

# General Terms and Conditions

## General

### 1. Basis of the Business Relationship

#### (1) Business Relationship as a Relationship of Confidence

The business relationship between the customer and the Bank is characterized by the specific aspects of the banking business and a special relationship of confidence.

#### (2) Rules applicable to the Business Relationship

The business relationship between the customer and the Bank is governed by the following General Terms and Conditions and any other agreements between the parties, the law, rules and customs issued by the International Chamber of Commerce, as well as by agreements among banks and banking customs generally applicable and followed in Luxembourg and/or in the International market as well as U.S. regulations imposed under the provisions of the HIRE Act of 18 March 2010 commonly referred to as Foreign Account Tax Compliance Act – “FATCA” as implemented in Luxembourg under the intergovernmental agreement concluded between Luxembourg and the United States of America on 28 March 2014 – IGA, and OECD Standard for Automatic Exchange of Financial account Information and its Common Reporting Standard (the “CRS”) as implemented in Luxembourg under the law of 18 December 2015 on the Common Reporting Standard (the “CRS Law”).

#### (3) General and Special Terms and Conditions

These General Terms and Conditions apply to the entire business relationship and supplement the individual contractual agreements. Supplemental or different special terms and conditions may apply for individual areas of business, e.g. for payment processing, savings and securities transactions; such terms and conditions being agreed in Appendix 1 for payment services (the Payments Appendix) or to be agreed with the customer at the time contracts are entered into (for example, when opening an account) or orders are given.

#### (4) Severability

Should a provision of these General Terms and Conditions be or become wholly or partly ineffective, the remaining provisions shall nevertheless remain effective. In this event, the ineffective provision shall be replaced by such effective provision as shall most closely correspond with the economic intention of the ineffective provision.

### 2. Amendments to the Terms and Conditions

#### (1) Right of Amendment of the Bank

In particular in the event of changes in the legal and regulatory framework of the banking sector, changes to banking practices or changes affecting the conditions on the financial markets, the Bank reserves the right at any time to introduce amendments to the General Terms and Conditions, the

Appendixes, as well as any other special terms and conditions agreed with the customer by informing the customer of the amendments or additions no later than one month (to the extent the customer is a professional customer), or two months (to the extent the customer is a consumer) before their proposed date of application.

#### (2) Approval of the Amendment

The amendments are deemed to have been approved by the customer if the customer has not objected in writing to the amendments before the proposed date for the amendments to take effect. The Bank will then base the further business relationship on the amended version of the General Terms and Conditions, Appendixes and/or the other amended special terms and conditions.

#### (3) Refusal of the Amendment

If the customer objects in writing to the amendments before the proposed date for the amendments to take effect, he will be entitled to terminate the General Terms and Conditions, Appendixes and/or the other amended special terms and conditions.

### 3. Bank Information

#### (1) Content of Bank Information

Bank information consists of determinations and comments in general terms about the economic circumstances of customers, their credit worthiness and ability to meet their payment obligations. Information regarding amounts concerning account balances, savings deposits, or other assets entrusted to the Bank and the use of credit will not be made available.

#### (2) Prerequisites for Providing Information

The Bank is only allowed to make Bank information available if the customer has expressly consented thereto in general or in the specific case. Bank information is provided only to the Bank's own customers and other credit institutions for their own purposes and the purposes of their customers.

#### (3) Written Confirmation

In the case of oral information about credit worthiness and ability to meet payment obligations, the Bank reserves the right to provide a written confirmation without undue delay, and from that time on the content of the written confirmation is determinative.

#### (4) Transfer and Disclosure of Customer Data – Payments and Transactions on Financial Instruments

The Bank is bound by professional secrecy rules, and may not communicate data concerning, and information relating to the business relationships with, the customer, including but not limited to the name, address, nationality, date and place of birth, profession, origin of funds, information on identification documents, account number, transactional and credit data, tax domicile and other tax-related documents and

information, shareholder structure and affiliates and more generally any information regarding his business relationship with the Bank and any information which may allow for the direct or indirect identification of the customer and Related Persons (the "Customer Data") to any third party, except when disclosure of the Customer Data is made in compliance with, or required under, applicable law, or upon instruction or with the consent of the customer. Where Customer Data include Personal Data (as defined in clause 4), the processing of such Personal Data shall, in addition to the provisions of this clause 3.4, be conducted according to the provisions of clause 4, as well as the Privacy Notice attached as Appendix 2. The customer acknowledges and agrees that certain laws, regulations or international payment systems, stock exchanges, central depositories, trade repositories, (sub) custodians, brokers, issuers, clearing agencies, securities commissions, regulatory bodies or other authorities and market participants as the case may be in Luxembourg or abroad may require the identification of the person placing an order and/or its beneficiary. The Bank draws the customer's attention to the fact that, where funds are to be transferred, stored or processed (including for the avoidance of doubt when funds are received in a customer's account), it may have to disclose Customer Data on the transferred, stored or processed documents. By signing these General Terms and Conditions, the customer instructs the Bank to disclose such Customer Data and acknowledges that such transfer, storage or processing of Customer Data follows the business relationship between the customer and the Bank. The Bank may also, in certain circumstances, request from the customer to be provided with any information necessary to identify the beneficiary of such transfers, before executing an order.

The Bank is further both entitled and required to disclose certain Customer Data in connection with payment or other transactions that the Bank carries out for the customer to its head office or other entities of the Hamburg Commercial Bank group and/or to any other third parties in Luxembourg or abroad who are involved in these transactions (e.g., in their role as banks, especially correspondent banks, operators of payment systems or brokers) or who receive reporting on these transactions (e.g. trade repositories). The information that may need to be disclosed by the Bank in this context may in particular include Customer Data as well as the account number and the International Bank Account Number (IBAN). In particular, Customer Data included in money transfers is processed by the Bank and other specialized companies, such as SWIFT (Society for Worldwide Interbank Financial Telecommunication). Such processing may be operated through centres located in foreign countries, according to their local legislation. As a result, the authorities of such countries can request or obtain requests for access to Customer Data held in such operating centres for the purposes of fighting terrorism or for any other purposes authorized by law. Any customer instructing the Bank to execute a payment order, accepts that all data necessary for the correct completion of the transaction may be processed outside Luxembourg. To the extent Customer Data included in money transfers include Personal Data, the processing of such Personal Data by the Bank and other specialised companies, such as SWIFT is further described in the Privacy Notice attached as Appendix 2.

In addition, in a number of jurisdictions, provisions applicable to (transactions involving) Financial Instruments (as this term is defined under Directive 2014/65/EU of 15 May 2014 on markets in financial instruments) and similar rights, may require the disclosure of the identity and the holding of (in) direct holders and/or beneficial owners of the Financial Instruments (including any information regarding the economic reason for a transaction or the holding of the Financial Instruments). Noncompliance with disclosure requests may lead to the blocking of the Financial Instruments (in the sense that voting rights may not be exercised, dividends or other rights may not be received, and the Financial Instruments cannot be sold or disposed of in any other manner). The customer expressly instructs the Bank to disclose at its own discretion without delay and without being required to revert to the customer, the customer's and/or beneficial owner's identity and holding of Financial Instruments and similar rights (including any information regarding the economic reason for a transaction or the holding of the Financial Instruments) if the national or foreign law provisions in question or relevant stock exchanges, central depositories, trade repositories, (sub) custodians, brokers, issuers, clearing agencies, securities commissions, regulatory bodies or other authorities and market participants as the case may be in Luxembourg or abroad require disclosure of the identity and the holding of the customer and/or beneficial owner (including any information regarding the economic reason for a transaction or the holding of the Financial Instruments) who holds or owns the Financial Instruments. The customer is aware that Customer Data may be disclosed in jurisdictions with a lower data protection level as in Luxembourg. Further, a party may potentially forward the information to its branches or group entities or to other market participants or authorities within and/or outside of its jurisdiction or otherwise disclose it. The customer acknowledges that the transfers and disclosures of Customer Data by the Bank, as set out above, will be undertaken in compliance with applicable law and do not entail any breach by the Bank of its professional secrecy obligation.

The customer confirms accepting to bear all consequences suffered by him and/or a beneficial owner that may result from the disclosure of Customer Data and that the Bank shall not be held liable in any way for any loss, damages or costs caused or incurred in relation to the aforementioned accesses and/or transfers of Customer Data.

In this respect, the customer represents and warrants that he has informed any (other) beneficial owners, Related Persons or contact persons about the existence and content of the above instructions and has obtained, as appropriate, the latter's consent and the mandate to consent on their behalf to the transfer of the Customer Data, as set out above and the compliance with and observance of such instructions. The customer also represents and warrants that he will obtain the same consent and mandate from any future beneficial owner(s), where applicable. The customer is solely responsible for the compliance with and observance of the above instructions by any (other) beneficial owners and agrees to indemnify and hold the Bank harmless from and against any and all liabilities arising in relation thereto including with respect to claims by any (other) beneficial owners that they

have not consented to the transfer of their Customer Data, as set out above.

The transfer of Customer Data does not create any direct relationship between the customer and the recipients of such Customer Data.

The recipients will be required to store the Customer Data in accordance with the applicable statutory retention periods and process the Customer Data in accordance with any applicable law.

#### **(5) Transfer and Disclosure of Customer Data – Other Transfers**

The customer further explicitly instructs and expressly gives his consent, on his own behalf and on behalf of the Related Persons, to the Bank to disclose and transfer Customer Data to the head office of Hamburg Commercial Bank AG in Germany, as well as to any other entity of the Hamburg Commercial Bank group, third party investors, advisors and rating agencies (the “Recipients”) as listed on the website of Hamburg Commercial Bank AG under the link <https://www.hcob-bank.de/en/kontakt/standorte-und-anschriften/standorte-und-anschriften/>

The disclosure of Customer Data to the Recipients serves the purpose of complying with regulatory requirements and its tax and other reporting obligations, enhancing the quality and scope of the services provided by the Bank, to generate consolidated, comprehensive reporting, and more generally to streamline and increase the quality and efficiency of the services provided by the Bank. The disclosure of the Customer Data to third party investors, rating agencies and advisors serves the purpose of potential restructuring or refinancing of loans, the transfer of loans, the enforcement of security and monitoring and risk assessment in relation thereto.

The customer declares that such disclosure of Customer Data is done in his own interest and in the interest of the Related Persons, as it enables the Bank to service the customer in an efficient manner and according to high quality standards and regulatory compliance.

The customer acknowledges and accepts that the Recipients of the Customer Data are established outside of Luxembourg and are not subject to the Luxembourg rules of professional secrecy.

Whilst certain of the Recipients are subject to confidentiality obligations, they may potentially transmit the information received from the Bank to other third parties in accordance with applicable laws and regulations. The customer confirms accepting to bear all consequences resulting from the disclosure of the Customer Data to the Recipients and that the Bank assumes no liability in this context.

The Customer Data will be disclosed by the Bank to the Recipients for as long as the customer maintains a business relationship with the Bank and for 3 years thereafter.

The customer confirms that he has informed any Related Persons about the existence and content of the present instruction and to have obtained the latter’s consent and the mandate to consent on their behalf to the transfer of the Customer Data to the Recipients (such consent being hereby given to the Bank) and the compliance with and observance of the present instruction. The customer is solely responsible for the compliance with and observance of the present in-

struction by the Related Persons and agrees to indemnify and hold the Bank harmless from and against any and all liabilities arising in relation thereto including with respect to claims by Related Persons that they have not consented to the transfer of the Customer Data to the Recipients.

Finally, the customer expressly acknowledges and accepts that in case the Bank transfers or assigns any of its rights under these General Terms and Conditions to a third party, the Bank shall be authorised to transfer all necessary Customer Data to the transferee or assignee.

#### **(6) Transfer and Disclosure of Customer Data – Outsourcing of business areas**

In order to improve the efficiency and quality of the operational tasks relating to the services offered to the customer (such as, among others, conducting risk assessments as prescribed by AML/KYC provisions, conducting risk management control (including ensuring IT security of sending emails containing Customer Data and supervision of the customer’s global financial position), the Bank cooperates with service providers which may or may not be affiliates. The Bank may also use an external service provider as data protection officer in order to ensure more efficiency in the performance of data protection related tasks.

In this context, the relevant service providers may potentially have access to certain Customer Data and documents concerning the customer that have been created or collected by, or communicated to (whether provided in person, by mail, email, fax, telephone or any other means), the Bank such as personal identification data and details (e.g. name, address, place of incorporation, identity of legal representatives, tax domicile, KYC documentation, etc.), as well as data relating to the customer’s business affairs (e.g. data generated by the Bank in the context of the services provided to the customer, business contacts, etc.). Any and all documents and other information provided by the customer or any Related Person during the course of the customer relationship with the Bank, whether provided in person, by mail, email, fax, telephone or any other means may be transmitted by the Bank to the service providers. Descriptions and purposes of the outsourced services (including new ones), the information that may be transferred and/or disclosed for each outsourced service and the country where the service providers are established are made available on the website of the Bank under the following link: <https://www.hcob-bank.de/en/kontakt/standorte-und-anschriften/standorte-und-anschriften/>. This web page will be updated on a quarterly basis. Any such updating (including for the avoidance of doubt, any new outsourced service or change in the country of a service provider) are deemed to be accepted by the customer if the customer has not addressed a written objection to the Bank within 30 calendar days of the quarterly update. The customer therefore undertakes to consult the website of the Bank at the beginning of each quarter to take notice of any such update. In case the customer objects to such update within the abovementioned timeframe, such objection shall be deemed to constitute a termination notice of the customer for the entire business relationship with immediate effect.

