

The relations between the Brussels Branch of MUFG Bank (Europe) N.V. (hereinafter the “Bank”) and its Customers shall be governed by the following rules unless otherwise provided for by special written agreements.

**Le client déclare avoir une connaissance suffisante de la langue anglaise et accepte que cette langue soit utilisée dans le cadre de ses relations avec la Banque.**

**De cliënt verklaart voldoende kennis te hebben van de Engelse taal en aanvaardt het gebruik van deze taal binnen het kader van zijn relaties met de Bank.**

## **BUSINESS CONDITIONS AND REGULATIONS**

- 1) A copy of these Business Conditions and Regulations has been delivered to each Customer before the start of the contractual relationship with the Bank. At any time during the contractual relationship the Customer shall have the right to receive, on request and without cost, a copy of the Business Conditions and Regulations and other applicable terms and conditions.
- 2) The contractual relations between the Bank and any person which avails itself of its services are subject to the following terms and conditions as well as, in the absence of any specific provisions to the contrary in these Business Conditions and Regulations, to generally accepted banking practice.
- 3) Any person entering into relations with the Bank or entrusting to it the execution of an order or of any operation whatsoever is subject to the provisions of these Business Conditions and Regulations.
- 4) Derogations from these Business Conditions and Regulations must be agreed expressly and in writing by the Bank. Specific services provided by the Bank may be documented in separate terms and conditions or specific agreements.
- 5) For the purpose of the Business Conditions and Regulations a consumer means a natural person who is acting for purposes other than his trade, business or profession.

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# I. GENERAL BUSINESS CONDITIONS

## A. GENERAL PROVISIONS

### Article 1. Scope of application

Unless otherwise specified, these General Business Conditions shall apply to all sections of the Business Conditions and Regulations for the contractual relationship between MUFGBank (Europe) N.V. Brussels Branch, located at Boulevard Louis Schmidt 29, 1040 Brussels, Register of Legal Entities (Brussels) no. 0648.982.458 (hereinafter referred to as the Bank) and its Customers. The Bank is a branch of MUFGBank (Europe) N.V. an EEA credit institution organized under the laws of the Netherlands, registered under company number 33.13.25.01 and authorized by the Dutch National Bank, with its head office located at Strawinskyalaan 1887, 1077 XX Amsterdam, the Netherlands.

Exceptions to these General Business Conditions may be made at any time in special agreements and regulations and shall take precedence over the General Business conditions to the extent that they differ from them. If any matter cannot be resolved on the basis of these provisions, it shall be settled in accordance with the law, or, if applicable, the standard practices of the profession.

These General Business Conditions shall apply to all Customers of the Bank including both natural persons (private or professional individuals) and legal entities or persons.

These General Business Conditions are in place as from the first of May 2016 and replace all former General Business Conditions, excluding special agreements.

### Article 2. Legal status and capacity

#### 1. Individual Customers

Before entering into a contractual relationship with the Bank, the individual Customer shall provide the data and documents requested by the Bank, including his or hers identity, residence, occupation, marital status and sex.

Customers who are foreign nationals may be requested by the Bank to provide written evidence of their capacity. However, the Bank assumes no responsibility for the authenticity, validity or interpretation of documents executed abroad.

The Bank will accept that a spouse married under the marital status of community of property be entered in its books as holder or co-holder of accounts or other effects only on condition that the Bank may, at its own discretion, ask for the spouse's consent should the other spouse assert rights to the said accounts or other effects without the intervention of the former.

Customers agree to notify the Bank without delay of any changes affecting their legal status and capacity or their rights over assets held by the Bank.

Customers are responsible for any prejudicial consequences resulting from the communication or production of incorrect information and documents. The Bank may at any time request Customers to provide additional or more precise information as regards both information required by law and information the Bank deems necessary for the due fulfillment of its tasks.

#### 2. Legal entities

Legal entities must submit to the Bank identification requirements such as:

- (a) the articles of incorporation and amendments, as well as publications legally required in the Annexes to the Belgian State Gazette;
- (b) a copy of the Annexes to the Belgian State Gazette in which the powers of their representatives are published;
- (c) an extract of the minutes of the shareholders' meeting and/or the decision of the board of directors according to which certain powers are delegated to one or several directors; and
- (d) the enterprise number and the register of legal entities with which they are registered.

Customers shall without delay notify the Bank of any changes affecting their capacity or powers as well as any modifications to the list of powers of persons having the capacity to bind them vis-à-vis the Bank. Customers assume full liability for any consequences, which may result from failure to comply with this procedure. Upon request by the Bank, Customers shall produce all written evidences relating to their capacity or powers.

The Customer confirms:

- (i) that he is duly incorporated or established under the laws of his place of incorporation or establishment;
- (ii) that he has all requisite corporate powers, capacity and authority to engage the Bank upon the Business Conditions and Regulations and the annexed special conditions, and to execute and perform these terms;
- (iii) that these terms have been duly executed and constitutes his valid, legal and binding obligation;
- (iv) that he has obtained, and will maintain in effect, in relation to all transactions, all necessary consents of any governmental or other regulatory body or authority applicable to each transaction, and that he will comply with the terms of the same and all applicable laws, regulations and directives of such bodies and authorities. On simple demand of the Bank he must deliver to the Bank copies of all such consents or such other evidence of any such consents and such evidence of compliance with such and with any such laws, regulations and directives as the Bank may reasonably require.

#### 3. Power of an attorney

Power-of-attorney forms are held by the Bank at the disposal of Customers. All powers of attorney remain on file at the Bank.

The attorney-in-fact is personally obliged to return to the Bank all assets unlawfully disbursed on his instructions as a consequence of his exceeding the limits of his power of attorney. Where applicable, this obligation to make repayment shall be joint and several.

Powers of attorney are considered valid until the Bank is notified by registered letter of their termination sent. Such termination, however, will not enter into effect vis-à-vis the Bank until the business day following receipt of its notification.

#### 4. Others

The Bank declines all responsibility with regard to the authenticity, validity or interpretation of documents of foreign origin. The performance of foreign operations on behalf of a Customer or upon its order on behalf of a third party must comply with all exchange control measures of the countries where the operations are to be executed.

The Bank may at all times refuse, on good grounds, a potential customer without prior notification or notice of default. This will be e.g. in case he fails to comply with the rules resulting from the application of the legislation on the prevention of money laundering and the financing of terrorism, in particular as regards the identification of Customers or Customer's acceptance policy.

### Article 3. Signatures

#### 1. Bank signatures

Documents involving commitments for the Bank are required to be signed by persons which, pursuant to the articles of incorporation or power of attorney, may legally commit the Bank. All deposits at the Bank's counters must be evidenced either by a receipt bearing authorized signatures, or by such other proof as may be established by the Bank. Any documents issued by the Bank may not be used against the Bank unless they bear authorized signatures. The list of persons authorized to sign on behalf of the Bank may be consulted by any Customer upon request.

#### 2. Customer signatures

Customers must remit to the Bank, upon the opening of their account, a specimen of their signature, of the signature(s) of their proxy holder(s), if any, and, if applicable, the signature of their attorney(s)-in-fact and furnish to the Bank all information relative to their legal status and capacity.

Legal entities shall provide the Bank with the specimen signatures together with a copy of an official document of the home address of the persons representing the legal person pursuant to the articles of incorporation or powers of attorney.

If the signature is subsequently changed, the Customer shall provide the Bank, without delay, with a new specimen signature.

The Bank needs only to exercise reasonable care in comparing the signatures with the specimens. The Bank assumes no liability whatsoever with regard to the ineffective verification of signatures on orders received, or on powers of attorney or authorizations produced.

### Article 4. Language

The Bank will communicate with the Customers in the language they chose (Japanese, Dutch, French or English) at the start of their relationship with the Bank or subsequently. All documentation, general business conditions, contracts provided

by the Bank are issued in English unless regulatory or statutory provisions require otherwise.

### Article 5. Professional secrecy

In conformity with generally observed banking custom, the Bank will not communicate to third parties any information relating to operations carried out with its Customer or regarding the Customer itself, except with the Customer's explicit consent or where the Bank is required to do so by law or has a legitimate interest in doing so.

Information of whatever nature, furnished upon the Customer's request, is given without warranty or responsibility. It is given on a strictly confidential basis and may under no circumstances be communicated by the Customer to third parties.

### Article 6. Protection of personal data

Each of the Bank and the Customer shall ensure that - if personal data is being processed in the context of the overall business relation between the Bank and the Customer - it adheres to the legal principles relating to such processing, it has a lawful ground for such processing and it shall comply with all applicable data protection legislation imposed in respect of all data processing activities.

Details on how the Bank processes personal data of the Customer (and/or any individual associated with the Customer) and the Customer's rights in relation to this personal data are set out in the Bank's privacy notice available on the Bank's website at: <https://www.mufgemia.com/governance/privacy-notice/>, which may be updated from time to time.

In case it is necessary to comply with mandatory data protection legislation, each of the Bank and Customer agree to enter into additional documentation with the other party in this respect, e.g. a data processing agreement.

### Article 7. Fees

Notwithstanding special agreements between the Bank and the customer which take precedence, the Bank's fees for the services provided to its Customers are as set out in the tariff annexed to these Business Conditions and Regulations which tariff forms an integral part of these Business Conditions and Regulations. The Bank's tariff is also available at the Bank's office and the Customer may at any time ask for a copy thereof.

To the extent permitted by applicable law, the following expenses will be charged to Customers such as:

- expenses incurred by the Bank as a result of attachment, opposition, or inquiries by competent authorities;
- expenses incurred by the Bank in the interest of the Customer or its successor relating to services rendered by the Bank or for the retention of its rights;
- expenses incurred by the Bank as a result of litigation between the Customer and third parties;
- commissions and any other remuneration due as a result of any operation with the Bank;
- all taxes of any nature, including among others: stamp duties, registration duties, transmission taxes and withholding taxes;
- shipment expenses, including pick-up and delivery to and from the Customer's premises, at the risk of the Customer, of cash valuables or documents;

- any other expenses which may be charged to the Customer pursuant to these Business Conditions and Regulations.

Moreover, any special services requested by Customers will be paid for in accordance with the significance of the work involved. The customer - if a consumer - will be informed of applicable special conditions or additional charges, if any, prior to the initiation of any payment transaction.

All the fees or other expenses shall be debited to the Customer's account, unless expressly agreed otherwise.

The fees in favor of the Bank which relate to transactions initiated or to instructions given by a Customer on his/hers/its behalf are due even if such instructions and transactions are cancelled, revoked or not carried out unless the Bank is liable for the non-execution. If they have been paid by the Client, they will not be refunded unless the Bank is liable for the non-execution.

The Bank will have the right, subject to the giving of notice no later than two months before the proposed date of application of the modifications, to adjust - on the next following due date or, if there is no due date, when the next settlement of fees is due - the fees which the Bank charges for its products and services in proportion to any cost increase and the trend of the market. In case the customer is not a consumer the amended fee schedule will be immediately applicable. The Customer has the right to discontinue using the product or service whenever one of the fees is adjusted. Further use of the product or service implies acceptance by the Customer of the revised conditions.

In the case of products and services for which the adjustment of the tariffs requires the approval of the competent authorities, such an adjustment will only apply as from the date upon which approval was obtained.

## **Article 8. Correspondence**

Correspondence to the Bank must be addressed to:  
MUFG Bank (Europe) N.V., Brussels Branch  
Boulevard Louis Schmidt 29  
1040 Brussels  
Tel.: +32-(0)2-551.44.11  
Fax: +32-(0)2-551-4599  
E-mail: business.be@be.mufg.jp

To the extent permitted by applicable law, any notice from the Bank to the Customer, except where expressly otherwise stated, may be made in writing by mail, by fax, or may be given orally (including by phone). The Customer agrees that the bank can provide information to the Customer by e-mail.

Correspondence is deemed properly sent to a Customer when it is dispatched either to the address indicated by such Customer at the time it entered into relations with the Bank, or to an address indicated subsequently with an express written change of address notice.

Validity of dispatch of correspondence is established if the Bank has in its possession a copy or other duly initiated copy of the communication in question, or if dispatch of communication is assumed from an initiated note or list of dispatch.

The Bank assumes no responsibility for any prejudice resulting from the holding, or removal and/or late delivery, of documents or domiciled correspondence.

When an account or deposit is opened in the name of several persons, communications are addressed to one of the persons listed selected by the Bank, either to be sent to such person at fixed dates, or to be held at its disposal.

The Bank reserves the right to forward such correspondence at its own discretion.

Without prejudice to the provisions of clause 1.5 of section B on Opening of Accounts, the Customer must immediately notify the Bank of any mistakes in the documents received.

Notwithstanding express instructions to the contrary from the Customer, the Bank may send to the Customer correspondence where it is obliged to do so by a statutory rule or regulation or when this is justified by a legitimate interest.

## **Article 9. Orders submitted to the Bank**

The Bank provides the Customers with various forms and means to be used for submitting orders to the Bank.

The Customer is responsible that all information provided to execute a transaction is correct, clear, reliable and complete and comply with all the contractual, statutory and regulatory provisions and practices applicable.

In the case of an order given in writing, the Customer's consent to a payment transaction or a series of payment transactions shall be evidenced by the signature of the Customer or, in the case of a legal entity, of the Customer's authorized representatives.

A special agreement is to be signed if the orders can be transmitted by computer systems approved and promoted by the Bank. The special agreement describes how the Customer's consent is to be given with respect to orders given through computer systems.

As a general rule, the Customer may not withdraw its consent after the order has been received by the Bank.

After the receipt of the order, the Bank will only stop the payment provided that:

- (i) the payment has not already been made;
- (ii) sufficient details and time are provided to process the request.
- (iii) it is not a cash payment, counter cheque or banker's draft; or
- (iv) it is not an advance payment instruction (such as a direct debit or standing order).

However, where the order is given by or through the beneficiary of the payment transaction, the Customer may not revoke its consent after transmitting the order or giving his consent to execute the transaction to the beneficiary. However, in the case of a domiciliation or in the case where the Customer and the Bank have agreed on a date for the execution of the payment order, the Customer may withdraw its consent at the latest by the end of the business day preceding the day agreed for debiting the funds.

As a general rule, the point in time of receipt of an order is the time when the order transmitted directly by the Customer or indirectly by or through the beneficiary is received by the Bank. If the Customer and the Bank agree that the execution of the order shall start on a specific day or at the end of a certain period or on the day the Customer has set funds at the Bank's disposal, the point in time of receipt is deemed to be the agreed date. An order received or deemed received on a business day after 4 p.m. is deemed to have been received on the following business day. An order received or deemed received on a holiday is deemed to have been received on the following business day.

The Bank shall not be liable for damages resulting from delays or errors in the transmission of cables, telefaxes, telephone calls and other telecommunication means.

Orders transmitted by such means are executed at the risk of the Customer but the Bank reserves the right to await confirmation in writing before executing them.

The Customer is responsible for the specification of the beneficiary's unique identifier on the order. The Bank may rely on, and execute without further enquiry, any order, instruction or communication (however received or by whatever means transmitted) given by one of its Customers and may in particular rely on the unique identifier specified by its Customer without having to check the concordance between such identifier and any other information provided by the Customer..

The Bank can only detect incomplete, inaccurate or missing information if it's obvious on usually close, but brief examination. In that case the Bank reserves the right not to carry out such an order or instruction and send it back to the Customer. If however the Bank is able to clarify the information and executes the order, it cannot be held liable for the consequences of any delay in execution or error of assessment. The Bank may charge to the Customer the expenses incurred by the Bank in connection with any action taken by the Bank in order to recover any amount paid by mistake to a person other than the beneficiary on the basis of the unique identifier provided by the Customer.

#### **Article 10. Domiciliation**

Any Customer can domicile with the Bank the payment and repayment of claims, and in general of any negotiable instruments (e.g., bills of exchange, checks, promissory notes), either by way of a general domiciliation order or by way of a special domiciliation order given at least three banking days before the maturity date.

Automatic payment instructions, such as Direct Debits and standing orders, will principally be executed at the beginning of the working day that they are due.

The Bank may refuse to execute payments in case of insufficient funds on the account. The Customer, the Bank and the creditor may cancel the domiciliation at any time by written notice.

The Bank may be instructed by the Customer's creditor at the latter's expenses to undertake collection of claims domiciled with the Bank or with another financial institution.

Without prejudice to the following paragraph, the Bank shall in no way be held responsible for the payment of domiciled claims and particularly for the authenticity or the validity of the domiciliation.

The Customer shall however be entitled to a refund from the Bank of an authorized payment transaction initiated by or through the beneficiary pursuant to a domiciliation or otherwise which has already been executed if the authorization did not specify the exact amount of the transaction and the amount of the transaction exceeded the amount the Customer could reasonably have expected. The Bank may request the Customer to provide factual elements relating to such conditions. The Customer shall not be entitled to a refund where he has given his consent to execute the payment transaction directly to the Bank and information on the future payment transaction was provided or made available in an agreed manner to the Customer at least four weeks before the due date by the Bank of by the beneficiary. The Customer's request for refund must be made to the Bank within eight weeks from the date on which the funds were debited. Any late request shall be denied. Within ten business days of receiving a request for a refund, the Bank shall either refund the full amount of the payment transaction or provide justification for refusing the refund.

#### **Article 11. Collateral**

All documents, securities, balances, (present and future) claims, goods and trade papers delivered to or retained by the Bank on behalf of a Customer *de jure* constitute an indivisible and preferential pledge in favor of the Bank as security for reimbursement of all present and future commitments to the Bank arising from the Customer relationship in principal, interest and expenses.

With respect to the above paragraph, claims also include claims on third parties covering, e.g., claims in respect of rents, sales, insurance benefits, trade debts and commissions. With respect to the pledge of these claims in favor of the Bank, the latter is entitled to inform the relevant parties of the existence of the pledged claims at any time and to do whatever is necessary to make the pledge enforceable against third parties, all this being done at the expense of the Customer.

The Bank has the right to retain or to realize all pledged assets in accordance with applicable legal procedures in order to reduce the Customer's liability. Moreover, the pledged security covers all undertakings, both present and future, of a Customer which undertakes to fulfill the necessary formalities for regulation of security vis-à-vis third parties.

#### **Article 12. Execution of orders submitted to the Bank**

Before the execution of an order, the Bank shall, at the Customer's request, for this specific payment transaction, provide explicit information on the maximum execution time and the charges payable by the Customer and where applicable, a breakdown of the amounts of any charges.

The Bank shall execute the orders of its Customers with best practice and according to the Standard Bank practices.

Except for payments outside the EU-zone and in non EU currencies, the Bank shall ensure that the account of the beneficiary's payment service provider is credited at the latest by the end of the next business day after the reception of the

orders of its Customer, or, in the case of a paper order, at the latest by the end of the second next business day. For national transactions submitted electronically to the Bank and if the beneficiary's account is held with the Bank, the Bank shall ensure that the beneficiary's account is credited at the latest at the end of the business day of the reception of the order.

Before crediting or debiting a transaction in a different currency than the one in which the Customer's bank account is denominated, the Bank will convert it into the currency the account is denominated in at the Bank's current rate for that type of transaction.

