at any time. The Client shall be notified accordingly. Save where otherwise advised by the Bank in its Notice, such amendments shall be deemed as having been approved either if the Client uses the Trading Platform after such amendments have been published or if they are not contested in writing within thirty days of the date of the Notice, whichever comes first.

30.2 Should any provision of the Agreement or any part thereof be illegal, invalid or unenforceable in any manner whatsoever pursuant to the legislation of any given jurisdiction, this shall not affect the legality, validity or enforceability of the remaining provisions of the Agreement and any part thereof, and the Bank and the Client shall endeavour to reach an agreement and/or replace the illegal, invalid or unenforceable provision by a legal, valid and enforceable solution that comes as close as possible to the purpose of the affected provision. If a provision of the Agreement or any part thereof becomes illegal, invalid or unenforceable because of a law, Market Rule or other regulation enacted or adopted hereafter, the affected provision shall be deemed modified or superseded, as the case may be, by the applicable provisions of such law, Market Rule or regulation.

30.3 In the event of the death of the Client, the Bank reserves the right to make enquiries and request that the formalities, particularly the certificate of inheritance and the death certificate, be provided to the Bank.

30.4 The Client may not assign any of its rights and obligations pursuant to the Agreement (or any part thereof) or the terms of any Transaction without the prior written consent of the Bank.

30.5 Should the Bank fail to enforce or exercise or experience a delay in enforcing or exercising any of its rights under the Agreement this shall not be construed as constituting a waiver of such rights, nor shall it compromise any enforcement or exercise of such rights, whether now or in the future.

30.6 Unless otherwise agreed, any other special regulations or agreements shall take precedence over the General Terms and Conditions. Within any of the above-mentioned documents, a specific regulation shall take precedence over a general regulation unless otherwise agreed.

30.7 The days on which the Bank offers its Services shall be referred to as "**Business Days**". Saturday, Sunday and any public holiday at the seat of the Bank in Gland/VD in Switzerland shall not be considered as Business Days.

30.8 Words denoting the singular shall include the plural and vice versa and words denoting a given gender shall include any other gender.

30.9 Any reference in the Agreement or any part thereof to a person includes individuals and legal entities.

30.10 Any reference in the Agreement or any part thereof to the Bank includes, where relevant, the Bank's directors, managers, officers, employees, successors, agents and other representatives as well as Group Entities and their directors, managers, officers, employees, successors, agents and other representatives.

30.11 Any reference in the Agreement or any part thereof to a law, rule, or legal provision includes any subsequent amendment made to it.

30.12 Translations of the Agreement or any part thereof are made available by the Bank for the Client's convenience. In the event of any conflict and/or discrepancy whatsoever between the original English, French or German text (whichever version was used at the time of opening the Account) and any translation thereof, and for any interpretational purposes, the English, French or German version, respectively, shall prevail.

### 31. APPLICABLE LAW AND JURISDICTION

31.1 **The Agreement and any part thereof shall exclusively be governed by and construed in accordance with substantive Swiss law. This also applies, in particular, to Financial Instruments held in custody by an intermediary.**

31.2 **The place of performance, the place of enforcement against Clients residing abroad and the exclusive place of jurisdiction for any dispute arising from or in relation to the Agreement or any part thereof shall be at the seat of the Bank in Gland/VD in Switzerland.** However, the Bank reserves the right to bring such proceedings before the competent courts having jurisdiction at the Client's place of residence or domicile or before any other competent court, in which case substantive Swiss law shall remain exclusively applicable.