The Bank has taken reasonable technical and organisational measures to ensure the confidentiality on the data trans-

mitted and to protect the data against any unauthorized processing, taking into account that the level of protection for personal data in third countries may not be the same as in the European Union. The service providers are either subject by law to a professional secrecy obligation or will be contractually bound to comply with strict confidentiality rules. Customer Data that will be transferred in accordance with the purposes described above will only be accessible to a limited number of persons within the relevant service provider, on a need to know basis. Unless otherwise authorized by law or to comply with requests from, and requirements of, national or foreign regulatory or law enforcement authorities, the relevant data will not be transferred to other third parties than the relevant service providers and their approved subcontractors. The customer however hereby acknowledges and accepts that certain service providers may not be subject to the Luxembourg professional secrecy rules and that the professional secrecy that may be applicable to them may be less stringent than the Luxembourg professional secrecy legislation.

Against that background, the customer hereby explicitly consents and expressly mandates, authorizes and empowers the Bank to transfer the Customer Data to service providers for the purposes described above in accordance with the terms described in this clause 3.6.

#### **(7) Transfer and Disclosure of Customer Data – Silent participation**

In case the Bank takes a silent participation in a loan which has been granted by the customer to one of its own clients (a Borrower), the Bank will not have any direct contractual relationship with such Borrower. However, the Bank may have to transfer data relating to such Borrower, including but not limited to the name, address, nationality, date and place of birth and more generally any information which may allow for the direct or indirect identification of the Borrower to third parties, in particular to affiliates for the purpose of managing legal and reputational risks linked to money laundering and terrorism financing on a group wide basis and/or to ensure adherence to sound risk management policies, as further detailed on the website of the Bank under the link <https://www.hcob-bank.de/en/kontakt/standorte-und-anschriften/standorte-und-anschriften/>.

Since the Bank does not have any contractual relationship with such Borrowers, the customer undertakes to inform the relevant Borrowers of the potential transfer of their data to third parties by the Bank, as detailed above and, where required, obtained their consent thereof.

The customer shall indemnify and hold the Bank harmless for any direct and indirect damages and financial consequences arising from any breach of the obligations set out in this clause 3.7.

#### **(8) Transfer and Disclosure of Customer Data – Means of transfer**

The customer acknowledges that the Bank may use any means of communication, including electronic means, to share, disclose and/or transfer Customer Data in order to achieve the aforementioned purposes as described in

clauses 3.3, 3.4, 3.5 3.6 and 3.7, and including, among other things, the use of electronic mail (email).

#### **(9) Transfer and Disclosure of Customer Data – Resolution**

In the event of resolution, reorganization or winding-up measures affecting the Bank, the Bank may also be obliged to disclose Customer Data to authorities and/or counterparties involved in such process, including (but not limited to) potential acquirers contacted in this context.

## **4. Data Protection**

For the purposes of this clause, Data Protection Legislation means the Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 (the GDPR) and related guidance and national laws complementing the GDPR.

The Bank, acting as a data controller, will process personal data (i.e. data by which an individual may be directly or indirectly identified) about the customer (if the customer is an individual), as well as any individuals related to the customer (e.g. any contact person(s), agent(s), authorised representative(s), shareholder(s), person(s) holding a power of attorney and/or beneficial owner(s), if different from the customer) (each a Related Person), as further described in the privacy notice attached as Appendix 2 (the Privacy Notice). The Privacy Notice is handed out to the customer together with the General Terms and Conditions.

Where personal data is shared by the customer with the Bank, the customer shall ensure that such disclosure is in compliance with applicable laws, in particular Data Protection Legislation, and that there is no prohibition or restriction which could:

- prevent or restrict it from disclosing or transferring the personal data to the Bank;
- prevent or restrict the Bank from disclosing or transferring the personal data to the data recipients as further described in the Privacy Notice (e.g. Bank's affiliates, service providers, administrative bodies, judicial authorities etc.) (the Data Recipients); and
- prevent or restrict (i) the Bank from processing the personal data or (ii) the Data Recipients who act as data processors from processing the personal data on behalf of the Bank, for the purposes set out in these General Terms and Conditions and/or in the Privacy Notice.

If the customer shares personal data on Related Persons with the Bank, the customer shall ensure that it has provided the Privacy Notice to such Related Persons (including updates), informing them about the processing of their personal data by the Bank. Where required, the customer shall procure the necessary consent from such Related Persons to the processing of their personal data as described in the Privacy Notice. The customer who shares personal data on Related Persons with the Bank shall indemnify and hold the Bank harmless for any direct and indirect damages and financial consequences arising from any breach of the obligations set out in this clause 4.

## 5. Authorization for Representation and Disposals

### (1) Notice

Any authorization to represent the customer and dispose of assets on behalf of the customer notified to the Bank remains valid until the Bank receives notice about the cancellation or a change. This also applies if the authorization is registered in a public register and a change has been published.

### (2) Defects in the Legal Capacity of the Representative

The customer is liable for damages resulting from a defect occurring in the legal capacity of the customer's representative.

## 6. Legitimization Documents

### (1) Documents Proving Inheritance

After the death of the customer, the person claiming towards the Bank to be the customer's legal successor must prove his/her authorization under inheritance law.

### (2) Authority to Act for the Bank

If an original or certified copy of the probate document (will or inheritance contract) and the minutes of the opening probate are submitted to the Bank, it may treat the persons designated as heirs or executors therein as authorized persons, and permit them to draw on the account in question; in particular, the Bank may perform services for the benefit of such authorized persons in discharge of its obligations.

### (3) Other Foreign Documents

If foreign documents are submitted to the Bank as identification of the person or as proof of authorization, the Bank can treat the persons designated in the documents as authorized as being authorized, and especially permit them to make disposals and render performance to them thereby discharging its obligations.

## 7. Supervision, Complaints Handling, Choice of Law, Jurisdiction, Place of Performance

### (1) Supervision

The Bank operates in the Grand Duchy of Luxembourg as a branch of a credit institution authorized in another EU Member State and is subject to the prudential supervision of the European Central Bank established at Sonnemannstraße 20, D-60314 Frankfurt and the supervisory authority in Luxembourg (as supervisory authority of the host Member State), the Commission de Surveillance du Secteur Financier (CSSF), established at L-1150 Luxembourg, 283, route d'Arlon. Competent supervisory authority for consumer protection is the Bundesanstalt für Finanzdienstleistungsaufsicht established at Graurheindorfer Straße 108, D-53117 Bonn and Marie-Curie-Straße 2428, D-60439 Frankfurt.

### (2) Complaints Handling

The aim of the Bank is to provide an efficient service to all its customers. Therefore, the Bank has set up a procedure for its customers who feel dissatisfied about the services they receive. The customer has a right to complain and to have

his query investigated. The main principles of the aforementioned procedure can be summarized as follows. The first step for the customer is to raise the complaint by telephone (preferably followed by a written version) or in writing with his account manager or with the department of the Bank in charge of the service to which the complaint refers. If the matter cannot be addressed by the employee directly, the relevant head of department as well as the Bank's management and compliance officer will become involved.

If the customer is not satisfied with how the complaint has been handled, he may, as a second step, write directly to the management of the Bank who in turn will further investigate the matter and will further process the customer's complaint. Written complaints shall only be sent by mail, email or fax to the Bank (Address: L-1748 Luxembourg-Findel, 7, rue Lou Hemmer - Fax: +352 42 41 41 710 - email: info@hcob-bank.lu) An acknowledgement of receipt will be addressed to the customer within ten Business Days ("Business Day" being defined as a day on which the Bank is officially open for business in Luxembourg, except for Saturdays and 24 and 31 December), unless an answer to his/her complaint is addressed to him/her within this timeframe.

For simple cases, the customer will receive a written response within fifteen Business Days. For more complex cases, the complaint will be investigated by the Bank's compliance officer in cooperation with the respective department and a response will, in principle, be sent within one month following the receipt of the complaint by the Bank. In consideration of particular circumstances or particular difficulties of the Bank, the handling of a complaint may exceptionally exceed a period of forty Business Days. The customer will be informed thereof in due time.

However, in the context of the Payment Services (as defined in the Payments Appendix), the Bank shall send a holding reply, if the answer cannot be given at the latest within fifteen Business Days from the date of the submission of the complaint, in order to clearly indicate the reasons for a delay in answering to the complaint and to specify the deadline by which the customer will receive the final reply, which shall be provided by the Bank within thirty five Business Days, in any event.

Notwithstanding the above, the information about the Bank's complaints handling policy will be provided to the customer, upon request, or when acknowledging a complaint. The customer acknowledges and agrees that all the relevant information shall be provided in English or German.

If the matter is not resolved to the customer's satisfaction, the customer may contact directly the supervisory authority in Luxembourg, the Commission de Surveillance du Secteur Financier, established at L-1150 Luxembourg, 283, route d'Arlon.

### (3) Applicable Law

The laws of the Grand Duchy of Luxembourg shall apply to the business relationship between the Bank and the customer.

### (4) Place of Performance

Place of performance for the Bank and the customer is the registered office of the Bank.



**(5) Jurisdiction**

All disputes shall be of the exclusive competence of the Courts of Luxembourg, Grand Duchy of Luxembourg, unless the Bank chooses to bring an action against the customer in a jurisdiction where the customer has its seat, domicile, an establishment or any assets.

**(6) Limitation Period**

Legal actions against the Bank are subject to a limitation period of five years. The limitation period starts to run on the date of the negligence, action or inaction held against the Bank. Legal actions initiated after the last calendar day of the limitation period are statute-barred.

**Current Accounts and other Transactions****8. Current Accounts, Statements of Accounts****(1) Current Account**

The Bank maintains an account for processing day-to-day business and payment transactions as a current account.

**(2) Statements of Account**

Unless agreed otherwise or otherwise legally required, the Bank issues a statement of account at the end of each calendar quarter.

**(3) Objections against the Statement of Account**

Objections against statements of account must be received at the Bank. Without prejudice to the obligation to raise objections against statements of account without undue delay (clause 21 paragraph 1 point e), statements of account are deemed to have been approved and all transactions mentioned therein are considered as having been approved and ratified if no objection has been raised against them prior to the expiration of 30 calendar days after the dispatch of the relevant statement of account. The customer shall have no direct or indirect right to object against such transactions.

**(4) Account Management Duties and Banking Information**

The Bank does not assume any duties regarding the management of the customer's assets and/or liabilities. In particular, the Bank does not undertake to inform the customer of any potential losses owing to changes in market conditions, of the value of the assets deposited and/or liabilities booked with the Bank, or of any circumstances that might prejudice or otherwise impair the value of those assets and/or liabilities. The customer shall personally verify the accuracy of information provided by the Bank. Such information is given for guidance only and the Bank shall only be liable for its gross negligence. Information provided by the Bank is based on information provided by third parties (such as specialised financial services providers). The Bank does not assume any responsibility in relation to the quality and accurateness of such information.

If, on a spontaneous basis or upon the request of the customer, the Bank gives advice or expresses opinions regarding the management of assets, the Bank shall use its best endeavours, but shall only be liable for its gross negligence.

When information is given or omitted within the framework of normal banking practice, the Bank shall only be liable to the information recipient for gross negligence.

The customer acknowledges and accepts that, whenever the legal conditions for the provision of information to the customer via the Internet website of the Bank are fulfilled, the Bank may provide certain information, exclusively via its Internet website. The customer will be informed electronically about the Internet website address and the place on such Internet website where he/she can have access to the relevant information. By signing these General Terms and Conditions the customer undertakes to consult regularly the Internet website of the Bank. When required by law, the Bank shall also inform the customer electronically about any changes to such information by indicating the Internet website address and the place on such Internet website where he/she can have access to the modified information.

**Joint Account**

A joint account is defined as an account opened in the name of at least two persons. Each holder of a joint account or of a joint deposit of financial instruments and/or of precious metals (together "Joint account") may dispose individually of the assets in the Joint account. In this respect, each joint holder may inter alia manage the assets in the Joint account, create debit balances, pledge the assets, collect any correspondence kept by the Bank under a hold mail agreement and undertake any act of disposal on the Joint account without the Bank having to inform the other joint holders or their possible heirs.

Termination of the Joint account does however require the unanimous consent of all the joint holders. In the case of death or incapacity of one of the joint holders, the surviving holders may continue to freely dispose of the assets in the Joint account unless formal opposition to the contrary from the persons authorized to represent the deceased or incapacitated customer (in particular the executor of the will, the heirs or the guardian, as the case may be) has been received by the Bank.

All holders of the Joint account shall jointly and severally be liable to the Bank for all obligations arising from the Joint account, whether collectively or individually contracted by them. All operations of any kind, all payments and settlements carried out by the Bank based on the single signature of one of the Joint account holders, will discharge the Bank accordingly in respect of the other Joint account holder(s) and the signatory himself/herself, as well as in respect of deceased or incapacitated Joint account holder(s), of the heirs and representatives, including minors of any of the Joint account holder(s), and of any third party.

The Joint account agreement governs exclusively the business relations between the joint holders and the Bank, notwithstanding any internal agreement between the joint holders concerning in particular, rights of property between the joint holders and their legal heirs, assignees or successors. The admission of an additional joint holder requires the unanimous consent of all joint holders.