When a Customer places cash on his bank account in the currency of his account the amount shall be available to the Customer and value dated immediately after the receipt of the funds.

The Bank may refuse to execute orders of one of its Customers if:

- (i) the withdrawal or payment would cause the account to be overdrawn;
- (ii) the Bank suspects the execution of the order would breach any legislation or law; or
- (iii) the Bank suspects the order is fraudulent or otherwise connected to criminal act.

In case the Bank refuses to execute an order it shall notify the Customer thereof specifying, if possible, the reasons for it and the procedure for correcting any factual mistake that led to the refusal, except where applicable law prevents the Bank from making such notification.

In absence of explicit instructions, the Bank may execute the orders in a manner that is most advantageous or appropriate to the Customer.

Where it deems to be useful or necessary the Bank is entitled to call upon Belgian or foreign third parties to execute orders received by the Bank.

The Bank has the right to automatically rectify incorrect orders committed by one of its departments or one of its staff members.

Except in case of force majeure or where the Bank is bound by mandatory provisions of law and without prejudice to any other provisions of these Business Conditions and Regulations, the Bank is liable for the correct execution of payment orders given by its Customers, unless the Bank can prove that the beneficiary's payment service provider received the amount of the payment transaction.

If the Customer is not a consumer, the Bank will only be liable under the conditions set out in Article 18 of these Business Conditions and Regulations.

In the case of an unauthorized order for which the Bank is liable, the Bank shall, provided there is no fraud on the part of the Customer, refund to the Customer the amount of the unauthorized payment transaction and, where applicable, restore the Customer's account to the state in which it would have been had the unauthorized payment transaction not taken place. The Bank must also in such case pay interest on this

amount and reimburse the Customer of any expenses or other possible financial consequences of the unauthorized transaction.

In the case of a defective execution or of a non-execution for which the Bank is liable, the Bank shall refund to the Customer the amount of the non-executed or defective payment transaction and, where applicable, restore the Customer's account to the state in which it would have been had the transaction been correctly executed. The Bank must also in such case pay interest on this amount and reimburse the Customer of any expenses or other possible financial consequences of the defective transaction.

If the Customer is not a consumer, the preceding two paragraphs shall not apply.

In the case of a defective execution or of a non-execution of an order given by a Customer, the Bank shall regardless of liability, on request, make its best efforts to trace the transaction, and notify the Customer of the results of its researches.

### **Article 13. Termination of the contract**

The contractual relation between the Bank and its Customer is concluded for an indefinite period of time.

The Bank may, by sending a registered letter, at least two months in advance, cease some or all relations with a Customer at any time without having to justify its decision.

If the Customer is not a consumer, the registered letter needs not be sent two months in advance and the Bank may terminate all or part of its services with immediate effect.

The Customer may, at any time without costs and without being required to give reasons, terminate some or all of the contracts he/she/it has with the Bank by registered letter at least fifteen days in advance starting on the date of the dispatch.

Any debit balance in the Customer's account and other commitments shall automatically become due and payable. After notification to the Customer of the termination of business relations, the Bank may, at the Customer's risk, place any sums held at the disposal of the Customer in whatever manner it considers appropriate.

To the extent permitted by applicable law, the Bank may claim from the Customer compensation for all proven costs, loss or damages caused by the termination of the Customer.

If the relationship between the Bank and the Customer is terminated, it will not affect any outstanding order or transaction or any legal rights or obligations that may already have arisen.

### **Article 14. Death of a Customer**

In the case of death of a Customer or his/her spouse, the Bank must be notified without delay. If such a notification is given orally, it must be confirmed in writing. From the date of receipt of such written notification, the Bank shall ensure that no transactions other than those related to or due at the moment of decease are performed. Where there is delay in notifying the Bank of the death of a Customer, the Bank declines any responsibility for transactions which may have been made with respect to the Customer's estate.



The Bank may refuse to release the credit balances of the Customer which are still held by the Bank or the contents of its safety deposit box until the Bank has fulfilled the tax obligations imposed thereupon.

In the case of a Customer's death, its rightful heirs or successors must furnish the Bank with all official documents which the Bank judges necessary to establish the proper distribution of the estate, as well as any agreements between rightful heirs or successors regarding any operations relating to amounts, shares and other valuables held in the Customer's name.

The Bank will check these documents carefully but is only liable for gross negligence on its part in checking the authenticity, validity, translation or interpretation of such documents, especially if these are foreign documents.

Upon the decease of one of the holders of a joint account, this account will be blocked and may be drawn upon only with the consent of the rightful heirs of the deceased person. Should the joint account show a debit balance on the date of the decease, the heirs will be jointly and indivisibly liable for settlement thereof as their predecessor in title.

As a consequence of the decease of the Customer or of one of the account-holders in case of a joint account, any standing order or domiciled claim given by such Customer or one of the joint holders of the account will not be executed. After agreement has been given by the heirs and joint holders (if any) of the account, a standing order or a domiciled claim may continue to be executed provided it is legally allowed.

Correspondence relating to accounts of the deceased Customer, except where otherwise agreed, may be sent either to the latest address indicated by the deceased person, or to anyone of its rightful heirs, or to the notary in charge of administration of the estate.

The Bank reserves the right to charge the rightful heirs a commission proportionate to the services rendered by the Bank for distribution of estate assets held by the Bank.

The Bank may answer any request for information made by a co-heir or a residuary legatee and charge the potential commissions and expenses to the estate.

#### **Article 15. Record Keeping**

Unless otherwise prescribed by law, the Bank reserves the right to destroy its records after ten years.

To the extent permitted by applicable law, whenever documents of any nature whatsoever are applied for, the Bank will have the right to charge the applicant search costs.

The Customers on their part shall keep with due care the documents and forms they receive in the course of their relationship with the Bank and shall be liable for all consequences of their loss, theft, fraudulent use, etc. Customers shall inform the Bank without delay of anything which might result in fraudulent use of their accounts or other documents of the Bank.

#### **Article 16. Customer's obligations with respect to payment instruments**

The Customer which is authorized by the Bank to use payment instruments such as GCMS+ or ISABEL must (i) comply with the terms and conditions governing the use of such payment instruments, (ii) inform without delay the Bank or the entity specified by the Bank in the relevant terms and conditions, without delay on becoming aware of loss, theft or misappropriation of the payment instrument or of its unauthorized use and (iii) take all reasonable steps to keep its personalized security features safe.

#### **Article 17. Modification of the Business conditions and regulations**

The Bank reserves the right to amend from time to time these Business Conditions and Regulations and the commissions and fees. The Bank will inform the Customer – if a consumer - of the amendments by sending the Customer a written notice no later than two months before their proposed date of application.

The Customer shall be deemed to have accepted the changes if he does not notify the Bank by registered letter that he does not accept them before the date of their entry into force. In this case, the Customer shall have the right to terminate the contractual relationship with Bank or the service(s) to which the changes relate immediately and without any charge before the date of the proposed application of the changes.

The Bank reserves the right to amend from time to time, with immediate effect and without notice, the interest rates in accordance with clause 2.4 of section B on Opening of Accounts. Exchange rates may also be amended with immediate effect and without notice. The Bank will inform the Customer of the new rates as soon as possible.

Any changes made to these Business Conditions and Regulations, including to the interest or exchange rates, will become effective in relation to any transactions entered into with the Bank on the date of entry into force of the changes.

No amendment will affect any outstanding order or transaction or any legal rights or obligations which may already have arisen.

#### **Article 18. Liability of the Bank**

Without prejudice to other provisions of these Business Conditions and Regulations dealing with specific matters, the Bank will only assume responsibility for fraud, gross negligence or deliberate transgression of duty on its part or on the part of its staff members in the course of its relationship with the Customers. Under no circumstances the Bank will assume responsibility for damages resulting from minor errors.

The Bank also declines responsibility for damages resulting directly or indirectly from measures taken by Belgian or foreign governmental authorities, including but not limited to measures in the area of exchange control.

The Bank declines any responsibility for damages resulting from force majeure such as external circumstances or developments such as failure in the computer systems, interruptions or failure of the postal or other services of transport, strikes by bank staff, ...

Only damage which results directly from fraud, gross negligence or deliberate transgression of duty may be compensated. Circumstantial or non-pecuniary damage such as such loss of reputation, loss of profits, expected savings, etc. may not be compensated.

The Bank is a member of the Dutch deposit guarantee scheme which provides protection to certain categories of Customers, up to a certain level of deposits and subject to certain conditions. The intervention of the deposit guarantee scheme is subject to various conditions being met which can be consulted and obtained at [www.dnb.nl](http://www.dnb.nl).

## **Article 19. Complaints**

Any complaints of the Customers shall be addressed to the Head of Belgium and Deputy Head of Belgium of the Bank at Boulevard Schmidt 29, 1040 Brussels.

Disputes arising between the Customer, if a consumer, and the Bank can be submitted to the Ombudsman in financial conflict, Rue Belliard 15-17 bte 8  
1040 Brussels, (<http://www.ombudsfm.be/>).

## **Article 20. Litigation**

For the purpose of the discharge of its obligations to the Bank, the Customer elects domicile at the address of the Bank.

- jurisdiction

1.1 Any dispute between the Bank and the Customer shall be subject to the exclusive jurisdiction of the courts of Brussels, Belgium, or, as the case may be, to the court which has territorial competence pursuant to the applicable law.

- applicable law

1.2 The rights and commitments between the Bank and its Customers are governed by Belgian law unless expressly provided otherwise by the Bank.

- cautio judicatum solvi

1.3 The "cautio judicatum solvi" (i.e., security for the costs of the defendant in defending the proceedings) may not be invoked against the Bank.

- proof

1.4 The Bank may, in all civil and commercial matters furnish proof by means of a copy or reproduction of the original document. If the Customers use electronic data carriers such as the Internet, such proof may also be furnished by means of the carriers concerned. The Customer is entitled to provide proof of the contrary.

## **B. OPENING OF ACCOUNTS**

### **Article 1. General provisions**

1.1 The Bank opens for its Customers deposit accounts and current accounts both in local and foreign currencies.

- Joint accounts

1.2 Accounts may be opened in the name of one or several account holders (individual or joint accounts), each account holder having the power to dispose of the account either separately or jointly. Conditions pertaining to these accounts (interest rates, cancellation, closing, etc.) are those governing the category of account to which they belong.

The co-holders of joint accounts are jointly and severally liable for the repayment of any eventual overdraft and applicable interest which may be due to the Bank.

An account in the name of an organization with no legal personality is subject to the same conditions as a joint account.

- Indivisibility of account

1.3 Except where especially provided for by law, or in case of a formal agreement between the Bank and an account holder specifically excluding a given account, all accounts opened in the name of a given holder, whether in Euro or in foreign currency, whatever their type or whatever the conditions pertaining thereto, shall be deemed to constitute elements of a single, indivisible current account. The Bank reserves the right at any moment and upon mere notice to the account holder to offset, debit and credit balances. If certain of these accounts are held in foreign currencies, the order will be executed two days after the foreign conversion date.

- Compensation (Set off)

1.4 If, as an exception to the above, accounts opened in the name of a Customer form separate entities, the Bank always has the right to combine these accounts at any time and to perform at any time such transfers as may be required to set off the debit balance of one account from the credit balance of another account.

- Account statements

1.5 The Bank will confirm without undue delay the execution of transactions to the Customers. However, the Bank's accounting records alone are deemed sufficient proof.

Periodically and at least once a month, the Bank will send a statement to its Customers showing the transactions effected during the relevant period.

The account statement sent to the Customer will be considered approved by the Customer unless the Customer sends a written notice to the Bank within ten days from the date on which the statement has been sent or made available. Consumers may notify the Bank of any mistakes up to thirteen months after the debit or credit date. The thirteen-month time period does not apply if the Bank has not sent or made available the account statement.

The Bank has the right to correct statements of account without instructions from the Customer.

Over and above the usual expense of keeping accounts as reflected in the tariff attached to these Business Conditions and Regulations, the Bank reserves the right at year end to charge a special commission on accounts for which no or few movements have been recorded, or which, by the nature of operations performed, have occasioned expenses without any appreciable corresponding remuneration for the Bank. This

special commission is specified in the tariff annexed to these Business Conditions and Regulations.

- Co-debtors and surety

1.6 The Bank may set off – at any time and even after bankruptcy or involuntary liquidation of the Customer – debit balances and claims by transferring funds from accounts with credit balances opened in the names of persons which are liable for the above debit balances and claims, whether jointly and severally or individually, whether as principals or secondarily, e.g., as an endorser or any other surety.

- Transfer

1.7 A payment order is deemed to have been duly authorized when the Customer's consent has been given in the form provided for in Part I, Chapter A, Article 9 of the Business Conditions and Regulations.

The Bank undertakes to execute payment orders by Swift in Belgium and abroad in both Euro and foreign currencies within the framework of Belgian and foreign legislation. To the extent permitted under applicable law, such orders are carried out at the Customer's own risk and expense.

In order to follow Customer's instructions, the Bank may be required to use the services of correspondent banks.

The Bank does so solely for the account of and, to the extent permitted under applicable law, at the risk of the Customer.

For cross border payments in euro the Bank is SEPA compliant.

To the extent permitted under applicable law, the Bank assumes no liability in cases where its instructions are not correctly followed by another bank, even when the Bank shall have selected such other bank on its own initiative.

The Customer must fully assume all obligations and liabilities resulting from regulations and practices in foreign countries and agrees to indemnify the Bank for any consequences which may result there from.

- Foreign currencies

1.8 Within the framework of Belgian or foreign regulations, as may be applicable, the Bank will purchase and sell foreign (GBP, USD, JPY) bank notes which will be booked on the account of the Customer. For customers which are consumers, the Bank shall apply the exchange rates as specified in or pursuant to the tariff annexed to these Business Conditions and Regulations.

## Article 2. Deposit and current account

2.1 The Bank can open current and deposit accounts in Euro and/or in foreign currencies for individuals and legal entities or organizations with no legal personality, after prior approval by the management.

Current accounts are intended to facilitate private or commercial operations, the discount and collection of bills, domiciled bills, payments and transfers of funds, foreign exchange operations, etc.

The Bank may accept fixed deposit accounts a specific period, upon terms and conditions to be agreed with the Customer.

2.2 Customers desiring to withdraw a significant amount in cash must inform the Bank at least one business day in advance.

2.3 The Bank reserves the right to debit the account of a Customer improperly credited.

A receipt must be given for all deposits over the counters of the Bank. The receipt forms the sole proof of deposit.

Items, such as checks and commercial documents, remitted for the credit of accounts are passed onto the account after collection only.

2.4 Certain categories of account may bear interest at the rates specified in or pursuant to the tariff annexed to these Business Conditions and Regulations.

The Bank reserves the right to revise at any time the rates of interest, with immediate effect and without notice. Such revision - unless otherwise agreed with the Customer - enters into force on the next following interest payment date. The Customer has the right to close its account whenever the interest is adjusted. Further use of the account implies acceptance by the Customer of the revised conditions.

Interest is credited to the current account at maturity with notice to the Customer.

'Value date' means the date on which amounts credited or debited to an account start or cease earning interest.

The applicable value date for debit and credit entries, not involving Foreign Exchange, is the booking date.

2.5 Overdrafts are not permitted except upon the prior express agreement of the Bank. All overdrafts are subject to debit interest at a rate to be determined by the Bank.

2.6 The Bank retains the right to close an account in accordance with the terms and conditions of the present Business Conditions and Regulations.

## Article 3. Accounts in foreign currencies

3.1 Within the framework of Belgian and foreign regulations, as may be applicable, the Bank will open accounts in foreign currencies, the conditions of which are to be agreed with Customers. The Bank may reimburse holdings in foreign currencies either by means of checks payable in the respective country, or by transfers to designated accounts.

3.2 Accounting records for foreign currency deposits are maintained in Belgium. However, foreign currency deposits in Customers' names are reflected in the Bank's deposits with its correspondent banks in the country of the currency concerned. Therefore, all legal requirements imposed in the country of the currency for the account are automatically applicable to the account.

3.3 The Bank will not be liable for any losses, other unfavorable consequences resulting from ordinary or special taxation, force majeure, changes in applicable regulations in Belgium or elsewhere, changes of parity – the effect of which

may render part or all of the deposits of the Bank unavailable in the respective countries – or may result in the suppression or reduction of deposits in any manner whatsoever. In such cases, the Bank is not obliged to reimburse the deposits, either in Euro or in any other currencies.

3.4 The Bank will use the Customer's foreign currency account for payments only upon express request and insofar as there are no preventive regulations. When the Customer is holder of accounts in various foreign currencies, the Bank reserves the right to transfer funds from any of these accounts to another in order to dispose of sufficient funds to execute an order.

#### **Article 4. Checks**

The Bank will not deliver checkbooks to account holders under the conditions the Bank shall determine. In the case the account holder holds a checkbook the accountholder needs to preserve it with the utmost care. The Customer is fully responsible for all consequences resulting from the loss or theft of all or part of this checkbook, as well as for the improper use of checks received. The Customer must notify the Bank immediately of any loss, theft, or abusive use of the checks. Procedures regarding checks are governed by the Belgian law on checks.

The Bank may refuse payment of checks:

- which are drawn without any funds or with insufficient funds;
- which are taken from a checkbook not delivered by the Bank;
- which are taken from a checkbook for which the Bank has not received any acknowledgment of receipt: or
- which are incompletely or incorrectly made out.

In the case of payment of a check falsified or bearing a forged signature, the Customer's account is validly debited by the Bank for the amount which the Bank has paid.

The Bank reserves the right to refuse payment of checks for which the balance in the account is insufficient. Moreover, any drawing made under these conditions may entail closing of the account, the Bank reserving its rights to take other appropriate action.

In the case of opposition by the drawer to payment of a check drawn on the Bank, the Bank reserves the right to block a sum equivalent to the amount of the check in the Customer's account until a legal decision is rendered or the parties at issue reach an amicable settlement.

Earmarking of funds and opposition to payment of any check are made without the responsibility of the Bank.

When closing an account, the Customer must return to the Bank all unused checks which remain in its possession.

#### **Article 5. Letters of credit and Bank checks**

Any Customer requesting the Bank to deliver a letter of credit or its own check, whether in the Customer's name or in that of a third party, is responsible to the Bank for any consequences which may incur from the loss or theft of these documents, the dispatch and carriage of which to the payee or other destination being at the exclusive risk of the Customer.

#### **Article 6. Dormant Accounts**

Any Customer - who is a consumer - whose account has been inactive may be required at Bank's discretion to reconfirm his identification.

If an account of a consumer is inactive for more than 5 years and the beneficiary of the account cannot be found, the balance of the account will be transferred to the Caisse des Dépôts et Consignations in compliance with the Belgian Act on Dormant Accounts.

### **C. COLLECTIONS**

#### **Article 1. General terms and conditions governing all collections**

1.1 The Bank undertakes on behalf of its Customers, at their risk and expense, collection in Belgium and abroad of all types of commercial and financial documents expressing a right of payment, such as checks, bills of exchange, promissory notes, receipts and the like.