A power of attorney may only be granted to a third party by all the holders of the Joint account acting jointly.

On the contrary a power of attorney granted jointly by all the joint holders may be revoked upon instruction of only one of the joint holders.

If, for any reason whatsoever, which the Bank does not need to take into consideration, any one of the joint holders or a common agent, prohibits the Bank in writing from executing another joint holder's instructions, the joint and several rights between the joint holders towards the Bank shall immediately cease to have effect, without prejudice to the joint and several liability of the Joint holders which shall remain unaffected. In this case, the rights attached to the joint account may no longer be exercised individually and the Bank shall only comply with the instructions given by all the joint holders, their heirs, assignees or successors. The Bank may, at any time and without prior authorization, set off a debit balance of the Joint account against a credit balance of any other account opened or to be opened with the Bank in the name of any of the joint holders, whatever the nature or the currencies of such accounts.

#### **(5) Collective Account**

A collective account can only operate under the joint signature of all the collective account holders. In particular, the account holders must collectively provide instructions to the Bank in order to dispose of funds, or carry out transactions, or any other operation or grant collectively powers of attorney to third parties. All orders must be signed by each collective account holder. A power of attorney granted collectively by the account holders may be revoked by any account holder acting individually.

The collective account implies a joint and several liabilities among all collective holders. Under such joint and several liability, each account holder is liable towards the Bank for any commitments and obligations contracted by all collective account holders, whether contracted in the interest of all account holders, any one of them or of a third party.

The Bank may, at any time and without prior authorization, set off a debit balance of the collective account against a credit balance of any other account opened, or to be opened, with the Bank in the name of any one of the account holders, whatever the nature or the currencies of such accounts.

In the absence of instructions to the contrary, the Bank has the right, but not the obligation, to credit to the collective account the funds it receives on behalf of one of the holders. In the case of death or incapacity of an account holder, the parties authorized to represent the deceased or incapacitated customer (in particular the executor of the will, the heirs or the guardian, as the case may be) shall, except if otherwise provided in the law, automatically replace the deceased or incapacitated holder.

The heirs remain liable to the Bank for the commitments and obligations of the deceased holder, that were existing at the time of death, in his capacity as joint and several debtor.

### **9. Correction of incorrect Credits**

When funds or other assets are credited to an account held by the Client with the Bank on the basis of an instruction, a transfer notice or as part of any other transaction, before the Bank has received the corresponding cover, the entry must

be understood as having been made "under reserve" even where this is not expressly stated by the Bank. If the Bank does not receive the assets, or where the receipt of these assets is uncertain, the Bank shall be expressly authorized to debit the unduly credited assets and any charges from the Client's account, at any time, without any time limit. Alternatively, the Bank shall be entitled to block such assets until effective receipt. The Bank shall also be authorized to correct any incorrect credits at any time by debiting the unduly credited assets from the Client's account, at any time, without any time limit.

### **10. Credits and Cashing Collection Documents**

#### **(1) Credits Subject to "Receipt of Funds Reserved"**

If the Bank credits an account with the value of cheques, direct debits or other collection documents before they have been cashed, it will be made on the condition that the document will be cashed and value will be received ("E.v." credit). This also applies if the cheques, direct debits or other collection documents are payable at the Bank itself. If cheques or direct debits are not cashed or if the value of collection documents is not received by the Bank, it will cancel the credit pursuant to clause 24 paragraph 2 of these General Terms and Conditions even after any statement of account which may have been issued in the meantime.

#### **(2) Cashing**

Cheques and other collection documents will only be cashed if the debit booking has not been cancelled by the end of the second following Business day. Such documents will also be cashed if the Bank previously expressed its intent to cash the document in a recognizable manner to third parties (e.g. by advice of payment). In connection with direct debits the provisions on cashing in the special terms and conditions agreed for those procedures apply. Cash cheques will be cashed when payment is made to the party presenting the cheque.

### **11. Orders and Communication**

#### **(1) Order Confirmation Prior to Execution**

In the case of orders given by telephone or other technical means and in the case of orders which are not signed, the Bank reserves the right to obtain confirmation of the order, without being obliged to so, prior to execution of the order.

#### **(2) Orders Sent by Telephone, Fax or Email**

Damage caused by transmission errors, improper use, fraud, misunderstandings and mistakes in transmission by telephone, fax or email with the customer or a third party and when using other technical means of transmission shall be borne by the customer insofar as the damage has not been caused by gross negligence on the part of the Bank. The Bank bears no liability and the customer accepts to bear all risks linked to the fraudulent use of the signature of the customer by a third party, irrespective of whether the signature is genuine or counterfeit. Should the Bank fail to recognize a fraudulent use of the genuine or counterfeit signature of the customer on documents and carry out transactions on the basis of such documentation, it shall be released from

its liability to refund the value of the assets of the customer paid out by reason of the said fraudulent use of the signature, except in the case of gross negligence or wilful misconduct in the examination of the documents presented. The payment made by the Bank in this case shall be deemed to be just as valid as if the Bank had received proper instructions from the Customer.

The account statements, other communications and internal records of the Bank shall conclusively prove that the transactions mentioned therein have been carried out in accordance with the orders given by the customer.

### **(3) Execution time**

Instructions shall only be accepted during normal business hours of the Bank and are carried out within the time required by the Bank for examination and initiation of processing, as well as in accordance with relevant market conditions and legal requirements.

### **(4) Evidence**

The customer and the Bank expressly agree that, notwithstanding the provisions of Article 1341 of the Luxembourgish Civil Code, the Bank may prove its statements at any time in the event of a lawsuit, as far as necessary or expedient by all means acceptable in commercial matters, such as witness statements, statutory declarations, notes made by Bank staff, instructions given by facsimile transmission or telegraph, tape recordings, or through presentation of other documents and data appearing suitable. Copies, computerised records or other records made by the Bank on the basis of original documents shall constitute prima facie evidence and shall have the same value in evidence as an original written document.

### **(5) Receipt of communication**

Written communications from the Bank shall be considered as received in accordance with the customary duration of the mail but no later than seven (7) calendar days at the latest, where they are posted to the last address made known to the Bank. The transmission report, in the case of fax, shall constitute conclusive evidence of the dispatch of any communication by the Bank and the receipt thereof by the customer. The dispatch of any communication will be proven, including the date of dispatch, through the provision by the Bank of printed or computer-stored copy or other mailing record of the communication or by the dispatch being noted on a dispatch note or list.

### **(6) Refusal of Execution of Orders**

The Bank may refuse the execution of an order or suspend such execution if the order relates to transactions or products which the Bank does not handle in the ordinary course of its business, or if the customer has failed to execute an obligation he has towards the Bank.

## **12. Single Current Account, Set-off and Crediting**

### **(1) Single Current Account Agreement**

All transactions between the customer and the Bank are based on a relationship of mutual trust between them. In this context, all accounts of the customer with the Bank (whatever

their identification number) and all instructions given by the customer and executed by the Bank cannot be considered separately, but are to be taken as part of one single relationship of personal trust. Consequently, a customer who enters into a relationship with the Bank automatically enters into a single current account agreement, governed by the rules generally applicable to such agreements and by the following terms. The single current account agreement governs all accounts of the customer, whatever their nature, currency, interest rate or terms, even if, for bookkeeping reasons, they are segregated.

All credit or debit transactions between the customer and the Bank pass through the current account where they become mere credit or debit items of the account and generate at any moment, and in particular when the account is closed, a single net due credit or debit balance.

If the customer has opened several accounts (e.g. accounts in foreign currencies, call accounts, forward accounts, time deposits, credit accounts), all such accounts shall only form elements of one single current account, even if they bear different account numbers. Any foreign currency balances may be converted into one of the existing currencies of the account at the rate prevailing on the Business Day when the balance of the account is established.

More particularly, without prejudice to any legal remedies the Bank may have based on other grounds or against joint debtors or guarantors, it may immediately debit the one single current account with the amount of discounted bills of exchange and promissory notes that are not yet due on the date the account is closed (whilst remaining the legal owner), and with any amount due under any other obligations of any nature that the customer has towards the Bank, be they direct or indirect, present or future, actual or contingent. When the account is closed, all transactions, including term operations, shall become immediately due.

### **(2) Set-off by the customer**

The customer can only set off claims against the Bank to the extent that the customer's claims are undisputed or have been confirmed in a final non-appealable judgement.

### **(3) Set-off and crediting by the Bank**

Should the customer not pay or threaten to be in default of paying a matured or maturing debt to the Bank, all debts and claims of any nature, including term obligations that the customer has towards the Bank, will become immediately due. The Bank is entitled to offset those debts, without prior notice or request for payment and in the order of priority it considers most suitable, against any assets held by the customer with the Bank.

The Bank can determine against which of several claims due payments received will be credited if payments are not sufficient to settle all claims.

### **(4) Connexion**

The Bank and the customer agree that, within the frame work of their business relationship, all obligations of the Bank vis-a-vis the customer and those of the customer vis-a-vis the Bank shall form a connected legal relationship (connexion). Consequently, the Bank and the customer shall be entitled



to refuse to fulfil their obligations until the other party has fulfilled the obligations incumbent on it.

### 13. Accounts in Foreign Currency

Foreign currency accounts serve exclusively for processing of noncash payments to the customer and disposals by the customer in foreign currency.

### 14. Release from Performance in Transaction in Foreign Currency

The obligation of the Bank to execute a disposal debiting a foreign currency deposit or to satisfy a foreign currency liability is suspended to the extent and for so long as the Bank cannot make any disposals or can only make disposals to a limited extent in the currency in which the deposit or liability is denominated as the result of political measures or events in the country of that currency. To the extent, and so long as these measures or events continue, the Bank is also not required to satisfy an obligation at any other location outside of the country of the currency or to satisfy it in any other currency (also not in Euro) or by acquiring cash.

The obligation of the Bank to execute a disposal debiting a deposit in foreign currency, however, is not suspended if the Bank can execute the disposal completely within its own institution. The right of the customer and the Bank to set off mutual claims which denominate in the same currency against each other shall not be affected by the preceding provisions.

Customers who hold credit balances in euros or foreign currency, share in proportion to and up to the amount of these balances, all financial and/or legal disadvantages and losses that might affect the Bank's total balances maintained in Luxembourg or abroad in the respective currency as direct or indirect consequences of any events beyond its reasonable control.

### 15. Receipt of Money in Foreign Currency

The Bank can credit amounts of money in foreign currency in Euro if there is no express instruction to the contrary from the customer unless the Bank maintains an account for the customer in the relevant currency.

### 16. Exchange Rate

The determination of the exchange rate for transactions in foreign currency is based on the list of prices and services.

### 17. Deposit Transactions – Withdrawals

#### (1) Deposits

Deposits are due without any notice of termination unless agreed otherwise (demand deposits). Unless expressly agreed otherwise, the Bank does not pay credit interest on deposits. The Bank reserves the right to apply negative interest rates to deposits, i.e. to invoice a fee in relation to deposits.

#### (2) Withdrawals

Withdrawals will be processed by credit transfer or other electronic means. To enable a withdrawal the customer has to provide sufficient transfer instructions. Withdrawals in cash are not offered by the Bank.

## Charges

### 18. Interest and Fees

#### (1) Interest and Fees Credit and Transaction Services

The interest and fees for credit and services used in transactions are determined in accordance with what has been agreed and in addition pursuant to the list of prices and services as applicable from time to time. The customer expressly authorizes the Bank to debit any interest and fees due to the Bank from any of the customer's accounts.

#### (2) Fees for other Services

The Bank can require payment of reasonable compensation in accordance with statutory provisions for services which are not the subject of an agreement or which are not listed in the list of prices and services and which are performed pursuant to the order of the customer or in the customer's presumed interests and which, under the circumstances, can only be expected in exchange for compensation.

#### (3) Changes in Compensation for Services which are typically used on an ongoing Basis

Changes in compensation for key services which are typically used by the customer on an ongoing basis in connection with the business relationship will be offered to the customer in text form not later than two months prior to the proposed date of application. If the customer has agreed on electronic communication with the Bank in connection with the business relationship (e.g. online banking) the changes can also be offered by means thereof.

The consent of the customer is deemed to have been given if the customer has not given notice of a rejection prior to the proposed date of application of the changes. If changes are offered to the customer, the customer can also terminate the contract affected by the changes prior to the proposed date of application of the changes with immediate effect and free of charge. If the customer gives notice of termination, the changed compensation will not be applied to the terminated business relationship.

#### (4) Special Provisions for Consumer Loan Agreements

The interest and fees in the case of consumer loan agreements are governed by the respective contractual agreements as well as by the statutory provisions.

#### (5) Taxes – Adherence to applicable legal and regulatory Provisions

The customer shall pay or, as the case may be, reimburse to the Bank all taxes, duties and charges, whether now existing or imposed in the future by Luxembourg or foreign authorities and which are paid by the Bank or for which the Bank may

be held liable and that relate to transactions executed by the Bank in its relationship with the customer. The Bank is authorized to debit any amount so due from one of the customer's accounts irrespective of the settlement date of the original transactions.

The customer shall ensure that, in all his/her dealings with the Bank, he/she complies with any legal, regulatory or other obligations incumbent upon him by virtue of his/ her citizenship or residence (such as but not limited to his tax obligations – including the filing of tax returns – in the country(ies) in which the customer has to pay taxes in relation to the assets deposited with or managed by the Bank). Should the customer fail to comply with such obligations, he shall be exclusively responsible for all consequences thereof (including possible financial or criminal sanctions) and the Bank shall not bear any responsibility in that respect. The same obligations shall apply with respect to the beneficial owner of any account held in the books of the Bank. Therefore, the customer undertakes to ensure that any beneficial owner complies with all obligations applicable to him. The customer is invited to consult relevant legal or other advisers in case of doubt as to the exact obligations incumbent upon him.

If, in order to satisfy to his legal, regulatory or other obligations, the customer needs to obtain a specific type of reporting or information from the Bank, he/she shall promptly notify the Bank thereof.

The customer's attention is also drawn to the fact that, based on Luxembourg legislation or legislation with extraterritorial effect (in particular, under FATCA, by application of the IGA, and under the CRS, by application of the CRS Law), the Bank may have to disclose annually, within the limits provided for by such legislation, information including his name or the name of the Controlling Person, within the meaning of FATCA or the CRS Law, of an account held in its books, his address(es), TIN(s), date(s) and place(s) of birth, account number(s), account balance(s) or value(s) as of the end of the relevant calendar year or other appropriate reporting period if the account(s) was/were closed during the year, and as applicable gross amount of interest, dividends and other income generated with respect to the assets held in the account(s), and total gross proceeds from sale or redemption, as applicable, to competent domestic or foreign authorities (including to Luxembourg tax authorities which will then forward such information to the relevant tax administration (including the U.S. Internal Revenue Service)).

## 19. Reimbursement of Expenses

The customer shall bear and reimburse to the Bank expenses made by the Bank further to an instruction of the customer or in his interest (particularly for long-distance calls or postage) or where collateral securities are provided, managed, released or realised (particularly notarial charges, storage fees or costs for the safekeeping of collateral).

## Duties and Liabilities of the Bank and the Customer

### 20. Liability of the Bank

#### (1) Limitation of Liability to gross Negligence and wilful Misconduct

The Bank shall only be liable to the customer and third parties in case of gross negligence or wilful misconduct by the Bank, both with respect to contractual liability and liability in tort. If the Bank is liable and the damages are not solely the fault of or caused by the Bank, the obligation to pay damages is subject to the principles on contributory negligence.

#### (2) Liability for Third Parties

The Bank can assign orders completely or partially to third parties to be independently handled to the extent that appears necessary considering the type of order if there is no instruction to the contrary. In such cases, the obligation and liability of the Bank is limited to forwarding the order, including the selection and instruction of the third party with due care.

The customer expressly authorizes the Bank to have third parties, in Luxembourg or abroad and chosen by the Bank, act as sub-custodians or correspondent banks of the Bank in respect of the customer's funds and other assets. In most cases these assets are held with such third parties in the Bank's name, but in each case at the exclusive risk of the customer. The assets may in turn be sub-deposited by such third parties with other third parties which are not selected by the Bank. The customer accepts that the assets as well as all rights related thereto, may be subject to laws, regulations, customs, conventions, taxes, restrictions, charges of foreign countries and various measures taken by foreign authorities.

The customer agrees to assume all financial and legal risks, as well as risks of any other nature resulting directly or indirectly from such a deposit of funds or other assets by the Bank with third parties or resulting directly or indirectly from acts or omissions of third parties (unless otherwise specified in the Payments Appendix), including the risk of permanent loss of such funds and other assets. The Bank shall not bear those risks. The limitations of the Bank's liability set out in these General Terms and Conditions shall also apply to the Bank's obligations as custodian of funds and other assets of the customer. In particular, the Bank shall only be liable for its gross negligence or wilful misconduct in the selection of third parties, but shall not assume any liability for loss or non-restitution arising from acts or omissions of such third parties, or from events affecting the funds and other assets deposited with third parties.

In principle, customers may not exercise their rights on funds and other assets against a third party with which the Bank holds assets. However, the Bank may, at its discretion, release itself from its obligations by transferring to the customer the rights it is holding against such third parties. All charges, commission, taxes, duties and other withholdings applied or incurred shall be paid by the customer.

**(3) Liability in the Case of Force Majeure**

The Bank is not liable for damages which are caused by disruption of its operations (e.g. bomb threat, bank robbery, pandemic situation), especially as a result of force majeure (e.g. war and natural disasters) or as a result of other incidents for which the Bank is not responsible (e.g. strike, lockout, traffic disruption) or which arise as a result of measures taken by Luxembourg or foreign authorities (including courts and judicial authorities) domestically or abroad, or generally any event beyond the reasonable control of the Bank. Such events and measures, which directly or indirectly affect the performance of the Bank's obligations shall have the effect of suspending and, where applicable, eliminating the Bank's obligation to perform, without the latter being liable for any delay, nonperformance or faulty performance.

Force majeure events include events of political, judicial or economic nature which are likely to interrupt, disorganise or disturb, totally or partially, the services of the Bank or any of its national or foreign correspondent banks, sub-custodians or clearing systems; including events that do not qualify as force majeure such as the interruption of its telecommunication system, legal provisions, declared or imminent measures taken by the public authorities or courts, acts of war or terrorist acts, revolutions, riots, civil wars or similar conflicts, government action (faits du Prince), strikes, lockouts, boycotts and picketing.

**21. Duties to Cooperate and Duties of Care on the Part of the Customer****(1) General Principle**

The customer has a duty to cooperate and other duties of care, especially the following duties:

**a) Notification of Material Information and Changes:**

The Bank must be informed without undue delay, about all facts which are material for the business relationship, especially changes in the name, address, nationality, family status, tax status, capacity of the customer to make disposals and enter into obligations (e.g. marriage, entering into a civil union, change in marital status relating to assets) or the persons authorized to sign on behalf of the customer (e.g. subsequently occurring incapacity to engage in legal transactions on the part of a representative or attorney-in-fact) as well as changes in the economic beneficiary (including changes in the tax status of the economic beneficiary) or authorizations to represent or make disposals notified to the Bank (e.g. powers of attorney, registered commercial power of attorney). The duty to give notice also exists if the facts are registered in public registers and published. The names of the persons authorized to act or make disposals on behalf of the customer must be notified to the Bank together with personal specimen signatures on the forms of the Bank. Furthermore, there can be further legal reporting obligations, especially under the laws and regulations on the combat against money laundering and terrorism financing and the customer undertakes to provide the Bank without delay with any information and documents may from time to time request.

**b) Clear Information in Orders and Instructions:**

Orders and instructions of all kinds must permit the content of the transaction to be clearly recognized. Modifications and confirmations must be designated as such. In the case of payment orders, the customer must especially pay attention to correct, complete, unambiguous and legible information, particularly with regard to the account number and the bank routing number or the IBAN<sup>1</sup> and BIC<sup>2</sup>. Orders and instructions that are not clearly worded may lead to queries, which may in turn result in delays.

**c) Care in the Case of special Transmission of Orders:**

In the case of orders or instructions given by telephone or other technical means, the customer must make sure that no errors in transmission, misunderstandings, abuses or mistakes occur.

**d) Notifications of Deadlines and Dates:**

In accordance with item e), the customer must specifically indicate if orders are supposed to be executed within certain deadlines or on certain dates or if extraordinary damages impend in the case of improper execution of orders, especially if they are not executed on time. Reference is made to the special duty to give notice in the case of short deadlines for presenting cheques in clause 25.

**e) Complaints without undue Delay:**

Without prejudice to the specific conditions in the Payments Appendix, objections against statements of account, direct debits, Bank statements or other notices from the Bank and objections against the correctness of assets delivered by the Bank must be raised without undue delay. Failure to raise objections in time shall be considered as approval. If statements of account are not received by the customer, the customer must inform the Bank without undue delay, failing which the customer shall be deemed to have received such statements of account in due course. The duty to give notice also exists if other notices, messages or shipments the delivery of which the customer must expect or anticipate are not received. This provision shall also apply in case the customer has entered into a hold mail arrangement with the Bank.

**f) Control of Confirmations from the Bank:**

To the extent that confirmations from the Bank differ from orders or instructions by the customer, the customer must object to this without undue delay.

**g) Notification to the Bank in Connection with US Tax Legislation:**

Should the customer be or become a US customer (as defined in current US tax legislation), he shall notify this to the Bank without delay and authorise the Bank to disclose all information in respect of income (as defined in current US tax legislation) from the US custodian of the Bank to the Internal Revenue Service (IRS), or to exclude from the account assets which produce income from a US-source.

If the customer grants authority to sell the assets, without disclosure of pertinent information, the Bank shall sell these assets within 60 calendar days after having discovered them in the account. Should it become known to the Bank that the customer is a US citizen and if the account has already been opened, the customer shall approve disclosure of information or a sale of the assets concerned within 60 calendar days.

<sup>1</sup>International Bank Account Number

<sup>2</sup>Bank Identifier Code

The Bank may disclose the information if the customer fails to give the Bank instructions within 60 calendar days following request.

The customer is aware that the Bank may be under an obligation to retain tax pursuant to the US tax legislation.

#### **h) Powers and cooperation in relation to the execution of orders**

When carrying out the customer's order on behalf of the customer and on any case at the risk of the customer, the Bank may act depending on the circumstances, either in the name of the customer, acting in such case as a mere agent, or in its own name, acting in this case as a commission agent.

#### **(2) Liability in the Case of Breach of Duties**

Damages and detriments resulting from a culpable breach of the duties to cooperate and other duties of care are to be borne by the customer. In case the Bank culpably contributed to the damages, the liability is governed by the principles on contributory negligence.

## **General Pledge, supplemental Collateral, Release of Collateral**

### **22. Pledge. Assignment for Purposes of Security**

#### **(1) Scope**

The customer hereby grants the Bank a pledge on all assets of any kind coming into the possession or control of the Bank from the customer or third parties for the account of the customer in the course of the banking business.

The covered assets include all physical objects and rights of any kind (examples: goods, foreign currency, securities including the coupons for interest, annuities and dividends, interests in securities in global custody, precious metals, subscription rights, cheques, bills of exchange, bills of lading and storage receipts).

This pledge also covers claims of the customer against the Bank (e.g. from balances in accounts). Claims of the customer against third parties are assigned to the Bank when documents issued for the claims come into the possession of the Bank in the course of banking business.

The Bank is authorized to take all measures necessary for creating or maintaining the pledge, where relevant.

#### **(2) Exceptions**

This also applies for the profit participation rights/profit participation certificates issued by the Bank itself and for claims of the customer from subordinated liable capital (e.g. subordinated bearer bonds).

#### **(3) Secured Claims**

The pledge secures all existing and future claims of the Bank against the customer in connection with the business relationship, whether in principal, interest, fees or costs, also including claims subject to conditions or limited by time, and including statutory claims.

#### **(4) Assertion of the Pledge**

The Bank can retain assets subject to the pledge under the

General Terms and Conditions only if there is a justified interest for security. Such an interest exists especially under the conditions for the right to subsequent security pursuant to clause 23.

#### **(5) Realization**

The Bank is authorized to immediately realize the pledged assets if the customer does not satisfy any of its liabilities when due, without prior notice to the customer. The Bank may realise the pledge by any means, including by appropriating the assets or sell them in accordance with applicable legal provisions and to offset claims in the order it deems suitable. The Bank can freely choose among the assets pledged.

The Bank has the right to credit proceeds from realization which are not sufficient to satisfy all claims at its discretion. In case an attachment order or a conservatory measure are initiated on one of the customer's accounts, it is specifically agreed that all debts of the customer shall be considered as immediately due and that the setoff against the customer's assets has occurred prior to such measure.

For offsetting purposes, the Bank is entitled to terminate a term deposit before its maturity if required.

The Bank is authorised, at any time, to make a conversion of the pledged assets into the currencies of the claims of the Bank for the purposes of the enforcement of the pledge.

In relation to cash amounts due to the customer by a third party, the Bank is also entitled to give instruction to said third party to transfer the amount indicated by the Bank in order to enable the latter to offset such amount against the debts of the customer.

The pledge shall continue to exist even if, after the enforcement of the pledge by the Bank, the account of the customer shows a credit balance again.

### **23. Supplemental Collateral and Release**

#### **(1) Right to subsequent Collateral**

The Bank can require the customer to grant or increase security without delay for the customer's liabilities if the risk situation changes due to circumstances subsequently occurring or becoming known, e.g. as a result of a deterioration or impending deterioration in the financial circumstances of the customer, a party jointly and severally liable or a surety or the value of existing collateral.

In case of consumer loan agreements, a claim for granting or increasing security only exists to the extent that the security is set forth in the credit agreement. When, however, the net loan amount exceeds EUR 75,000, the Bank may demand that security be provided or increased even if a consumer loan agreement does not contain any or any exhaustive indications as to security.

#### **(2) Obligation to Release**

The Bank is required to release collateral of its choice upon request to the extent that the value of all collateral which can be realized exceeds not just temporarily the total amount of all claims of the Bank by more than 10 percent. This coverage limit is increased by the respectively current value added tax rate to the extent that the Bank, in the event of realization, has to pay value added tax from the proceeds of realization.

The Bank will take into account the justified interests of the customer when selecting the collateral to be released.

## Collection Documents

### 24. Cashing in Collection Transactions

#### (1) Collection Agreement

Cheques, bills of exchange, direct debit or other collection documents will only be accepted by the Bank for the purpose of collection, unless agreed otherwise.