1.2 These collections are subject to the Uniform Rules for the Collection of Commercial Paper published by the International Chamber of Commerce inasmuch as they are not contrary to the Business Conditions and Regulations or the particular terms and conditions agreed with by the Customer.

1.3 The dispatching of such commercial and financial documents to its Belgian or foreign correspondents for collection will be effected by the Bank by registered mail for the account of the Customer and on its risks. This dispatching will only be insured at the express request of the Customer and at its expense. This insurance will be taken out by the Bank, acting as agent, with an insurance company of its choice. The Bank shall in no way be liable for this choice. In case of loss, the parties concerned shall only be entitled to the amount that the Bank will be able to recover from the insurers.

1.4 The Bank is not responsible for verifying the authenticity of the entries on commercial and financial documents which it accepts for collection. It does not have to verify the authenticity of the signatures or powers of the signatories.

The Bank is not responsible for failure to observe the formalities and time periods prescribed by law in order to retain the rights attached to the commercial and financial documents remitted for collection. The Bank therefore declines any liability resulting from the non-observance of the legal time limits prescribed for the presentation for acceptance or payment, for the lodging of protests, for the notice of non-acceptance or non-payment or for the accomplishment of the corresponding formalities abroad.

The Bank is not responsible for the consequences of the erroneous execution or interpretation of an order where the instructions of the remitter are erroneous, imprecise, incomplete, ambiguous or altered.

The Bank is not responsible for items remitted for collection outside Belgium and for any measures or restrictions which may be imposed either by the Belgian or foreign governments or foreign exchange control authorities.

1.5 The Bank does not issue a protest for non-payment unless formal and express instructions to do so are given by the Customer in writing.

The Bank reserves the right to accept checks in payment of the documents for collection without incurring any liability should the checks not be honored.

Collection items drawn in foreign currencies will be converted into Euro at the market rate on the date of conversion at the discretion of the Bank.

## **Article 2. Documentary bills**

2.1 The Bank or any of its correspondent banks assumes no responsibility for failure to present the following for collection or protest within the legally prescribed time periods:

- (a) checks;
- (b) bills payable in Belgium which, on the date remitted, are less than five business days prior to the maturity date;
- (c) bills the maturity of which is extended or on which one or more of the indications given is erroneous, imprecise, incomplete, ambiguous or has been altered;
- (d) bills payable outside of Belgium and which have been delivered at such time that protest cannot be lodged without exceptional effort;
- (e) irregularly bills;
- (f) bills payable in a locality in which there is neither bailiff nor post office empowered to lodge protest;
- (g) bills for which correspondent banks in charge of their collection decline responsibility for lodging of protest within legally prescribed periods; or
- (h) bills with maturity dates on non-working days for banks.

Furthermore, the Bank or any of its correspondent banks declines all liability in the event that:

- (a) it may not have presented or had presented a bill as a result of force majeure (war, civil disturbance, fire, postal error, interruption of communications, etc.), even without the Bank having to provide proof as to the existence of the facts;
- (b) a bill is returned late;
- (c) an unpaid bill is returned by non registered mail, in violation of the formalities prescribed by law; or
- (d) the notice of non-payment is sent after the legally prescribed period.

The Bank makes no representations and assumes no liability for the form, contents, or genuineness of documentary bills and commercial documents in general (transport documents, insurance policies, invoices, etc.) whether or not accompanied by financial documents which the Bank has accepted for collection, or for the quantity, weight, quality, conditions, packing, or value of the merchandise which the documents represent.

2.2 The Bank refuses, except upon its express prior written agreement, to be shown as addressee or consignee of the merchandise.

2.3 The Bank or any of its correspondent banks shall be discharged from all liability for:

- (a) lack of precise instructions as to the delivery of goods, insurance, shipment, storage of goods, etc.,
- (b) actions taken pursuant to instructions from third parties, indicated as competent, in the event of difficulties;
- (c) the good faith or actions of the shipper or any other person, or the solvency of carriers or insurers of merchandise, even where they may have been selected by the Bank or its correspondents;
- (d) storage expenses, deterioration, or theft of warehoused merchandise, etc., resulting from late withdrawal of the document or force majeure (war, civil disturbance, fire, postal error, interruption of communications, etc.);
- (e) losses or late delivery of items remitted to postal authorities.

The Bank or any of its correspondent banks are not bound to insure the goods. If, however, the Bank does so for the account of its Customer, acting as its agent, with an insurance company of its choice (and without being liable for such choice), the interested parties will only be entitled, in case of loss, to the amount paid out by the insurers to the Bank or its correspondent bank.

2.4 Under the terms and conditions to be first agreed, the Bank may discount all negotiable instruments, or directly credit them to the Customer's account, subject to final collection. In this case, all the provisions concerning the collection of bills referred to above shall also apply. The Bank reserves the right not to discount or credit any negotiable instrument which does not represent regular trade transactions or which is drawn on persons which would previously have allowed a negotiable instrument to be returned unpaid, or bills which would not have been accepted by the drawee when presented for that purpose, as well as any negotiable bill the due payments on maturity date of which appear to be doubtful or any other bill disapproved by the Bank. The Bank has no obligations to justify its refusal vis-à-vis the Customer. The Bank also has the right to claim the immediate reimbursement of the amount of the discounted bills in case of lack of provision, in whole or in part, or if the Customer has withdrawn the provision without the prior written consent of the Bank.

## **Article 3. Unpaid financial documents and/or trade paper**

3.1 The net amount of the remitted financial document and/or trade paper will not be credited to the account of the remitter or paid thereto until the account of the Bank with its correspondent bank has itself been credited, under tested or authenticated notice of payment to the Bank.

Bills, acceptances, insurance policies and, in general, all documents transmitted to the Bank, are transferred at the sole risk of the remitter.

At the Bank's discretion, the remitters account may be credited or the amount paid thereto upon receipt of the notice of payment of the collected item. In such a case, however, the Bank reserves its right to debit the remitter's account or to claim from the latter any amount not actually credited to the Bank's account with the correspondent bank.

3.2 The Bank reserves its right to return the financial document and/or the trade paper to the remitter before or after maturity date. In this case, the Bank shall indicate the reasons

of such return. In certain countries, there exist legal provisions according to which the drawees or the bearers of checks or bills of exchange are entitled to claim from the transferors the reimbursement thereof even over several years. As a result, if, after payment, the authenticity of one of the signatures for endorsement is questioned or if a forgery appears in the amount payable, the transferors are held to reimburse to the Bank without delay, and upon the sole written request of the latter, all checks or bills of exchange which would have been returned to the Bank for one of these reasons.

The reversal of the accounting entries shall in no way limit the right of the Bank to retain financial documents or trade papers and thereby to exercise any rights in its favor pertaining to these financial documents or trade papers.

3.3 The net proceeds of the collection are definitively acquired by the remitter only upon the Bank's actual receipt of the amounts to be collected.

## **II. GENERAL REGULATIONS GOVERNING CREDIT AND FOREIGN EXCHANGE**

### **A. AVAILABILITY OF CREDIT**

#### **Article 1. Applicability**

Unless otherwise agreed in writing, the conditions specified in this Section II shall apply to any credit granted by the Bank to an individual or a legal entity (the "Borrower").

#### **Article 2. Off-set against credit**

The Bank may compensate against the credit granted to the Borrower the amount of any other obligations of any nature whatsoever of the Borrower vis-à-vis the Bank or of the Bank vis-à-vis the Borrower, without regard to whether the obligations are prior to or subsequent to the granting of the credit.

#### **Article 3. Overdrafts or overruns**

3.1 As mentioned in Part I, Chapter B, Article 2.5 of the Business Conditions and Regulations, overruns and overdrafts are not permitted except upon prior express agreement of the Bank.

Acceptance by the Bank of one or more overruns of the maximum amount of granted credit shall in no way imply acceptance by the Bank of an increase of such maximum amount.

3.2 The Bank reserves the right to cover any overdraft on current account by requiring the Borrower to execute promissory notes or other commercial papers in a form meeting the requirements for negotiable instruments of the National Bank of Belgium or other credit or institutions of rediscount.

This operation shall in no way constitute novation between the parties. All expenses relating thereto shall be borne by the Borrower.

3.3. In the event that conditions applicable to interest and commissions on overruns or overdrafts, which are not the subject of a normal credit agreement, are less favorable to the Borrower than those in the credit agreement, the Bank will apply such less favorable conditions should the Borrower exceed the agreed term or amount of the credits.

#### **Article 4. Additional collateral or guarantees**

The Bank shall at any time and in accordance with normal banking practices, have the right to require new or additional collateral or guarantees from the Borrower, even if the obligations involved are conditional or not yet at maturity.

If the Borrower fails to meet its obligations upon maturity or if it fails to supply new or additional collateral or guarantees, the Bank shall have the right to retain such new or additional collateral or guarantees without legal proceedings and in such time and place as the Bank may deem appropriate in its own discretion.

#### **Article 5. Interest, commissions, taxes, fees or other expenses**

5.1 Interest and commissions shall be charged pursuant to terms to be fixed upon the granting of credit. These terms may, however, be altered by the Bank upon written notice to the Borrower sent by ordinary mail.

The termination, or notice of termination, of the credit does not alter the interest rate, nor the commission rate, which shall continue to be deducted under the same conditions until the Borrower has fulfilled all its obligations vis-à-vis the Bank.

5.2 All expenses, taxes or fees resulting from the establishment and implementation of the credit agreement, including those of collection and legal proceedings, are to be borne by the Borrower and will be debited from its account.

#### **Article 6. Penalty for default**

If a credit arrives at maturity and the Borrower remains in default for more than fifteen days after the sending by registered mail of a notice demanding payment, the amount due to the Bank shall automatically be increased by ten percent (10%) as a lump sum amount covering the damage incurred by the Bank, without prejudice to any other remedies available to the Bank.

#### **Article 7. Proof of claim**

The existence and amount of the Bank's claim shall be deemed evidenced by the production of a statement of account.

#### **Article 8. Discount of bills**

8.1 The Bank expressly reserves the right to refuse to discount bills without having to justify its decision to the Borrower.

8.2 The Bank reserves the right to debit the Borrower's current account of the amount of discounted bills not paid upon maturity, and, in case of bankruptcy, arrangement for the benefit of creditors, moratorium on payments or voluntary liquidation, of the amount of bills not yet due.

Should the Bank use such right, it will nonetheless retain said bills in order to assert the rights of a holder in due course or in order to have them endorsed to the Bank as "value as security" endorsements.

#### **Article 9. Commercial paper**

9.1 Whenever commercial paper drawn, endorsed, accepted or guaranteed by the Borrower, or any bill transmitted by the Borrower to the Bank is lost, destroyed, damaged or delayed for any reason whatever which is not the fault of the Bank, the Borrower will pay such obligations as shown in the books, records, etc. of the Bank, and will further furnish to the Bank, upon the latter's request, replacement bills or other commercial paper. The Borrower waives all rights to any claims against the Bank which could arise on such occasions.

9.2 Whenever securities transmitted by the Borrower to the Bank are lost or damaged as a result of unavoidable circumstances such as those mentioned in Article 9.1, the Borrower waives all rights to any claims against the Bank.

9.3 If the rights of the Bank in the commercial paper are voided because the documents failed to fulfill legal requirements, because such paper carries invalid entries, or because the Bank has lost its rights through failure to take necessary steps to preserve them, the Borrower shall remain liable for the face value of the commercial paper.

9.4 In transactions where the Bank, after reasonable verification of the seal or signature on a bill, judges such seal or signature to be genuine upon comparison with the specimen seal or signature on file at the Bank, the Borrower will bear all losses and damages resulting from forgery, alteration, improper use of commercial paper, bills, seals (or signatures) and will be held responsible for the terms of said commercial paper or bills.

9.5 The Borrower will bear all expenses relating to the exercise or preservation of the Bank's rights on its behalf, or those incurred for collection or disposal of any securities. The Borrower will likewise bear all expenses necessary should it decide to solicit the co-operation of the Bank in the preservation of its rights.

9.6 As regards commercial paper bearing the signature of the Borrower, the Borrower waives the right to assert as defense the non-performance of formalities contained in the Uniform Law on Bills of Exchange and Promissory Notes, in particular the failure to protest or to give notice of non-payment or non-acceptance.

However, to the extent that these formalities are complied with in whole or in part, the expenses resulting there from shall be borne by the Borrower.

#### **Article 10. Audit of Borrower**

The Borrower undertakes to provide to the Bank at any moment any information which it might require regarding bookkeeping, financial, commercial or other matters. All audit expenses shall be borne by the Borrower.

#### **Article 11. Conversion of foreign currency credits**

The Bank shall have the right at any time to convert foreign currency credit into Euro.

### **B. TERM AND END OF CREDIT REPAYMENT**

#### **Article 1. Term, termination and notice**

The credit is not limited in time, unless otherwise agreed upon. The Bank may at any time suspend all or part of the credit and may terminate the credit upon prior notice by registered mail. Except otherwise expressly agreed, the notice period shall be one month.

#### **Article 2. Operations after notice**

Once notice of termination of the credit has been given, the Borrower may not (except with the Bank's prior consent) enter into operations the maturity of which will exceed the notice period.

#### **Article 3. Default**

3.1 In case any of the following events occurs, any and all of the Borrower's credits with the Bank shall be deemed automatically cancelled without any notice from the Bank, and any and all handling commissions, costs and expenses paid by the Bank and any other damages incurred by the Bank shall be borne by the Borrower and paid to the Bank forthwith:

- when the Borrower ceases its activity or is the subject of bankruptcy, protection against creditors proceedings or liquidation;
- when the whereabouts of the Borrower become unknown to the Bank due to the Borrower's failure to give notice of a change of address.

3.2 In case any of the following events occurs, the Bank shall have the right to cancel with immediate effect any and all of the Borrower's credits upon notice by registered mail to the Borrower, and any and all handling commissions, costs and expenses paid by the Bank and any other damages incurred by the Bank shall be borne by the Borrower and paid to the Bank forthwith:

- when the Borrower fails to pay any obligation owed to the Bank when it is due;
- when the Bank has been notified that an attachment has been made on the Borrower's or the guarantor's deposits and/or any other credits with the Bank or when other property offered to the Bank as security is attached or public auction procedures are commenced in respect of such property;
- when the Borrower violates the terms of any agreement with the Bank;
- when a third party surety guaranteeing a credit violates the terms or fails to fulfill the conditions of the credit; or
- when any other reasonable cause makes it necessary to preserve the Bank's rights.

In the above cases, the Bank may, rather than terminate the credit, simply suspend its use in whole or in part, it being agreed that such measure shall not constitute novation or release of any sureties or collateral (whether real or personal) which may guarantee the repayment of the credit.

#### **Article 4. Acceleration upon termination**

Should the Bank terminate the credit, the entire amount of its claim and related fees or other costs shall become immediately due without further procedure.

#### **Article 5. Apportionment of payments by third parties**

Amounts paid by the Borrower or by non-guarantor third parties for the account of or in discharge of the Borrower shall first be applied to the non-guaranteed part of the credit.



## **Article 6. Joint and several liability**

Borrowers subscribing to a credit shall be jointly and severally liable therefore.

## **Article 7. Apportionment of payments by Borrower**

Should payments made by the Borrower, or debited to the Borrower's account(s) by the Bank pursuant to Sections II(A)(2) and II(A)(8) hereof be insufficient to meet all of the Borrower's obligations, the Bank may apply such payments or debits to the obligations of the Borrower in such order and manner as it may deem appropriate.

## **Article 8. Repayment of foreign currency credits**

Credits granted in a foreign currency must be repaid in that same currency. Payments in any other currency are considered as made in guarantee.

## **C. COLLATERAL**

### **Article 1. Pledge**

The contents of a commercial pledge are adequately evidenced either by receipts or documents established by the pledgor, or by the registered letter which the Bank will have sent to the pledgor, or by the Bank's accounting entries. Such evidence shall be deemed indisputable.

### **Article 2. Insurance of pledged or mortgaged property**

The Borrower must insure the pledged or mortgaged property (real property, equipment, real property by incorporation, etc.) with a company approved by the Bank, for its full replacement value against risk of fire, storm and third party liability, and prove the existence and validity of said insurance by the production of policies and receipts for premiums paid in advance.

### **Article 3. Guarantors**

The Bank may grant all modifications to the clauses, terms and conditions of the credit granted, particularly as to its amount, without thereby being required to inform persons having guarantees or collateral for the credit.

The Bank may also release any of the guarantors or collateral, without being required to inform other guarantors or the Borrower.

These changes will not result in novation or any loss of the Bank's rights as against the guarantors.

### **Article 4. Pledged property**

As long as the Borrower is not free of all obligations towards the Bank, it may not encumber its assets with any lien whatsoever without the Bank's prior express written agreement. In addition, assets which serve as collateral for the Bank may not be transferred with or without consideration, encumbered

with any liens whatever, leased for a term in excess of nine years, or rented for any abnormally low rent.

Furthermore, the Borrower may not have its obligations to third parties guaranteed, or guarantee those of third parties, without the prior written consent of the Bank.

## **D. GUARANTEE**

If the Bank issues a guarantee on behalf of a customer, the Bank has an unequivocal right to call for payment from the customers as soon as there is a call on the guarantee.

## **E. FOREIGN EXCHANGE**

### **Article 1. Definitions**

The term "Foreign Exchange Contract" as used herein means a contract whereby the sale or purchase of a means of payment designated in a foreign currency or foreign currency debt is to be performed at a certain fixed foreign exchange rate, on a fixed date or upon expiration of a fixed period following the date of the contract covering such sale or purchase (such fixed date, including the case of a fixed period, is hereinafter referred to as the "Performance Date").

### **Article 2. Contract at Customer's risk**

Any individual or legal entity which wishes to apply for a Foreign Exchange Contract (the "Customer") shall apply therefore with the Bank at the Customer's own risk and for the Customer's own account.

### **Article 3. Confirmation of terms of contract**

3.1 When a Foreign Exchange Contract is made with the Bank, the Customer shall immediately execute and submit to the Bank an exchange contract slip in accordance with the procedure prescribed by the Bank for the confirmation of the terms of the Foreign Exchange Contract.

3.2 In the event of any discrepancy between the terms of a Foreign Exchange Contract as entered in the Bank's books or in any other documentation and the terms stated in the exchange contract slip executed by the Customer and submitted to the Bank in respect of such Foreign Exchange Contract, or if the Customer has not submitted an exchange contract slip in respect of such Foreign Exchange Contract, the terms of the Foreign Exchange Contract as identified in the Bank's books or in any other documentation shall prevail.

### **Article 4. Independent contracts**

4.1 The Customer agrees that a Foreign Exchange Contract to purchase (for the Bank, to sell) foreign currencies which the Customer may enter into or has entered into with the Bank after the Customer has requested the Bank to issue an import letter of credit, a loan in a foreign currency, etc. (hereinafter the "Foreign Exchange Transaction(s)"), but prior to the Customer's obtaining the Bank's consent thereto, does not constitute the Bank's approval of any and all foreign exchange transactions.

If, after its conclusion, such Foreign Exchange Contract cannot be performed in whole or in part due to the failure to obtain the Bank's consent on any Foreign Exchange Transactions, at the

Bank's discretion or due to any other cause, the Customer shall cancel such purchase transaction by making a reversed transaction at the selling rate (the buying rate for the Bank) of exchange prevailing on the date of making such Foreign Exchange Contract or the rate of exchange prevailing on the date of such cancellation or any other rate of foreign exchange, as the Bank may designate, holding the Bank harmless from any loss arising there from.

4.2 If, after entering into a Foreign Exchange Contract with the Bank to sell (for the Bank to purchase) foreign currencies, the Customer requests the Bank to purchase bills of exchange, promissory notes, checks, receipts or other similar documents, drawn for the purpose of receiving payment for export goods or other payment of moneys receivable from a party in a foreign country ("Bills") for the purpose of performance of such Foreign Exchange Contract and, if such Foreign Exchange Contract cannot be performed in whole or in part due to the Bank's refusal to purchase such a Bill, at the Bank's discretion or due to any other cause, the Customer shall cancel such sale transaction by making a reversed transaction at the buying rate (the selling rate for the Bank) of exchange prevailing on the date of making such Foreign Exchange Contract or the rate of exchange prevailing on the date of such cancellation or any other rate of exchange, as the Bank may designate, holding the Bank harmless from any loss arising there from.

#### **Article 5. Performance**

The Foreign Exchange Contract shall be performed on its Performance Date. In the event the Customer does not perform the Foreign Exchange Contract, either in whole or in part, on its Performance Date, any and all handling commissions, costs and expenses paid by the Bank and any other damages incurred by the Bank due to such non-performance shall be borne by the Customer and the Customer shall pay them to the Bank forthwith.

#### **Article 6. Cancellation; change of performance date**

If, notwithstanding the provisions of Part II, Chapter E, Article 5 above, the Customer requests the cancellation, extension, or acceleration of performance under a Foreign Exchange Contract, etc. due to unforeseen circumstances, the Customer shall obtain the Bank's consent thereto. Any and all handling commissions, costs and expenses paid by the Bank and any other damages incurred by the Bank as a result of such cancellation, extension or acceleration of performance, etc. shall be borne by the Customer and the Customer shall pay them to the Bank forthwith.

#### **Article 7. Default**

7.1 In case any of the following events occurs, any and all of the Customers' Foreign Exchange Contracts with the Bank shall be deemed automatically cancelled without any notice from the Bank, and any and all handling commissions, costs and expenses paid by the Bank and any other damages incurred by the Bank shall be borne by the Customer and paid to the Bank forthwith:

- when the Customer becomes unable to pay debts or is the subject of bankruptcy, protection against creditors proceedings or liquidation;
- when bank regulatory authorities of competent jurisdiction in observance of their rules take procedures for suspension of the Customer's transactions with banks and similar institutions;
- when the Bank has been notified that an attachment has been made on the Customer's or the guarantor's deposits and/or any other credits with the Bank;
- when the whereabouts of the Customer become unknown to the Bank due to the Customer's failure to give notice of a change of address.

7.2 In case any of the following events occurs the Bank shall have the right to cancel any and all Foreign Exchange Contracts with the Customer upon notice to the Customer, and any and all handling commissions, costs and expenses paid by the Bank and any other damages incurred by the Bank shall be borne by the Customer and paid to the Bank forthwith:

- when Customer fails to execute any obligation owed to the Bank when due;
- when property offered to the Bank as security is attached or public auction procedures are commenced in respect of such property;
- when the Customer violates the stipulations of any transactions with the Bank;
- when a third party surety guaranteeing a credit violates the terms or fails to fulfill the conditions of the credit; or
- when a reasonable and probable cause, other than the proceeding causes, makes it necessary to preserve the Bank's rights.

#### **Article 8. Handling commissions, etc.**

The Customer shall pay the Bank handling commissions, costs and expenses, losses and damages incurred in connection with a Foreign Exchange Contract which are calculated at such rate and in such manner as may be prescribed by the Bank.

#### **Article 9. Prohibition of assignment or pledge**

The Customer shall not assign to others nor pledge in favor of others, without the Bank's prior written consent, any of its rights under a Foreign Exchange Contract.

#### **Article 10. Checking of signatures**

For transactions in which the Bank has deemed the Customer's signature or seal impression genuine after checking with reasonable care the signature or seal impression on the Exchange Contract Slip against the specimen signature or seal impression filed with the Bank, the Customer shall be responsible for any and all damages arising from forgery, alteration, wrongful use of documents, signatures or seals used in the transactions. The Bank assumes no liability whatsoever with regard to the ineffective verification of signatures on orders received, or on powers of attorney or authorizations produced.

### **III. SPECIAL CONDITIONS RELATING TO DOCUMENTARY CREDITS OPENED BY THE BANK**

Except as otherwise stated hereunder, the relationship between the Bank and the Principal (as defined hereunder) in relation to the opening of a documentary credit is governed by the “Uniform Customs and Practices for Documentary Credits” (latest revision), as prepared by the International Chamber of Commerce.

#### **Article 1. Definition**

The party hereinafter called the “Principal” is the Customer, individual or legal entity, benefiting from documentary credits opened by the Bank.

#### **Article 2. Documentary credits**

The Bank is authorized to debit the account of the Principal with all payments regarding documentary credits. The Principal undertakes to fulfill all the obligations resulting from documentary credits. It is agreed that the Principal takes for its account all consequences resulting from transactions made pursuant to documentary credits.

#### **Article 3. Commissions and expenses**

The Bank will debit the Principal’s account for the various commissions which are to be collected for documentary credits as well as for other expenses incurred by the Bank or its correspondent banks. These commissions will not be reimbursed to the Principal even in case of cancellation, revocation or non-utilization of the credits.

#### **Article 4. Pledge**

It is expressly agreed that the documents representing the goods and the goods and all proceeds of sale and of insurance are pledged in favor of the Bank in order to guarantee the reimbursement of any and all sums which may be due to the Bank from the Principal for any reason whatsoever.

#### **Article 5. Reimbursement of expenses**

The Principal agrees to reimburse the Bank for any and all expenses resulting from preservation of pledge, including insurance fees if any.

#### **Article 6. Insurance proceeds**

In case of casualty, loss or damages, insurance proceeds will go automatically to the benefit of the Bank up to the amount which may be due pursuant to the documentary credits.

#### **Article 7. Approval of insurance**

The goods have to be fully and appropriately insured. If the goods are insured by the Principal, the Bank reserves the right

to require that the insurance company be approved by the Bank and to examine the insurance documents.

In case of lack or insufficient insurance, the Bank may, at its sole discretion, subscribe an insurance policy to cover the goods at the Principal’s expense and therefore debit the Principal’s account with the insurance premium and any related costs.

#### **Article 8. Additional collateral**

In the event that, either before or after their arrival, the value of the goods would decrease in the Belgian market and that, as a consequence of the decrease, the net proceeds of the sale of such goods would not be sufficient to cover the Bank’s exposure, the Principal undertakes to remit to the Bank, upon first demand, such additional collateral as may be required by the Bank.

#### **Article 9. Forwarding agent**

In the case of transit, the Principal must designate the forwarding agent. Failing such indication, the Bank is authorized to use the services of a forwarding agent of its choice.

In either case, the Bank declines all responsibility for any damage which may result from the transit even if the forwarding agent is responsible. The Principal commits itself to reimburse the Bank for all handling or re-shipment charges, etc. which might be claimed by the forwarding agent.

In either case, the Bank declines all responsibility for references to the “International Rules for Interpretation of Commercial Terms” (Incoterms, latest release) of the International Chamber of Commerce.

#### **Article 10. Cooperation Duty**

The Principal shall sign or execute and deliver any transfer deed or other document which may be reasonably required to obtain possession of or perfect the title to the goods and/or deliver the goods or vest the goods in any purchaser from the Bank, or otherwise, for the recovery of any proceeds of sale or insurance.

#### **Article 11. Joint and several liability**

If two or more parties sign the Application for Irrevocable Documentary Credit their obligations vis-à-vis the bank shall be joint and several.

## IV. SPECIAL CONDITIONS RELATING TO MiFID-INVESTMENT SERVICES

### A SPECIAL CONDITIONS RELATING TO MiFID-INVESTMENT SERVICES – PROFESSIONAL CLIENTS AND ELIGIBLE COUNTERPARTIES

#### Article 1. Scope

1.1 These terms of business as set out in this section IV.A (*Special Conditions relating to MiFID Investment Services – Professional Clients*) (the "ToB") and any schedule(s) set out in section IV.C (*Schedules to section IV.A and to section IV.B*) (the "Schedules" and each a "Schedule"), as amended from time to time, set out the terms on the basis of which the Bank provides Investment Services (as defined in Article 3 of these ToB) to you if you classify as a professional client or as an eligible counterparty under the Applicable Regulations and should be construed accordingly.

1.2 These ToB apply to each contract made between you and the Bank in connection with the Investment Services provided to you by the Bank. If any provision in these ToB conflicts with or contradicts a provision in such contract relating to specific transactions, the latter provision shall prevail to the extent of such conflict or contradiction, and only insofar as it does not conflict with any duty or obligation under Applicable Regulations.

1.3 You should read the contents of the TOB carefully. If there is anything that you do not understand please let us know as soon as possible by contacting your relationship manager or account manager at the Bank.

1.4 The ToB are part of the Business Conditions and Regulations. Unless otherwise provided in these ToB, the Business Conditions and Regulations shall apply to the Investment Services. In the event of any inconsistency between the provisions of these ToB and the Business Conditions and Regulations, these ToB shall prevail.

#### Article 2. Interpretation

2.1 The definitions and interpretations set out in Schedule 1 will apply, except where the context requires otherwise.

2.2 For EMIR transaction reporting purposes, the Bank's Legal Entity Identifier (LEI) is 724500Q3K04L0479N30.

#### Article 3. Investment Services

3.1 The Bank may provide the following investment services ("**Investment Services**") to you:

(i) The reception and transmission of orders in relation to one or more Financial Instruments;

(ii) The execution of orders in relation to one or more Financial Instruments on your behalf; and

(iii) Dealing on own account, meaning that we may enter into Transactions with you as a counterparty on a request for quotation (RFQ) basis.

3.2 The Bank may also provide other services than the Investment Services if agreed between you and the Bank.

3.3 We will ensure that you receive adequate reports on the Investment Services provided by us (including contract notes, confirmations and client asset statements on the basis set out in this ToB). Where we have had an ongoing relationship in the previous year, we shall provide you with an annual report including information on any Investment Services we have provided you, the Financial Instruments entered into, execution venues and all costs and related charges in accordance with our regulatory obligations. We may provide more frequent reports or ad hoc reports on request at our discretion. Where we provide you with an aggregated costs and charges disclosure you may request an itemised breakdown from us. We will provide such breakdown to you where we are required to by Applicable Regulations or otherwise at our discretion. Where permitted under Applicable Regulations we may agree with you on a more limited disclosure in relation to costs and charges.

3.4 In connection with providing Investment Services the Bank will make available to you on its website product fact sheet. These product fact sheets explain the nature of the specific type of the Financial Instrument concerned, the functioning and performance of the Financial Instrument in different market conditions, including both positive and negative conditions, as well as risks particular to that specific type of Financial Instrument in sufficient detail to enable you to take investment decisions on an informed basis. You are required to read these product fact sheets prior to entering into Transactions. If we provide you with such product fact sheets this is no recommendation to acquire or sell the Financial Instruments described therein.

3.5 You acknowledge that you are aware of the risks relating to entering into Transactions and you accept these risks.

3.6 You will notify the Bank without delay of any changes in your situation as this could lead to a different investment objective or different preferences regarding risk taking.

3.7 Any products which fall within the scope of EMIR are subject to the provisions set out in Schedule 3.

3.8 You acknowledge that the Wholesale Foreign Exchange Global Terms of Dealing which Transactions apply to dealings in foreign exchange products. The Wholesale Foreign Exchange Global Terms of Dealing Transactions will be available on our website. In case of a conflict between these ToBs and the Wholesale Foreign Exchange Global Terms of Dealing Transactions, the terms of these ToBs prevail.

#### **Article 4. Capacity**

4.1 In providing Investment Services we generally act as principal and not as an agent on your behalf, but from time to time may act as your agent or arranger. If we act as your agent or arranger we will make this clear to you.

4.2 In your dealings with us you act as principal and not as an agent (or trustee) on behalf of someone else.

#### **Article 5. No advice**

5.1 We do not provide personal recommendations, particularly we do not provide investment advice or portfolio management investment services (as meant in Applicable Regulations) or any advice on the merits or suitability for you of particular Transactions or Investment Services, or their taxation consequences.

5.2 In asking us for Transaction related information, or where you enter into any Transaction with us, you represent that you have been solely responsible for making your own independent appraisal and investigations into the risks of the Transaction. You represent that you have sufficient knowledge, market sophistication, professional advice and experience to make your own evaluation of the merits and risks of any Transaction. We give you no warranty as to the suitability of the Transactions.

5.3 If you are an Eligible Counterparty then we are entitled to assume that you have the necessary experience and knowledge in order to understand the risks involved in relation to the particular Investment Services or Transactions, or types of Transaction or Financial Instrument, for which we have classified you as an Eligible Counterparty. If you are an Eligible Counterparty there is no requirement on us to consider whether any Investment Service, Financial Instrument or Transaction is appropriate for you. We will therefore not conduct an appropriateness assessment on you unless you are a Professional Client that we have opted up.

5.4 Where we provide general trading recommendations, market commentary or other general advice or information:

(i) This is incidental to your relationship with us. It is provided solely to enable you to make your own investment decisions and does not amount to a personal recommendation or advice;

(ii) We give no representation, warranty or guarantee as to the accuracy or completeness of such information or as to the tax consequences of any Transaction;

(iii) Where information is in the form of a document containing a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on contrary to that restriction; and

(iv) You accept that prior to despatch of Research, we may have acted upon it ourselves or made use of the information on which it is based. We do not make representations as to the time of receipt by you and cannot guarantee that you will receive such information at the same time as other clients. Any published Research or recommendations may appear in one or more screen information services.

#### **Article 6. Product governance**

If we act as manufacturer or distributor of a product, where you onward distribute that product you shall use reasonable endeavours to ensure that:

(a) You distribute within any target market we have identified;

(b) You ascertain the target market and provide the target market to any third party distributors you distribute that product to; and

(c) Your distribution of that product is limited to the target market that we have provided or that you have identified and, where necessary, you will provide us with any relevant information required under Applicable Regulations.

#### **Article 7. Client Categorisation**

7.1 Your classification in all our dealings with you will be an Eligible Counterparty or a Professional Client, as stipulated in the covering letter, or electronic mail (as applicable), that accompanies these ToB.

7.2 If you have been classified by us as an Eligible Counterparty, you have the right to request a different client categorisation offering a greater level of regulatory protection. Such request should be made to us in writing.

7.3 If you have been classified by us as a Professional Client and you request to us in writing to treat you as an Eligible Counterparty and we agree to such categorisation, we would no longer be required by regulatory rules to provide certain protections granted to Professional Clients. The regulatory protections concerned include formal requirements in the following areas: (a) to act in accordance with your best interests; (b) in certain contexts to provide enhanced information to you before providing services; (c) to achieve Best Execution in respect of your orders; (d) to execute orders subject to other constraints as regards timing and handling relative to other clients' orders.

7.4 If you have been classified by us as an Eligible Counterparty or a Professional Client not based upon your request, you may request treatment as a Retail Client. To such a request we, upon our sole discretion, may or may not agree. If you request to be categorised as a Retail Client we will not provide Investment Services to you. On the basis of these ToB.

7.5 If you would otherwise be categorised as a Retail Client and we treat you as a Professional Client at your request (this is referred to as opting up), the Bank will provide Investment Services to you treating you as a Professional Client. We can only opt you up, upon your request, if certain criteria are met and certain procedures followed. We must carry out an adequate assessment of your expertise, experience and knowledge to satisfy ourselves that you are capable of making investment decisions and understanding the risks involved. Professional Clients typically have greater knowledge and experience of investing in financial markets and a higher appetite for risk, and are given a lesser degree of protection under Applicable Regulations. However even if we opt you up we do not assume that you have market knowledge and experience like Eligible Counterparties. You agree and acknowledge that you are responsible for keeping us informed about any change that could affect your categorisation as an opt-up Professional Client (former Retail Client). If you are classified as a Professional Client based on your request, you

have a right to request the Bank in writing to change your client categorisation to a Retail Client, to which we will consent.

7.6 The Bank may require reasonable verification of your or your employees', officers' or associates', identity, which you agree to provide. The Bank may also request or obtain (including but not limited to) additional information in relation to the ownership structure, credit standing and business conduct of you and those connected with you. If the Bank is not satisfied with the information provided, the Bank may request additional information. The Bank has no obligation to provide the Investment Services contemplated by these ToB and may not provide any such services until verification procedures have been completed to the satisfaction of the Bank. The Bank may in any event rely on any information provided by you and will not be required to verify the correctness of such information.

7.7 You may, at any time, request the Bank in writing to change your client categorisation. Such a request must relate to the entire relationship with us. The Bank can reject the request if deemed inappropriate (unless you opt to be graded down) or if accepting such a request is not permitted by any applicable law.

7.8 You undertake to forthwith report any changes that lead to a change in your client categorisation as has been notified to you, to the Bank in writing.

7.9 Categorisation for the purposes of compliance with the requirements of the European Markets Infrastructure Regulation (EMIR) is addressed in Schedule 3.

## **Article 8. Appropriateness assessment**

8.1 In accordance with Applicable Regulations, the provisions of this clause 9 apply solely to clients classified as Professional Clients and does not apply to Eligible Counterparties or any clients treated as Eligible Counterparties

8.2 The Bank will obtain certain information from you and make an assessment of whether you have the necessary experience and knowledge in order to understand the risks involved in relation to the product or Investment Services you are seeking from us. If we are satisfied that you have the necessary experience and knowledge there is no requirement on us to communicate this to you. Where a bundle of Investment Services or products is envisaged between us then our assessment must consider whether the overall bundled package is appropriate for you.

8.3 You will undertake to provide to the Bank at its request all information regarding your knowledge and experience as to enable the Bank to assess the appropriateness of the Investment Services. In order to establish whether the Investment Services are appropriate for you, you may be required to fill out an appropriateness questionnaire.

8.4 You represent and warrant that all information provided for the above referenced assessments is complete and accurate in all material respects; otherwise the Bank will not be able to determine whether the Investment Services are appropriate for you.

## **Article 9. Conflicts of interest**

9.1 The Bank has in place a written conflicts of interest policy. A summary of our conflicts of interest policy is set out in Schedule 2.

9.2 You acknowledge that the Bank provides services in respect of a range of investment related activities to a number of different clients and accordingly that the Bank may have an interest, relationship or arrangement that is material in relation to a transaction effected with or for you (or a Transaction) or that could give rise to a conflict of interest.

9.3 You agree that the Bank does not have a duty to disclose any matter which comes to its notice in the course of its business if doing so would constitute a breach of duty or confidentiality (as the case may be) owed under the terms of any other arrangement or agreement entered into with a third party (including another of the Bank's clients), or such disclosure would otherwise be in breach of any regulatory or legal obligations. In such circumstances the Bank may refuse to act in a situation where it is unable to resolve the conflict or disclose it to you.