#### (2) Reversing Credits

If the Bank has already credited the value of collection documents prior to receipt of value, the Bank can reverse the credit for the value if the documents are not honoured, even after any statement of account which has been issued in the meantime.

This also applies if the Bank does not receive the value, or the free disposal of the value is restricted by law or by acts of authorities, or the documents cannot be submitted at all or in time as a result of insurmountable hindrances, or the collection involves disproportionate difficulties which were not known at the time of acceptance of the documents, or a moratorium has been declared in the country in which the documents are to be collected. The Bank can also return collection documents even before they become due under the same conditions. The reversal of the credit is also permissible if the documents cannot be returned.

### 25. Deadline for Presentation, Urgent Means

If cheques payable at the Bank's local banking centre are not submitted at the latest on the third Business Day or in case of cheques payable at other banking centres not at least on the fourth Business Day prior to expiration of the deadline for presentation or if being mailed the cheques are not received at the Bank within these deadlines before close of business, the customer must provide separate notice of the expiration of the deadline for submission and any means to be used for urgent situations.

### 26. Security Interests in Collection Transactions

#### (1) Title Transfer for Purposes of Security

Upon submission of cheques and bills of exchange for collection, the customer transfers title to such documents to the Bank for purposes of security in case that the collection documents are not honoured and the Bank has claims against the customer resulting from disposals of the customer made in advance with regard to the collection transaction until such claims are satisfied. Upon acquiring title for purposes of security, the underlying claims also pass to the Bank.

#### (2) Assignment for Purposes of Security

If other documents are submitted for collection (e.g. direct debit authorizations, commercial trading papers), the underlying claims pass to the Bank in accordance with the conditions in paragraph 1.

## Termination of the Business Relationship

### 27. Right of Termination

#### (1) Ordinary Termination

Without prejudice to the specific provisions in the Payments Appendix, in the absence of any agreed fixed term or termination arrangements to the contrary, the customer and the Bank may terminate the entire business relationship or individual types of business at any time without compliance with a notice period.

#### (2) Termination for Cause

Notwithstanding any agreements to the contrary, both the customer as well as the Bank can terminate the entire business relationship or individual types of business at any time with immediate effect if there is a cause, as a result of which the terminating party cannot be reasonably expected to continue the business relationship. In giving such notice, the justified interests of the other contracting party must be taken into account. Such cause for termination for the Bank especially exists if due to any of the circumstances described by example below the fulfilment of the payment obligations of the customer or the realisation of the claims of the Bank is endangered, even if any security is realised:

- a) if a deterioration or an endangerment of the financial condition of the customer or the value of the collateral provided for a loan occurs, especially if the customer stops making payments or declares its intention to stop making payments or if bills of exchange accepted from the customer are sent for protest;
  - b) if the customer does not comply with its obligation to grant or increase security (clause 23 paragraph 1) without undue delay after being requested to do so by the Bank;
  - c) if the customer has made incorrect statements about its financial circumstances;
  - d) if enforcement has been initiated against the customer;
  - e) if the financial condition of a party jointly and severally liable or the personally liable partner/shareholder has materially deteriorated or is substantially endangered, as well as in the case of death of or change in the personally liable partner/shareholder;
  - f) if the activities of the customer appear to the Bank to be illegal or contrary to domestic or foreign legal standards or contrary to public policy or standards of decency.
- If the cause involves the breach of a contractual duty, the termination is only permissible after expiration of a dead line set for curing the breach without such breach being cured or after a reminder has been issued without such breach being cured. This shall not apply if the customer seriously and finally refuses performance or if the customer does not render performance on the date set in the contract or within a specified period of time although the Bank has tied the continuation of its interest in performance under the contract to the timeliness of the performance or if special circumstances exist which justify immediate notice of termination after weighing the interests of both parties



**(3) Notice of Termination in the case of Consumer Loan Agreements.**

To the extent mandatory special provisions for terminating consumer loan agreements apply, the Bank can give notice of termination only in accordance with those provisions.

**(4) Legal Consequences in the case of Notice of Termination**

Upon the termination of the entire business relationship or individual types of business, the amounts owed under the relevant accounts shall become immediately due. The customer is also required to discharge and release the Bank to that extent from all obligations assumed for the customer or on the customer's order. The Bank is entitled to terminate obligations entered into for the customer or on the customer's order and to settle other obligations with effect for the customer, especially obligations in foreign currency, and to immediately reverse the credits for bills of exchange and cheques which have been accepted; the claims under bills of exchange or cheques against the customer and each obligor under the document for payment of the full amount of the bills of exchange and cheques including ancillary claims remain with the Bank, however, until any negative balance is covered.

**(5) Obligation to Withdraw**

The customer must withdraw all his/her assets with the Bank by giving to the Bank appropriate transfer instructions with respect to such assets within one month from the termination of the account relationship. The Bank may, at any time thereafter, sell all assets held for the customer and convert all cash positions into one single currency. The Bank reserves the right to transfer the resulting balance (which will not generate credit interest) by any means that the Bank deems appropriate, after conversion into another currency and/or consign the assets of the customer in accordance to the applicable legal provisions.

**28. Continuing Applicability of the General Terms and Conditions**

The General Terms and Conditions continue to apply after the end of the entire business relationship or individual types of business for the winding-up process and the relationship resulting from the unwinding.

**29. Protection of Deposit by an approved deposit guarantee scheme****(1) Voluntary Institutional Guarantee**

The Bank is a member of the Deposit Protection Fund of the Association of German Banks (Einlagensicherungsfonds des Bundesverbandes deutscher Banken e.V.). In accordance with its By-laws – subject to the exceptions provided for therein – the Deposit Protection Fund protects deposits, i.e. credit balances which result from funds left in an account or from temporary situations deriving from banking transactions and which the Bank is required to repay under the conditions applicable.

Not protected are, inter alia, deposits forming part of the Bank's own funds, liabilities from bearer and order bonds, as well as deposits of credit institutions within the meaning of Article 4 (1), point (1) of Regulation (EU) No.575/2013, financial institutions within the meaning of Article 4 (1), point (26) of Regulation (EU) No.575/2013, investment firms within the meaning of Article 4 (1), point (1) of Directive 2004/39/EC and central, regional and local authorities.

Deposits of other creditors as natural persons and as foundations with legal capacity are only protected if the deposit is not a liability from a registered bond or a promissory note and the term of the deposit is not more than 18 months.

Deposits that already existed before 1 January 2020 shall not be subject to this limitation of term. After 31 December 2019, the 'grandfathered' status pursuant to the preceding sentence shall cease to apply as soon as the deposit in question falls due, can be terminated or otherwise reclaimed, or if the deposit is transferred by way of individual or universal succession in title.

Liabilities of banks that already existed before 1 October 2017 are generally protected in accordance with and under the conditions laid down in the provisions of the By-laws of the Deposit Protection Fund applying until 1 October 2017. This does not apply to liabilities of Hamburg Commercial Bank AG, as the Bank was not a member of the Deposit Protection Fund at that point in time.

**(2) Protection ceilings**

The protection ceiling for each creditor is, until 31 December 2019, 20%, until 31 December 2024, 15%, and, as of 1 January 2025, 8.75% of the Bank's own funds within the meaning of Article 72 of Regulation (EU) No.575/2013 used for deposit protection purposes. Deposits established or renewed after 31 December 2011 shall be subject to the respective new protection ceilings as of the forementioned dates, irrespective of the time when the deposits are established. Deposits established before 31 December 2011 shall be subject to the old protection ceilings until maturity or until the next possible termination date.

This protection ceiling shall be notified to the customer by the Bank on request. It is also available on the internet at [www.bankenverband.de](http://www.bankenverband.de).

**(3) Validity of the By-laws of the Deposit Protection Fund**

Further details of protection are contained in Section 6 of the By-laws of the Deposit Protection fund, which are available on request.

**(4) Transfer of claims**

To the extent that the Deposit Protection Fund or its mandatory makes payments to a customer, the respective amount of the customer's claims against the Bank, together with all subsidiary rights, shall be transferred simultaneously to the Deposit Protection Fund.

**(5) Disclosure of information**

The bank shall be entitled to disclose to the Deposit Protection Fund or to its mandatory all the necessary information in this respect and to place documents at their disposal.

### 30. Syndication/Approval to transfer of Contract and Customer Data

This provision does not apply to natural persons.

#### (1) Syndication

For the purpose of risk diversification, optimization of equity capital, and refinancing, the Bank shall be entitled to form (also retroactively) in line with common banking usage with members of the European system of the central banks, banking institutions, institutes for financial services, financial enterprises, insurance companies, institutional investors, investment and real estate investment funds, pension funds, pension schemes, comparable institutions as well as with so-called "Single Purpose Vehicles", whether domestic or foreign ("Syndicate Members") (i) a syndicate for the granting and/or administration of the loan and/or (ii) to grant sub-participations to one or more Syndicate Members and/or (iii) to resell receivables to Syndicate Members and/or (iv) to dispose of receivables for the purpose of securitization, and to negotiate to this end with interested Syndicate Members ("Syndication").

#### (2) Transfer of Claims and Rights

In the context of Syndication, the Bank shall be entitled to assign, pledge or transfer money due under the loan together with collateral pertaining thereto, especially mortgages, personal assumption of liability, submission to execution in person and in rem – wholly or partially – to the Syndicate Member(s). Furthermore, the Bank shall be entitled to make dispositions regarding individual rights and obligations and the credit risk under the loan.

#### (3) Transfer of Contract

In the context of Syndication and to the extent that the loan has been fully paid out, the Bank may transfer the loan agreement in the way of a transfer of contract (Vertragsübernahme) to (i) a Single-Purpose-Vehicle or (ii) an investment fund, either of which have been established only for the purposes mentioned in the first paragraph of clause 30.

#### (4) Information Transfer

The customer instructs the Bank to disclose any Customer Data (including data on the Related Parties) to the Syndicate Member(s) and any further transferee of rights arising from the loan agreement, as well as to the respective consultants engaged in the audit of recoverability or the clearing of the transfer due to technical, organizational or legal reasons (for example rating agencies, attorneys and auditors) and to transfer such Customer Data, in particular data regarding loans, collateral, financial circumstances and other information as far as necessary for the examination of a potential Syndication and the assessment of risk and for the ongoing monitoring of the loan, especially to the extent required by banking supervisory laws. The Bank shall contractually oblige the recipient of Customer Data to observe the rules of confidentiality unless the recipient is already legally obliged to maintain secrecy. The Bank will oblige the recipient of Customer Data to conclude a corresponding confidentiality agreement in case of any further transfer of rights arising from the loan agreement or any forwarding of information to other recipients.

#### (5) Approval of Customer

The customer expressly consents to the disclosure and transfer of Customer Data to perform the above-mentioned measures and acknowledges that such Customer Data will no longer be covered by Luxembourg banking secrecy. Furthermore, the customer herewith agrees to the above-mentioned measures, in particular to the transfer of contract. The Bank shall inform the customer about a successful Syndication provided that implications are to be expected in respect of the customer. To the extent the cooperation of the customer shall be required in the course of Syndication the customer will take all necessary steps.

# Appendix

## Payments Appendix

### 1. Introduction

This Payments Appendix shall apply to any Payment Services offered by the Bank to the customer, both within and outside the scope of the Directive (2015/2366/EU) on payment services in the internal market (hereafter the "PSD").

Payment Transactions are to be considered as within the scope of the PSD ("PSD Payments") in the following circumstances:

- where the Payment Service Provider of the customer's counterparty in the Payment Transaction, which if applicable may be the Bank, is located in Luxembourg or in another Member State and the Payment Transaction is executed in euros or in the another currency of a Member State;
- where the Payment Service Provider of the customer's counterparty in the Payment Transaction, which if applicable may be the Bank, is located in Luxembourg or in another Member State and the Payment Transaction is executed in a currency that is not the currency of a Member State but only in respect to those parts of the Payment Transactions which are carried out in the European Union;
- all other Payment Transactions for which the Payment Service Provider of the customer's counter party in the Payment Transaction is located outside of the EEA, except for clause 5.2., paragraph 1 and 8 of this Payments Appendix, but only in respect of those parts of the Payment Transactions which are carried out in the European Union.

All other (part of) Payment Transactions will be referred to as "Non-PSD Payments".

With respect to Payments Services rendered under this Payments Appendix, the contractual relations between the Bank and the customer are further governed by the other provisions of the General Terms and Conditions governing the relationship between the Bank and its customers and any other specific agreements between the Bank and the customer (unless otherwise provided in this Payments Appendix).

In case of any discrepancy between this Payments Appendix and other documents referred to in this Payments Appendix e.g. other provisions of the General Terms and Conditions, the present Payments Appendix will prevail.

Since the customer is not acting as a consumer for the purposes of this Payments Appendix, the customer and the Bank expressly agree that:

- all of the transparency requirements set out in Title III of PSD (and corresponding Luxembourg implementing measures) shall not be applicable to their relationships under this Payments Appendix;
- the following PSD provisions relating to the rights and obligations in relation to the provision and use of Payment Services (and corresponding Luxembourg implementing measures) shall not be applicable to their relationships under this Payments Appendix: Article 62(1), Article 64(3) and Articles 72, 74, 76, 77, 80, 89 and 90 of PSD;

- different time limits from those laid down in Article 71 of PSD will apply to their relationships under this Payments Appendix.