9.4 You agree that the Bank and any Connected Company may therefore effect transactions in which the Bank or a Connected Company or another client of the Bank or a Connected Company has, directly or indirectly, a material interest or relationship of any description with another party which involves or may involve a potential conflict with our duty to you, where that conflict has, in the Bank's reasonable opinion, been managed effectively.

## **Article 10. Instructions**

10.1 You may give us instructions in writing, orally (including by telephone) or by other electronic communication received by us that has been transmitted subject to proper test or security procedures (including, for example, Bloomberg) unless we tell you that instructions can only be given in a particular way. If you give instructions by telephone, your conversation will be recorded, as set out in clause 20. Unless otherwise agreed, e-mail or other electronic messages in respect of each instruction for general trading will only be accepted if specifically acknowledged by us. With the exception of telex and SWIFT messages, no settlement instructions will be accepted by e-mail or other electronic means unless otherwise agreed. If any instructions are received by us by telephone, computer or other medium we may ask you to confirm such instructions in writing. We shall be authorised to follow instructions notwithstanding your failure to confirm them in writing. In these ToB "instructions" and "orders" have the same meaning.

10.2 You authorise the Bank to rely and to act without further enquiry on any order, instruction or communication (however received or by whatever means transmitted) which purports to have been given by you or your agents or employees and which has been reasonably accepted by us in good faith.

10.3 You agree that you will be responsible for and bound by any contract or obligations entered into by the Bank or assumed by the Bank on your behalf in consequence of or in connection with your order or instructions.

10.4 We can only cancel your instructions if we have not acted upon those instructions. Instructions may only be withdrawn or amended by you with our consent.

10.5 The Bank may at any time, and without any liability on its part, refuse to act upon, execute or otherwise implement any instruction or request from you without giving any reason for such refusal. The Bank will notify you promptly of any such refusal.

10.6 The Bank may, at its sole discretion, act upon instructions given by you by telephone, provided that instructions by telephone shall promptly thereafter be confirmed in writing by you upon request by the Bank. You agree to indemnify and hold the Bank harmless for any failure by you to send such a confirmation in writing or the failure of such confirmation to confirm the telephone instructions received.

10.7 We have the right (but no obligation) to set limits and/or parameters to control your ability to place orders at our absolute discretion. Such limits and/or parameters may be amended, increased, decreased, removed or added to by us at our absolute discretion and may include (without limitation): (i) controls over maximum order amounts and maximum order sizes; (ii) controls over our total exposure to you; (iii) controls over prices at which orders may be submitted (to include (without limitation) controls over orders which are at a price which differs greatly from the market price at the time the order is submitted to the order book); (iv) controls over any electronic services (to include (without limitation) any verification procedures to ensure that any particular order or orders has come from you); or (v) any other limits, parameters or controls which we may be required to implement in accordance with Applicable Regulations.

#### **Article 11. Execution Arrangements**

11.1 In accordance with Applicable Regulations, the provisions of this clause apply solely to clients classified as Professional Clients. You confirm that you have read and accepted our order execution policy. We will notify you of any material changes to our order execution policy. We will not notify you of non-material changes to such policy.

11.2 The Bank has in place arrangements to enable the Bank to obtain the best possible result for clients, within the terms of the Bank's the "order execution policy", a summary of which is available in Schedule 4. Our order execution policy can be accessed on our website.

11.3 Where we execute orders in Financial Instruments on your behalf, we will take all sufficient steps to obtain the best possible result by following our order execution policy, subject to any specific instructions received from you.

11.4 Where you provide us with specific instructions, including specifying the characteristics of a bespoke product, either relating to an order or a particular aspect of an order, we will execute the order in accordance with those instructions. Accordingly, our order execution policy will not apply. We will deem orders received via direct market access systems as specific instructions.

11.5 We shall use our reasonable endeavours to execute any order promptly, but in accepting your orders we do not

represent or warrant that it will be possible to execute such order or that execution will be possible according to your instructions. We shall carry out an order on your behalf only when the relevant Market is open for dealings, and we shall deal with any instructions received outside Market hours as soon as possible when that relevant Market is next open for business (in accordance with the rules of that Market). Where required, you will agree that we may execute an order on your behalf outside a Market. The Bank only accepts orders on a very limited basis.

11.6 Please note that it is common market practice for banks such as the Bank when executing Transactions to deal with you on a proprietary basis by providing quotes at your request.

11.7 MiFID II requires us to request your consent to your orders relating to Financial Instruments being executed by us outside a regulated market, MTF or OTF. You are required to provide us with your consent by filling in and sending us the "Trading off Trading Venue (TOTV) Form of Consent" within one month upon receipt of the Trading off Trading Venue (TOTV) Form of Consent.

#### **Article 12. Aggregation and allocation**

The Bank may aggregate orders in Financial Instruments executed for your account with orders for the account of other clients or our Connected Companies or clients of our Connected Companies or for our own account. The Bank will allocate such transactions on a fair and reasonable basis subject to Applicable Regulations. You recognise that each individual aggregated transaction may operate to your advantage or disadvantage.

#### **Article 13. Confirmations**

13.1 The Bank will send you confirmations in accordance with Applicable Regulations for any Transactions that we have executed on your behalf, by electronic mail to the e-mail address on record for you, or by such other means agreed between you and us. In addition to providing you with confirmations we shall, on your request, provide you with information about the status of your order.

13.2 It is your responsibility to inform us of any change to your e-mail address, the non-receipt of a confirmation, or whether any confirmations are incorrect before settlement. Confirmations shall, in the absence of manifest error, be conclusive and binding on you, unless we receive from you objection in writing within two business days of despatch to you or we notify you of an error in the confirmation within the same period.

13.3 In accordance with Applicable Regulations we will also provide you with post-trade reports for any Transactions that we have executed on your behalf, either with your confirmation or as a separate document. Such reports will be provided as soon as possible after execution but in any event no later than as required by Applicable Regulations or where relevant following our receipt of a confirmation from a third party. Where you are treated as an Eligible Counterparty we may agree different terms with you in relation to post-trade reports.

## **Article 14. Performance and settlement**

14.1 You will promptly deliver any instructions, money, documents or property deliverable by you under a Transaction in accordance with that Transaction as modified by any instructions given by us for the purpose of enabling us to perform our obligations under the relevant matching Transaction on a Market or with an intermediate broker.

14.2 In relation to Transactions with the Bank only, all Transactions are settled on an actual settlement basis. We are not obliged to settle transactions or account to you unless and until we (or our settlement agents) have received all necessary documents or money. Where we settle transactions for you, delivery or payment by the counterparty is entirely at your risk. Unless otherwise specifically agreed with you, settlement shall be carried out in accordance with market practice and Applicable Regulations.

14.3 We may require you to limit the number of open positions which you may have with us at any time and we may in our sole discretion close out any one or more Transactions in order to ensure that such position limits are maintained.

14.4 Under Applicable Regulations we will publish annually information on the top five execution venues we have used in terms of trading volume for classes of Financial Instruments when executing client orders. We will provide similar information for the top five third parties (i.e. brokers) to which we have routed your orders, where relevant, and any other information relating to execution venues required by Applicable Regulations. We will provide this information separately for securities financing transactions, such as stock lending. This information will be published on our website in accordance with Applicable Regulations but we may also provide this to you directly.

14.5 If we act in the capacity of a systematic internal user and we make public firm quotes in certain Transactions, in accordance with Applicable Regulations, you agree that we may limit: (i) the number of Transactions that we undertake to enter into with you at the published quote; and (ii) the total number of Transactions that we undertake to enter into with other clients at the published quote. Where we grant access to quotes provided by us in our capacity as a systematic internal user, and the quoted size is at or below the size specific to the financial instrument, we may enter into a Transaction with any other client to whom the quote is made available, in accordance with Applicable Regulations.

## **Article 15. Charges**

15.1 You shall pay our charges; any taxes imposed by any competent authority on any account opened or Transaction effected by or cleared for you; any fees or other charges imposed by a Market or any clearing organisation; interest on any amount due to us at the rates then charged by us; and any other value added or other applicable taxes of any of the foregoing, including any withholding tax. Any alteration to charges will be notified to you at or before the time of the change. You should be aware of the possibility that other taxes or costs may exist that are not paid through or imposed by us.

15.2 The Bank has a fee sharing arrangement in place with MUSE whereby commission payable by Professional Clients and Eligible Counterparties to MUSE is shared where

the Bank refers you to MUSE. The Bank will only refer you to MUSE in circumstances where the Bank is unable to facilitate for you an investment in a Financial Instrument that MUSE can provide. You are free to decline the services of MUSE. The proportion which the Bank receives is worked out according to how much the Bank has contributed towards providing you with the service which you receive from MUSE.

15.3 In addition to the costs referred to in clause 15.1, additional costs as agreed with you from time to time in writing may be payable by you by virtue of the fact that a contract is entered into via email, telephone or by other electronic means.

15.4 In accordance with Applicable Regulations, the provisions of this clause 15.4 apply solely to clients classified as Professional Clients. The Bank is not permitted to accept or retain any fees, commissions, monetary or non-monetary benefits (each an inducement) paid or provided by a third party in relation to Investment Services provided by us to you. We are similarly not allowed to pay or provide any inducement to any third party in relation to the provision of Investment Services to you. We can only accept or retain or pay or provide such inducements if they meet certain conditions. The inducement must not impair compliance of our duty to act honestly, fairly and professionally in accordance with the best interest of its clients and it must enhance the quality of the relevant service to you. We must also make disclosures about the inducement to you before we provide the relevant Investment Service to you. Before we provide you with Investment Services we will disclose to you information on inducements and this will include a generic description of minor non-monetary benefits. Other non-minor benefits will be priced and disclosed separately. If we cannot ascertain in advance the amount of any payment or benefit to be received or paid, we can disclose to you the method of calculating that amount and we will provide you with information on the exact amount after the payment of the benefit after it has been paid or received. We will also inform you at least once a year on an individual basis about the actual amount of payments or benefits received or paid.

15.5 Where permitted by Applicable Regulations, we may receive remuneration from, or share charges with, an associate or other third party in connection with Transactions. Where such arrangements directly affect the business you undertake with us, we will notify you of the nature and amount of such fees, commissions or benefits, excluding minor non-monetary benefits.

15.6 Any charges due to us plus any applicable value added tax may be deducted from any funds held by the Bank on your behalf or, at our discretion, shall be paid by you as stated in the relevant contract note or advice at settlement.

15.7 All amounts payable will automatically be debited from your Cash Account on the due date if applicable, unless otherwise agreed upon between you and the Bank.

15.8 If you fail to pay any amount on the date on which it is due and payable to us, the Bank reserves the right to charge you interest on any such amount from the date of such failure to pay until the date of actual payment. Interest will accrue on a daily basis and will be due and payable by you as a separate debt.



15.9 Interest will not be payable to you in respect of any money that the Bank holds for you (including, in particular, funds received in advance of the due date for settlement), unless specifically agreed by the Bank in writing.

#### **Article 16. Client Money**

16.1 The Bank is the authorised Belgian branch of a credit institution authorised under the laws of the Netherlands, and is licensed to conduct deposit business in Belgium. The Bank falls under the supervision of and subject to supervision by the Authorised Regulators.

16.2 You may withdraw any money held in an account with the Bank pursuant to these ToB at any time, subject to the Bank's normal account withdrawal procedures and unless limitations have been set in accordance with an agreement thereto between you and the Bank.

16.3 The Bank is subject to the deposit guarantee scheme and investor compensation scheme as provided for in the DFSA and in the Special Prudential Measures, Investor Compensation and Deposit Guarantees Decree (*Besluit bijzondere prudentiële maatregelen, beleggerscompensatie en depositogarantie Wft*). If you hold money or Financial Instruments in a Bank account, you may be entitled to the rights that follow from the regulations as referred to in the previous sentence.

16.4 The Bank will provide you with an overview of your Financial Instruments and funds held at the Bank at least annually.

#### **Article 17. Communication**

17.1 Communication between us, including communication relating to Investment Services provided to you, may be in writing, by email or other electronic means, or orally (including by telephone). Except where otherwise agreed, the language of communication shall be English or Japanese and you will receive documents and other information from us in English.

17.2 Correspondence to you may be sent by the Bank to the address last notified by you or, in the absence thereof, to your last place of ordinary residence. You must inform the Bank of the address to which notices may be sent. It is your responsibility to notify the Bank in the event of a change of address. On notification the Bank shall make the necessary changes to your account as quickly as is possible.

17.3 You agree that the Bank may provide information in a durable medium or via a website. We will notify you of the website address when such information is accessible and when such information is revised. Specifically you agree that we may provide the following information to you via a website, where relevant and in accordance with Applicable Regulations:

- (a) The ToB;
- (b) A description of the conflicts of interest policy maintained by us and, upon request, further details of that conflicts of interest policy;
- (c) Any changes to the methods of communication to be used between us, including but not limited to how we receive orders or requests for quotes;
- (d) A general description of the nature and risks of Financial Instruments in the product factsheets;

(e) costs and charges including but not limited to, where relevant, aggregated costs and charges related to the Financial Instrument, the Investment Service and any third party payments, currency conversion rates and costs and illustrations of costs and charges; and

(f) Details of our order execution policy; and

(g) The Wholesale Foreign Exchange Global Terms of Dealing Transactions.

#### **Article 18. Recording**

Telephone conversations between the Bank and you may be recorded without the use of a warning tone and may be used to monitor compliance with relevant rules and regulations, confirm instructions received and the Bank may otherwise have recourse to such recordings for the purposes of resolving any dispute, complaint or investigation from you or on your behalf or on behalf of any other person.

#### **Article 19. Complaints**

If you have any complaint about the Bank's conduct or performance under these arrangements, please email your complaint to the Bank's compliance department at [compliance@be.mufg.jp](mailto:compliance@be.mufg.jp) where the nature of your complaint will be investigated. Upon your request or when acknowledging your complaint, the Bank will inform you the details of the process to be followed when handling a complaint.

#### **Article 20. Indemnity and Limitation of Liability**

20.1 Neither we nor our directors, officers, employees, or agents shall be liable for any losses, damages, costs or expenses (together "Loss"), whether arising out of negligence, misrepresentation or otherwise, incurred or suffered by you under this ToB (including any Transaction or where we have declined to enter into a proposed Transaction) even if such Loss is a reasonably foreseeable consequence unless such Loss arises directly from our or their respective gross negligence, wilful default or fraud.

20.2 In no circumstance, shall we have liability for Loss suffered by you or any third party for any special or consequential damage, loss of profits, loss of goodwill or loss of business opportunity arising under or in connection with these ToB, whether arising out of negligence, breach of contract, misrepresentation or otherwise.

20.3 Nothing in these ToB will limit our liability for death or personal injury resulting from our negligence.

20.4 Without limitation, we do not accept liability for any adverse tax implications of any Transaction whatsoever.

20.5 We shall not be liable to you for any partial or non-performance of our obligations hereunder by reason of any force majeure (*overmacht / force majeure*), including without limitation any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, act of terrorism, act of God, acts and regulations of any governmental or supra national bodies or authorities or the failure by the relevant intermediate broker or agent, agent or principal of our custodian, sub-custodian, dealer, Market, clearing house or regulatory or self-

regulatory organisation, for any reason, to perform its obligations.

20.6 We shall not be liable for any loss or expenses which may result by reason of any delay or change in market conditions before any particular Transaction has been effected.

#### **Article 21. Joint and Several Liability**

Where these ToB apply in relation to a partnership or otherwise by or on behalf of more than one person, any liability arising hereunder shall be deemed to be the joint and several liabilities of the partners in the firm or of such persons as aforesaid. These ToB shall not be terminated or prejudiced or affected by any change in the constitution of such partnership or by the death of any one or more of such persons. The Bank shall be entitled to accept instructions and give receipts and for all purposes deal with any one of such persons as agent to all of them.

#### **Article 22. Authorities and Consents**

22.1 You warrant and represent to the Bank that:

- (i) You are duly incorporated or established under the laws of your place of incorporation or establishment;
- (ii) You have, and you undertake that you will continue to have, all requisite corporate powers, capacity and authority to engage the Bank upon the terms and conditions of these ToB, and to execute and perform your obligations under these ToB;
- (iii) These ToB have been duly accepted and constitute your valid, legal and binding obligations;
- (iv) You have obtained, and will maintain in effect, in relation to all transactions, all necessary consents of any governmental or other regulatory body or authority applicable to each transaction, and that you will comply with the terms of the same and all applicable laws, regulations and directives of such bodies and authorities. You will forthwith on demand by the Bank deliver to the Bank copies of all such consents or such other evidence of any such consents and such evidence of compliance with such and with any such laws, regulations and directives as the Bank may reasonably require;
- (v) You act as principal in each Transaction;
- (vi) Any information which you provide or have provided to us in respect of your financial position, domicile or other matters is accurate and not misleading in any material respect;
- (vii) You are financially able and prepared to sustain a total loss of funds resulting from Transactions and trading in such Transactions is a suitable investment vehicle for you; and
- (viii) In relation to your Transactions with or through the Bank, you are entering into Transactions for hedging purposes only and not for speculative purposes.

22.2 You will forthwith on demand by the Bank deliver to the Bank copies of all such consents or such other evidence of any such consents and such evidence of compliance with such and with any such laws, regulations and directives as the Bank may reasonably require.

#### **Article 23. Delay or Omission**

No delay or omission on the Bank's part in exercising any right, power, remedy or privilege under these ToB shall impair such right, power, remedy or privilege or act as a waiver. Any waiver or release of a party's rights under these

ToB must be granted specifically in writing by the party granting it. The Bank's rights and remedies provided for in this document are cumulative and not exclusive of any rights of lien, sale, setoff or retention or other rights or remedies provided by law, statute or otherwise howsoever. Each party may exercise each of its rights as often as it thinks necessary.

#### **Article 24. Assignment of rights and obligations**

You cannot assign any rights and obligations under these ToB and any transactions entered into pursuant hereto may not and cannot be assigned without the Bank's prior written consent.

#### **Article 25. Rights of third parties**

A person who is not a party to these ToB or any transactions entered into pursuant to it has no right to enforce any term of such agreement, except as otherwise expressly provided in these ToB.

#### **Article 26. Severability**

Each provision of these ToB is severable and, if any provision is or becomes invalid or unenforceable or contravenes any applicable law or rules and regulations of the appropriate regulatory authority, the remaining provisions shall remain valid and enforceable.

#### **Article 27. Confidentiality**

27.1 Neither party shall disclose to any person, unless required to do so by any applicable law or by any regulatory or supervisory authority (including the Authorised Regulators) or by any other person entitled by law to require disclosure, or to enable it properly to perform its obligations under these ToB, any information relating to the business, investments, finances or other matters of a confidential nature of the other party of which it may in the course of its duties or otherwise become possessed, and each party shall use reasonable endeavours to prevent any such disclosure.

27.2 By accepting these ToB, you authorise the Bank to disclose such information relating to you as may be required by any law, rule or regulatory authority (including the Authorised Regulators) without prior notice to you. Furthermore the Bank may disclose requested and relevant information relating to you to third parties in or outside Belgium in order to facilitate the transfer of funds.

#### **Article 28. Termination**

28.1 Without prejudice to Article 13 (*Termination*) of Part I.A (*General Provisions*) of the Business Conditions and Regulations, these ToB will also terminate immediately and the Bank may, without prior reference to you and in the Bank's absolute discretion, take any action the Bank deems necessary or expedient to perform, cancel or close out any transaction or contract entered into if any of the following events occur:

- (i) You default in performing an obligation pursuant to these ToB or commit any breach of the terms contained in these ToB; an order is made or a resolution passed for your winding-up or a meeting convened for a voluntary winding-up;
- (ii) You convene a meeting or make any arrangement or composition with your creditors; you cease to

trade or become unable to pay your debts or become subject to a suspension of payments or bankruptcy proceeding (or an application for such proceeding has been filed) under the Belgian bankruptcy rules or any comparable legislation either in the Belgium or elsewhere which may be applicable;

(iii) Any debt or obligation of yours becomes due and payable or is declared and payable due to any default on your part;

(iv) you making use of the Investment Service(s) in a manner contrary to legislation or regulations or that may lead to damage to the reputation of the Bank or to infringement of the integrity of the banking sector;

(v) National or international legislation or regulations obliging the Bank to do so.

28.2 No penalty will become due from either you or the Bank in respect of the termination of these arrangements; however, you will pay all amounts due to the Bank from you, including any outstanding fees and charges that have accrued down to the date of termination and the Bank's charges for transferring your investments to your new investment adviser.

28.3 If these arrangements are terminated, that will not affect any outstanding order or transaction or any legal rights or obligations that may already have arisen.

28.4 Termination shall not affect the applicability of clause 19 up to and including 28 and clause 31 of these ToB, the then outstanding rights and obligations and Transactions which shall continue to be governed by this ToB and the particular clauses agreed between you and us in relation to such Transactions until all obligations have been fully performed.

#### **Article 29. Amendments**

30.1 In derogation of Article 17 (*Modification of Business Conditions and Regulations*) Part I.A (*General Provisions*) of the Business Conditions and Regulations, amendments to these ToB that are required under any Applicable Regulations, any further regulation thereto or required by any governmental or regulatory authority or court, the amendments shall have immediate effect from the moment the Bank has sent notice thereof.

30.2 No amendment will affect any outstanding order or Transaction or any legal rights or obligations which may already have arisen.

#### **Article 30. Entry into Force**

30.1 These ToB supersede any previous terms and conditions governing the provision of Investment Services by the Bank, between you and us on the same subject matter and takes effect on the Effective Date.

30.2 Where the Bank has already sent you or shall send you, or the Bank have entered into with you, any master agreement and/or other client documentation relating to regulated activities, the terms of such separate agreement shall prevail but shall be supplemented by the terms of these ToB (to the extent they do not conflict with such agreements).

30.3 You acknowledge that you have not relied on or have been induced to enter into these ToB by a representation other than those expressly set out in these ToB.

#### **Article 31. Governing Law**

31.1 The contractual and non-contractual obligations under, in connection to or pursuant to these ToB are governed by Belgian law.

31.2 Any dispute arising from or in connection with these ToB shall be submitted to the exclusive jurisdiction of the competent court in Brussels.

### **B. SPECIAL CONDITIONS RELATING TO MiFID-INVESTMENT SERVICES – RETAIL CLIENTS**

#### **Article 1. Scope**

1.1 These terms of business (the "**ToB**") and any schedule(s) set out in section IV.C (Schedules to section IV.A and to section IV.B) (the "**Schedules**" and each a "**Schedule**"), as amended from time to time, set out the terms on the basis of which the Bank provides Investment Services (as defined in Article 3) to you where you are categorised as a retail client within the meaning of the Applicable Regulations. The Bank does not provide Investment Services to retail clients that are a natural person.

1.2 These ToB apply to each contract made between you and the Bank in connection with the Investment Services provided to you by the Bank. If any provision in these ToB conflicts with or contradicts a provision in such contract relating to specific transactions, the latter provision shall prevail to the extent of such conflict or contradiction, and only insofar as it does not conflict with any duty or obligation under Applicable Regulations.

1.3 You should read the contents of the TOB carefully. If there is anything that you do not understand please let us know as soon as possible by contacting your relationship manager or account manager at the Bank.

1.4 The ToB are part of the Business Conditions and Regulations. Unless otherwise provided in these ToB, the Business Conditions and Regulations shall apply to the Investment Services. In the event of any inconsistency between the provisions of these ToB and the Business Conditions and Regulations, these ToB shall prevail.

#### **Article 2. Interpretation**

2.1 The definitions and interpretations set out in Schedule 1 will apply, except where the context requires otherwise.

2.2 For EMIR transaction reporting purposes, the Bank's Legal Entity Identifier (LEI) is 724500Q3K04L0479N30.

#### **Article 3. Investment Services**

3.1 The Bank may provide the following investment services ("**Investment Services**") to you:

(i) The reception and transmission of orders in relation to one or more Financial Instruments;

(ii) The execution of orders in relation to one or more Financial Instruments on your behalf; and

(iii) Dealing on own account, meaning that we may enter into Transactions with you as a counterparty on a request for quotation (RFQ) basis.

3.2 The Bank may also provide other services than the Investment Services if agreed between you and the Bank.

3.3 We will ensure that you receive adequate reports on the Investment Services provided by us (including contract notes, confirmations and client asset statements on the basis set out in this ToB). Where we have had an ongoing relationship in the previous year, we shall provide you with an annual report including information on any Investment Services we have provided you, the Financial Instruments entered into, execution venues and all costs and related charges in accordance with our regulatory obligations. We may provide more frequent reports or ad hoc reports on request at our discretion. Where we provide you with an aggregated costs and charges disclosure you may request an itemised breakdown from us. We will provide such breakdown to you where we are required to by Applicable Regulations or otherwise at our discretion.

3.4 In connection with providing Investment Services the Bank will make available to you on its website product fact sheets. These product fact sheets explain the nature of the specific type of the Financial Instrument concerned, the functioning and performance of the Financial Instrument in different market conditions, including both positive and negative conditions, as well as risks particular to that specific type of Financial Instrument. You are required to read these product fact sheets prior to entering into Transactions. If we provide you with such product fact sheets this is no recommendation to acquire or sell the Financial Instruments described therein.

3.5 You acknowledge that you are aware of the risks relating to entering into Transactions and you accept these risks.

3.6 You will notify the Bank without delay of any changes in your situation as this could lead to a different investment objective or different preferences regarding risk taking.

3.7 Any products which fall within the scope of EMIR are subject to the provisions set out in Schedule 3.

3.8 You acknowledge that the Wholesale Foreign Exchange Global Terms of Dealing Transactions apply to dealings in foreign exchange products. The Wholesale Foreign Exchange Global Terms of Dealing Transactions will be available on our website. In case of a conflict between these ToBs and the Wholesale Foreign Exchange Global Terms of Dealing Transactions, the terms of these ToBs prevail.

#### **Article 4. Capacity**

4.1 In providing Investment Services we generally act as principal and not as an agent on your behalf, but from time to time may act as your agent or arranger. If we act as your agent or arranger we will make this clear to you.

4.2 In your dealings with us you act as principal and not as an agent (or trustee) on

behalf of someone else.

#### **Article 5. No advice**

5.1 We do not provide personal recommendations (and in particular we do not provide investment advice) or portfolio management services (each as meant in Applicable Regulations) or any advice on the merits or suitability for you of particular Transactions or Investment Services, or their taxation consequences.

5.2 In asking us for Transaction related information, or where you enter into any Transaction with us, you represent that you have been solely responsible for making your own independent appraisal and investigations into the risks of the Transaction. You represent that you have sufficient knowledge, market sophistication, professional advice and experience to make your own evaluation of the merits and risks of any Transaction. We give you no warranty as to the suitability of the Transactions.

5.3 Where we provide general trading recommendations, market commentary or other general advice or information:

(i) This is incidental to your relationship with us. It is provided solely to enable you to make your own investment decisions and does not amount to a personal recommendation or investment advice;

(ii) We give no representation, warranty or guarantee as to the accuracy or completeness of such information or as to the tax consequences of any Transaction;

(iii) Where information is in the form of a document containing a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on contrary to that restriction; and

(iv) You accept that prior to despatch of Research, we may have acted upon it ourselves or made use of the information on which it is based. We do not make representations as to the time of receipt by you and cannot guarantee that you will receive such information at the same time as other clients. Any published Research reports or recommendations may appear in one or more screen information services.

#### **Article 6. Product governance**

If we act as manufacturer or distributor of a product, where you onward distribute that product you shall use reasonable endeavours to ensure that:

(a) You distribute within any target market we have identified;

(b) You ascertain the target market and provide the target market to any third party distributors you distribute that product to; and

(c) Your distribution of that product is limited to the target market that we have provided or that you have identified and, where necessary, you will provide us with any relevant information required under Applicable Regulations.

#### **Article 7. Client Categorisation**

7.1 Your classification in all our dealings with you will be a Retail Client, as stipulated in the covering letter, or electronic mail (as applicable), that accompanies these ToB.

7.2 Your classification as a Retail Client relates to the level of regulatory protections you are afforded when conducting business with us and is assessed upon the size of your business and the level of financial sophistication and trading experience that you have. You have the right to request a different client categorisation. If you request categorisation as a Professional Client and we agree to such categorisation, these ToB would no longer apply to you as you would fall within the scope of the ToB set out in *Section IV.A TERMS OF BUSINESS RELATING TO MIFID-INVESTMENT SERVICES –PROFESSIONAL CLIENTS AND ELIGIBLE COUNTERPARTIES* and we would no longer be required by regulatory rules to provide certain protections granted to Retail Clients.

7.3 MUFG can only treat you as a Professional Client if certain criteria are met and certain procedures followed. We must carry out an adequate assessment of your expertise, experience and knowledge to satisfy ourselves that you are capable of making investment decisions and understanding the risks involved. You agree and acknowledge that you are responsible for keeping us informed about any change that could affect your categorisation as a Retail Client).

7.4 The Bank may require reasonable verification of your or your employees', officers' or associates', identity, which you agree to provide. The Bank may also request or obtain (including but not limited to) additional information in relation to the ownership structure, credit standing and business conduct of you and those connected with you. If the Bank is not satisfied with the information provided, the Bank may request additional information. The Bank has no obligation to provide the Investment Services contemplated by these ToB and may not provide any such services until verification procedures have been completed to the satisfaction of the Bank. The Bank may in any event rely on any information provided by you and will not be required to verify the correctness of such information.

7.5 You may, at any time, request the Bank in writing to change your client categorisation. Such a request must relate to the entire relationship with us. The Bank can reject the request if deemed inappropriate or if accepting such a request is not permitted by any applicable law.

7.6 You undertake to forthwith report any changes that lead to a change in your client categorisation, as described in any letter, e-mail or other correspondence (as applicable, to the Bank in writing).

7.7 Categorisation for the purposes of compliance with the requirements of the European Markets Infrastructure Regulation (EMIR) is addressed in Schedule 3.

#### **Article 8. Appropriateness assessment**

8.1 The Bank will obtain certain information from you and make an assessment of whether you have the necessary experience and knowledge in order to understand the risks involved in relation to the product or Investment Services you are seeking from us. If we are satisfied that you have the necessary experience and knowledge there is no requirement on us to communicate this to you. Where a bundle of Investment Services or products is envisaged between us then our assessment must consider whether the overall bundled package is appropriate for you.

8.2 You will undertake to provide to the Bank at its request all information regarding your knowledge and experience as to enable the Bank to assess the appropriateness of the Investment Services. In order to establish whether the Investment Services are appropriate for you, you may be required to fill out an appropriateness questionnaire.

8.3 You represent and warrant that all information provided for the above referenced assessments is complete and accurate in all material respects otherwise the Bank will not be able to determine whether the Investment Services are appropriate for you.

#### **Article 9. Conflicts of interest**

9.1 The Bank has in place a written conflicts of interest policy. A summary of our conflicts of interest policy is set out in Schedule 2.

9.2 You acknowledge that the Bank provides services in respect of a range of investment related activities to a number of different clients and accordingly that the Bank may have an interest, relationship or arrangement that is material in relation to a transaction effected with or for you (or a Transaction) or that could give rise to a conflict of interest.

9.3 You agree that the Bank does not have a duty to disclose any matter which comes to its notice in the course of its business if doing so would constitute a breach of duty or confidentiality (as the case may be) owed under the terms of any other arrangement or agreement entered into with a third party (including another of the Bank's clients), or such disclosure would otherwise be in breach of any regulatory or legal obligations. In such circumstances the Bank may refuse to act in a situation where it is unable to resolve the conflict or disclose it to you.

9.4 You agree that the Bank and any Connected Company may therefore effect transactions in which the Bank or a Connected Company or another client of the Bank or a Connected Company has, directly or indirectly, a material interest or relationship of any description with another party which involves or may involve a potential conflict with our duty to you, where that conflict has, in the Bank's reasonable opinion, been managed effectively.

#### **Article 10. Instructions**

10.1 You may give us instructions in writing, orally (including by telephone) or by other electronic communication received by us that has been transmitted subject to proper test or security procedures (including, for example, Bloomberg) unless we tell you that instructions can only be given in a particular way. If you give instructions by telephone, your conversation will be recorded, as set out in clause 19. Unless otherwise agreed, e-mail or other electronic messages in respect of each instruction for general trading will only be accepted if specifically acknowledged by us. With the exception of telex and SWIFT messages, no settlement instructions will be accepted by e-mail or other electronic means unless otherwise agreed. If any instructions are received by us by telephone, computer or other medium we may ask you to confirm such instructions in writing. We shall be authorised to follow instructions notwithstanding your failure to confirm them in writing. In these ToB "instructions" and "orders" have the same meaning.

10.2 You authorise the Bank to rely and to act without further enquiry on any order, instruction or communication (however received or by whatever means transmitted) which purports to have been given by you or your agents or employees and which has been reasonably accepted by us in good faith.

10.3 You agree that you will be responsible for and bound by any contract or obligations entered into by the Bank or assumed by the Bank on your behalf in consequence of or in connection with your order or instructions.

10.4 We can only cancel your instructions if we have not acted upon those instructions. Instructions may only be withdrawn or amended by you with our consent.

10.5 The Bank may at any time, and without any liability on its part, refuse to act upon, execute or otherwise implement any instruction or request from you without giving any reason for such refusal. The Bank will notify you promptly of any such refusal.

10.6 The Bank may, at its sole discretion, act upon instructions given by you by telephone, provided that instructions by telephone shall promptly thereafter be confirmed in writing by you upon request by the Bank. You agree to indemnify and hold the Bank harmless for any failure by you to send such a confirmation in writing or the failure of such confirmation to confirm the telephone instructions received.

10.7 We have the right (but no obligation) to set limits and/or parameters to control your ability to place orders at our absolute discretion. Such limits and/or parameters may be amended, increased, decreased, removed or added to by us at our absolute discretion and may include (without limitation): (i) controls over maximum order amounts and maximum order sizes; (ii) controls over our total exposure to you; (iii) controls over prices at which orders may be submitted (to include (without limitation) controls over orders which are at a price which differs greatly from the market price at the time the order is submitted to the order book); (iv) controls over any electronic services (to include (without limitation) any verification procedures to ensure that any particular order or orders has come from you); or (v) any other limits, parameters or controls which we may be required to implement in accordance with Applicable Regulations.

#### **Article 11. Execution Arrangements**

11.1 The Bank has in place arrangements to enable the Bank to obtain the best possible result for clients, within the terms of the Bank's the "order execution policy", a summary of which is available in Schedule 4. Our order execution policy can be accessed on our website.

11.2 You confirm that you have read and accepted our order execution policy. We will notify you of any material changes to our order execution policy. We will not notify you of non-material changes to such policy. MUFG will, on request and if applicable, demonstrate that your orders have been executed in accordance with the order execution policy.

11.3 Where we execute orders in Financial Instruments on your behalf, we will take all reasonable steps to obtain the

best possible result by following our order execution policy, subject to any specific instructions received from you.

11.3 Where you provide us with specific instructions, including specifying the characteristics of a bespoke product, either relating to an order or a particular aspect of an order, we will execute the order in accordance with those instructions. Accordingly, our order execution policy will not apply. We will deem orders received via direct market access systems as specific instructions.

11.4 We shall use our reasonable endeavours to execute any order promptly, but in accepting your orders we do not represent or warrant that it will be possible to execute such order or that execution will be possible according to your instructions. We shall carry out an order on your behalf only when the relevant Market is open for dealings, and we shall deal with any instructions received outside Market hours as soon as possible when that relevant Market is next open for business (in accordance with the rules of that Market). Where required, you will agree that we may execute an order on your behalf outside a Market. We operate on a request for quote basis and only accept orders on a very limited basis.

11.5 Please note that it is common market practice for banks such as the Bank when executing Transactions to deal with you on a proprietary basis by providing quotes at your request.

11.6 MiFID II requires us to request your consent to your orders relating to Financial Instruments being executed by us outside a regulated market, MTF or OTF. You are required to provide us with your consent by filling in and sending us the "Trading off Trading Venue (TOTV) Form of Consent" within one month upon receipt of the Trading off Trading Venue (TOTV) Form of Consent.

#### **Article 12. Aggregation and allocation**

The Bank may aggregate orders in Financial Instruments executed for your account with orders for the account of other clients or our Connected Companies or clients of our Connected Companies or for our own account. The Bank will allocate such transactions on a fair and reasonable basis subject to Applicable Regulations. You recognise that each individual aggregated transaction may operate to your advantage or disadvantage.

#### **Article 13. Confirmations**

13.1 The Bank will send you confirmations in accordance with Applicable Regulations for any Transactions that we have executed on your behalf, by electronic mail to the e-mail address on record for you, or by such other means agreed between you and us. In addition to providing you with confirmations we shall, on your request, provide you with information about the status of your order.

13.2 It is your responsibility to inform us of any change to your e-mail address, the non-receipt of a confirmation, or whether any confirmations are incorrect before settlement. Confirmations shall, in the absence of manifest error, be conclusive and binding on you, unless we receive from you objection in writing within two business days of despatch to you or we notify you of an error in the confirmation within the same period.

13.3 In accordance with Applicable Regulations we will also provide you with post-trade reports for any Transactions that we have executed on your behalf, either with your confirmation or as a separate document. Such reports will be provided as soon as possible after execution but in any event no later than as required by Applicable Regulations or where relevant following our receipt of a confirmation from a third party.

#### **Article 14. Performance and settlement**

14.1 You will promptly deliver any instructions, money, documents or property deliverable by you under a Transaction in accordance with that Transaction as modified by any instructions given by us for the purpose of enabling us to perform our obligations under the relevant matching Transaction on a Market or with an intermediate broker.