### 2. Definitions in relation to payment services and payment services offered by the bank

#### 2.1 Definitions

"Bank" means Hamburg Commercial Bank AG Luxembourg Branch, the Luxembourg branch of a credit institution authorized in Germany, which is subject to the prudential supervision of the European Central Bank established at Sonnemannstraße 20, D-60314 Frankfurt and the CSSF (as supervisory authority of the host Member State), established at L-1150 Luxembourg, 283, route d'Arlon (supervised entity number B00000164), with registered address at 7, rue Lou Hemmer L-1748 Luxembourg-Findel and registered with the Luxembourg Trade and Companies register under number B27292.

"Credit Value Date" is the date where the credited amount is at the customer's disposal.

"Cutoff Time" means the time limit in the course of a Business Day for the processing of a Payment Order as amended from time to time. Any Payment Order received after Cutoff Time shall be deemed to have been received on the following Business Day. More information on Cut-Off Times can be obtained from the Bank upon request.

"Exchange Rate" means the exchange rate which is used by the Bank in accordance with clause 16 of the General Terms and Conditions as the basis for calculating any currency exchange.

"Execution Date" means the date on which a received Payment Order is debited from the Payer's account.

"Execution Time" means the number of days elapsing from the Execution Date for an outgoing payment until the date on which the account of the Payee's Payment Service Provider or an Intermediary, as applicable, is credited.

"Intermediary(ies)" means another Payment Service Provider used in the execution of a Payment Order in cases where the Bank and the Payee's Payment Service Provider (for outgoing payments) or the Payer's Payment Service Provider (for incoming payments) do not have direct account relations.

"Member State" means a Member State of the European Union. The States that are parties to the Agreement on the European Economic Area (hereafter the "EEA") other than the Member States of the European Union are considered as members of the European Union for the purpose of this definition, subject to the limits defined in the said agreement and the related documents.

"Payee" means the intended recipient of funds (the Beneficiary) in a Payment Transaction.

"Payer" means a Payment Service User who holds a payment account and allows a Payment Order from that payment account.

“Payment Account” means an account held in the customer’s name and which is used for the execution of Payment Transactions.

“Payment Order” means an instruction from a Payment Service User requesting an execution of a Payment Transaction.

“Payment Services” means the execution of all types of Payment Transactions – both within and with out of the scope of the PSD.

“Payment Service Provider” means a bank or another financial institution authorised to provide Payment Services.

“Payment Service User” means a natural or legal person, including the customer, making use of Payment Services in the capacity of either Payer or Payee, or both.

“Payment Transaction” means an act initiated by a Payment Service User, consisting of placing, transfer ring or withdrawing funds (such as placing cash on and withdrawing cash from a payment account, credit transfers or standing orders).

“Reference Interest Rate” means the interest rate which is used by the Bank as the basis for calculating any interest to be applied on the Payment Account. The applicable Reference Interest Rates are based on current market rates.

“Unique Identifier” means the International Bank Account Number (accompanied by the “IBAN” distinguishing abbreviation) and, if applicable, the Bank Identifier Code (accompanied by the “BIC” distinguishing abbreviation) to be provided by the customer:

- to enable the payment account of the other Payment Service User to be identified unambiguously for the purposes of ensuring the correct execution of a Payment Order; and,
- if applicable, to identify unambiguously his Payment Account to ensure the correct execution of a Payment Order.

Capitalised terms not otherwise defined in this Payments Appendix shall have the meaning ascribed to them in the General Terms and Conditions.

## 2.2 Payment Services provided by the Bank

The Bank does not offer all the Payment Services in the meaning of PSD (and the corresponding Luxembourg implementing measures), especially no cash payment services enabling cash to be placed on a Payment Account and/or cash withdrawals from a Payment Account are offered.

The Bank only offers the following types of Payment Services under this Payments Appendix: transfers and standing orders from/to the customer’s Payment Account.

The Client agrees that the Bank fulfils its obligation to return funds not by means of cash remittance but by way of transfers only.

## 2.3 Spending limits

The Bank and the customer may, as the case may be, agree on spending limits for Payment Transactions. The Bank reserves the right to refuse to execute one or more Payment Transactions where the relevant limits have been exceeded. In such a case, the Bank will not be under any obligation to send another notification of its refusal to the customer, whether in writing or not.

## 3. Information accompanying payment transactions

### 3.1 Information Accompanying Outgoing Payment Transactions

Which information that has to be disclosed in a Payment Transaction depends on the legislation in effect in each country and on the policies of the Payee’s Payment Service Provider. Each country and Payment Service Provider has the possibility to set their own requirements with regard to required information.

For outgoing PSD Payments, the customer must indicate in his Payment Order:

- the name of the customer;
- its Unique Identifier;
- the name of the Payee;
- the Payee’s Unique Identifier in addition to data about the Payee which may be required by the Payee’s Payment Service Provider;
- the currency of the Payment Transaction;
- the amount of the Payment Transaction.

For a standing order, the customer shall also provide the starting date for the first Payment Order and the periodicity of the payments.

For outgoing Non-PSD Payments, the customer must indicate sufficient information to execute the Payment Order as requested by the Bank and the Payee’s Payment Service Provider.

The customer acknowledges that the Bank may have to disclose the aforementioned information as well as his legal address in the context of the execution of a Payment Transaction to the Payment Service Provider of the customer’s counterparty (and, where relevant, also to Intermediary(ies) involved in the execution of the Payment Transaction). The customer expressly accepts and instructs the Bank to disclose such Customer Data.

In case the required information is not provided with the outgoing payment or is inaccurate, the Bank shall not bear any liability for any damage, delay or other consequence resulting from the non-execution or defective execution of the relevant Payment Order.

The Bank reserves the right to agree, without any obligation on its part, to execute a Payment Transaction on the basis of other information provided by the customer. However, in the event of a discrepancy between the Unique Identifier provided by the customer and any other information, the Bank may, without any liability on its part, rely solely on the Unique Identifier. In such a case, the funds shall be deemed to have been transferred to the Payee intended by the customer. In case the Payer wishes to send a message with the Payment Transaction, the Bank cannot guarantee that the whole message will reach the Payee, as the banking system of the Payee’s Payment Service Provider may not accept the same amount of information.

### 3.2 Information Accompanying Incoming Payment Transactions

For incoming PSD Payments, the Payer must ensure that the Payment Order indicates the customer's Unique Identifier, as well as other data depending on the nature of the Payment Transaction. Depending on the nature of the Payment Transaction the amount of information disclosed in an incoming Payment Transaction varies. In some cases it could mean disclosure of the entire customer information i.e. name, legal address, Unique Identifier.

The Bank reserves the right to ask the Payer's Payment Service Provider to complete the information regarding the Payment Transaction with required information if this should not be sufficient according to the Bank's rules and regulations. In case the required information is not provided with the incoming Payment Transaction or if any message from the Payer to the Payee is missing in part or in whole, the Bank shall not bear any liability for any damage, delay or other consequence resulting there from, unless otherwise provided in this Payments Appendix.

## 4. Requirements for outgoing payment transactions

### 4.1 Payment Order

A Payment Transaction is initiated by the issuing of a Payment Order by the customer. Payment Orders shall be issued on a form approved by the Bank or in a manner otherwise agreed with the Bank.

The kind of information required depends on the nature of the Payment Transaction. In order for the Bank to execute the Payment Order it shall contain sufficient information as stated in clause 3.1. above. Note that the Payee's IBAN and Bank BIC code may be required for Non-PSD payments as well.

If a Payment Order does not contain sufficient information the order is incomplete and as such it can not be executed. The customer is responsible for providing the Bank with the required information.

The Bank's records shall constitute evidence of such Payment Order. The Bank reserves the right to require written orders at its own discretion. By issuing a Payment Order in accordance with this clause 4.1., the customer has given consent to execute the Payment Order.

The Bank shall act in accordance with the Payment Orders given by the customer. Payment orders received from a duly authorised agent of the customer will be treated as Payment Orders given by the customer himself, unless otherwise specified in this Payments Appendix.

### 4.2 Sufficient Funds

The customer is obliged to ensure that sufficient funds are available in the relevant Payment Account (i.e. a sufficient credit balance in the currency of the Payment Order is available or sufficient credit has been granted), depending on the nature of the Payment Transaction on the Execution Date of the relevant Payment Transaction, including any charges payable in relation thereto as per clause 10. below.

If a Payment Order contains insufficient information or if sufficient funds are not available on the account on the Execution Date, the Payment Order cannot be executed.

In case of several outgoing Payment Orders and insufficient funds to execute them all, the Bank will execute the Payment Orders on a "first in basis" in accordance with Execution Date and time of receipt within the meaning of clause 5.1. below as registered by the Bank.

### 4.3 Irrevocability of Payment Orders/Consent

4.3.1. The customer may not revoke a Payment Order once it has been received by the Bank. Such a Payment Order shall be executed by the Bank notwithstanding any subsequent instructions to revoke it from the customer.

4.3.2. Notwithstanding the provisions of clauses 4.3.1. above, if it has been agreed that the execution of the Payment Order shall begin on a given day, at the end of a specific period or on the day when the customer has made the funds available to the Bank, the customer may only revoke the said Payment Order at the latest by the Cut-off Time on the Business Day preceding the Execution Date.

4.3.3. In case of revocation of a standing order, no further Payment Transactions shall be executed under the relevant standing order.

4.3.4. The Bank reserves the right – without however any obligation – to accept the revocation of a Payment Order at the request of the customer after the time of receipt of the Payment Order in question. The Bank shall have no liability for not exercising this option. However, if the Bank accepts revocation at such a point in time, it shall be entitled to charge the customer accordingly.

4.3.5. As regards the receipt by the Bank of a request to revoke a Payment Order, the rules set out below in clause 5.1. below shall apply.

## 5. Execution of outgoing payment orders

Provided that the requirements set out in clause 4. above have been fulfilled, the Bank will execute the requested Payment Order.

### 5.1 Receipt of Payment Order – Cut-off Times

A Payment Order is deemed received when the Payment Order has actually been received in full during the Bank's business hours and registered by the Bank. If the Payment Order or consent is received on a day other than a Business Day or after the relevant Cutoff Time on a Business Day the Payment Order shall be deemed to have been received on the following Business Day.

If the customer and the Bank agree that the Payment Order shall be executed on a specific day, at the end of a certain period or on the day on which the customer has sufficient funds, this point in time will be the Execution Date. If the agreed day is not a Business Day, the Execution Date will be the following Business Day.

### 5.2 Maximum Execution Time for Outgoing Payment Transactions

For PSD Payments, the maximum execution times for outgoing Payment Transactions shall be determined in accordance with PSD. These deadlines start on the moment of receipt of the Payment Order, as defined in clause 5.1. above.



The Payment Transaction is considered as executed when the Payment Service Provider of the customer's counterparty has received the funds. It is understood that these are maximum times and that they apply only when there are sufficient funds in the Payment Account.

For all other Non-PSD Payments, the customer acknowledges that the Execution Time will be subject to the operating rules of international payment systems and in such case the Bank will not be bound by the deadlines set out above.

### 5.3 Refusal of Payment Orders

The Bank may refuse to execute a Payment Order on the date the Payment Transaction was intended to be executed if:

- the Payment Order contains any factual error whatsoever, in particular an incomplete or inaccurate Unique Identifier;
- the customer has defaulted on any of his obligations to the Bank pursuant to this Payments Appendix or, more generally, any other agreement between the customer and the Bank;
- the Payment Order does not comply with the requirements and/or forms agreed in this Payments Appendix or with regulatory or market standards;
- the Payment Order cannot be executed in full, in particular because the customer's funds or credit line are inadequate;
- it appears that the Payment Order emanates from a person who is not authorized to operate the Payment Account;
- changes in the financial situation of the customer or a person financially connected to the customer might call into question the prompt execution in full of the customer's commitments pursuant to this Payments Appendix;
- if the Bank is required, pursuant to a legal or contractual provision, or a court order, not to execute the Payment Order or block the Payment Account of the customer.

Should the Bank receive a Payment Order with incomplete, inconsistent or incorrect details, the Bank may but is not under the obligation to: (i) correct such details in case of evident errors or (ii) refuse the Payment Order. In such cases, the Bank will under no circumstances incur any liability for any consequence resulting from defective execution or non-execution of a Payment Order and the customer will assume sole responsibility therefore.

Unless prohibited by legislation or other regulations applicable to the Bank, the Bank will, for PSD Payments, at the earliest opportunity and via the agreed means of communication, at the latest within the Execution Time which would have been applicable if the Payment Order would have been executed, notify the customer of the refusal. The Bank will specify in the said notification, if possible, the reasons for its refusal and the procedure to be followed to correct any factual errors having led to the refusal. The Bank shall be deemed to have satisfied this obligation if it has sent this notification within the aforementioned time limit, irrespective of the actual date of receipt of this notification by the customer. The charges in connection with any such notification by the Bank may be charged to the customer as set out in the Bank's fee schedule. If the Bank, for whatever reason, is unable to reach the customer, the Bank assumes no liability for the non-execution of the Payment Order, nor does the Bank have any kind of obligation of burden of proof towards the customer. If the customer wants a Payment Order which the Bank has

previously refused to execute to be executed, the customer must transmit a new Payment Order to the Bank containing all the necessary elements and not simply correct the initial Payment Order.

## 6. Incoming payment transactions

In order to enable the Bank to process incoming Payment Transactions, the Payer must, in relation to PSD-Payments, indicate the Payee's Unique Identifier. Where an incoming Payment Transaction contains other Payee information besides the Payee's Unique Identifier, the Payee's IBAN takes precedence over any other Payee details mentioned on the incoming instruction e.g. name, address etc. In such case, where the funds have been credited in accordance with the provided Unique Identifier, the funds will be deemed to have been transferred to the intended Payee.

The Payer must ensure that the Payment Order is accompanied by sufficient and adequate information. In case the IBAN and BIC are missing or not accurate the Bank cannot execute the payment.

The funds or the amount of the Payment Transaction shall be made available to the customer by a simple credit entry on the Payment Account even if the overall balance of the Payment Account remains overdrawn.

Incoming payments will be credited to the customer's account in the same currency as the incoming payment. When the currency in which the funds have been received differs from the currency of the Payment Account, the Bank shall automatically open a subaccount in the currency and credit the said funds to the new subaccount.

If the Bank makes funds available to the customer without having received the funds from the Payer's Payment Service Provider or if the funds have been made available before the actual date of receipt, the Bank shall be entitled to reverse the initial credit along with any interest that may have been earned by the customer. If there are not sufficient funds on the relevant Payment Account, the customer shall immediately upon demand from the Bank repay the amount plus interest and incurred costs to the Bank.

## 7. Information concerning payment transactions

After the execution of a Payment Order the Bank will make information regarding the relevant Payment Transaction available to the customer in accordance with clause 8.2 of the General Terms and Conditions.

When the customer has not received the said transaction confirmation within ten (10) Business Days of the date where he should have received it in accordance with clause 8.2 of the General Terms and Conditions, he must inform the Bank immediately in accordance with clause 21.1(e) of the General Terms and Conditions.

## 8. Non-execution or defective execution of PSD payments

Should the customer claim that a Payment Order was not correctly executed the provisions of this clause 8. shall apply.

**8.1 Notification**

On becoming aware of any incorrectly executed or non-executed PSD Payment Order, the customer shall notify the Bank in accordance with clause 21.1(e) of the General Terms and Conditions, provided that such a claim in relation to PSD Payment Order shall be filed no later than thirty (30) calendar days after receiving the transaction confirmation within the meaning of clause 7. above, unless the Bank has failed to provide or make available the information on the relevant Payment Transaction. In the absence of any claim lodged within the times specified above the customer will be deemed to have authorized the Payment Transactions listed in the relevant confirmation, which shall be considered as definitively accepted by the customer and the Bank shall no longer have any liability for the harmful consequences resulting from the non-execution or defective execution of a Payment Transaction.

**8.2 Limitation of the Bank's liability**

The Bank shall not be liable for any incorrectly executed Payment Order if the customer has failed to notify the Bank in accordance with clause 8.1. above. The Bank shall not be liable under this clause 8. if a Payment Order/Payment Transaction has been refused in accordance with clause 5.3. or 6. above. If a Payment Order is executed in accordance with the provided Unique Identifier, the Payment Order shall be deemed to have been executed correctly with regard to the Payee indicated by the Unique Identifier, notwithstanding any additional information which may be provided to the Bank. When the customer acts as Payer and initiated the Payment Order, the Bank shall have no obligation to verify the correctness of the Unique Identifier of the Payee provided by the customer. If the Unique Identifier is incorrect, the Bank may in no event be held liable for the harmful consequences resulting from the non-execution or defective execution of a Payment Order when the Bank has executed the Payment Order in accordance with the indicated Unique Identifier. It will then be for the customer to seek redress from the Payer and/or the latter's Payment Service Provider in this regard. More generally, the Bank may in no event be held liable for the defective execution of a Payment Order if it can establish that the amount covered by the Payment Order has been received by the Payee's Payment Service Provider within the applicable time limits.

The Bank shall not be liable for delayed payment or non-execution if the delay or non-execution is due to circumstances or investigations which are required by legislation or other regulations applicable to the Bank.

The Bank takes no responsibility for the solvency of any parties involved in a Payment Transaction. The Bank's liability under this clause 8. is further limited by clause 12.

**8.3 Investigation of Payment Transactions**

If the customer initiated a Payment Order acting as Payer and in the event of the non-execution or defective execution of a Payment Transaction, and irrespective of the question of the Bank's liability for such non-execution or defective execution, the Bank may, at the customer's express request and sole expense, but without any liability in this regard, endeavour, insofar as is reasonable, to trace the Payment Transaction and

shall inform the customer of the outcome.

The Bank reserves the right to charge the customer for its actual expenses for such investigations. Such investigation shall in no case incur any liability to the Bank.

**8.4 Delayed execution of a Payment Transaction**

Where a Payment Order is not executed within the time specified in clause 5.2. or 6. and where no case of force majeure exists, cf. clause 12., the customer is not entitled to a refund of the total amount of the Payment Transaction but, if applicable, simply to a refund of the fees and expenses and interest (from the date on which the amount should have been credited to the Payee's Payment Service Provider's account in accordance with clause 5.2 or to the customer's account in accordance with clause 6. until the date on which the funds are credited) incurred by the customer as a result of late execution.

**8.5 Defective execution of a Payment Transaction**

8.5.1. The customer acts as a Payer and initiated the Payment Order

Insofar as the Bank is liable for the non-execution or defective execution of a Payment Transaction, it shall refund, if applicable, to the customer the total amount of the Payment Transaction and, if necessary, restore the debited Payment Account to the state in which it would have been had the defective Payment Transaction not taken place (the Credit Value Date shall be no later than the date the amount has been debited). Insofar as possible, the Bank may also take measures to remedy the defective execution of a Payment Order, if the Payment Order contains all the information necessary to remedy this defective execution, in particular in cases where the Bank has transferred an amount different from that of the Payment Order or in the event of an internal credit transfer from the customer's Payment Account to another account of the customer opened in the books of the Bank.

8.5.2. The customer acts as Payee

The Bank shall be considered as liable for the defective execution or non-execution of a Payment Order where the customer is the Payee only if the customer can prove that the Bank received within the applicable time limits, the amount specified in the Payment Order initiated by the Payer but that his Payment Account has not been credited with the amount specified in the Payment Order, after deduction, if applicable, of the Bank's fees and expenses, in accordance with clause 10. of this Payments Appendix.

In this case, the Bank shall make available to the customer the amount of the Payment Transaction on the Payment Account as quickly as possible and, if necessary, will credit the Payment Account with the corresponding amount. The amount of the relevant Payment Transaction shall be value dated on the customer's Payment Account no later than the date the amount would have been value dated had the Payment Transaction been correctly executed.

The Bank and the customer agree that, when a Payment Transaction initiated by a Payer gives rise to

a refund by the Bank (for instance in case the Bank has credited the account of the customer (acting in a capacity as Payee) based on the Unique Identifier indicated in the Payment Order received from the Payment Service Provider of the Payer and the Bank receives a refund request from the latter in respect of the relevant Payment Transaction (this will for example be the case when the Unique Identifier indicated by the Payer was incorrect meaning that the relevant payment was not aimed at the customer), the latter shall be irrevocably authorized to debit the customer's Payment Account with the amount that the Payer's Payment Service Provider claims from it in this regard, without having to satisfy itself whether or not the claim for refund submitted by the Payer to his Payment Service Provider is justified and without prior notification to the customer. It is for the customer if applicable to invoke that the Payer's claim for refund is unjustified by seeking redress directly against the Payer and/or the latter's Payment Service Provider. To the extent necessary, the customer instructs the Bank, in this context, to disclose and transmit to the Payment Service Provider of the Payer, without delay and without having to revert beforehand to the customer, the information concerning the customer which is necessary for the Payer to request the refund directly to the customer (i.e. the name, address and account number of the customer).

## 9. Unauthorised payment transactions

Should the customer claim that a Payment Transaction was not authorized, the provisions of this clause shall apply.

### 9.1 Notification

On becoming aware of any unauthorised PSD Payment Transaction, the customer shall notify the Bank in accordance with clause 21.1(e) of the General Terms and Conditions, provided that such a claim in relation to PSD Payment Order shall be filed no later than thirty (30) calendar days after receiving the transaction confirmation within the meaning of clause 7. above, unless the Bank has failed to provide or make available the information on the relevant Payment Transaction. In the absence of any claim lodged within the times specified above the customer will be deemed to have authorized the Payment Transactions listed in the relevant confirmation, which shall be considered as definitively accepted by the customer and the Bank shall no longer have any liability for the harmful consequences resulting from the unauthorised Payment Transaction.

### 9.2 Liability of the Bank

It is for the customer to prove that a Payment Transaction which could be considered by the Bank as having been authorized was not in fact authorized by the customer and, until proved otherwise, any executed Payment Transaction is deemed to have been authorised by the customer.

## 10. Fees and Expenses

Fees and expenses associated with the Payment Services are charged in accordance with the list of prices and services of the Bank unless otherwise agreed. The customer shall ensure that there are sufficient funds available in the account to pay fees and other applicable charges.

Any fees attributable to the customer will be included in each Payment Transaction as agreed between the parties and will be debited from the account.

Before every individual Payment Transaction, the customer undertakes to ascertain the specific fees and expenses applying to the said Payment Transaction.

Where the customer acts in a capacity as Payee in relation to a Payment Transaction, he authorises the Bank to debit from the amount to be credited to his Payment Account any fees that may be due to the Bank, before crediting his Payment Account. More generally, the customer hereby authorises the Bank to automatically debit from his Payment Account the fees and expenses owed to the Bank.

The Bank reserves the right to charge the customer with any fees or charges imposed by the Intermediary or correspondent bank.

The customer further agrees that the Bank may charge him with all the charges incurred in carrying out the information measures and preventive and corrective measures which he is to perform pursuant to this Payments Appendix.

The customer shall remain liable for the payment of fees and charges which are due, even if payment thereof is requested following closure of the Payment Account.

## 11. Reference interest rate and exchange rate

Unless agreed otherwise, when the provision of Payment Services pursuant to this Payments Appendix involves an overdraft on a Payment Account, the Reference Interest Rate in accordance with clause 18.1 of the General Terms and Conditions shall apply ipso jure, without formal notice, to the account's debit balances, without prejudice to any other charges, costs, withholdings, other expenses or additional claims of the Bank by way of damages.

This provision may not be interpreted as authorizing the customer to overdraw a Payment Account.

Interest on overdrawn Payment Accounts shall be immediately due and payable and automatically debited to the customer's Payment Account.

Credit interest is not payable on funds deposited on a Payment Account unless expressly agreed otherwise between the Bank and the customer for certain types of Payment Accounts.

When the provision of Payment Services pursuant to this Payments Appendix involves a foreign exchange transaction, the Bank shall apply the current Exchange Rate, in accordance with clause 16 of the General Terms and Conditions, on the day of the execution of the proposed Payment Transaction. Given that Exchange Rates vary from day to day, the customer undertakes to ascertain the applicable Exchange Rate before any Payment Transaction involving a currency conversion.

## 12. Limitations of Liability/ Force Majeure

The Bank may only be held liable for the harmful consequences resulting from the defective performance or nonperformance or partial performance of its obligations ("Default") pursuant to this Payments Appendix in the conditions set out in clause 20 of the General Terms and Conditions. The customer explicitly agrees that the PSD provisions concerning the Bank's liabilities in the event of non-execution or defective execution do not apply to the Payment Services covered by this Payments Appendix.

## 13. Changes to this payments appendix

If the Bank intends to change this Payments Appendix, the conditions set out in clause 2 of the General Terms and Conditions shall apply.

## 14. Duration and conditions of termination

This Payments Appendix is concluded for an indefinite period. Both the customer and the Bank shall be entitled to terminate it in accordance with the conditions set out in clause 27 of the General Terms and Conditions.

Current Payment Transactions shall not be affected by the termination of this Payments Appendix. This Payments Appendix as well as the list of prices and services of the Bank in accordance with clause 18 of the General Terms and Conditions shall continue to apply for the settlement of Payment Transactions in course of execution.

The termination of this Payments Appendix shall not result in the termination of all contractual relations between the customer and the Bank; the sole consequence for the customer will be that the customer will no longer be authorized to carry out Payment Transactions in accordance with this Payments Appendix.

The customer acknowledges and accepts that he will be charged termination charges in accordance with the list of prices and services of the Bank, without prejudice to all other charges which may be due to the Bank in the event that an account is closed.

The termination of the General Terms and Conditions between the customer and the Bank shall automatically result in the termination of this Payments Appendix.

## 15. Customer Complaints

In case the customer wishes to raise a complaint in relation to any Payment Transaction or matters covered by this Payments Appendix, he should refer to the Bank's complaint handling procedure as set out in clause 7.2 of the General Terms and Conditions.

## 16. Consent under Article 94(2) Directive (EU) 2015/2366 (PSD)

For purposes of Article 94(2) of the PSD, if the customer is an individual, the customer expressly agrees that the Bank may access, process and retain personal data necessary for the provision of the Payment Services.

In particular, the customer is duly informed that the following categories of personal data will be processed for the provision of the Payment Services:

- Identification data (e.g. name, email, postal address, telephone number, country of residence, passport, identity card, identification credentials to connect to internet banking services);
- Electronic identification data (e.g. IP addresses);
- Banking and financial data (e.g. financial identification, financial situation, risk profile, investment objectives and preferences);
- Data received in the context of performing the agreement (e.g. securities orders, account positions and transactions);
- Tax related data.

These categories of personal data are required for the following payment service purposes: execution of payment transactions as per clause 2.2 above as well as all the operations required for operating a Payment Account.