14.2 In relation to Transactions with the Bank only, all Transactions are settled on an actual settlement basis. We are not obliged to settle transactions or account to you unless and until we (or our settlement agents) have received all necessary documents or money. Where we settle transactions for you, delivery or payment by the counterparty is entirely at your risk. Unless otherwise specifically agreed with you, settlement shall be carried out in accordance with market practice and Applicable Regulations.

14.3 We may require you to limit the number of open positions which you may have with us at any time and we may in our sole discretion close out any one or more Transactions in order to ensure that such position limits are maintained.

14.4 Under Applicable Regulations we will publish annually information on the top five execution venues we have used in terms of trading volume for classes of Financial Instruments when executing client orders. We will provide similar information for the top five third parties (i.e. brokers) to which we have routed your orders, where relevant, and any other information relating to execution venues as required by Applicable Regulations. We will provide this information separately for securities financing transactions, such as stock lending. This information will be published on our website in accordance with Applicable Regulations but we may also provide this to you directly.

14.5 If we act in the capacity of a systematic internal user and we make public firm quotes in certain Transactions, in accordance with Applicable Regulations, you agree that we may limit: (i) the number of Transactions that we undertake to enter into with you at the published quote; and (ii) the total number of Transactions that we undertake to enter into with other clients at the published quote. Where we grant access to quotes provided by us in our capacity as a systematic internal user, and the quoted size is at or below the size specific to the financial instrument, we may enter into a Transaction with any other client to whom the quote is made available, in accordance with Applicable Regulations.

#### **Article 15. Charges**

15.1 You shall pay our charges; any taxes imposed by any competent authority on any account opened or Transaction effected by or cleared for you; any fees or other charges imposed by a Market or any clearing organisation; interest on any amount due to us at the rates then charged by us; and any other value added or other applicable taxes of

any of the foregoing, including any withholding tax. Any alteration to charges will be notified to you at or before the time of the change. You should be aware of the possibility that other taxes or costs may exist that are not paid through or imposed by us.

15.2 Additional costs as agreed with you from time to time in writing may be payable by you by virtue of the fact that a contract is entered into via email, telephone or by other electronic means.

15.3 The Bank is not permitted to accept or retain any fees, commissions, monetary or non-monetary benefits (each an inducement) paid or provided by a third party in relation to Investment Services provided by us to you. We are similarly not allowed to pay or provide any inducement to any third party in relation to the provision of Investment Services to you. We can only accept or retain or pay or provide such inducements if they meet the conditions set out in the Applicable Regulations.

15.4 Where permitted by Applicable Regulations, we may receive remuneration from, or share charges with, an associate or other third party in connection with Transactions. Where such arrangements directly affect the business you undertake with us, we will notify you of the nature and amount of such fees, commissions or benefits, excluding minor non-monetary benefits.

15.5 Any charges due to us plus any applicable value added tax may be deducted from any funds held by the Bank on your behalf or, at our discretion, shall be paid by you as stated in the relevant contract note or advice at settlement.

15.6 All amounts payable will automatically be debited from your Cash Account on the due date if applicable, unless otherwise agreed upon between you and the Bank.

15.7 If you fail to pay any amount on the date on which it is due and payable to us, the Bank reserves the right to charge you interest on any such amount from the date of such failure to pay until the date of actual payment. Interest will accrue on a daily basis and will be due and payable by you as a separate debt.

15.8 Interest will not be payable to you in respect of any money that the Bank holds for you (including, in particular, funds received in advance of the due date for settlement), unless specifically agreed by the Bank in writing.

#### **Article 16. Client Money**

16.1 The Bank is the authorised Belgian branch of a credit institution authorised under the laws of the Netherlands, and is licensed to conduct deposit business in Belgium. The Bank falls under the supervision of and subject to supervision by the Authorised Regulators.

16.2 You may withdraw any money held in an account with the Bank pursuant to these ToB at any time, subject to the Bank's normal account withdrawal procedures and unless limitations have been set in accordance with an agreement thereto between you and the Bank.

16.3 The Bank is subject to the deposit guarantee scheme and investor compensation scheme as provided for in the DFSA and in the Special Prudential Measures, Investor

Compensation and Deposit Guarantees Decree (*Besluit bijzondere prudentiële maatregelen, beleggerscompensatie en depositogarantie Wft*). If you hold money or Financial Instruments in a Bank account, you may be entitled to the rights that follow from the regulations as referred to in the previous sentence.

16.4 The Bank will provide you with an overview of your Financial Instruments and funds held at the Bank at least annually.

#### **Article 17. Communication**

17.1 Communication between us, including communication relating to Investment Services provided to you, may be in writing, by email or other electronic means, or orally (including by telephone). Except where otherwise agreed, the language of communication shall be English or Japanese and you will receive documents and other information from us in English.

17.2 Correspondence to you may be sent by the Bank to the address last notified by you or, in the absence thereof, to your last place of ordinary residence. You must inform the Bank of the address to which notices may be sent. It is your responsibility to notify the Bank in the event of a change of address. On notification the Bank shall make the necessary changes to your account as quickly as is possible.

17.3 You agree that the Bank may provide information in a durable medium or via a website. We will notify you of the website address when such information is accessible and when such information is revised. Specifically you agree that we may provide the following information to you via a website, where relevant and in accordance with Applicable Regulations:

- (a) The ToB;
- (b) a description of the conflicts of interest policy maintained by us and, upon request, further details of that conflicts of interest policy;
- (c) Any changes to the methods of communication to be used between us, including but not limited to how we receive orders or requests for quotes;
- (d) A general description of the nature and risks of Financial Instruments in the product fact sheets;
- (e) costs and charges including but not limited to, where relevant, aggregated costs and charges related to Financial Instruments, the Investment Services and any third party payments, currency conversion rates and costs and illustrations of costs and charges;
- (f) Details of our order execution policy; and
- (g) The Wholesale Foreign Exchange Global Terms of Dealing Transactions.

#### **Article 18. Recording**

Telephone conversations between the Bank and you may be recorded without the use of a warning tone and may be used to monitor compliance with relevant rules and regulations, confirm instructions received and the Bank may otherwise have recourse to such recordings for the purposes of resolving any dispute, complaint or investigation from you or on your behalf or on behalf of any other person.

#### **Article 19. Complaints**

If you have any complaint about the Bank's conduct or performance under these arrangements, please email your

complaint to the Bank's compliance department at [compliance@be.mufg.jp](mailto:compliance@be.mufg.jp) where the nature of your complaint will be investigated. Upon your request or when acknowledging your complaint, the Bank will inform you the details of the process to be followed when handling a complaint.

#### **Article 20. Indemnity and Limitation of Liability**

20.1 Neither we nor our directors, officers, employees, or agents shall be liable for any losses, damages, costs or expenses (together "Loss"), whether arising out of negligence, misrepresentation or otherwise, incurred or suffered by you under this ToB (including any Transaction or where we have declined to enter into a proposed Transaction) even if such Loss is a reasonably foreseeable consequence unless such Loss arises directly from our or their respective gross negligence, wilful default or fraud.

20.2 In no circumstance, shall we have liability for Loss suffered by you or any third party for any special or consequential damage, loss of profits, loss of goodwill or loss of business opportunity arising under or in connection with this ToB, whether arising out of negligence, breach of contract, misrepresentation or otherwise.

20.3 Nothing in this ToB will limit our liability for death or personal injury resulting from our negligence.

20.4 Without limitation, we do not accept liability for any adverse tax implications of any Transaction whatsoever.

20.5 We shall not be liable to you for any partial or non-performance of our obligations hereunder by reason of any force majeure (*overmacht / force majeure*), including without limitation any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, act of terrorism, act of God, acts and regulations of any governmental or supra national bodies or authorities or the failure by the relevant intermediate broker or agent, agent or principal of our custodian, sub-custodian, dealer, Market, clearing house or regulatory or self-regulatory organisation, for any reason, to perform its obligations.

20.6 We shall not be liable for any loss or expenses which may result by reason of any delay or change in market conditions before any particular Transaction has been effected.

#### **Article 21. Joint and Several Liability**

Where these ToB apply in relation to a partnership or otherwise by or on behalf of more than one person, any liability arising hereunder shall be deemed to be the joint and several liabilities of the partners in the firm or of such persons as aforesaid. These ToB shall not be terminated or prejudiced or affected by any change in the constitution of such partnership or by the death of any one or more of such persons. The Bank shall be entitled to accept instructions and give receipts and for all purposes deal with any one of such persons as agent to all of them.

#### **Article 22. Authorities and Consents**

22.1 You warrant and represent to the Bank that:



- (i) You are duly incorporated or established under the laws of your place of incorporation or establishment;
- (ii) You have, and you undertake that you will continue to have, all requisite corporate powers, capacity and authority to engage the Bank upon the terms and conditions of these ToB, and to execute and perform your obligations under these ToB;
- (iii) These ToB have been duly accepted and constitute your valid, legal and binding obligations;
- (iv) You have obtained, and will maintain in effect, in relation to all transactions, all necessary consents of any governmental or other regulatory body or authority applicable to each transaction, and that you will comply with the terms of the same and all applicable laws, regulations and directives of such bodies and authorities. You will forthwith on demand by the Bank deliver to the Bank copies of all such consents or such other evidence of any such consents and such evidence of compliance with such and with any such laws, regulations and directives as the Bank may reasonably require;
- (v) You act as principal in each Transaction;
- (vi) Any information which you provide or have provided to us in respect of your financial position, domicile or other matters is accurate and not misleading in any material respect;
- (vii) You are financially able and prepared to sustain a total loss of funds resulting from Transactions and trading in such Transactions is a suitable investment vehicle for you; and
- (viii) In relation to your Transactions with or through BTMU, you are entering into Transactions for hedging purposes only and not for speculative purposes.

22.2 You will forthwith on demand by the Bank deliver to the Bank copies of all such consents or such other evidence of any such consents and such evidence of compliance with such and with any such laws, regulations and directives as the Bank may reasonably require.

### **Article 23. Delay or Omission**

No delay or omission on the Bank's part in exercising any right, power, remedy or privilege under these ToB shall impair such right, power, remedy or privilege or act as a waiver. Any waiver or release of a party's rights under these ToB must be granted specifically in writing by the party granting it. The Bank's rights and remedies provided for in this document are cumulative and not exclusive of any rights of lien, sale, setoff or retention or other rights or remedies provided by law, statute or otherwise howsoever. Each party may exercise each of its rights as often as it thinks necessary.

### **Article 24. Assignment of rights and obligations**

You cannot assign any rights and obligations under these ToB and any transactions entered into pursuant hereto may not and cannot be assigned without the Bank's prior written consent.

### **Article 25. Rights of third parties**

A person who is not a party to these ToB or any transactions entered into pursuant to it has no right to enforce any term of such agreement, except as otherwise expressly provided in these ToB.

### **Article 26. Severability**

Each provision of these ToB is severable and, if any provision is or becomes invalid or unenforceable or contravenes any applicable law or rules and regulations of the appropriate regulatory authority, the remaining provisions shall remain valid and enforceable.

### **Article 27. Confidentiality**

27.1 Neither party shall disclose to any person, unless required to do so by any applicable law or by any regulatory or supervisory authority (including the Authorised Regulators) or by any other person entitled by law to require disclosure, or to enable it properly to perform its obligations under these ToB, any information relating to the business, investments, finances or other matters of a confidential nature of the other party of which it may in the course of its duties or otherwise become possessed, and each party shall use reasonable endeavours to prevent any such disclosure.

27.2 By accepting these ToB, you authorise the Bank to disclose such information relating to you as may be required by any law, rule or regulatory authority (including the Authorised Regulators) without prior notice to you. Furthermore the Bank may disclose requested and relevant information relating to you to third parties in or outside Belgium in order to facilitate the transfer of funds.

### **Article 28. Termination**

28.1 Without prejudice to Article 13 (*Termination*) of Part I.A (*General Provisions*) of the Business Conditions and Regulations, these ToB will also terminate immediately and the Bank may, without prior reference to you and in the Bank's absolute discretion, take any action the Bank deems necessary or expedient to perform, cancel or close out any transaction or contract entered into if any of the following events occur:

- (i) You default in performing an obligation pursuant to these ToB or commit any breach of the terms contained in these ToB; an order is made or a resolution passed for your winding-up or a meeting convened for a voluntary winding-up;
- (ii) You convene a meeting or make any arrangement or composition with your creditors; you cease to trade or become unable to pay your debts or become subject to a suspension of payments or bankruptcy proceeding (or an application for such proceeding has been filed) under the Belgian bankruptcy rules or any comparable legislation either in the Belgium or elsewhere which may be applicable;
- (iii) Any debt or obligation of yours becomes due and payable or is declared and payable due to any default on your part;
- (iv) you making use of the Investment Service(s) in a manner contrary to legislation or regulations or that may lead to damage to the reputation of the Bank or to infringement of the integrity of the banking sector;
- (v) National or international legislation or regulations obliging the Bank to do so.

28.2 No penalty will become due from either you or the Bank in respect of the termination of these arrangements; however, you will pay all amounts due to the Bank from you, including any outstanding fees and charges that have accrued down to the date of termination and the Bank's charges for transferring your investments to your new investment adviser.

28.3 If these arrangements are terminated, that will not affect any outstanding order or transaction or any legal rights or obligations that may already have arisen.

28.4 Termination shall not affect the applicability of clause 19 up to and including 28 and clause 31 of these ToB, the then outstanding rights and obligations and Transactions which shall continue to be governed by this ToB and the particular clauses agreed between you and us in relation to such Transactions until all obligations have been fully performed.

#### **Article 29. Amendments**

29.1 In derogation of Article 17 (*Modification of Business Conditions and Regulations*) of Part I.A (*General Provisions*) of the Business Conditions and Regulations, amendments to these ToB that are required under any Applicable Regulations, any further regulation thereto or required by any governmental or regulatory authority or court, the amendments shall have immediate effect from the moment the Bank has sent notice thereof.

29.2 No amendment will affect any outstanding order or Transaction or any legal rights or obligations which may already have arisen.

#### **Article 30. Entry into Force**

30.1 These ToB supersede any previous terms and conditions governing the provision of Investment Services by the Bank, between you and us on the same subject matter and takes effect on the Effective Date.

30.2 Where the Bank has already sent you or shall send you, or the Bank have entered into with you, any master agreement and/or other client documentation relating to regulated activities, the terms of such separate agreement shall prevail but shall be supplemented by the terms of these ToB (to the extent they do not conflict with such agreements).

30.3 You acknowledge that you have not relied on or have been induced to enter into these ToB by a representation other than those expressly set out in these ToB.

#### **Article 31. Governing Law**

31.1 The contractual and non-contractual obligations under, in connection to or pursuant to these ToB are governed by Belgian law.

31.2 Any dispute arising from or in connection with these ToB shall be submitted to the exclusive jurisdiction of the competent court in Brussels.

## C. SCHEDULES TO SECTION IV.A AND TO SECTION IV.B

### Schedule 1

#### Definitions and interpretations

##### Definitions

Definitions specific to the attached Schedules are contained in the respective Schedules as appropriate.

**Applicable Regulations** Means each of:

- (i) The DFSA, pursuant to the Bank being the Belgian branch of a Dutch credit institution;
- (ii) The Supervision Law and any of its implementing rules and regulations applicable underlying rules and regulations;
- (iii) Any other Belgian laws, royal decrees and other rules implementing MiFID II;
- (iv) rules of the relevant Market; and
- (v) Any rules and regulations that implement MiFID II and that may have a direct effect in Belgium, including but not limited to Regulation (EU) No 600/2014 of 15 May 2017 (MiFIR), Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 and Commission Delegated Regulation (EU) 2017/567 of 18 May 2016

**Authorised Regulators:** the Bank is authorised and regulated by the European Central Bank, the Dutch Central Bank (*De Nederlandsche Bank*) and the Dutch Financial Markets Authority (*Autoriteit Financiële Markten*), and falls under the supervision of the FSMA with regard to the conduct of business rules set out in Article 35(9) of MiFID 2 for the provision of Investment Services in Belgium.

**Best Execution:** Means that when executing orders the Bank takes all sufficient steps to obtain the best possible result for our clients, as meant in Article 27(1) MiFID II.

**Cash Account:** Means the current account maintained by you with us on which cash is administered.

**Connected Companies:** Means any entity or company which is affiliated with the Bank.

**DFSA:** Means the Dutch Financial Supervision Act (*Wet op het financieel toezicht*) as amended, supplemented or re-adopted from time to time.

**Effective Date:** Means 3 January 2018 unless the effective date of MiFID II in the Belgium is postponed beyond 3 January 2018 in which case it shall mean the date MiFID II is effective or as otherwise notified by us to you in writing.

**Eligible Counterparty:** Means an eligible counterparty (*in aanmerking komende tegenpartij / contreparties éligibles*) as defined in the Supervision Law.

**EMIR:** Means Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories and

any delegated or implementing acts made under that Regulation, each as amended or restated from time to time.

**Financial Instruments:** Means the financial instruments as set out in Section C of Annex 1 to Mifid II, including:

- (i) foreign exchange products (including Foreign Exchange Forward, Foreign Exchange Option, Non-Deliverable Forward, FX Swap, excluding spot forex contracts);
- (ii) Currency options (including Range Hyper Deposit); and
- (iii) Interest rate derivatives (including Interest Rate Swap, Currency Swap, Interest Rate Cap/Floor).

**FSMA:** the Belgian Financial Services and Markets Authority.

**Market:** Means any regulated market, multilateral trading facility or organised trading facility (as such terms are defined in the Supervision Law) or any other third country trading facility determined to be equivalent to a regulated market, multilateral trading facility or organised trading facility pursuant to the relevant provision of MiFID II.

**MiFID II:** Means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments amending Directives 2002/92/EC and Directive 2011/61/EU.

**MTF:** Means a multilateral trading facility (*multilaterale handelsfaciliteit / système multilatéral de négociation*) as defined in the Supervision Law.

**Bank:** means MUFG Bank (Europe) N.V. acting through its Belgian branch.

**MUSI:** Means Mitsubishi UFJ Securities International PLC.

**OTF:** Means an organised trading facility (*georganiseerde handelsfaciliteit / système organisé de négociation*) as defined in the Supervision Law.

**Professional Client:** Means a professional client (*professionele client / client professionnel*) as defined in the Supervision Law.

**Research:** Means a publication recommending or suggesting an investment strategy, explicitly or implicitly, concerning one or several financial instruments or the issuers of financial instruments, including any opinion as to the present or future value or price of such instruments, intended for distribution channels or for the public, and in relation to which the following conditions are met:

- (i) it is labelled as research or in similar terms, or is otherwise presented as an objective or independent explanation of the matters contained in the recommendation;
- (ii) If the recommendation in question were to be made by an investment firm to a client, it would not constitute the provision of a personal recommendation or advice; and
- (iii) All other publications aimed as research and produced in a segregated environment and subject to the relevant requirements of Applicable Regulations relating to investment research.

**Retail Client:** Means a non-professional client (*niet-professionele cliënt / client de détail*) as defined in the Supervision Law.

**Supervision Law:** means the Belgian law of 2 August 2002 on the supervision of the financial sector and financial services, as amended or replaced from time to time;

**Transaction:** Means any transaction in relation with Financial Instruments entered into by you following Investment Services provided to you by the Bank.