The customer acknowledges that the consent given within this section does not constitute consent in the meaning of Art. 6 of the GDPR. The legal basis of the processing of Personal Data, within the meaning of the GDPR, of the customer or of any individual related to the customer (such as Related Persons, beneficial owners or contact persons of the customer) is the performance of the contract between the customer and the Bank. Further information on the processing of Personal Data may be found in the Privacy Notice, which is attached in Appendix 2.

By signing these General Terms and Conditions, the customer expressly agrees to provide a copy of the Privacy Notice to the relevant individuals related to him to inform them in relation to the processing of their Personal Data by the Bank relating to the Payment Transactions initiated by the Payment Service User.

# Appendix

## Privacy Notice

This privacy notice (the Privacy Notice) informs you about the processing of your personal data (i.e. data by which you may be directly or indirectly identified) as well as of your rights in accordance with the EU General Data Protection Regulation 2016/679 (the GDPR) and related guidance and national laws complementing the GDPR (together the Data Protection Legislation) and applies to you if you are an individual customer or an individual related to a customer whose personal data we process in the course of our relationship with you (e.g. legal representatives, authorised representatives holding powers of attorney, contact persons, shareholders, beneficial owners, etc.) (an Investor or you).

### 1. Data Controller

Any personal data provided to or collected by us will be processed (i.e. used, stored, transmitted, etc.) in accordance with this Privacy Notice by us, Hamburg Commercial Bank AG Luxembourg Branch, a Luxembourg société anonyme (public limited company) having registered office at 7, rue Lou Hemmer, L-1748 Luxembourg-Findel, Grand Duchy of Luxembourg and registered with the Trade and Companies Register of Luxembourg under number B27292 (hereafter “we” or “us”), in our capacity of controller or by our subcontractors and service providers as further described in this Privacy Notice in their capacity as processors.

If you have any questions or comments or want to exercise your rights, you may contact us by post at our registered office indicated above or by email using the following address: [info@hcob-bank.lu](mailto:info@hcob-bank.lu)

### 2. What personal data is processed?

The following categories of personal data (the Personal Data) will be processed:

- identification data (e.g. name, email, postal address, telephone number, country of residence, passport, identity card, tax identification number, identification credentials to connect to internet banking services);
- electronic identification data (e.g. IP addresses, cookies, traffic data);
- personal characteristics (e.g. date of birth, marital status);
- banking and financial data (e.g. financial identification, financial situation (including loans, assets, expenses, etc.), risk profile, investment objectives and preferences);
- employment and occupation (e.g. employer, function, title, place of work);
- data received in the context of performing the agreement (e.g. securities orders, account positions and transactions, and power of attorneys);
- tax-related data, contract data for our products (e.g. with regard to discretionary management offerings);

- communications (e.g. exchange of letters with you, telephone recordings);
  - images and sound (e.g. copies of identification documents); and
  - advertisement and sales data (e.g. potential interesting products for you).
- These types of Personal Data may include special categories of data (i.e. information about political opinions to comply with applicable law regarding the identification of politically exposed persons).

### 3. Where do we collect personal data from?

We process the data that we receive through our business relationship with you. We may either collect Personal Data:

- directly from you (e.g. through communications with you by whatever means such as telephone conversations, emails and meetings);
- through our service providers (e.g. payment service providers); or
- other public or private legitimate sources. Such sources include third party data aggregators, public sources, and credit rating agencies.

### 4. For what purpose is personal data being processed?

Hereinafter, we inform you about the purposes and legal basis of the processing of your Personal Data by us.

#### 4.1 For the performance of contractual obligations

This legal basis only applies when you are an individual customer.

If you are a customer being an individual, we process your Personal Data in view of entering into or for the performance of our contracts with you, e.g. the administration of your account, for the execution of your orders, including the management of your deposits and loans, investments and other banking services and generally for conducting our business relationship with you.

The specific data processing purposes are determined in accordance with the particular product and the underlying contract.

#### 4.2 For purposes that are in our legitimate interest

We may also process your Personal Data on the basis of a balance of interests to pursue our or a third party's legitimate interests. This is carried out for the following purposes:

- For client advisory services and sales, in particular for the evaluation of your financial need, your creditworthiness and solvency and the monitoring of your financial situation;
- General management and development of services, systems and products;
- Fulfilment of our internal requirements and those of our group companies, including credit and risk management, insurance, audit and management purposes;



- If you are an individual related to a customer of ours, for the performance of the contract with such customer;
- To assure the safety and continuity of IT services;
- Advertisement and marketing research;
- For the establishment, exercise and defence of legal claims; and
- For the prevention and investigation of crime, as well as risk management and fraud prevention.

Our interest for the respective processing of data is based on the respective purposes and is otherwise of economic nature (efficient task fulfilment, sales, and avoidance of legal risks). As far as possible in respect with the particular purpose, we rely on pseudonymisation (e.g. encryption) and anonymisation to process your Personal Data.

This legal basis is notably used for the processing of your Personal Data if you are an individual related to a customer.

#### 4.3 With our consent

Insofar you have given us your consent for the processing of Personal Data (which consent may be withdrawn at any time, without affecting the lawfulness of processing based on consent before its withdrawal), such consent will serve as a legal basis for the referred processing.

This includes your potential consent that you may have given (e.g. to be contacted by phone or email for offers and promotions about products and services of our affiliated companies or those of our commercial partners).

#### 4.4 For the compliance with legal and regulatory obligations

We are subject to various legal obligations in terms of statutory (e.g. laws of the financial sector, anti money laundering laws, tax laws) and regulatory requirements (e.g. European Central Bank, European Banking Regulator, and the Commission de Surveillance du Secteur Financier (CSSF)).

This includes processing your Personal Data for the purpose of compliance with applicable banking laws such as the applicable legislation on markets in financial instruments (MiFID), Know-Your-Customer (KYC), and Anti-Money Laundering and Combating the Financing of Terrorism (AML/ CFT), complying with requests from, and requirements of, local or foreign regulatory or law enforcement authorities, tax identification and, as the case may be, reporting, including but not limited to the United States Foreign Account Tax Compliance Act (FATCA), and the Common Reporting Standard (CRS) and any other automatic exchange of information (AEI) regimes to which we may be subject from time to time.

With respect to tax reporting such as FATCA and/or CRS purposes, please note that (i) your Personal Data may be processed and transferred to the Luxembourg Direct Tax Authority who may transfer such Personal Data to the competent foreign tax authorities, including the US Internal Revenue Service or any other US competent authority, only for the purposes provided for in the FATCA and the CRS rules as well as to service providers for the purpose of effecting the reporting on our behalf and (ii) for each information request sent to you, addressing such information requests is mandatory and failure to respond may result in incorrect or double reporting.

#### 5. With whom may personal data be shared?

We may disclose your Personal Data to the following recipients:

- Other departments and/or affiliated companies. Within HCOB group, only those entities will receive your Personal Data that need to fulfil our contractual or legal obligations (e.g. Personal Data is processed for credit assessment purposes, for outsourcing purposes, for establishing the business relationship with you) or to fulfil their respective tasks (e.g. securities account services, anti-money laundering, marketing);
- The respective shareholders, legal and/or authorized representatives, employees, consultants, agents and delegates;
- Processors (i.e. service providers) appointed by us, that process your Personal Data on our instructions;
- Credit card issuers, custody banks, insurance companies and other companies who need to receive the Personal Data for the execution of the contract between you (to the extent you are an individual customer) and us, and which act as independent data controllers;
- Third party business contacts such as the Society for Worldwide Interbank Financial Telecommunication (SWIFT) and clearing companies that process personal data relating to money transactions and that can use for those purposes processing centres that are located within the European Union or abroad (particularly the United States);
- External fund managers that provide asset management services;
- Brokers that introduce or bring contacts to us;
- Other financial institutions or credit agencies in order to receive or provide credit reports;
- Entities that act on behalf of you or which have a business relation with you such as, payment recipients, beneficiaries, authorized representatives, intermediaries, clearing houses, clearing and settlement systems, companies in which you hold securities (if those securities are kept by the bank for you);
- Administrations, public services, competent authorities and institutions (e.g. the European Central Bank, the CSSF, tax authorities) in the case of a statutory or regulatory obligation;
- Parties involved in the context of a company restructuring, transfer, divestiture, fusion or acquisition at the level of our bank or the group; and
- Other entities (e.g. for marketing purposes), based on your consent.

#### 6. Where is personal data transferred to?

For the purposes listed above, your Personal Data will be transferred to any of the aforementioned recipients in any jurisdiction.

Transfers of such data shall be made to countries located in or outside of the European Economic Area (the EEA). Certain countries in which recipients and data processors may be located and to which Personal Data may be transferred may not have the same level of protection of personal data as the one afforded in the EEA.

Personal Data transferred to countries outside of the EEA will be protected by appropriate safeguards such as standard contractual clauses approved by the European Commission and you may obtain a copy of such safeguards by contacting us using the contact details set out in section 1 above. To date, personal data will not be transferred outside of the EEA.

## 7. Your Rights

You have the following rights in relation to your Personal Data which are granted to you under the GDPR.

### 7.1 Right of access

You may request to obtain at no costs, within reasonable intervals, and in a timely manner, the communication of the Personal Data being processed, as well as all information on the origin of those data.

### 7.2 Right to rectification

You also have the right to rectify your Personal Data held about you that is inaccurate.

### 7.3 Right to restriction

In cases where the accuracy of the Personal Data is contested, the processing is unlawful, or where you have objected to the processing of your Personal Data, you may ask for the restriction of the processing of such Personal Data. This means that Personal Data will, with the exception of storage, only be processed with or for the establishment, exercise or defence of legal claims, for the protection of the rights of another natural or legal person or for reasons of important public interest of the European Union or of an EU Member State. In case a processing is restricted, you will be informed before the restriction of processing is lifted.

### 7.4 Right to erasure

You may request the deletion of Personal Data held about you, without undue delay when the use or other processing of such Personal Data is no longer necessary for the purposes described above, and notably when consent relating to a specific processing has been withdrawn or where the processing is not or no longer lawful for other reasons.

### 7.5 Right to object

You may object to processing of your Personal Data which is based on the legitimate interests pursued by us or by a third party. In such a case we will no longer process your Personal Data unless we have compelling legitimate grounds for the processing which override your interests, rights and freedoms or for the establishment, exercise or defence of legal claims. Your right to object is not bound to any formalities.

### 7.6 Right to data portability

Where the processing of your Personal Data is based on consent or the execution of a contract with you, you also have the right to data portability for information you provided to us – this means that you can obtain a copy of your data in a commonly use electronic format so that you can manage and transmit it to another data controller.

### 7.7 Right to lodge a complaint

In the event that you wish to make a complaint about how we process your Personal Data, please contact us in the first instance at the email address indicated in section 1 above and we will endeavour to deal with your request as soon as possible. This is without prejudice to your right to file a complaint with the Luxembourg data protection authority, the Commission nationale pour la protection des données, or another European data protection authority (e.g. in your country of residence), in the event you have concerns on the processing of your Personal Data. You can exercise the above rights any time by contacting us using the contact details set out in section 1 above.

## 8. To what extent do we use automated decision-making?

In general, we do not use automated individual decision-making for the formation and performance of the business relationship. If we should rely on such processing in a particular situation, we are going to inform you separately, insofar we are legally required to do so.

## 9. To what extent is my data going to be used for profiling?

We process your data partly by automated means in order to evaluate certain personal aspects (so called “profiling”). By virtue of statutory and regulatory requirements, we are obliged to take part in the fight against money laundering, economic crime and terrorist financing. For that purpose, we also analyse your data (inter alia your transactions). In addition we use profiling for fraud prevention and detection purposes. These measures are also for your own protection.

## 10. For how long is personal data retained?

We will retain the Personal Data for as long as required to perform the purposes for which such Personal Data was collected, depending on the legal basis on which that Personal Data is processed and/or whether additional legal/regulatory obligations mandate that we retain the Personal Data. As far as necessary, we will keep your Personal Data for the duration of our business relationship, which includes the preparation and signing of a contract. In addition, we are subject to various retention and documentation obligations, which inter alia follow from the commerce code (Code de Commerce) and from anti-money laundering laws. The retention periods provided by those laws vary from five to ten years. In certain circumstances, Personal Data may need to be retained for a longer period of time (for example in the context of litigation or as required by supervisory authorities). In any event, Personal data will not be kept later than five (5) years from the liquidation of the bank.

## 11. Do I have the obligation to provide the data?

In the context of our business relationship, you only have to provide those personal data that are necessary for the

formation, performance, and termination of a business relationship or that we are required by law to collect from you. Without those Personal Data, we will generally refuse to sign or to perform the contract, or stop performing or, where appropriate, terminate an existing contract. In particular, anti-money laundering laws require us, before entering into a business relationship with you, to identify you, for example by demanding your identity card, your name, date of birth, place of birth, nationality and official residence. In order for us to comply with those legal requirements, you have to provide us, with the necessary information and documents and to inform us immediately of any subsequent change. We cannot enter into the desired business relationship with you, if you do not provide us with the necessary information and documents.

## **12. Amendment of this Privacy Notice**

We may amend this Privacy Notice from time to time to ensure that you are fully informed about all processing activities and our compliance with applicable Data Protection Legislation.

Changes to this Privacy Notice will be brought to your knowledge by appropriate means.