**ToB:** Has the meaning given to it in Article 1.1 (*Scope*).

### **Interpretation**

1. The headings are included for convenience only and will not affect the interpretation or construction of these ToB.

2. In these ToB, unless the context requires otherwise, any reference to:

(a) "We" or "us" will, unless otherwise specified herein or required by context, mean the Bank and any successor thereto with which you transact the business set out in these TOB;

(b) A party or the parties is to a party or the parties (as the case may be) to these ToB;

(c) A statute or statutory provision or rules or regulations includes any consolidation or re-enactment, modification or replacement of the same, any statute or statutory provision or rule or regulation of which it is a consolidation, re-enactment, modification or replacement and any subordinate legislation in force under any of the same from time to time;

(d) A person includes a firm, corporation and unincorporated associations, government, state or agency of state, any association or partnership or joint venture (whether or not having a separate legal personality); and

(e) A document is to that document as varied, supplemented or replaced from time to time.

## Schedule 2

### **Summary of conflicts of interest policy**

We have in place a written conflicts management policy. A summary of our conflicts management policy is set out below. We may provide more information on our website or we may provide this to you upon written request.

The Bank is engaged in a range of regulated businesses in Belgian and the Netherlands. This may give rise to situations where the Bank, under Applicable Regulations:

(i) May have interests, relationships and/or arrangements which conflict with those of you whether in relation to these ToB or otherwise; and/or

(ii) May have other clients whose interests conflict with your interests.

The Bank has established a written conflicts policy to manage conflicts of interests. Pursuant to this policy, the Bank will, in providing services to clients, ensure that all clients are treated fairly and, so far as is reasonably practicable, the Bank will ensure that such transactions are effected on terms which are not materially less favourable to you than if the conflicts or potential conflicts had not existed.

We have measures and controls in place to identify both potential and actual conflicts of interest. This includes, for example, identifying situations where we are likely to make a financial gain, or avoid a financial loss, at your expense or where we carry out the same business as you. We have identified a wide range of scenarios where a potential conflict of interest may arise, in particular where we or our associates provide corporate finance business and where we deal on or own account.

In addition to identifying conflicts, the Bank has procedures to try and prevent conflicts from arising and also to manage conflicts of interests that do arise. This includes segregation of duties for and supervision of staff engaged in different business activities which may also include information barriers (both physical and systems access), maintenance of a restricted list, personal account dealing restrictions applicable to all staff and their connected persons, a gifts, entertainment and inducement policy, relevant training to staff and a remuneration policy and independent remuneration committees to deal with remuneration that may or does give rise to a conflict of interests.

Where we do not consider that our measures and controls to manage conflicts (such as those outlined above) are sufficient to manage a conflict, we may:

(i) Choose to disclose specific conflicts to clients and to ask for their informed consent to continue to act, notwithstanding the existence of any such conflict; and/or

(ii) Decline to act, for example where the group is already acting for another client and we consider that it would be inappropriate for us to undertake business for you and we are not in a position to manage the conflict of interest on a reasonable basis or are precluded from doing so by a legal or regulatory constraint.

## Schedule 3

### Conditions relating to derivatives services

#### 1. Application and scope

1.1 The provisions in this Derivatives Compliance Schedule apply to all derivatives between us and you, subject to clause 1.2 of this Derivatives Compliance Schedule.

1.2 If you and we entered into an agreement covering in substance the issues contained in this Derivatives Compliance Schedule or you and us both have adhered to the ISDA 2013 EMIR NFC Representation Protocol or the ISDA 2013 EMIR Portfolio

Reconciliation, Dispute Resolution and Disclosure Protocol published on the website of the International Swaps and Derivatives Association, Inc., the amendments to any Covered Master Agreement (as defined in the relevant Protocol) effected as a result shall prevail to the extent that they document the substance of the issues covered in this Derivatives Compliance Schedule.

1.3 Where a person enters into a Derivative with us as agent for and on behalf of a client, investor, fund, account and/or other principal, the references to "you" in this Derivatives Compliance Schedule shall be interpreted to refer to such principal.

#### 2. Representation

2.1 You represent and warrant on the day you accept these Conditions and, subject to paragraph 2.3 below, such representation and warranty will be deemed to be repeated by you each time you enter into a Derivative and at all times while such Derivative remains outstanding that you are (as applicable):

- (i) A financial counterparty ("FC"); or
- (ii) A non-financial counterparty referred to in Article 10 of EMIR ("NFC+"); or
- (iii) A non-financial counterparty not referred to in Article 10 of EMIR ("NFC-").

each of the above under (i) and (ii) shall include an entity established outside the EEA which would have been a financial counterparty or a non-financial counterparty referred to in Article 10 of EMIR if you had been established in the EEA, but to whom EMIR applies either in whole or in part.

2.2 You must notify the Bank immediately upon becoming aware that the representation in paragraph 2.1 has ceased or is likely to cease to be true.

#### 3. Confirmation of Uncleared OTC Derivatives

3.1 Unless we agree with you otherwise, where we enter into any Uncleared OTC Derivative with you:

(a) we will send you a confirmation setting out or incorporating by reference or otherwise all the terms of the Transaction as soon as reasonably practicable before the relevant confirmation deadline as set out in clause 3.2 below of this Derivatives Compliance Schedule (the "**Confirmation Deadline**");

(b) You must notify us, as soon as possible and in any event by the Confirmation Deadline, if you do not agree to the confirmation, setting out the reasons for your disagreement;

(c) You will be deemed to have agreed to the confirmation if we have not received notification of your disagreement by the Confirmation Deadline.

3.2 The Confirmation Deadline referred to in clause 3.1 above of this Derivatives Compliance Schedule will be as follows:

- (i) For FC or NFC+ the end of the first Business Day following the date of execution of the Transaction
- (ii) For the NFC- the end of the second Business Day following the date of execution of the Transaction.

Where two Confirmation Deadlines are applicable to you, the earlier Confirmation Deadline shall apply.

#### 4. Portfolio Reconciliation

4.1 From time to time we will notify you of a schedule of dates as of which portfolio reconciliation is to be carried out with respect to the Uncleared OTC Derivatives outstanding between you and us. Each date so notified is a "Portfolio Reconciliation Date".

4.2 We will be designated a "**Portfolio Data Sending Entity**" for the purposes of portfolio reconciliation and you will be designated to be a "**Portfolio Data Receiving Entity**". We or you may change this designation at any time by written agreement between us (such agreement not to be unreasonably delayed and for this purpose the parties agree, without limitation, that it will not be unreasonable for a party to delay agreement where agreement would result in the other party having different designations in respect of such party and one or more Affiliated Companies of such party) and we shall notify you of how clauses 4.4 to 4.6 of this Derivatives Compliance Schedule shall be modified to give effect to the change

4.3 We will make reasonable endeavours to ensure that we perform a portfolio reconciliation exercise with you as set out in the table below. Where two Confirmation Deadlines are applicable to you, the earlier Confirmation Deadline shall apply.

4.4 If you are an NFC+ or FC, the Bank will make reasonable endeavours to ensure that:

- (i) where there are 50 or fewer Uncleared over-the-counter Derivative transactions outstanding between you and the Bank, there will be at least one Portfolio Reconciliation Date per quarter;
- (ii) where there are between 51 and 499 Uncleared over-the-counter Derivative transactions outstanding between you and the Bank at any time, there will be at least one Portfolio Reconciliation Date per week; and
- (iii) where there are 500 or more Uncleared over-the-counter Derivative transactions outstanding between you and the Bank at any time each business day will be a Portfolio Reconciliation Date.

4.5 If you are an NFC-, the Bank will make reasonable endeavours to ensure that:

(i) where there are 100 or more Uncleared over-the-counter Derivative transactions outstanding between you and the Bank, there will be at least one Portfolio Reconciliation Date per quarter; and

(ii) where there are 100 or less Uncleared over-the-counter Derivative transactions outstanding between you and the Bank, there will be at least one Portfolio Reconciliation Date per year.

4.6 the Bank will endeavour to provide the Portfolio Data not later than the fifth business day following each Portfolio Reconciliation Date, unless you are an FC or NFC+ and if there are 500 or more Derivative transactions outstanding between you and the Bank, in which case the Bank will endeavour to provide the Portfolio Data not later than the first business day following each Portfolio Reconciliation Date. On that day you must undertake a comparison of the Portfolio Data against your own books and records in order to identify promptly any misunderstandings of key terms.

4.7 If you identify one or more discrepancies which you consider, acting reasonably and in good faith, are material to the rights and obligations of the parties, you must notify the Bank in writing as soon as reasonably practicable and the parties will consult with each other in good faith to resolve such discrepancies in a timely fashion for so long as such discrepancies remain outstanding.

4.8 If you do not notify the Bank of any discrepancies by 16:00 Amsterdam time on the fifth business day following the date on which the Bank sent the Portfolio Data, you will be deemed to have affirmed such Portfolio Data.

4.9 the Bank may delegate performance of portfolio reconciliation to a third party and by agreeing these terms you give consent to reconciliation by these means. Or, you may delegate performance of this obligation to a third party if the Bank agrees to this. To the extent required, you shall inform and/or obtain consent of individuals whose personal data will be transferred to such third party.

## 5. Dispute Resolution

5.1 You and we agree to use the following procedure to identify and resolve Disputes: (a) Either party may identify a Dispute by sending a notice promptly to the other party; (b) On and following the date the Dispute notice is sent under sub-clause (a) above, the parties will consult in good faith to resolve the Dispute in a timely manner, including, without limitation, by exchanging any relevant information and by identifying and using any Agreed Process which can be applied to the subject of the Dispute or, where no such Agreed Process exists or the parties agree that such Agreed Process would be unsuitable, determining and applying a resolution method for the Dispute; and (c) With respect to any Dispute that is not resolved within five Business Days, escalate issues internally to appropriately senior members of staff (or equivalent) in addition to actions under (b) above.

5.2 You and we agree that each party will have internal procedures and processes in place to record and monitor any Dispute for as long as the Dispute remains outstanding.

5.3 This Derivatives Compliance Schedule and any action or inaction of either party in respect of this Derivatives Compliance Schedule are without prejudice to any rights or obligations the parties may possess in respect of each other under any Agreed Process or other contractual agreement, by

operation of law or otherwise. Action or inaction by a party in respect of this Derivatives Compliance Schedule will not be presumed to operate as an exercise or waiver, in whole or part, of any right, power or privilege such party may possess in respect of each other under any Agreed Process or other contractual agreement, by operation of law or otherwise. In particular, but without limitation, (i) any valuation in respect of one or more Derivatives for the purposes of this Derivatives Compliance Schedule will be without prejudice to any other valuation with respect to such Transactions made for collateral, close out, dispute or other purpose; (ii) the parties may seek to identify and resolve issues and discrepancies between themselves before either party delivers notice of a Dispute; and (iii) nothing in this Derivatives Compliance Schedule obliges a party to deliver notice of a Dispute following the identification of any such issue or discrepancy (notwithstanding that such issue or discrepancy may remain unresolved) or limits the rights of the parties to serve notice of a Dispute or otherwise to pursue any dispute resolution process in respect of any such issue or discrepancy.

## 6. Portfolio Compression

6.1 Where we have 500 or more Uncleared OTC Derivatives outstanding between you and us you agree to regularly, and at least twice a year, analyse the possibility to conduct a portfolio compression exercise. Where such exercise takes place this will be subject to separate agreement between us which shall cover, inter alia, when the compression exercise takes place and becomes legally binding

## 7. Consent to disclosure

7.1 You acknowledge that the Bank may report any Derivatives entered into by you with the Bank to a trade repository or Regulator (either directly or via a third party service provider) or may otherwise provide information relating to such Derivatives to a trade repository or Regulator. You waive any rights you may have to confidential treatment of the information provided by you under applicable law or under any other agreement between you and the Bank, to the extent necessary to enable the Bank or any third party service provider to make such reports or to provide such information to a trade repository or Regulator.

7.2 You consent to the disclosure of information relating to any Derivatives entered into by you with the Bank to the Bank's head office, branches or affiliates, or any persons or entities who provide services to the Bank, its head office, branches or affiliates in connection with making the reports or providing the information referred to in paragraph 5.1.

7.3 You acknowledge that pursuant to global regulatory reform initiatives, regulators require reporting of trade data to increase market transparency and enable regulators to monitor systemic risk to ensure safeguards are implemented globally.

7.4 You acknowledge that disclosures made under these Conditions may include, without limitation, the disclosure of trade information including a party's identity (by name, address, corporate affiliation, identifier or otherwise) to any trade repository or one or more systems or services operated by any trade repository and any Regulators and that such disclosures could result in certain anonymous transaction and pricing data becoming available to the public. You further acknowledge that, for the purposes of complying with regulatory reporting

obligations, the Bank may use a third party service provider to transfer trade information into a trade repository and that a trade repository may engage the services of a global trade repository regulated by one or more governmental regulators. You also acknowledge that disclosures made under these Conditions may be made to recipients in jurisdictions other than that of the Bank or a jurisdiction that may not necessarily provide an equivalent or adequate level of protection for personal or other data as your home jurisdiction. For the avoidance of doubt, (i) to the extent that applicable non-disclosure, confidentiality, bank secrecy, data privacy or other law imposes non-disclosure requirements on transaction and similar information required or permitted to be disclosed as contemplated herein but permits a party to waive such requirements by consent, the consent and acknowledgements provided herein shall be a consent by each party for the purposes of such law; (ii) any agreement between the parties to maintain confidentiality of information in relation to Derivatives or in any non-disclosure, confidentiality or other agreement shall continue to apply to the extent that such agreement is not inconsistent with the disclosure of information as set out herein; and (iii) nothing herein is intended to limit the scope of any other consent to disclosure separately given by you to the Bank.

## 8. Liability

Without prejudice to the rights, powers, remedies and privileges provided by law, failure by you or us to take any actions required by or to otherwise comply with this Agreement or any inaccuracy of the representation and warranty regarding confidentiality, in either case, will not constitute an Event of Default in respect of either party or any other event which permits either party to terminate any transaction or agreement between the parties.

## 9. Modification of this Derivatives Compliance Schedule

9.1 We may amend this Derivatives Compliance Schedule at any time by notice to you.

9.2 Subject to clause 8.3, we will give you at least 10 Business Days prior notice before the proposed date of application of any amendments

9.3 We may amend this Derivatives Compliance Schedule with immediate effect and without prior notice if required to do so by Applicable Regulations or where required to do so by a competent authority, or if we consider in our sole discretion that it is necessary to amend this Derivatives Compliance Schedule in order to comply with Applicable Regulations.

## 10. Termination and survival

10.1 Subject to clause 9.2 of this Derivatives Compliance Schedule, termination of this Derivatives Compliance Schedule must be agreed in writing between you and us. Agreement to terminate will not be unreasonably withheld or denied by either party.

10.2 Unless otherwise agreed in writing between you and us, this Derivatives Compliance Schedule shall survive in its entirety with respect to any Derivative entered into between you and us up to the date of termination in accordance with clause 9.1 of this Derivatives Compliance Schedule.

10.3 Termination of this Derivatives Compliance Schedule is without prejudice to any accrued rights and liabilities of the parties. Clauses 7, 9 and 11 of this Derivatives Compliance Schedule shall survive termination of this Derivatives Compliance Schedule.

## 11. Notices

11.1 Any notices given by you under this Derivatives Compliance Schedule must be made in writing and sent to your regular contact at the Bank.

11.2 Any notices given by us under this Derivatives Compliance Schedule shall be made to your last-known address for service of notices.

11.3 Any notice given by you shall be effective only upon actual receipt by us. Any notice given by us shall be effective upon the date of that notice.

## 12. Definitions

12.1 For the purposes of this Derivatives Compliance Schedule:

**Agreed Process** means any process agreed between the parties in relation to a Dispute other than the procedure set out in clause 5.1 of this Derivatives Compliance Schedule.

**Derivatives** shall have the meaning given to the term “derivative” in EMIR.

**Dispute** means any dispute regarding the existence, validity, termination or valuation of any over-the-counter Derivative contract subject to these Conditions or in relation to any exchange of collateral in relation to such an over-the-counter Derivative contract.

**EMIR** means Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories and any delegated or implementing acts made under that Regulation, each as amended or restated from time to time.

**ESMA** means the European Securities Markets Authority.

**Portfolio Data** means the key terms of any Uncleared over-the-counter Derivative contracts outstanding between the parties on each Portfolio Reconciliation Date, that identify each particular contract, including (but not limited to) the valuation attributed to each contract in accordance with Article 11(2) of EMIR.

**Portfolio Reconciliation Date** has the meaning given in paragraph 4.1 of this Derivatives Compliance Schedule.

**Regulator** means ESMA, the national competent authority of any EEA Member State or the equivalent authority of a state or territory that is not an EEA Member State.

**Uncleared** means not cleared by a central counterparty authorised or recognised under EMIR (or to which the transitional provisions of Article 89 EMIR apply).

12.2 All capitalised terms in this Derivatives Compliance Schedule which are not otherwise defined in this Derivatives Compliance Schedule shall have the same meaning as under EMIR.



## **Schedule 4**

### **Summary of order execution policy**

#### **1. Scope**

1.1 The Bank operates an Execution Policy ("**Policy**") that is in accordance with MiFID II. This Policy is available on our website. A summary of our Policy is set out below.

When execution orders or a transaction in Financial Instruments for you, the Bank will take all sufficient steps to obtain the best possible results for you.

1.2 The Bank only transacts with you on the basis of "Request for Quote" or "**RfQ**". RfQ means that you submit a request for a quote for (the price of) a certain Financial Instrument to which the Bank responds with a quote. Where you request the execution of a transaction, the transaction must take place according the specific instructions of you (*i.e.* the transaction must be executed on the basis of the price quoted by MBE, subject to limited exceptions in the case of an outdated quote).

1.3 All transactions in Financial Instruments will be executed by the Bank as counterparty and outside a trading venue (as defined in MiFID II). Information can be provided on request with regards to the possible consequences of trading off-venue.

#### **2. Best Execution**

The Bank will always try to put your best interest in relation to a transaction. Where we execute a transaction in Financial Instruments with you and in all instances where the Four Fold Test for Professional Clients is not met, we will apply Best Execution by way of performing a "fair price assessment" before executing the transaction. This fair price assessment is to check to ensure the price we propose to you is fair, by gathering market data used in the estimation of the price of the Financial Instrument and, where possible, by comparing with similar or comparable instruments.

#### **3. Specific Instructions**

3.1 Where you provide the Bank with specific instructions, the Bank will execute the transaction in accordance with those instructions. In doing so, the Bank will be deemed to have satisfied its Best Execution obligations. Where your instructions relate to only part of the transaction, the Bank will continue to apply this Policy to those aspects of the transaction not covered your specific instructions.

3.2 You should be aware that providing specific instructions to the Bank in relation to the execution of a particular transaction may prevent the Bank from taking steps that the Bank has designed and implemented in this Policy to give Best Execution.

#### **4. Monitoring and Review**

4.1 Should there be any material changes to our execution arrangements or Policy, the Bank will notify you and will also post an updated version of this document on the website.